

General Affairs Committee  
One Hundred Eighth Legislature – First Session  
2023  
Annual Report of Legislation

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## I. 2023 Legislation

### **LB 72 (Aguilar): Redefine the term ‘gross proceeds’ for purposes of the Nebraska County and City Lottery Act.**

The Nebraska County and City Lottery Act allows for and regulates, among other things, the conduct of keno lotteries by cities and counties for community betterment purposes. The Act defines gross proceeds to not only include wagers by keno players but also include admission costs collected by any keno operator or satellite location. As such, any admissions costs collected by a keno location must be remitted to the county as part of the keno revenues for that location.

LB 72 changes the definition of gross proceeds so that if a facility offers keno in one area that is free of admission charges, then that same facility may also offer keno in an admissions guarded area. The original intent of the bill is kept intact where a location cannot profit by merely offering access to keno, but this allows the flexibility for larger facilities to offer keno throughout the entire facility if patrons may participate in the keno lottery in a free area.

**Bill Summary:** LB 72 is a bill that amends the County and City Lottery Act by establishing gross proceeds do not include any admission costs collected at any location where the lottery is also available to the public free of any admission charge in the definitions section of that act.

**Background & Legislative History:** This bill was brought in 2022 by Senator Aguilar as LB 764. It was indefinitely postponed in the committee.

#### **Section-by-Section Summary:**

**Section 1:** amends section 9-606 of the definitions section of the County and City Lottery act to add new language which excludes any admission costs collected at any location where the lottery is also available to the public free of any admission charge from the calculation of gross proceeds as defined in this section.

**Section 2:** is the repealer section.

LB 72 was amended into LB 775 by AM 856.

### **LB 73 (Aguilar): Change provisions relating quthorized uses for a County Visitors Improvement Fund.**

The County Visitors Promotion Fund was established to give local governments the option to tax hotels and motels and distribute those tax dollars via grants that will promote tourism. The law as presently written excludes any grants from being awarded to promote parimutuel wagering [Sec. 81-3717(1)] or to visitor attractions where parimutuel wagering occurs [Sec. 81-3720(1)(b)].

LB 73 eases some of the restrictions against grants being awarded to facilities that offer parimutuel wagering. To be consistent with the original intent of the statue, but to also

accommodate the situation of racetrack facilities, the proposed language allows grants to be awarded to a licensed racetrack enclosure only if it is the site of a county fair or state fair. Fairs are typically held at large facility complexes which may also serve as entertainment or cultural destinations. The proposed language does not, however, permit grants to be awarded to racetracks that do not serve these additional local tourism functions. All other language regarding parimutuel wagering is stricken to avoid confusion.

**Bill Summary:** LB 73 is a bill to allow funds from the County Visitors Promotion Fund to be used to improve a facility in which parimutuel wagering is conducted IF such facility also serves as the site of a state fair or district or county agricultural society fair.

**Section-by-Section Summary:**

**Section 1:** Amends section 81-3717 to allow County Visitors Promotion Fund dollars to be used to improve a facility in which parimutuel wagering is conducted if such facility also serves as the site of a state fair or district or county agricultural society fair.

This section strikes language prohibiting the fund from being granted to an organization to promote parimutuel wagering.

**Section 2:** Amends section 81-3720 to strike language in subsection (1)(b) of this section which prohibits grants from this fund from being available for any visitor attraction where parimutuel wagering is conducted.

**Section 3:** is the repealer section.

LB 73 was amended into LB 775 and passed on final reading on April 18, 2028. It was signed by the governor April 25, 2023.

**LB 144 (Brandt): Change and eliminate certain classes of licenses under the State Electrical Act.**

LB144 is a clean-up of the Nebraska State Electrical Act for the first time since 1993. Provisions include clarification of the following: license renewal, continuing education for license renewal, and requirements for licensure for Electrical Contractors. LB144 also eliminates obsolete licenses and obsolete language. Finally, LB144 increases a late fee for failing to file a permit for electrical inspection.

**Bill Summary:** LB 144 proposes several updates to the State Electrical Act. It removes references to a Class B master electrician license as this is not a category of license used by the State Electrical Board. The bill also removes all references for Installer for the same reason. Additional language is stricken to reflect current practices of the board that need to be updated in statute, in areas including continuing education requirements, standards for applicants for contractor licenses, and training provided by the State Electrical Division. New language in the bill increases the late fee for filing a late request for inspection from fifty dollars to two hundred

fifty dollars. Finally, telegraph systems are stricken from the act as they are no longer in use and therefore not in need of inspection by the board.

**Background & Legislative History:** Senator Brandt brought LB 866 in 2022 that sought to increase the late fee for filing a late request for inspection from fifty dollars to two hundred fifty dollars, which is included in section 12 of this bill.

**Section-by-Section Summary:**

**Section 1:** amends section 81-2102 by striking current subsection (6) which defines “Class B Master Electrician” which is a license designation no longer available from the board in the State of Nebraska. It also strikes subsection (11) from this section which contains the definition of “Installer”, which, again, is no longer recognized or used by the State Electrical Board.

New language added at the end of this section adds solar installation to the definition of “Special Electrician” to indicate the type of qualifications, training and experience a licensed person may possess to obtain the designation of special electrician.

**Section 2:** amends section 81-2106 by striking reference to section 81-2110, which is stricken entirely by this bill. Section 81-2110 lays out the rights and duties of an individual holding an Installer License, which is no longer used by the State Board.

**Section 3:** amends section 81-2107 by striking the requirement in statute for an applicant for an electrical contractor license have at least five years’ experience in planning for, laying out, supervising, and installing wiring, apparatus, or equipment for electrical light, heat, and power, that is no longer the practice of the board to require.

In subsection (2) of this section, Class B master electrician license is stricken to keep the consistency of striking all references to this non-used license designation by the board.

**Section 4:** amends section 81-2108 by striking the references in this section 81-2110 and Class B master electrician as above.

**Section 5:** amends section 81-2112 to strike the word “he” from statute and instead inserts the language “such licensee” to acknowledge that an individual of any gender could hold a license from the board.

**Section 6:** amends section 81-2113 by striking the reference to Class B master electrician, and strikes the requirement for an apprentice to present documentary evidence of successful completion of the requisite hours of continuing education courses under section 81-2117.01, and replaces it with new language which requires the apprentice to present documentary evidence of ANY continuing education courses under 81-2117.01 that have been completed by the applicant. This section also changes the language regarding when the board will assess up to a six month increase of required experience necessary for the applicant to qualify for the examination under section 81-2115, making it mandatory for the board to do so unless the applicant presents documentary evidence of the requisite hours of continuing education courses under section 81-2117.01.

**Section 7:** amends section 81-2114 by restructuring the way this section is drafted by removing subsection (2). This section allows the State Electrical Division to provide training sessions for people applying for licenses, and requires the division to remit any money collected under this section to the State Treasurer for credit to the Electrical Division Fund.

By striking the language in subsection (2), the division will no longer be required to designate six training sites in the state which are the most convenient and easily accessible locations in the state for those persons who attend to take the licensing examination and who desire to attend training sessions. Striking this language will allow the division more flexibility in planning the locations of the training sessions.

**Section 8:** amends section 81-2117.01 by adding a new subsection (b) to section (1), which states that continuing education is not mandatory, however, a registrant that completes twelve contact hours of continuing education by January 1 of each odd numbered year in accordance with this section will not be required to obtain an increase of required experience under section 81-2113 to qualify for the examination.

Section (2) of this section requires an application for approval of the instructor and course operation to be submitted to the board by January 1 of each odd-numbered year, and any approval by the board of this application will be valid until December 31 of the subsequent even-numbered year following the approval.

Subsection (5) of this section is stricken, and this strikes the language that states nothing in this section shall be construed to mean that a registrant shall be denied renewal of a registration by the board based solely on a failure to complete the continuing education requirement under subsection (1) of this section. This is providing consistency with the new language in subsection (1)(b) as discussed above.

**Section 9:** amends section 81-2117.02 by striking all references to Class B master electrician and Installer in this section of statute.

**Section 10:** amends section 81-2118 by adding a new subsection (e) to section (1), which adds the Special Electrician License with a fee of sixty dollars to the schedule of licenses and fees for examinations contained in this section.

This section also strikes Class B master electrician, and the fee of one hundred twenty-five dollars and installer, from subsection (4)(c) of this section.

**Section 11:** amends section 81-2119 by striking references to Class B master electrician.

**Section 12:** amends section 81-2126 by increasing the delinquent fee for filing a late request for inspection from fifty dollars to two hundred fifty dollars.

**Section 13:** amends section 81-2132 by striking the word “telegraph” from this section, as telegraph systems no longer exist.

**Section 14:** amends section 81-2141 by striking a reference to the Class B master electrician license.

**Section 15:** amends section 81-2144 by adding new language which gives permission to a person who is a directional boring contractor to install underground conduit “on the load side of the meter” under the direct supervision of a Class A master electrician, and strikes the reference to the Class B master electrician.

**Section 16:** is the repealer section of the original sections amended by this bill.

**Section 17:** is the repealer section that outright repeals section 81-2110, as discussed above.

LB 144 was voted out to general file by the committee.

**LB 148 (Jacobson): Change powers and duties of the State Racing and Gaming Commission related to licensed racetrack enclosures and change dates related to the required market analysis and socioeconomic-impact studies.**

LB148 allows the Nebraska Gaming and Racing Commission to approve an application for racetracks and casinos anywhere west of the 100th Meridian not in operation prior to the completion of the market and socioeconomic impact studies. It pushes back the date for the completion of those studies until 2030.

**Bill Summary:** LB 148 proposes to allow the Racing and Gaming Commission to approve any application to build a new racetrack enclosure west of the one hundredth meridian in Nebraska prior to the issuance of the completion of the market and socioeconomic impact studies, and pushes the date for the completion of the studies from 2025 to 2030.

**Background & Legislative History:** LB 876 was passed in 2022, which contained the requirement for the Racing and Gaming Commission to complete the three different market and socioeconomic-impact studies prior to considering whether to grant or deny any licenses for new racetracks and potentially also casinos for locations across the state that were not already a licensed racetrack at the time of the ballot initiative in November 2020.

**Section-by-Section Summary:**

**Section 1:** amends section 2-1205 by changing the reference to subdivision (27) to (27)(a) of section 9-1106.

**Section 2:** amends section 9-1106 by changing subsection (24) to (24) (a) and adds new language requiring the commission to conduct a statewide horseracing market analysis study of the racing market as it currently exists across the state in the 6 counties which have a racetrack, and now any other location described in subdivision (27)(b) of this section.

This section also proposes to require the market analysis to be completed as soon as practicable but not later than 2030, moving it back from 2025 that is currently in statute.

This same language is added to subsection (25) with respect to the statewide casino gaming market analysis study, including new language allowing any other location described in subdivision (27)(b) of this section, and making the study due on January 1, 2030 instead of 2025.

This same language is added to subsection (26) also, requiring a statewide socioeconomic-impact study of horseracing and casino gaming at each of the six currently existing locations and adding new language to include any other location described in subdivision (27)(b) of this section, and requiring the study to be completed by January 1, 2030 instead of 2025.

Subsection 27 is broken into two subsections by this bill. Subsection (a) now has language to except as otherwise provided in subdivision (b) of this section, the commission shall approve or deny an application for a licensed racetrack enclosure not in existence or operational as of April 20, 2022 or any licensed racetrack enclosure in existence an operational as of November 1, 2020 that applies to move their licensed racetrack enclosure to another county in Nebraska which does not have a licensed racetrack enclosure, on the basis of the placement and location of the proposed licensed racetrack enclosure, making a determination of the proper placement based on the market as it exists as of the most recent issuance of the statewide horseracing market analysis, statewide casino gaming market analysis, and statewide socioeconomic-impact studies discussed above.

New subsection (b) requires the commission to approve or deny an application for a licensed racetrack enclosure that is new, not in existence on November 1, 2020, PRIOR to the issuance of the statewide analyses and studies IF the proposed racetrack location is located WEST of the 100th meridian in Nebraska.

**Section 3:** is the repealer section.

LB 148 is currently being held in committee.

### **LB 150 (Dover): Change provisions relating to entertainment districts under the Nebraska Liquor Control Act.**

The Intent of LB150 is to revise the Nebraska Liquor Control Act to allow cities of the first class and smaller to set entertainment district safety regulations. It also allows entertainment district license holders to continue to serve alcoholic beverages in the commons area, so long as one holder of an entertainment district license is providing food service.

**Bill Summary:** LB 150 is a bill to amend the Nebraska Liquor Control Act to provide different standards for entertainment districts based on the city size. The proposed bill language would allow cities of the first and second class, villages, and counties, to set entertainment district safety regulations, but does not require them to close roads to vehicular traffic when used as a commons area, and allows district license holders to continue to serve alcoholic beverages in the common area so long as one holder of an entertainment district license is providing food service.

**Section-by-Section Summary:**



**Section 1:** amends section 53-123.17 by adding new language to subsection (2) requiring at least one holder of an entertainment district license to make food service available in the commons area of a licensed entertainment district.

New language in subsection (11) retains the current standards for cities of the primary class and metropolitan class. These standards are as follows:

The commons area means an area (A) within an entertainment district designated by a local governing body; (B) shared by authorized licensees with entertainment district licenses; (C) abutting the licensed premises of such licensees; (D) having limited pedestrian accessibility by use of a physical barrier, either on a permanent or temporary basis; and (E) is closed to vehicular traffic when used as a commons area.

Additional new language then sets the following new standards for cities of the first class, second class, counties, or villages. An entertainment district means an area (A) within an entertainment district designated by a local governing body; (B) shared by authorized licensees with entertainment district licenses; (C) is abutting the licensed premises of such licensees; and (D) an area with reasonable safety measures in place to protect pedestrians, including signage, lighting, reduced motor vehicle speeds when motor vehicles will be in close proximity to pedestrians, and with a prohibition on carrying open alcoholic liquor containers and consuming alcoholic liquor on any open street or highway except when necessary to cross the open street or highway at a designated crosswalk.

**Section 2:** is the repealer section.

**Section 3:** contains an emergency clause.

LB 150 is currently being held in committee.

**LB 168 (Bostar):Change provisions relating to sports wagering and distribution of taxes collected from sports wagering on instate collegiate sporting events.**

LB168 authorizes wagering on instate collegiate sporting events in which an instate college or university team is a participant. LB168 also directs the tax revenue generated by such gaming to the Nebraska Opportunity Grant Fund.

**Bill Summary:** LB 168 is a bill to remove the restriction on placing a sports wager on a Nebraska collegiate or university team when they play in a sporting event within the State of Nebraska. This bill also provides the tax revenue generated by sports wagering on any instate collegiate sporting event in which an instate college or university team is a participant be credited to the Nebraska Opportunity Grant Fund.

**Background & Legislative History:** In 2021, LB 561 was amended by AM 1427 with language that prohibited any sports wagers being placed on any instate Nebraska college sporting event in which any Nebraska college or university team was participating.

**Section-by-Section Summary:**

**Section 1:** Amends section 9-1103 of the Nebraska Racetrack Gaming Act by striking the language that prohibited an individual from placing a sports wager on an authorized instate collegiate sporting event in which an instate collegiate or university team is a participant in subsections (3)(a) and (b).

The result of striking this language will be that a person in Nebraska will be allowed to place a sports wager on any college or university sporting event that takes place within the state of Nebraska, including those sporting events in which a Nebraska college or university is a participant.

**Section 2:** Amends section 9-1110 to add new language to require an authorized gaming operator to provide separate accounting of sports wagers on instate collegiate sporting events in which an instate collegiate or university team is a participant from all other sports wagers for purposes of the tax imposed pursuant to section 9-1203.

**Section 3:** Amends section 9-1204 by adding new language requiring any revenue generated by sports wagering on any instate collegiate sporting event in which an instate collegiate or university team is a participant be remitted to the State Treasurer for credit to the Nebraska Opportunity Grant Fund.

**Section 4:** Amends section 85-1920 to include the amounts credited pursuant to subsection (1) of section 9-1204 (created by section 3 of the bill above) to the Nebraska Opportunity Grant Fund.

**Section 5:** is the repealer section.

LB 168 is currently being held in committee.

**LB 232 (Cavanaugh, J.):Change provisions relating to keno and provide for the sale of digital on-premises tickets.**

LB232 provides for a digital on premises keno ticket under the Nebraska County and City Lottery Act.

**Bill Summary:** LB 232 is a bill to allow Keno to be played in a digital format, on the premises of the lottery operator or licensed sales outlet location.

**Background & Legislative History:** In 2022, LB 923 was brought by Senator John Cavanaugh which proposed the same changes be made as LB 232 to allow keno to be played on a mobile device.

**Section-by-Section Summary:**

**Section 1:** Contains new language to include sections 3 and 7 of this act to the Nebraska County and City Lottery Act.

**Section 2:** Also contains new language which applies the definitions found in sections 9-603.02 to 9-618 and section 3 of this act to the Nebraska County and City Lottery Act.

**Section 3:** Creates a new definition of digital-on-premises ticket as a digital ticket purchased in person on a mobile or other electronic device verified to be present at the location of the lottery operator or an authorized sales outlet location in accordance with subdivision (3)(b) of section 7 of this act.

**Section 4:** Amends section 9-607 to strike the word “paper” in reference to tickets used for playing the lottery game described in this section. This section also adds a new (e) which provides that tickets are issued either on paper or digitally to a mobile or other device with the consent of the governing body of the county, city, or village conducting the lottery. The mobile or other device must be verified to be present at the location of the lottery operator or an authorized sales outlet location as provided for in subsection (3)(b) of section 7 of this act.

**Section 5:** Amends section 9-646.01 to allow payment for a ticket or wager with a debit card, the cash balance of a payment application, a transfer from a deposit account at a financial institution, or an account established in the name of the player with the lottery operator and funded as provided in subsection (2) of this section, in addition to cash. This section also contains language expressly prohibiting credit cards from being used for payment for any wager on keno.

New language creates subsection (2), which permits a lottery operator to allow participants to create an account to be used for lottery pay. These accounts may only be funded with cash, a debit card, the cash balance of a payment application, or a transfer from a deposit account at a financial institution. Participants may also deposit prize money won from the lottery and refunds from the lottery into their account. Participants are prohibited from depositing money into the account that exceeds five hundred dollars, and the department of Revenue is given permission to adjust this limit upward from time to time based on inflation and other competitive and economic factors.

**Section 6:** Amends section 9-651 by requiring each county, city, or village conducting a lottery to have its name clearly associated with each ticket used in the lottery, instead of having it printed on each ticket as currently required. This section also states no ticket shall be sold unless such name is clearly identified.

**Section 7:** Is all new language. **Subsection (1)** requires the purchase of a ticket for a keno game to be made in person at the location of the lottery operator or an authorized sales outlet location.

**Subsection (2)** requires the lottery operator to file the address of each location where digital-on-premises tickets are sold with the department. The lottery operator is also required to use reasonable safeguards approved by the department to make sure digital-on-premise tickets are only accessible to people 19 years old and older.

**Subsection (3)** requires the lottery operator to submit controls for any specific procedure and technology partner used to fulfill the requirements from the department, the location detection procedure used to detect and dynamically monitor the location of a player attempting to purchase a digital-on-premise ticket for a keno game to the department for approval. These location procedures must be designed so that players attempting to purchase digital tickets outside of the

permitted boundary are rejected and notified. This is often referred to as geofencing. The boundaries must be established in a manner to prevent access being available away from the property on which the licensed premises is situated, and those boundaries are as closely matching the actual or legal boundaries of the licensed premises as reasonably possible.

Additional language requires approval of any other specific controls designated by the department, a requirement that lottery operators have a process to prominently display and easily impose any limitation parameters relating to the purchase of digital-on-premises tickets for keno games, and an easy and obvious method for a player to make a complaint and enable the player to notify the department if such complaint has not been or cannot be addressed by the lottery operator.

**Subsection (4)** requires the department to approve or deny submitted controls within thirty days of their submission by the lottery operator. If they are denied, the department must provide the reasons for the denial and allow the lottery operator to submit revised controls.

**Subsection (5)** allows the department to adopt and promulgate rules and regulations relating to digital-on-premises tickets, and requires these to be adopted and promulgated no later than January 1, 2024.

**Section 8:** this is the repealer section.

LB 232 was amended into LB 775 and was passed on final reading April 18, 2023.

## **LB 257 (Lowe): Change provisions relating to cemeteries and abandonment and reversion of cemetery lots.**

**Bill Summary:** LB 257 is a bill to re-write section 12-701 of the cemetery statutes to provide cities, counties, and villages with a process to re-vest lots purchased for internment or burial in a cemetery owned by the city, county, or village, if no one has been buried in the lot for at least thirty years. The bill provides for proper notice proceedings that allow the owner of such a lot the opportunity to file a valid claim showing they have not abandoned the lot, and further allows the governing body to bring an action in district court to restore the cemetery lot to the governing body, should no valid claim by an owner be filed.

New language is added to section 12-702 to allow the city, county, or village that becomes the reversionary owner of the cemetery lot pursuant to 12-701 to then sell the same and convey title to a new purchaser of the lot for purposes of internment or burial.

**Background & Legislative History:** this bill was brought after an interim study, LR 339, was conducted by committee staff after the legislature adjourned sine die in 2022.

**Section-by-Section Summary:**

**Section 1:** Amends section 12-701, by striking the existing language entirely and inserting new language which does the following:

First, it defines lot owner as the purchaser of a cemetery lot or such purchaser's heirs, administrators, trustees, legatees, devisees, or assigns, for purposes of this section.

Second, it grants all rights to land on which no burial has taken place, acquired by a city, county, or village for the purpose of maintaining a cemetery, or if the governing body has acquired a cemetery from a cemetery association as provided for in section 12-530, or if the city, county, or village is currently the owner of a cemetery pursuant to section 15-530, 16-241, or 17-926, the land in which no dead human remains has been actually buried may be revested in the county, city, or village subject to several conditions.

- (a) First, no interment or burial can have occurred for a period of at least thirty years prior to the commencement of proceedings to revest such lot or other piece of ground pursuant to this section;
- (b) Second, if the lot owner is a resident of the county (city or village within the county) in which the cemetery is located, the governing body must serve notice to the lot owner that proceedings have been initiated to revest all rights in the burial lot to the county, city, or village. The lot owner must be notified of their right to file in writing a statement explaining how their rights in the lot were acquired and that they desire to assert their interment rights in the lot, within the time limits provided in the notice of not less than thirty days. If the claim is determined to be valid, all proceedings to revest the title in the lot in the county, city, or village will be terminated at that time.
- (c) If the owner of the lot in question is not a resident of the county (city or village within the county), and cannot be found within the county, the notice may be published once each week for two consecutive weeks in a newspaper of general circulation within the county, city, or village where the cemetery lot is located. The notice must contain a general description of the title reversion proceedings being undertaken by the governing body, the lot number and a description of the lot, and the name of the lot owner on record. The notice must also explain that the lot owner may file a statement of their rights as described above within the time frame provided in the notice. If the lot owner timely files their statement, and the governing body determines the statement filed is a valid claim to the rights of the lot, all proceedings to revest the lot in the county, city, or village shall be terminated.
- (d) All notices, including proof of service on the lot owner or in the newspaper of general circulation are to be made a part of the public records of the governing body.
- (e) Any lot owner who fails to timely file a statement shall be deemed to have abandoned their rights in the lot in question. The governing body may then bring an action to revest the title of the cemetery lot in the city, county, or village that owns the cemetery.
- (f) Failure to assert a claim in the lot in question shall be considered prima facie evidence that the lot owner has abandoned any rights they may have had in the lot.
- (g) A certified copy of the judgment in these actions to quiet title may be filed in the office of the registrar of deeds for the county in which the cemetery is located.
- (h) All notices and proceedings pursuant to this section must distinctly describe the portion of the lot unused for burial purposes, and sufficient ingress to and egress from any grave

on the lot must be allowed for either by dedicated streets or alleys in the cemetery, or by leaving sufficient amounts of the unused portions of the cemetery for these purposes.

Third, this section contains new language that exempts any cemetery association that has entered into a perpetual care contract between the cemetery or the county, city, or village, and the owner of the lot from this section of statute.

Fourth, this section provides that compliance with the terms of this section will fully re-vest the lot in question with the county, city, or village, and divest the lot owner of record of title to the lot or portions of the lot that are unused for burial purposes, as though the lot had never been conveyed to any person. This further gives the county, city, or village rights to have, hold, and enjoy the unclaimed portions of the lot for its own uses and purposes, subject to the laws of Nebraska, the charter of the cemetery, and rules, regulations, ordinances, or resolutions of the governing body.

Fifth, new language requires any transfer by the lot owner of the interment right in the lot be subject to rules, regulations, ordinances, or resolutions adopted and promulgated by the governing body.

The original language in 12-701 is entirely stricken.

**Section 2:** Amends section 12-702 grants permission to any county, city, or village that is the reversioner owner of a lot pursuant to section 12-701 to sell and convey title to said lot.

The governing body is also permitted in new language added to this section to invest such funds as long as the investor acts as a fiduciary and complies with the prudent investor rule set forth in sections 30-3883 to 30-3889.

**Section 3:** Amends section 17-938 to permit any city of the second class or village that has not levied a tax pursuant to subsection (1) of this section within the prior five calendar years of a proposed forfeiture of a cemetery lot, shall, for purposes of forfeiture, reclamation, or reinvestment of a cemetery lot, be governed by section 12-701.

LB 257 has been voted out by the committee and is currently on general file.

### **LB 258 (Lowe): Eliminate provisions relating to near beer under the liquor control act.**

LB 258 removes near beer from the definition of beer.

**Bill Summary:** LB 258 is a bill to strike near beer from the list of products regulated by the Liquor Control Commission.

**Background & Legislative History:** The Liquor Control Commission recommended this action. The regulation of non-alcoholic beverages does not need to be the responsibility of the commission.

Near Beer is a fermented malt beverage containing very low alcohol, and was the only type of “beer” that could be produced and sold legally during Prohibition in the United States (1919–1933). They must not have more than one half of one percent alcohol, and they cannot be called beer. They most often are labeled “non-alcoholic malt beverage.”

**Section-by-Section Summary:**

**Section 1:** Amends section 53-103.03 by striking the words “near beer” from the definition of beer

**Section 2:** Strikes section 53-103.24 and section 53-160.02 entirely. This removes the definition of near beer from statute, and it removes responsibility for the regulation of near beer from the commission, respectively.

LB 258 is currently being held by committee.

**LB 259 (Lowe): Allow farm wineries to obtain additional retail licenses under the Nebraska Liquor Control Act.**

LB 259 allows Farm Wineries to sell beer and other alcoholic beverages on their licensed premises that are not produced by the Farm Winery. Currently, they are only allowed to sell products produced by the Farm Winery.

**Bill Summary:** LB 259 adds new language to section 53-123.11 of the Liquor Control Act to allow a holder of a farm winery license to obtain a retail license to sell beer or other liquor that is not produced by the farm winery, for consumption on their premises.

**Section-by-Section Summary:**

**Section 1:** Amends section 53-123.11 by adding a new subsection (4) which allows the holder of a farm winery license to obtain a retail license to sell beer or other alcoholic liquor not produced by the farm winery for retail consumption on their premises.

**Section 2:** is the repealer section.

LB 259 was amended into LB 376.

**LB 301 (Linehan): Change a tax on ready-to-drink cocktails under the Nebraska Liquor Control Act.**

LB301 will adjust the current tax rate on “ready to drink” (RTD) cocktails in a can from their current rate of .95 cents per gallon of liquor to \$3.75 per gallon of liquor.

**Bill Summary:** LB 301 increases the tax on ready-to-drink cocktails from ninety-five cents per gallon to three dollars and seventy five cents per gallon.

**Background & Legislative History:** In 2021, LB 274 was passed which decreased the tax on ready-to-drink (RTD’s) cocktails from three dollars and seventy five cents per gallon to ninety five cents per gallon, and created a separate statutory category for these beverages. Ready to drink cocktails are also known as “canned cocktails” and it was determined by the legislature that these beverages should not be taxed at the same rate as a bottle of liquor, as RTD’s contain liquor as an ingredient, usually at 12.5% or less ABV, and as such, are different from purchasing a bottle of spirits that contain no other ingredients, which are taxed at the higher rate of three dollars and seventy five cents per gallon.

**Section-by-Section Summary:**

**Section 1:** Amends section 53-160.04 to change the tax imposed on ready-to-drink cocktails from ninety-five cents per gallon to three dollars and seventy five cents per gallon.

**Section 2:** is the repealer section.

LB 301 is currently being held in committee.

**LB 311 (Lowe): Change dates related to the required market analysis and socioeconomic-impact studies under the Nebraska Racetrack Gaming Act.**

LB 311 is a bill to change the due date of the market analyses for the horseracing and casino industries in the state, and the statewide socio-economic impact study of horseracing and casino gaming across the state from January 1, 2025 to January 1, 2029.

**Background & Legislative History:** The current date in statute requiring the reports to be issued by January 1, 2025 was enacted with the passage of LB 876 in 2022.

**Section-by-Section Summary:**

**Section 1:** Amends Section 9-1106 subsection (24) by changing the date the commission is required to submit the statewide horseracing market analysis to study the racing market as it currently exists across the state and within the six counties that have existing racetracks from January 1, 2025 to January 1, 2029.



**Subsection (25)** is also amended with respect to the statewide casino gaming market analysis study the commission is required to conduct or cause to be conducted across the state and within the six counties that have existing racetracks to require the market analysis study to be conducted by January 1, 2029 instead of January 1, 2025.

**Subsection (26)** is amended to extend the date the commission must conduct or cause to be conducted a statewide socioeconomic study of horseracing and casino gaming across the state and in each of the six counties in which a licensed racetrack enclosure currently exists from January 1, 2025 to January 1, 2029.

**Section 2:** this is the repealer section.

LB 311 is currently being held in committee.

**LB 375 (Lowe): Authorize certain licensees to purchase alcoholic liquor for resale from a gas station, grocery store, liquor store, or similar establishment under certain circumstances as prescribed under the Nebraska Liquor Control Act.**

LB 375 would allow a licensed bar, restaurant, craft brewery, or micro-distillery to purchase up to five liquor products a week directly from a gas station, grocery store, liquor store, or other similar establishment that holds a license to sell liquor at retail for off premise consumption.

**Section-by-Section Summary:**

**Section 1:** amends section 53-101 by adding section 4 of this act to the Nebraska Liquor Control Act.

**Section 2:** amends section 53-123.14 by adding a new subsection (3) to allow a holder of a craft brewery license, who also holds the appropriate retail license for the retail sale of wine, alcoholic liquor, or beer not manufactured by the craft brewery licensee for consumption on their licensed premises to purchase alcoholic liquor products from a gas station, grocery store, liquor store, or similar establishment as provided for in section 4 of this act.

Section 4 of this act allows an eligible licensee to purchase up to five alcoholic liquor products per week for resale and consumption in the manner authorized under the licensee's appropriate retail license. The purchaser must notify the commission within twenty four hours after making such purchase.

**Section 3:** amends section 53-123.16 by adding a new subsection (3) to allow a microdistillery licensee who also holds the appropriate retail license for the retail sale of beer, wine, or alcoholic liquor not manufactured by the microdistillery licensee for consumption on the licensed premises to purchase alcoholic liquor products from a gas station, grocery store, liquor store, or similar establishment as provided for in section 4 of this act, as discussed above.

**Section 4:** adds three new definitions for purposes of this section. First, alcoholic liquor product means (i) a single case or pack of beer, ready-to-drink cocktails, or ciders; (ii) a single bottle of wine; or (iii) a single bottle of alcoholic liquor. Second, appropriate retail license means a Class A, Class C, or Class I license as described in section 53-124. Third, eligible licensee means any of the following which holds an appropriate retail license: a craft brewery or microdistillery licensee or a bar or restaurant.

A Class A License: beer only, for consumption on the premises;

A Class C License: alcoholic liquor, for consumption on the premises and off the premises, sales in original packages only;

A Class I License: alcoholic liquor, for consumption on the premises, and also to-go cocktails when purchased along with food as provided for in 53-123.04 (5).

Section 4 further allows an eligible licensee to purchase up to five alcoholic liquor products per week for resale and consumption, in a manner authorized under their appropriate retail license, directly from a gas station, grocery store, liquor store, or similar establishment which holds a license to sell alcoholic liquor at retail for consumption off the premises.

An eligible licensee who purchases alcoholic liquor products as authorized by this section is required to notify the commission within twenty-four hours after making such purchase on a form or in a manner prescribed by the commission. The commission is authorized to adopt rules and regulations to carry out this section.

**Section 5:** amends section 53-175 by adding new language making an exception for what is provided in section four of this act from the language prohibiting a licensed retailer of alcoholic liquor to purchase liquor from purchasing liquor from anyone other than a licensed wholesaler in this state.

**Section 6:** is the repealer section.

LB 375 is currently being held in committee.

### **LB 376 (Lowe): Change provisions relating to the importation of alcoholic liquor into the state under the Nebraska Liquor Control Act.**

LB 376 creates a brand registration for the Nebraska Liquor Control Commission. This bill will allow the Commission to more accurately and correctly identify alcoholic products being imported into or produced in Nebraska.

**Bill Summary:** LB 376 was brought on behalf of the Liquor Control Commission. This legislation will enable the commission to more accurately and correctly identify alcoholic products being imported into or produced in Nebraska for taxation and distribution purposes.

**Section-by-Section Summary:**

**Section 1:** amends section 53-101 to include sections 3 and 4 of this act in the Nebraska Liquor Control Act, found in sections 53-101 to 53-1,122 of the Nebraska Revised Statutes.

**Section 2:** amends section 53-103 to include section 3 of this act to the definitions found in sections 53-103.10 to 53-103.49.

**Section 3:** adds new language defining “Primary source of supply in the United States” to mean the

- (a) Manufacturer, producer, or owner of any alcoholic liquor at the time it becomes a marketable product in the United States;
- (b) Bottler of any alcoholic liquor in the United States;
- (c) Exclusive agent within the United States or any of the states of any manufacturer, producer, owner, or bottler of any alcoholic liquor outside of the United States; or
- (d) A licensed Nebraska craft brewery, farm winery, microdistillery, or manufacturer.

This section also sets a requirement that to be the primary source of supply in the United States, the licensee causing such alcoholic liquor to be imported into Nebraska must be the first source, such as the manufacturer or the source closest to the manufacturer, in the channel of commerce from which the product can be secured by Nebraska wholesalers.

**Section 4:** This section contains all new language requiring each licensed manufacturer, licensed wholesaler, or the holder of a shipping license in Nebraska to submit a report to the commission prior to the sale or shipment of any alcoholic liquor into the state.

The report must include the following:

- (a) The licensee’s name and license number,
- (b) The designated Nebraska licensed wholesaler for each product,
- (c) The name of the primary source of supply in the United States,
- (d) The products to be imported, including the brand name, class or type of product, and fanciful name if applicable,
- (e) Evidence of compliance with federal label law requirements pursuant to 27 C.F.R., Chapter 8, and rules and regulations adopted pursuant to that act, or a sample of the actual label if federal approval is not required; and
- (f) Any other information requested by the commission related to sale or shipment in Nebraska, along with any applicable fees.

This section also requires a letter from the product manufacturer in the U.S. designating the licensee as the primary source of supply in the U.S. or the sole source of supply in Nebraska if the licensed manufacturer, licensed wholesaler, or the holder of a shipping license is NOT the product manufacturer.

Further, this section requires the information required above to be submitted to the commission upon a change in the primary source of supply of the alcoholic liquor at least thirty days prior to the shipment of the alcoholic liquor into Nebraska.

This section also gives the commission the authority to promulgate and adopt rules and regulations to carry out this section.

**Section 5:** This is the repealer section.

LB 376 was one of the committee priority bills for 2023. It was amended by AMs 336, 472, 611, 612, 613, 614, and 615. Portions of LBs 259, 377, 452, 596, and 667 were amended into LB 376. The bill was passed on final reading April 17, 2023 and signed by the governor April 25, 2023.

**LB 377 (Lowe): Change provisions relating to special designated licenses under the Nebraska Liquor Control Act.**

LB 377 allows not-for-profit entities to be able to apply for up to 12 Special Designated Liquor Licenses (SDLs) in a calendar year. Not for profits are currently allowed 6 SDLs in a calendar year.

**Section-by-Section Summary:**

**Section 1:** Amends section 53-124.11 subsection (2)(a) by adding new language that provides a non profit corporation which is fraternal, charitable, or public service oriented, which is exempted from paying federal income taxes, to apply for a special designated liquor license for up to twelve days in any one calendar year.

**Section 2:** is the repealer section.

LB 377 was amended into LB 376.

**LB 403 (Vargas): Change provisions relating to a craft brewery license under the Nebraska Liquor Control Act.**

LB403 will amend the portion of the Nebraska Liquor Control Act which deals with self-distribution provisions for craft beer licensees. LB403 will update and accommodate self-distribution needs for craft beer licensees who are already up against the current 250 barrel cap.

**Bill Summary:** LB 403 is a bill that proposes to allow the holders of a craft brewery license to self-distribute up to five thousand barrels of beer produced at their licensed premises per calendar year. This bill also allows a holder of a craft brewery license to use a common carrier OR persons employed by the craft brewery licensee in vehicles owned or leased by the craft brewery licensee to distribute its product. Current law does not allow them to use common carriers to distribute their product.

**Background & Legislative History:** Senator Lowe passed LB 1236 in 2022, which gave craft brewery license holders the right to self-distribute up to 250 barrels of beer produced at their license premises per calendar year, using only persons employed by the craft brewery licensee in vehicles owned or leased by the craft brewery licensee to distribute such craft beer.

**Section-by-Section Summary:**

**Section 1:** amends section 53-123.14 by amending subsection (2)(a) by striking two hundred fifty and adding five thousand to be the number of barrels per calendar year a holder of a craft brewery license may directly sell for resale (self-distribute).

Subsection (2)(a)(ii) is also amended by adding new language allowing a craft brewery license holder to use a common carrier in addition to current language requiring the license holder to use employees that are employed exclusively and solely by the craft brewery to self-distribute their product in vehicles owned or leased exclusively and solely by the craft brewery licensee.

**Section 2:** is the repealer section.

LB 403 is currently being held in committee.

**LB 404 (Vargas): Change provisions relating to agreements between wholesalers and suppliers for the distribution of beer.**

LB404 will amend the portion of the Nebraska Liquor Control Act which deals with franchise agreements between beer producers and beer wholesalers. LB404 will require that beer distributors freely negotiate written agreements with small producers, and that those agreements be executed by both parties.

**Bill Summary:** LB 404 seeks to amend the franchise agreement process contained in the Liquor Control Act between licensed beer producers and wholesalers by creating a new class of agreements called small producer contracts.

**Background & Legislative History:** Senator Vargas brought LB 1239 in 2022 which was a bill to amend the law governing franchise agreements between licensed beer producers and wholesalers. This bill attempts to amend these same laws, but with a different approach and different language.

**Section-by-Section Summary:**

**Section 1:** amends section 53-101 to include sections 4 and 5 of this act into the Liquor Control Act.

**Section 2:** amends section 53-103 by including the definitions contained in sections 4 and 5 of this act in the definitions found in sections 53-103.01 to 53-103.49 of the Liquor Control act.

**Section 3:** amends section 53-103.41 by adding a small producer contract with a small producer to the definition of wholesaler, which means a person importing or causing to be imported into

the state or purchasing or causing to be purchased within the state alcoholic liquor for sale or resale to retailers licensed under the Nebraska Liquor Control act, whether the business of the wholesaler is conducted under the terms of a franchise or any other form of an agreement with a manufacturer manufacturers, (new language here to include a small producer contract with a small producer) or who has caused alcoholic liquor to be imported into the state or purchased in the state from a manufacturer or manufacturers and was licensed to conduct such a business by the commission on May 1, 1970, or has been so licensed since that date.

**Section 4:** is new language adding the definition of “small producer” to statute. Small producer means a manufacturer of beer that produces at or below the maximum limit set forth in subsection (1) of section 53-124.04.

I believe this citation is incorrect and should read subsection (1) of section 53-123.14, which allows licensed craft breweries to produce 20,000 barrels of beer per year.

**Section 5:** adds a new definition of “small producer contract”. It is defined as a contract between a small producer and a wholesaler, which:

- (1) Is freely negotiated;
- (2) Is in writing, regardless of the term;
- (3) Is executed by both parties;
- (4) Identifies the geographic territory and specific brands to be distributed by the wholesaler;
- (5) Specifies termination and renewal provisions;
- (6) Specifies a method of valuation in the event of a buyout; and
- (7) Is filed with the commission within ten calendar days of execution.

**Section 6:** adds a new language to section 53-103.14 to provide that the words “franchise” or “agreement” do not mean a small producer contract entered into or renewed on or after January 31, 2024.

**Section 7:** amends section 53-201 to include sections 10 and 11 of this act into this section of the act and incorporate it into sections 53-201 to 53-223 of the Liquor Control Act. The purpose of these sections is to provide fair, efficient, and competitive distribution of beer by (1) regulating the termination, expiration, and renewal of distribution agreements between beer suppliers and beer wholesalers, (2) promoting a distribution system in which each beer wholesaler will devote reasonable efforts and resources to sales, distribution, and quality control of the beer it sells, (3) promoting the continued availability of good quality beer for the consumers of Nebraska through orderly marketing and vigorous interbrand competition, (4) preventing a beer supplier from unfairly depriving a beer wholesaler of the value of the investment the wholesaler made in its business in terms of money, time, effort, and skill, and (5) controlling the sale of malt beverages in this state and facilitating the lawful and orderly marketing of malt beverages pursuant to the police powers of this state.

**Section 8:** amends section 53-202 to include sections 10 and 11 of this act into the definitions found in sections 53-203 to 53-215 of the Liquor Control Act.

**Section 9:** amends section 53-204 amend the definition of “agreement” currently in statute by adding “agreement shall not include a small producer contract entered into or renewed after January 31, 2024.

**Section 10:** is new language providing that a small producer has the same meaning as section 4 of this act.

**Section 11:** is new language providing that a small producer contract has the same meaning as section 5 of this act.

**Section 12:** amends section 53-216 by requiring that any agreement in existence on April 18, 1989, shall be renewed in a manner consistent with sections 53-201 to 53-223 and sections 10 and 11 of this act.

This section also requires a wholesaler that has agreed to distribute a brand or brands before April 18, 1989 to continue to distribute the brand or brands in conformance with sections 53-201 to 53-223 and sections 10 and 11 of this act.

**Section 13:** amends section 53-217 by providing that a wholesaler who is designated to service a sales territory during a period of temporary service is not in violation of sections 53-201 to 53-223 and sections 10 and 11 of this act.

**Section 14:** amends section 53-218 by including sections 10 and 11 of this act to this section which prohibits a supplier from amending or modifying an agreement, cause a wholesaler to resign from an agreement, or cancel, terminate, fail to renew or refuse to continue under an agreement unless the supplier meets the conditions set forth in statute.

This section also adds section 10 and 11 of this act to subsection (5)(c) which allows a supplier of alcoholic beverages to cancel, terminate, fail to renew, or discontinue an agreement immediately upon written notice if: wholesaler or a partner, member, or an individual who owns ten percent or more of the partnership, the limited liability company, or the stock of a corporate wholesaler has been convicted of a felony under the U.S. Code or the laws of any state which reasonably may adversely affect the goodwill or interest of the wholesaler or supplier.

Subsection (6)(e) allows a supplier to cancel, terminate, fail to renew, or discontinue an agreement, notwithstanding subsections (1), (3), and (4), if a wholesaler intentionally has made a transfer of his or her business, other than a transfer to a designated member, although the wholesaler has prior to the transfer received from the supplier a timely notice of disapproval of transfer in accordance with sections 53-201 to 53-223 and sections 10 and 11 of this act.

**Section 15:** amends section 53-220 requires a supplier that, in violation of section 53-218 or 53-219, (1) has amended, modified, canceled, terminated, or refused to renew any agreement, (2) has caused a wholesaler to resign from an agreement, or (3) has interfered with, prevented, or unreasonably delayed, or when required by sections 53-201 to 53-223 and sections 10 and 11 of this act, has unreasonably withheld or unreasonably delayed consent to or approval of any assignment or transfer of a wholesaler’s business, pay the wholesaler reasonable compensation for the diminished value of the business.

**Section 16:** amends section 53-221 by including sections 10 and 11 of this act into what a wholesaler may not waive any of the rights granted by sections 53-201 to 53-223.

**Section 17:** amends section 53-222 by adding new language to include sections 10 and 11 of this act to apply to agreements in existence on April 18, 1989 along with sections 53-201 to 53-223, but then adds new language which states these sections shall not apply to small producer contracts entered into or renewed after January 31, 2024, except as expressly provided in sections 53-201 to 53-223 and sections 10 and 11 of this act. Further language restricts a wholesaler to only be granted the right to purchase and sell a brand or brands of beer sold by a small producer through a small producer contract on or after January 31, 2024. A copy of the small producer contract must be filed with the Nebraska Liquor Control Commission by the wholesaler within ten days after the execution of such contract.

**Section 18:** amends section 53-223. This section permits a wholesaler to bring a civil action against a supplier with whom they have an agreement to recover actual damages reasonably incurred as the result of the prohibited conduct, and new language extends this to include small producers and small producer contracts contained in sections 10 and 11 of this act.

**Section 19:** is the repealer section.

LB 404 is currently being held in committee.

### **LB 452 (Murman): Change provisions relating to microdistilleries under the Nebraska Liquor Control Act.**

LB 452 Amends sections 53-123.16, 53-169, and 53-171 related to the Nebraska Liquor Control Act, Revised Statutes Cumulative Supplement, 2022; to change provisions relating to microdistilleries; to authorize self-distribution of microdistilled products as prescribed; to harmonize provisions; and to repeal the original sections. This bill will allow the distribution and resale of microdistilled products.

**Bill Summary:** LB 452 allows a holder of a microdistillery license to self-distribute up to two thousand gallons per calendar year of their product directly to retail licensees within the state if at least fifty-one percent of the finished microdistilled product is produced from agricultural products grown in Nebraska, if the holder of the microdistillery license self-distributes their products using people who are exclusively and solely employed by the microdistillery using vehicles owned or leased exclusively and solely by the microdistillery, and the holder of the license is in compliance with all relevant statutes, rules, and regulations that apply to Nebraska liquor wholesalers regarding the distribution of their products.

The bill further requires that a holder of a microdistillery license only self-distribute products manufactured at its licensed microdistillery premises and they are prohibited from distributing liquor produced by any other license holder in the state.

**Section-by-Section Summary:**



**Section 1:** Amends section 53-123.16 to include new language that allows the holder of a microdistillery license to self-distribute up to two thousand gallons of their own microdistilled product manufactured at its licensed premises directly to retail licensees located within Nebraska that hold the appropriate retail license if:

- (i) At least fifty-one percent of the finished microdistilled product is produced from agricultural products grown in this state;
- (ii) The holder of the microdistillery license self-distributes their products using only people who are exclusively and solely employed by the holder of the license, in vehicles exclusively and solely owned or leased by the holder of the license; and
- (iii) The holder of the microdistillery license complies with all relevant statutes, rules, and regulations that apply to Nebraska liquor wholesalers regarding the distribution of such products.

This section also requires a holder of a microdistillery license which self-distributes microdistilled products in accordance with this section to only self-distribute microdistilled products manufactured at its licensed premises, and are prohibited from distributing liquor produced by any other licensee.

**Section 2:** Amends section 53-169 to provide an exception for new subsection (2) of section 53-123.16 to allow microdistillery license holders to engage in the limited wholesale distribution of their products as described above.

**Section 3:** Amends section 53-171 to provide the same exception described in section 2 for this section of the liquor control act, to allow microdistillery license holders to engage in the wholesale distribution of their products as described previously.

LB 452 was amended into LB 376.

**LB 493 (Dungan): Remove the prohibition that a lottery ticket cannot be sold through a vending or dispensing device under the State Lottery Act.**

Legislative Bill 493 is a bill to remove the prohibition that a lottery ticket cannot be sold through a vending or dispensing device.

**Bill Summary:** LB 493 is a bill to allow lottery tickets to be sold through a vending or dispensing device. The bill does not obligate the Lottery division of the Department of Revenue to a course of action or expenses, but the change would provide an important option for them in fulfilling their mission. Vending is not a substitute for dedicated retailers, but would provide flexibility for retailers as they deal with consumer demand and marketplace challenges. Placement of vending machines would be managed by the Lottery, not retailers, so the number of locations would remain a fraction of the total retail network; probably less than 10% of the total 1,200 retailer network, under the proposed language of the bill.

**Background & Legislative History:** Senator Bostar brought LB 1268 in 2022, which struck the same provision as LB 493.

**Section-by-Section Summary:**

**Section 1:** amends section 9-829 by striking the language that prohibits lottery tickets being sold through a vending or dispensing device.

**Section 2:** is the repealer section.

LB 493 is currently being held in committee.

**LB 512 (Brewer): Change the number of locations allowed for a craft brewery or microdistillery under the Nebraska Liquor Control Act.**

For businesses that hold a manufacturers craft brewery license, this bill increases the number of retail locations that can be operated from five to ten retail locations where their product can be sold.

**Bill Summary:** LB 512 is a bill to allow a holder of a craft brewery license or a microdistillery license to operate up to ten retail locations. Currently, the holders of these licenses can operate up to five retail locations.

**Background & Legislative History:** In 2022, Senator Lowe brought LB 900, which increased the number of locations for microdistilleries from one to five, to make them equal to the five locations craft breweries were allowed to operate. This bill was amended into LB 1236 and passed as part of the committee priority package. LB 1236 did not contain an emergency clause, and it took effect July 21, 2022.

**Section-by-Section Summary:**

**Section 1:** Amends section 53-123.01 by changing the number of retail locations the holder of a craft brewery license holder may operate from five to ten.

**Section 2:** Amends section 53-123.14 by changing the number of licensed premises a craft brewery may operate from five to ten locations.

**Section 3:** Amends section 53-123.16 by allowing the operator of a microdistillery and holds the appropriate license to include up to ten separate physical locations, an increase from the five locations currently allowed in statute.

**Section 4:** Amends section 53-129 by allowing up to ten separate physical locations to be described in each license for a craft brewery and a microdistillery license, an increase from the five separate physical locations currently allowed in statute.

**Section 5:** is the repealer section.

LB 512 is currently being held by committee.

**LB 542 (Lowe): Change provisions relating to the Nebraska Racetrack Gaming Act.**

AM 516 is a white copy amendment that replaces the original language in LB 542. AM 516 is an amendment brought to clarify that an employee hired under either a casino operator license or under a horseracing license can be employed to accept both parimutuel wagers and sports wagers within the designated sports wagering area within a casino.

**Section-by-Section Summary:**

**Section 1:** amends section 2-1205 by adding new language at the end of subsection (1) to clarify that no licensee will be considered in violation of this section with respect to an agreement with an authorized gaming operator regarding employees and the acceptance of any parimutuel wager or sports wager pursuant to section 9-1110.

**Section 2:** amends section 9-1110 by adding new language to subsection (1) that states an individual employed and authorized to accept a sports wager is also permitted to accept parimutuel wagers.

LR 542 was amended into LB 775 on select file.

**LB 543 (Lowe): Change provisions relating to entertainment district licenses under the Nebraska Liquor Control Act.**

**Bill Summary:** LB 543 was introduced to provide a shell bill for the committee in the event it was needed.

**Section-by-Section Summary:**

**Section 1:** amends section 53-123.17 by striking the phrase “at any time” from the provision in statute that allows a local governing body to revoke the designation of an entertainment district if it finds the area threatens the health, safety, or welfare of the public, or has become a common nuisance.

**Section 2:** is the repealer section.

LB 543 is currently being held in committee.

### **LB 544 (Conrad): Change provisions under the Nebraska Bingo Act.**

LB 544 relates to the Nebraska Bingo Act and makes changes and redefines terms on how bingo is played using technological aids.

**Bill Summary:** LB 544 is a bill to update the Bingo Act, by modernizing language and adding new language to allow bingo to be played on a bingo card or automatically or manually entering or concealing numbers with the aid of a bingo card monitoring device, and allows such device to communicate with its host system.

#### **Section-by-Section Summary:**

**Section 1:** amends section 9-204 by updating the definition of bingo by adding new language allowing players to mark their bingo card automatically or manually with the aid of a bingo card monitoring device, or enter or otherwise conceal the randomly selected numbers.

**Section 2:** amends section 9-204.04 by adding new language to the definition of “Bingo card monitoring device” to mean a technological aid which allows a bingo player to “automatically or manually” enter bingo numbers as they are announced at a bingo occasion and which “enters” or otherwise conceals those numbers on bingo cards which are electronically stored in and displayed on the device.

Bingo card monitoring devices are devices which cannot have any currency, coins, or tokens inserted into, nor can they dispense any of these or other receipts for monetary value.

Additional new language in this section provides for these devices to be able to communicate with the host system.

**Section 3:** is the repealer section.

LB 544 was amended into LB 775 on select file.

### **LB 596 (Hardin): Authorize a manufacturer or wholesaler to enter into a sponsorship or advertising agreement with certain licensees or organizations under the Nebraska Liquor Control Act.**

LB 596 makes clear that Nebraska statutes allow liquor manufacturers and wholesalers to enter into sponsorship and advertisement agreements with certain organizations, including nonprofit organizations.

**Bill Summary:** LB 596 clarifies the Nebraska Liquor Control Act so as to expressly allow liquor manufacturers and wholesalers to enter into sponsorship and advertisement agreements with certain organizations, including nonprofit organizations.

#### **Section-by-Section Summary:**

**Section 1:** Amends section 53-101 to include section two of this act in the Nebraska Liquor Control Act.

**Section 2:** Is all new language which allows a manufacturer, wholesaler, or any agent thereof to enter into a sponsorship or advertising agreement with the holder of a special designated license (SDL) pursuant to section 53-124.11 if the holder of the SDL is a municipal corporation, a fine arts museum incorporated as a non-profit, a religious non-profit corporation exempted from payment of federal income taxes, a political organization exempted from payment of federal income taxes, or any other non-profit corporation whose purpose is fraternal, charitable, or public service and has been exempted from payment of federal income taxes. They also may enter into a sponsorship or advertising agreement with a political subdivision of the State of Nebraska, or an operator of property owned by a political subdivision of the State of Nebraska to sponsor and advertise for events held by such organization, licensee, or political subdivision.

The commission is granted the authority to adopt and promulgate rules and regulations to carry out this section.

**Section 3:** Amends section 53-168 to add a new subsection (6) to expressly state it is not a violation of subsection (1) or (2) of this section for a wholesaler or manufacturer or the agent of a wholesaler or manufacturer to enter into a sponsorship or advertising agreement with a licensee, organization, or political subdivision of the State of Nebraska pursuant to section two of this act.

**Section 4:** Amends section 53-169 to add a new subsection (3) to expressly state similar language as in section 3 above, to expressly state it also is not a violation of subsection (1) or (2) of this section of statute for a wholesaler or manufacturer or any agent thereof to enter into a sponsorship or advertising agreement with a licensee, organization, or political subdivision of the State of Nebraska pursuant to section two of this act.

**Section 5:** is the repealer section.

LB 596 was amended into LB 376.

### **LB 667 (Hughes): Authorize wholesalers to implement channel pricing under the Nebraska Liquor Control Act.**

LB667 authorizes alcohol wholesalers to employ channel pricing for the purposes of reconciling wholesalers' pricing structures under the Nebraska Liquor Control Act to retail licensees who sell alcohol liquor for consumption on and off premises; to retail licensees who sell alcohol for consumption off premises only; and to retail licensees with multiple licenses to sell alcohol liquor at the same location.

#### **Section-by-Section Summary:**

**Section 1:** Amends section 53-101 to include sections three and four of this act in the Nebraska Liquor Control Act.

**Section 2:** Amends section 53-103 to include section three of this act within the definitions found in sections 53=102.01 to 53-103.49

**Section 3:** Creates a new definition for “Chanel pricing”, to mean a pricing strategy that differentiates the price charged for a product based on the particular distribution channel used to sell the product.

**Section 4:** New language in subsection (1) of this section defines alcoholic product as a particular brand of alcoholic liquor in a designated size container or a mix of brands and containers when sold on a combined basis, as established by the wholesaler, that is offered in quantity discount terms established by the wholesaler.

Subsection (2) is new language to allow a wholesaler to employ chanel pricing to sell alcoholic products to retail license holders who sell alcoholic liquor for consumption on and off the premises at a different price than the wholesaler sells the alcoholic liquor to retail license holders who sell alcoholic liquor only for consumption OFF the licensed premises IF the chanel pricing discounts are:

- (a) Based on the volume of the alcoholic product delivered within a twenty -four hour period; and
- (b) Made equally available to each retail licensee in that licensee’s same channel.

Subsection (3) requires an establishment that has multiple licenses at the same location that are not from the same channel, the alcoholic product must be sold under the channel that represents the primary use of the premises.

**Section 5:** is the repealer section.

LB 667 was amended into LB 376.

**LB 685 (Briese): Rename, transfer, and change provisions relating to the Mechanical Amusement Device Tax Act, transfer powers from the Department of Revenue to the State Racing and Gaming Commission, provide a tax on cash devices, and eliminate provisions relating to the power to tax under the Mechanical Amusement Device Tax Act.**

**Bill Summary:** LB 685 is a bill to increase the regulation and enforcement of laws regarding games of skill. This bill also increases the fees to apply for and license these games, and to move the regulation of all mechanical amusement devices to the Racing and Gaming Commission. They are currently regulated by the Department of Revenue.

**Legislative History:** In 2011, the Nebraska Supreme Court ruled that Bankshot specifically, when configured to allow play in only Spin mode, is not a game of chance, but is a game of skill, and is therefore legal in the State of Nebraska.<sup>1</sup>

In 2019, Senator Lathrop passed LB 538 to establish an approval and regulatory process under the Dept. of Revenue for mechanical amusement devices that are games of skill and award cash prizes (cash devices), to determine and demonstrate if such device constitutes a game of skill, which is legal under the Bankshot decision (above), or a game of chance similar to a slot machine that was not legal in Nebraska at that time.

In January of 2020, Senator Tom Briese brought LB 1175 to bring a 10% tax on these types of games of skill. This bill was referenced to the revenue committee, but did not get voted out to general file by the committee.

In November of 2020, voter initiatives 429, 430, and 431 were passed in the general election, making all games of chance (also known as gambling) legal in the state of Nebraska.

In January of 2021, Senator Briese brought LB 367, which was a bill to impose a 20% tax on the net revenue of cash devices which are games of skill. This bill again was referenced to the revenue committee, but it also did not get voted out to general file.

Since the passage of the voter initiatives, the legislature has passed LB 561 (2021) and LB 876 to create the statutory framework to implement the voter initiatives passed in November 2020, and these bills included strengthening the Nebraska Racing and Gaming Commission to give them all the tools necessary to properly regulate all forms of gaming in Nebraska.

### **Section-by-Section Summary:**

**Section 1:** Amends section 2-1201.01 to include mechanical amusement devices and cash devices as defined in the Mechanical Amusement Device Act within the jurisdiction of the State Racing and Gaming Commission.

**Section 2:** Amends section 2-1202 by adding the Mechanical Amusement Device Act to the duties the commission is required to carry out.

**Sections 3 - 7:** Are all new language written by the revisor's office to facilitate the transfer of sections 77-3001 et seq. which contains the Mechanical Amusement Device Tax Act, to chapter 9, placing it under the jurisdiction of the Racing and Gaming Commission and put it with the other statutes that deal with gambling, lottery, bingo, pickle cards, etc.

**Section 8:** Amends section 77-3011 to change the name of sections 3-20 of this act to be the Mechanical Amusement Device Act, instead of the Mechanical Amusement Device Tax Act.

**Section 9:** Amends section 77-3001 by first striking this statute number. It also adds a new definition for Commission to this act, meaning the State Racing and Gaming Commission. It further adds a new definition of Gross operating revenue, which means the dollar amount collected by an owner or operator of any cash device as computed pursuant to applicable statutes,

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<sup>1</sup> American Amusements Co. v. Neb. Dept. of Revenue 282 Neb. 908; 807 N.W. 2d 492 (2011)

rules, and regulations less the total of cash awards paid out to players as defined in subdivision (1) of this section.

**Section 10:** Amends section 77-3006 to vest the administration of the Mechanical Amusement Device Act in the commission instead of the tax commissioner, and gives the commission the authority to prescribe, adopt and promulgate, and enforce rules and regulations relating to the administration and enforcement of the act.

New language also provides all rules, regulations, and orders of the Department of Revenue adopted prior to January 1, 2024 in connection with the powers, duties, and functions transferred to the commission pursuant to this act, be continued to be effective until revised, amended, repealed, or nullified by the commission pursuant to law.

**Section 11:** Amends section 77-3002 by striking the current statute number, and by requiring any operator of a mechanical amusement device to obtain an annual license from the commission instead of the tax commissioner. The application is required to be filed before January 1 of each year, and beginning January 1, 2024, the license fee will be one thousand dollars. Currently there is no license fee. This license fee will go to the commission's cash fund for enforcement. AMENDMENT language states that no license fee is required for any mechanical amusement device that is not a cash device.

**Section 12:** Amends section 77-3003 by striking the current statute number, and by requiring distributors of mechanical amusement devices to file an application for their license on or before January 1 of each year, with the accompanying license fee of one thousand dollars beginning January 1, 2024. Currently, no license fee is required. AMENDMENT language states no license fee is required for a license to distribute a mechanical amusement device that is not a cash device.

**Section 13:** Amends section 77-3003.01 by replacing the words "tax commissioner" with "commission" with respect to who may seize any mechanical amusement device if there is cause to believe it is not in compliance with this act or any rules and regulations adopted by the commission. Additionally, any cash devices that constitute a game of chance outside of a licensed racetrack enclosure within the state will be subject to a penalty of one thousand dollars per day of operation.

In subsection (c) of this section, there is language exempting games used at a licensed racetrack enclosure pursuant to the racetrack gaming act from enforcement of prior subsections of this section of statute.

Section (2) of this section requires an application be submitted to the commission to receive a determination from the commission that a cash device is in compliance with the Mechanical Amusement Device Act. The application must contain information regarding the device's location, software, internet connectivity, and configuration as may be required by the commission, an application fee of one thousand dollars, which is an increase from the current five hundred dollars, provide a specimen of the proposed cash device, and provide all supporting evidence, including a report by an independent testing laboratory certified by the commission which indicates that under all configurations, settings, and modes of operation, operation of the



cash device constitutes a game of skill and not a game of chance, and the use of this cash device is not a violation of section 28-1107 or the Nebraska Racetrack Gaming Act.

The commission is required to issue a response in writing within forty-five days after the applicant has submitted all application requirements. If the commission issues a denial, their response must state the reason for the denial or any reasons a determination cannot be made.

Throughout this entire section, any time the words “tax commissioner” are found, they are stricken and replaced with “commission”.

In subsection (8) of this section, an owner or operator of a retail establishment is prohibited from operating more than eight cash devices, which is an increase from the current language limiting it to four. New language prohibits any single address from having or operating more than eight licensed cash devices, with an exception provided for any establishment that was operating more than eight licensed cash devices on December 31, 2022 may continue to operate the cash devices that were licensed and displayed the annual decal required and issued by the Department of Revenue on that date. Any operator that is governed by this exception is not permitted to have any additional cash devices beyond what they had that were licensed on December 31, 2022.

New language further prohibits separate businesses which share the same physical address or location from having any additional cash devices for any reason, beyond the eight permitted in statute above, regardless of the square footage of the establishment. Multiplayer games which allow up to eight players to play simultaneously are permitted, and each station of play requires its own license. If a retail establishment has one cash device that allows eight players to play simultaneously, they are not permitted to have any additional cash devices, as the eight license limit for their location has been reached.

The owner or operator of a cash device is required to pay an annual decal fee of one thousand dollars, increased from the current \$250.00 dollars required, for each cash device in operation in the state. This decal is distinct and different from any other decals issued by the commission for mechanical amusement devices that are not cash devices. The number of player seats available per cash device equals the number of decals required for such device. Cash devices with multiplayer games with more than eight seats for players are not eligible for approval and will not be issued a decal, rendering them illegal in the state.

Subsection (10) of this section remits all application fees and annual decal fees collected pursuant to this section to the state treasurer for credit to the Racing and Gaming Commission’s Racetrack Gaming fund found in section 9-1107

**Section 14:** Amends section 77-3003.02 by raising the age from nineteen years to twenty one years of age to be allowed to play or participate in any way in the operation of a cash device. No operator or employee or agent of any operator shall knowingly permit someone under the age of twenty-one to play or participate in the operation of a cash device.

New language requires all cash devices to be located in a separate enclosed area, with designation showing it is only for individuals age twenty-one and older. Any operator in

violation of this section is subject to an administrative penalty of five hundred dollars per violation.

**Section 15:** Amends section 77-3004 by striking the statute number, and by increasing the amount of the occupation tax paid by each operator of a mechanical amusement device, for each device in operation, from \$35.00 dollars to \$1,000.00 per device beginning January 1, 2024. AMENDMENT language strikes this new provision entirely, retaining the occupation tax to be paid for each mechanical amusement device at \$35.00 per year.

**Section 16:** Amends section 77-3005 by updating and harmonizing the language regarding the occupation tax and mechanical amusement devices.

**Section 17:** Amends section 77-3007 by again updating and harmonizing language reflecting the change in jurisdiction to the commission.

**Section 18:** All new language in this section imposes and levies a tax upon the gross operating revenue of all cash devices operating within the State of Nebraska for profit or gain, either directly or indirectly received. Beginning July 1, 2024, the tax will be twenty percent (20%) of gross operating revenue. This tax will be distributed by the State Treasurer as follows:

- (a) Two and one half percent will be paid to the Compulsive Gamblers Assistance Fund
- (b) Two and one half percent to the General Fund;
- (c) Seventy percent to the Property Tax Credit Cash Fund; and
- (d) The remaining twenty-five percent of the tax will go to the county in which the cash device is located. If the cash device is located within an incorporated city or village, one half of this percentage will go to the city or village, and one half will go to the county.

**Section 19:** Amends section 77-3009 by increasing an administrative penalty for placing a mechanical amusement device into operation in the state without the necessary decal being placed conspicuously upon it or without having obtained the necessary license from seventy-five dollars (\$75.00) per violation to five thousand (\$5,000.00) dollars per violation. This section also makes any device that does not have the requisite decal or license subject to seizure, forfeiture, and sale by the commission, and increases the penalty for a violation of the Mechanical Amusement Device Act from a Class II misdemeanor to a Class I misdemeanor.

**Section 20:** Amends section 77-3010 by striking the current statute number reflecting the change in location for this statutory sequence proposed in this legislation.

**Section 21:** Amends section 28-1107 by adding the word “illegal” in front of the word “gambling” to this section which currently makes possession of a gambling device a class II misdemeanor, and increases class II to class I as the prior section does.

**Section 22:** Amends section 77-5601 by striking language currently in the Department of Revenue Enforcement Fund, removing the money collected under the Mechanical Amusement Device Tax Act, and the instruction that such money be used by the department to defray the costs incurred to implement the act.

**Section 23:** requires the Revisor of Statute to assign sections 3 through 20 of this act to Chapter 9 of the Nebraska Revised Statutes.

**Section 24:** sets the operative date of the act as January 1, 2024

**Sections 25 and 26:** are repealer sections.

**AM 305 Does the following things:**

1. In section 9-1107, the Racing and Gaming Commission’s Racetrack Gaming Fund, language adding the application and decal fees collected pursuant to section 14 of the act as amended to this fund, which will then be used by the commission for administration of this act.
2. Adds some clarifying language to section 11 of the bill to require the license fee accompany the application submitted by operators of cash devices on or before January 1 of each year.  
A new subsection (b) is added clarifying that no license fee is required for a mechanical amusement device that is not a cash device.  
New language rewriting subsection (c) clarifies that no license fee is required for a mechanical amusement device that is also a cash device until January 1, 2024, but beginning on that date, the license fee for these specific devices (cash machines) is one thousand dollars.

For section 12 of the bill (section 77-3003), the language beginning on line 27 is clarified to state the application submitted by distributors annually also must be accompanied by the one thousand dollar license fee, and that this fee is not required until after January 1, 2024. Again, this fee is only required for distributors to distribute cash devices, not any other type of mechanical amusement device governed by this act.

3. On page 10, line 13, the word “selected” is replaced with “certified” to keep all language harmonized within the act.
4. On page 15 of the bill, line 22, the “XXX” is replaced with the “Racetrack and Gaming Commission’s Racetrack Gaming Fund”.
5. On page 17, the increase in the occupation tax is being entirely stricken, and the occupation tax will remain at thirty-five dollars for each mechanical amusement device as has been the case since January 1, 2000. Also, a misspelled word in this section has been corrected in this amendment.
6. Renumbers all remaining sections and corrects the internal references in the bill and the repealer section accordingly.

LB 685 is currently being held in committee.

**LB 716 (Cavanaugh, J.): Change provisions relating to licensure, registration, and state inspection fees under the State Electrical Act.**

LB716 seeks to allow the State Electrical Board to change fees for licensure and permits for inspection. Currently, the Legislature must approve any changes to the fee schedule for the State Electrical Division.

**Bill Summary:** LB 716 is a bill that proposes to remove the different examination and license fees administered by the State Electrical Board from statute, along with fees for inspections, and provides new language to allow these fees to be set by the Board. New language also requires the Board to file an annual report with the Attorney General and the Legislative Fiscal Analyst stating the amount of each fee set by the Board.

**Section-by-Section Summary:**

**Section 1:** amends section 81-2118 by adding new language requiring the board to set reasonable fees for examination, issuance, and renewal of licenses and registrations issued by the board, in amounts necessary to cover the costs incurred by the State Electrical Division and the board in administering and carrying out their duties, in a manner that unnecessary surpluses are avoided.

Additional language requires the board to file an annual report with the attorney general and the legislative fiscal analyst stating the amount of the fees set by the board, and the report must be submitted on or before July 1 of each year. The report is required to be submitted electronically.

The current fees that are in statute are stricken throughout the remainder of this section.

**Section 2:** amends section 81-2135 by requiring the board to set reasonable fees for state electrical inspections with all the same additional requirements discussed in the above section.

Current fee amounts are then stricken from the remaining subsections currently in statute.

**Section 3:** this is the repealer section.

LB 716 has been voted out to general file.

**LB 775 (Lowe): Redefine a term under the Nebraska Racetrack Gaming Act and change and provide powers and duties for the State Racing and Gaming Commission.**

**Bill Summary:** LB 775 is a bill to make necessary changes and additions to the Nebraska Gaming Act. First, this bill updates the definition of “Licensed Racetrack Enclosure”. It also grants the commission the authority to recommend necessary changes and updates to all laws administered by the commission, to the Governor and the Legislature, to carry out their statutory responsibilities.

Second, the bill grants the commission the authority to create an adjudication subcommittee of the commission to investigate and respond to violations of the Racetrack Gaming Act.

**Section-by-Section Summary:**

**Section 1:** Amends section 9-1103 by updating the definition of Licensed Racetrack Enclosure, so that it will mean “all real property licensed and utilized for the conduct of a race meeting, including the racetrack and any grandstand, concession stand, office, barn, barn area, employee housing facility, parking lot, and additional area designated by the commission” in accordance with the Constitution of Nebraska and applicable Nebraska Law.

This more specific language will be beneficial to the commission than the current language, which defines the licensed racetrack enclosure as “premises at which licensed live horse racing is conducted”.

**Section 2:** Amends section 9-1106 by adding new language that will allow the commission to make recommendations on changes or additions to statute to the Legislature and the Governor each year.

Additionally, this section includes new language which gives the commission the authority to appoint an adjudication subcommittee of the commission to investigate and respond to violations of the Nebraska Racetrack Gaming Act.

This subcommittee is similar to the board of stewards that exists in section 2-1203, which is appointed by the commission to perform similar duties for violations of the laws and regulations of horse racing.

LB 775 was one of the committee priority bills for 2023. It was amended by AMs 709, 856, 832, 813, and 1788, to include portions of LBs 72, 73, 232, and 544.

## **II. Confirmation Appointments**

The General Affairs Committee heard 14 confirmation hearings for gubernatorial appointees in 2023. They are as follows:

1. Brian Botsford, new appointee to the Nebraska Arts Council.
2. Brenda M. Davis, reappointment to the Nebraska Arts Council.
3. Ann Michelle Dudley, reappointment to the Nebraska Arts Council.
4. Crystal Dunning, new appointee to the Nebraska Arts Council.
5. Karen A. Harris, new appointee to the Nebraska Arts Council.
6. Sharon R. Hofschire, reappointment to the Nebraska Arts Council.
7. Mark Laughlin, reappointment to the Nebraska Arts Council.
8. Dennis Lee, reappointment to the Nebraska Racing and Gaming Commission.
9. Jeffrey Galyen, reappointment to the Nebraska Racing and Gaming Commission.
10. Trent Loos, new appointee to the Nebraska Racing and Gaming Commission.
11. Susan E. Lutz, reappointment to the Nebraska Commission on Problem Gambling.
12. Matthew Monheiser, reappointment to the Nebraska Commission on Problem Gambling.
13. John Pulverenti, new appointee to the Nebraska Commission on Problem Gambling.
14. John F. Hiller, reappointment to the Nebraska State Electrical Board.

### **III. Interim Studies**

1. LR 84, Senator Lowe, Interim study to examine different methods to address concerns raised by a restaurant, bar, craft brewery, microdistillery, and farm winery owners relating to receiving shipments of alcoholic liquor.
2. LR 103, Senator Lowe, Interim study to examine entertainment district licenses issued under the Nebraska Liquor Control Act.
  - a. A hearing for LR 103 was held September 22, 2023 at 2pm in the Norfolk City Council Chambers.
3. LR 104, Senator Lowe, Interim study to examine statutes relating to the State Racing and Gaming Commission and its members.
4. LR 105, Senator Lowe, Interim study to examine and review occupational licenses and regulations under the State Electrical Act.
5. LR 98, Senator Lowe, Interim study to examine issues within the jurisdiction of the General Affairs Committee.
  - a. A hearing for LR 98 was held October 20, 2023 in room 1510 of the State Capitol.