

LEGISLATIVE BILL 172

Approved by the Governor May 09, 2017

Introduced by Albrecht, 17; Harr, 8.

A BILL FOR AN ACT relating to labor; to amend sections 8-716, 25-1912, 48-301, 48-606.01, 48-609, 48-612, 48-612.01, 48-613, 48-614, 48-616, 48-617, 48-618, 48-619, 48-620, 48-623, 48-624, 48-626, 48-627, 48-628, 48-628.01, 48-628.02, 48-628.03, 48-628.04, 48-628.05, 48-629, 48-629.01, 48-635, 48-638, 48-643, 48-645, 48-647, 48-648.02, 48-649, 48-650, 48-651, 48-654.01, 48-656, 48-662, 48-663, 48-664, 48-2903, 84-1301, and 84-1307, Reissue Revised Statutes of Nebraska, and sections 48-601, 48-602, 48-603.01, 48-604, 48-606, 48-621, 48-622.01, 48-622.02, 48-622.03, 48-625, 48-630, 48-631, 48-632, 48-634, 48-637, 48-644, 48-648, 48-652, 48-654, 48-655, 48-660.01, 48-663.01, 48-665, 48-675, 48-679, and 48-682, Revised Statutes Cumulative Supplement, 2016; to change and eliminate provisions relating to the Employment Security Law; to eliminate provisions relating to a merit system; to change provisions relating to unemployment benefits and disqualification; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal sections 48-640, 48-641, 48-642, 48-646, and 81-402, Reissue Revised Statutes of Nebraska, and sections 48-648.01 and 48-669, Revised Statutes Cumulative Supplement, 2016.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 8-716, Reissue Revised Statutes of Nebraska, is amended to read:

8-716 No institution incorporated under the laws of this state which is or becomes a member of a Federal Home Loan Bank shall be exempt from any taxes of this state, including any contributions required to be paid under sections 48-648 to 48-654 and sections 64 to 67 of this act.

Sec. 2. Section 25-1912, Reissue Revised Statutes of Nebraska, is amended to read:

25-1912 (1) The proceedings to obtain a reversal, vacation, or modification of judgments and decrees rendered or final orders made by the district court, including judgments and sentences upon convictions for felonies and misdemeanors, shall be by filing in the office of the clerk of the district court in which such judgment, decree, or final order was rendered, within thirty days after the entry of such judgment, decree, or final order, a notice of intention to prosecute such appeal signed by the appellant or appellants or his, her, or their attorney of record and, except as otherwise provided in sections 25-2301 to 25-2310 and ~~29-2306~~ and subsection (4) of section 48-638 ~~48-641~~, by depositing with the clerk of the district court the docket fee required by section 33-103.

(2) A notice of appeal or docket fee filed or deposited after the announcement of a decision or final order but before the entry of the judgment, decree, or final order shall be treated as filed or deposited after the entry of the judgment, decree, or final order and on the date of entry.

(3) The running of the time for filing a notice of appeal shall be terminated as to all parties (a) by a timely motion for a new trial under section 25-1144.01, (b) by a timely motion to alter or amend a judgment under section 25-1329, or (c) by a timely motion to set aside the verdict or judgment under section 25-1315.02, and the full time for appeal fixed in subsection (1) of this section commences to run from the entry of the order ruling upon the motion filed pursuant to subdivision (a), (b), or (c) of this subsection. When any motion terminating the time for filing a notice of appeal is timely filed by any party, a notice of appeal filed before the court announces its decision upon the terminating motion shall have no effect, whether filed before or after the timely filing of the terminating motion. A new notice of appeal shall be filed within the prescribed time after the entry of the order ruling on the motion. No additional fees are required for such filing. A notice of appeal filed after the court announces its decision or order on the terminating motion but before the entry of the order is treated as filed on the date of and after the entry of the order.

(4) Except as otherwise provided in subsection (3) of this section, and sections 25-2301 to 25-2310 and ~~29-2306~~, and subsection (4) of section 48-638 ~~48-641~~, an appeal shall be deemed perfected and the appellate court shall have jurisdiction of the cause when such notice of appeal has been filed and such docket fee deposited in the office of the clerk of the district court, and after being perfected no appeal shall be dismissed without notice, and no step other than the filing of such notice of appeal and the depositing of such docket fee shall be deemed jurisdictional.

(5) The clerk of the district court shall forward such docket fee and a certified copy of such notice of appeal to the Clerk of the Supreme Court, and the Clerk of the Supreme Court shall docket such appeal.

(6) Within thirty days after the date of filing of notice of appeal, the clerk of the district court shall prepare and file with the Clerk of the Supreme Court a transcript certified as a true copy of the proceedings

contained therein. The Supreme Court shall, by rule, specify the method of ordering the transcript and the form and content of the transcript. Neither the form nor substance of such transcript shall affect the jurisdiction of the Court of Appeals or Supreme Court.

(7) Nothing in this section shall prevent any person from giving supersedeas bond in the district court in the time and manner provided in section 25-1916 nor affect the right of a defendant in a criminal case to be admitted to bail pending the review of such case in the Court of Appeals or Supreme Court.

Sec. 3. Section 48-301, Reissue Revised Statutes of Nebraska, is amended to read:

48-301 For purposes of sections 48-302 to 48-313:

(1) Employment means (a) service for wages or (b) being under a contract of hire, written or oral, express or implied. Employment, other than detasseling, does not include any employment for which the employer is not liable for payment of the combined tax or payment in lieu of contributions under section 48-648, ~~48-649~~, or 48-660.01 or section 48-649 and sections 64 to 67 of this act; and

(2) Detasseling means the removal of weeds, off-type and rogue plants, and corn tassels in hand pollinating and in any other engagement in hand labor in the production of seed.

Sec. 4. Section 48-601, Revised Statutes Cumulative Supplement, 2016, is amended to read:

48-601 Sections 48-601 to 48-683 and sections 29, 31 to 47, and 64 to 67 of this act shall be known and may be cited as the Employment Security Law.

Sec. 5. Section 48-602, Revised Statutes Cumulative Supplement, 2016, is amended to read:

48-602 For purposes of the Employment Security Law, unless the context otherwise requires:

(1) Agricultural labor means services performed:

(a) On a farm, in the employ of any employer, in connection with cultivating the soil or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, fur-bearing animals, and wildlife;

(b) In the employ of the owner, tenant, or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment or in salvaging timber or clearing land of brush and other debris left by a windstorm, if the major part of such service is performed on a farm;

(c) In connection with the production or harvesting of any commodity in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;

(d)(i) In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity, but only if such operator produced more than one-half of the commodity with respect to which such service is performed, or (ii) in the employ of a group of operators of farms, or a cooperative organization of which such operators are members, in the performance of service described in subdivision (1)(d)(i) of this section, but only if such operators produced more than one-half of the commodity with respect to which such service is performed. Subdivisions (1)(d)(i) and (ii) of this section shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or

(e) On a farm operated for profit if such service is not in the course of the employer's trade or business;

(2) ~~(1)~~ Base period means the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year, except that if the individual is not monetarily eligible for unemployment benefits as determined pursuant to section 29 of this act ~~subdivision (5) of section 48-627~~ based upon wages paid during the first four of the five most recently completed calendar quarters, the department shall make a redetermination of monetary eligibility based upon an alternative base period which consists of the last four completed calendar quarters immediately preceding the first day of the claimant's benefit year;

(3) ~~(2)~~ Benefits means the money payments payable to an individual with respect to his or her unemployment;

(4) ~~(3)~~ Benefit year, with respect to any individual, means the one-year period beginning with the first day of the first week with respect to which the individual first files a valid claim for benefits, and thereafter the one-year period beginning with the first day of the first week with respect to which the individual next files a valid claim for benefits after the termination of his or her last preceding benefit year. Any claim for benefits made in accordance with section 48-629 shall be deemed to be a valid claim for the purpose of this subdivision if the individual has been paid the wages for insured work required under section 29 of this act ~~48-627~~. For the purposes of this subdivision a week with respect to which an individual files a valid claim shall be deemed to be in, within, or during that benefit year which includes the greater part of

such week;

~~(5)~~ ~~(4)~~ Calendar quarter means the period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31, or the equivalent thereof as the Commissioner of Labor may by rule and regulation prescribe;

~~(6)~~ ~~(5)~~ Client means any individual, partnership, limited liability company, corporation, or other legally recognized entity that contracts with a professional employer organization to obtain professional employer services relating to worksite employees through a professional employer agreement;

~~(7)~~ ~~(6)~~ Combined tax means the employer liability consisting of contributions and the state unemployment insurance tax;

~~(8)~~ ~~(7)~~ Combined tax rate means the rate which is applied to wages to determine the combined taxes due;

~~(9)~~ ~~(8)~~ Commissioner means the Commissioner of Labor;

~~(10)~~ Commodity means an agricultural commodity as defined in section 15(g) of the federal Agricultural Marketing Act, as amended, 12 U.S.C. 1141j;

~~(11)~~ ~~(9)~~ Contribution rate means the percentage of the combined tax rate used to determine the contribution portion of the combined tax;

~~(12)~~ ~~(10)~~ Contributions means that portion of the combined tax based upon the contribution rate portion of the combined tax rate which is deposited in the state Unemployment Compensation Fund as required by sections 48-648 and 48-649 and sections 64 to 67 of this act;

~~(13)~~ Crew leader means an individual who furnishes individuals to perform service in agricultural labor for any other person, pays, either on his or her own behalf or on behalf of such other person, the individuals so furnished by him or her for the service in agricultural labor performed by them, and has not entered into a written agreement with such other person under which such individual is designated as an employee of such other person;

~~(14)~~ ~~(11)~~ Department means the Department of Labor;

~~(15)~~ Employers engaged in the construction industry means all employers primarily engaged in business activities classified as sector 23 business activities under the North American Industry Classification System;

~~(16)~~ ~~(12)~~ Employment office means a free public employment office or branch thereof, operated by this state or maintained as a part of a state-controlled system of public employment offices, including public employment offices operated by an agency of a foreign government;

~~(17)~~ Farm means stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses, or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards;

~~(18)~~ ~~(13)~~ Fund means the Unemployment Compensation Fund established by section 48-617 to which all contributions and payments in lieu of contributions required and from which all benefits provided shall be paid;

~~(19)~~ Hearing officer means a person employed by the Department of Labor who conducts hearings, contested cases, or other proceedings pursuant to the Employment Security Law;

~~(20)~~ ~~(14)~~ Hospital means an institution which has been licensed, certified, or approved by the Department of Health and Human Services as a hospital;

~~(15)~~ Institution of higher education means an institution which: (a) Admits as regular students only individuals having a certificate of graduation from a high school or the recognized equivalent of such a certificate; (b) is legally authorized in this state to provide a program of education beyond high school; (c) provides an educational program for which it awards a bachelor's degree or higher or provides a program which is acceptable for full credit toward such a degree, a program of postgraduate or postdoctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and (d) is a public or other nonprofit institution; notwithstanding any of the foregoing provisions of this subdivision, all colleges and universities in this state are institutions of higher education for purposes of this section;

~~(21)~~ ~~(16)~~ Insured work means employment for employers;

~~(22)~~ ~~(17)~~ Leave of absence means any absence from work: (a) Mutually and voluntarily agreed to by the employer and the employee; (b) mutually and voluntarily agreed to between the employer and the employee's bargaining agent; or (c) to which the employee is entitled to as a matter of state or federal law;

~~(23)~~ ~~(18)~~ Paid vacation leave means a period of time while employed or following separation from employment in which the individual renders no services to the employer but is entitled to receive vacation pay equal to or exceeding his or her base weekly wage;

~~(24)~~ ~~(19)~~ Payments in lieu of contributions means the money payments to the Unemployment Compensation Fund required by sections 48-649, 48-652, 48-660.01, and 48-661 and section 67 of this act;

~~(25)~~ ~~(20)~~ Professional employer agreement means a written professional employer services contract whereby:

(a) A professional employer organization agrees to provide payroll services, employee benefit administration, or personnel services for a majority of the employees providing services to the client at a client worksite;

(b) The agreement is intended to be ongoing rather than temporary in nature; and

(c) Employer responsibilities for worksite employees, including those of hiring, firing, and disciplining, are shared between the professional employer

organization and the client by contract. The term professional employer agreement shall not include a contract between a parent corporation, company, or other entity and a wholly owned subsidiary;

~~(26)~~ ~~(21)~~ Professional employer organization means any individual, partnership, limited liability company, corporation, or other legally recognized entity that enters into a professional employer agreement with a client or clients for a majority of a client's workforce at a client worksite. The term professional employer organization does not include an insurer as defined in section 44-103 or a temporary help firm;

~~(27)~~ Standard rate means the rate assigned to category twenty for that year under section 66 of this act. The standard rate shall be not less than five and four-tenths percent of the employer's annual taxable payroll;

~~(28)~~ ~~(22)~~ State includes, in addition to the states of the United States of America, any dependency of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, and the District of Columbia;

~~(29)~~ ~~(23)~~ State unemployment insurance tax means that portion of the combined tax which is based upon the state unemployment insurance tax rate portion of the combined tax rate and which is deposited in the State Unemployment Insurance Trust Fund as required by sections 48-648 and 48-649 and sections 64 to 67 of this act;

~~(30)~~ ~~(24)~~ State unemployment insurance tax rate means the percentage of the combined tax rate used to determine the state unemployment insurance tax portion of the combined tax;

~~(31)~~ ~~(25)~~ Temporary employee means an employee of a temporary help firm assigned to work for the clients of such temporary help firm;

~~(32)~~ ~~(26)~~ Temporary help firm means a firm that hires its own employees and assigns them to clients to support or supplement the client's workforce work force in work situations such as employee absences, temporary skill shortages, seasonal workloads, and special assignments and projects;

~~(33)~~ ~~(27)~~ Unemployed means an individual during any week in which the individual performs no service and with respect to which no wages are payable to the individual or any week of less than full-time work if the wages payable with respect to such week are less than the individual's weekly benefit amount, but does not include any individual on a leave of absence or on paid vacation leave. When an agreement between the employer and a bargaining unit representative does not allocate vacation pay allowance or pay in lieu of vacation to a specified period of time during a period of temporary layoff or plant shutdown, the payment by the employer or his or her designated representative will be deemed to be wages as defined in this section in the week or weeks the vacation is actually taken;

~~(34)~~ ~~(28)~~ Unemployment Trust Fund means the trust fund in the Treasury of the United States of America established under section 904 of the federal Social Security Act, 42 U.S.C. 1104, as such section existed on January 1, 2015, which receives credit from the state Unemployment Compensation Fund;

~~(35)~~ ~~(29)~~ Wages, except with respect to services performed in employment as provided in subdivisions (4)(c) and (d) of section 48-604, means all remuneration for personal services, including commissions and bonuses, remuneration for personal services paid under a contract of hire, and the cash value of all remunerations in any medium other than cash. The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with rules and regulations adopted and promulgated prescribed by the commissioner. Wages includes tips which are received while performing services which constitute employment and which are included in a written statement furnished to the employer pursuant to section 6053(a) of the Internal Revenue Code as defined in section 49-801.01.

With respect to services performed in employment in agricultural labor as is provided in subdivision (4)(c) of section 48-604, wages means cash remuneration and the cash value of commodities not intended for personal consumption by the worker and his or her immediate family for such services. With respect to services performed in employment in domestic service as is provided in subdivision (4)(d) of section 48-604, wages means cash remuneration for such services.

The term wages does not include:

(a) The amount of any payment, including any amount paid by an employer for insurance or annuities or into a fund to provide for such payment, made to, or on behalf of, an individual in employment or any of his or her dependents under a plan or system established by an employer which makes provision for such individuals generally or for a class or classes of such individuals, including any amount paid by an employer for insurance or annuities or into a fund to provide for any such payment, on account of (i) sickness or accident disability, except, in the case of payments made to an employee or any of his or her dependents, this subdivision (i) shall exclude from wages only payments which are received under a workers' compensation law, (ii) medical and hospitalization expenses in connection with sickness or accident disability, or (iii) death;

(b) The payment by an employer, without deduction from the remuneration of the employee, of the tax imposed upon an employee under section 3101 of the Internal Revenue Code as defined in section 49-801.01;

(c) Any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an individual after the expiration of six calendar months following the last calendar month in which such individual worked for such employer;

(d) Any payment made to, or on behalf of, an individual or his or her beneficiary (i) from or to a trust described in section 401(a) of the Internal Revenue Code as defined in section 49-801.01 which is exempt from tax under section 501(a) of the Internal Revenue Code as defined in section 49-801.01 at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust or (ii) under or to an annuity plan which, at the time of such payment, meets the requirements of section 401 of the Internal Revenue Code as defined in section 49-801.01;

(e) Any payment made to, or on behalf of, an employee or his or her beneficiary (i) under a simplified employee pension as defined by the commissioner, (ii) under or to an annuity contract as defined by the commissioner, other than a payment for the purchase of such contract which is made by reason of a salary reduction agreement, whether evidenced by a written instrument or otherwise, (iii) under or to an exempt governmental deferred compensation plan as defined by the commissioner, (iv) to supplement pension benefits under a plan or trust, as defined by the commissioner, to take into account some portion or all of the increase in the cost of living since retirement, but only if such supplemental payments are under a plan which is treated as a welfare plan, or (v) under a cafeteria benefits plan;

(f) Remuneration paid in any medium other than cash to an individual for service not in the course of the employer's trade or business;

(g) Benefits paid under a supplemental unemployment benefit plan which satisfies the eight points set forth in Internal Revenue Service Revenue Ruling 56-249 as the ruling existed on January 1, 2015, and is in compliance with the standards set forth in Internal Revenue Service Revenue Rulings 58-128 and 60-330 as the rulings existed on January 1, 2015; and

(h) Remuneration for service performed in the employ of any state in the exercise of his or her duties as a member of the Army National Guard or Air National Guard or in the employ of the United States of America as a member of any military reserve unit;

~~(36)~~ ~~(30)~~ Week means such period of seven consecutive days as the commissioner may by rule and regulation prescribe;

~~(37)~~ ~~(31)~~ Week of unemployment with respect to any individual means any week during which he or she performs less than full-time work and the wages payable to him or her with respect to such week are less than his or her weekly benefit amount;

~~(38)~~ ~~(32)~~ Wholly owned subsidiary means a corporation, company, or other entity which has eighty percent or more of its outstanding voting stock or membership owned or controlled, directly or indirectly, by the parent entity; and

~~(39)~~ ~~(33)~~ Worksite employee has the same meaning as the term covered employee in section 48-2702.

Sec. 6. Section 48-603.01, Revised Statutes Cumulative Supplement, 2016, is amended to read:

48-603.01 (1) For purposes of the Employment Security Law, unless the context otherwise requires, the term employer shall include any Indian tribe for which services in employment as provided in subdivision (4)(a) of section 48-604 are performed.

(2) The term employment shall include service performed in the employ of an Indian tribe, as defined in 26 U.S.C. 3306(u), as such section existed on January 1, 2015, if such service is excluded from employment as defined in the Federal Unemployment Tax Act solely by reason of 26 U.S.C. 3306(c)(7), as such section existed on January 1, 2015, and is not otherwise excluded from employment under the Employment Security Law. For purposes of this section, the exclusions from employment in subdivisions (6)(f) and (6)(g) of section 48-604 shall be applicable to services performed in the employment of an Indian tribe.

(3) Benefits based on service in employment defined in this section shall be payable in the same amount, on the same terms, and subject to the same conditions as benefits payable on the basis of other covered employment under the Employment Security Law. Section 36 of this act ~~Subdivision (8) of section 48-628~~ shall apply to services performed in an educational institution or educational service agency owned or operated by an Indian tribe.

(4)(a) Indian tribes or tribal units, subdivisions, subsidiaries, or business enterprises wholly owned by such Indian tribes, subject to the Employment Security Law, shall pay combined tax under the same terms and conditions as all other subject employers, unless they elect to make payments in lieu of contributions equal to the amount of benefits attributable to service in the employ of the Indian tribe.

(b) Indian tribes electing to make payments in lieu of contributions shall make such election in the same manner and under the same conditions as provided in section 67 of this act ~~subdivision (7) of section 48-649~~ pertaining to state and local governments subject to the Employment Security Law. Indian tribes shall determine if reimbursement for benefits paid will be elected by the tribe as a whole, by individual tribal units, or by combinations of individual tribal units.

(c) Except as provided in subsection (7) of this section, Indian tribes or tribal units shall be billed for the full amount of benefits attributable to service in the employ of the Indian tribe or tribal unit on the same schedule as other employing units that have elected to make payments in lieu of contributions.

(d) At the discretion of the commissioner, any Indian tribe or tribal unit that elects to become liable for payments in lieu of contributions shall be

required within thirty days after the effective date of its election to:

(i) Execute and file with the commissioner a surety bond approved by the commissioner; or

(ii) Deposit with the commissioner money or securities on the same basis as other employers with the same election option.

(5)(a)(i) Failure of the Indian tribe or tribal unit to make required payments, including assessments of interest and penalty, within ninety days of receipt of the bill will cause the Indian tribe to lose the option to make payments in lieu of contributions, as described in subsection (4) of this section, for the following tax year unless payment in full is received before combined tax rates for the next tax year are computed.

(ii) Any Indian tribe that loses the option to make payments in lieu of contributions due to late payment or nonpayment, as described in subdivision (5)(a)(i) of this section, shall have such option reinstated if, after a period of one year, all combined taxes have been paid timely and no combined tax, payments in lieu of contributions for benefits paid, penalties, or interest remain outstanding.

(b)(i) Failure of the Indian tribe or any tribal unit thereof to make required payments, including assessments of interest and penalty, after all collection activities deemed necessary by the commissioner have been exhausted will cause services performed for such tribe to not be treated as employment for purposes of subsection (2) of this section.

(ii) The commissioner may determine that any Indian tribe that loses coverage under subdivision (5)(b)(i) of this section may have services performed for such tribe again included as employment for purposes of subsection (2) of this section if all contributions, payments in lieu of contributions, penalties, and interest have been paid.

(6) Notices of payment and reporting delinquency to Indian tribes or their tribal units shall include information that failure to make full payment within the prescribed timeframe:

(a) Will cause the Indian tribe to be liable for taxes under the Federal Unemployment Tax Act, as the act existed on January 1, 2015;

(b) Will cause the Indian tribe to lose the option to make payments in lieu of contributions; and

(c) Could cause the Indian tribe to be excepted from the definition of employer, as provided in subsection (1) of this section, and services in the employ of the Indian tribe, as provided in subsection (2) of this section, to be excepted from employment.

(7) Extended benefits paid that are attributable to service in the employ of an Indian tribe and not reimbursed by the federal government shall be financed in their entirety by such Indian tribe.

(8) If an Indian tribe fails to make payments required under this section, including assessments of interest and penalty, within ninety days after a final notice of delinquency, the commissioner shall immediately notify the United States Internal Revenue Service and the United States Department of Labor.

Sec. 7. Section 48-604, Revised Statutes Cumulative Supplement, 2016, is amended to read:

48-604 As used in the Employment Security Law, unless the context otherwise requires, employment shall mean:

(1) Any service performed, including service in interstate commerce, for wages under a contract of hire, written or oral, express or implied;

(2) The term employment shall include an individual's entire service, performed within or both within and without this state if (a) the service is localized in this state, (b) the service is not localized in any state but some of the service is performed in this state and the base of operations or, if there is no base of operations, then the place from which such service is directed or controlled is in this state or the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed but the individual's residence is in this state, (c) the service shall be deemed to be localized within a state if (i) the service is performed entirely within such state or (ii) the service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the state, for example, is temporary or transitory in nature or consists of isolated transactions;

(3) Services performed outside the state and services performed outside the United States as follows:

(a) Services not covered under subdivision (2) of this section and performed entirely without this state, with respect to no part of which contributions are required under an unemployment compensation law of any other state or of the federal government, shall be deemed to be employment subject to the Employment Security Law if the commissioner approves the election of the employer, for whom such services are performed, that the entire service of such individual shall be deemed to be employment subject to such law;

(b) Services of an individual wherever performed within the United States or Canada if (i) such service is not covered under the employment compensation law of any other state or Canada and (ii) the place from which the service is directed or controlled is in this state; and

(c)(i) Services of an individual who is a citizen of the United States, performed outside the United States except in Canada in the employ of an American employer, other than service which is deemed employment under subdivisions (2) and (3)(a) and (b) of this section or the parallel provisions of another state's law, if:

(A) The employer's principal place of business in the United States is located in this state;

(B) The employer has no place of business in the United States, but the employer is an individual who is a resident of this state; the employer is a corporation or limited liability company which is organized under the laws of this state; or the employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any other state; or

(C) None of the criteria of subdivisions (A) and (B) of this subdivision are met, but the employer has elected coverage in this state or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits based on such service under the laws of this state.

(ii) American employer, for the purposes of this subdivision, shall mean: (A) An individual who is a resident of the United States; (B) a partnership if two-thirds or more of the partners are residents of the United States; (C) a trust if all the trustees are residents of the United States; or (D) a corporation or limited liability company organized under the laws of the United States or of any state.

(iii) The term United States for the purpose of this section includes the states, the District of Columbia, the Virgin Islands, and the Commonwealth of Puerto Rico;

(4)(a) Service performed in the employ of this state or any political subdivision thereof or any instrumentality of any one or more of the foregoing or any instrumentality which is wholly owned by this state and one or more other states or political subdivisions, or any service performed in the employ of any instrumentality of this state or of any political subdivision thereof and one or more other states or political subdivisions if such service is excluded from employment as defined in the Federal Unemployment Tax Act, as amended, solely by reason of 26 U.S.C. 3306(c)(7), and is not otherwise excluded under this section;

(b) Service performed by an individual in the employ of a religious, charitable, educational, or other organization, but only if the following conditions are met: (i) The service is excluded from employment as defined in the Federal Unemployment Tax Act, as amended, solely by reason of 26 U.S.C. 3306(c)(8), and is not otherwise excluded under this section; and (ii) the organization had four or more individuals in employment for some portion of a day in each of twenty different weeks, whether or not such weeks were consecutive, within either the current or preceding calendar year, regardless of whether they were employed at the same moment of time;

(c)(i) Service performed by an individual in agricultural labor ~~if as defined in subdivision (6)(a) of this section~~ when such service is performed for a person who during any calendar quarter in either the current or preceding calendar year paid remuneration in cash of twenty thousand dollars or more to individuals employed in agricultural labor, or for some portion of a day in each of twenty different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor ten or more individuals, regardless of whether they were employed at the same moment of time.

(ii) For purposes of this subdivision:

(A) Any individual who is a member of a crew furnished by a crew leader to perform services in agricultural labor for any other person shall be treated as an employee of such crew leader if such crew leader holds a valid certificate of registration under the Migrant and Seasonal Agricultural Worker Protection Act, as amended, 29 U.S.C. 1801 et seq.; substantially all the members of such crew operate or maintain tractors, mechanized harvesting or cropdusting equipment, or any other mechanized equipment, which is provided by such crew leader; and such individual is not an employee of such other person within the meaning of any other provisions of this section; and

(B) In case any individual who is furnished by a crew leader to perform service in agricultural labor for any other person and who is not treated as an employee of such crew leader under subdivision (A) of this subdivision, such other person and not the crew leader shall be treated as the employer of such individual and such other person shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader, either on his or her own behalf or on behalf of such other person, for the service in agricultural labor performed for such other person; and

~~(C) The term crew leader shall mean an individual who furnishes individuals to perform service in agricultural labor for any other person, pays, either on his or her own behalf or on behalf of such other person, the individuals so furnished by him or her for the service in agricultural labor performed by them, and has not entered into a written agreement with such other person under which such individual is designated as an employee of such other person; and~~

(d) Service performed by an individual in domestic service in a private home, local college club, or local chapter of a college fraternity or sorority if performed for a person who paid cash remuneration of one thousand dollars or more in the current calendar year or the preceding calendar year to individuals employed in such domestic service in any calendar quarter;

(5) Services performed by an individual for wages, including wages received under a contract of hire, shall be deemed to be employment unless it is shown to the satisfaction of the commissioner that (a) such individual has been and will continue to be free from control or direction over the

performance of such services, both under his or her contract of service and in fact, (b) such service is either outside the usual course of the business for which such service is performed or such service is performed outside of all the places of business of the enterprise for which such service is performed, and (c) such individual is customarily engaged in an independently established trade, occupation, profession, or business. The provisions of this subdivision are not intended to be a codification of the common law and shall be considered complete as written;

(6) The term employment shall not include:

(a) Agricultural labor, except as provided in subdivision (4)(c) of this section; ~~including all services performed:~~

~~(i) On a farm, in the employ of any employer, in connection with cultivating the soil or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, fur-bearing animals, and wildlife;~~

~~(ii) In the employ of the owner, tenant, or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment or in salvaging timber or clearing land of brush and other debris left by a windstorm, if the major part of such service is performed on a farm;~~

~~(iii) In connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15(g) of the federal Agricultural Marketing Act, as amended, 12 U.S.C. 1141j, in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;~~

~~(iv)(A) In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity, but only if such operator produced more than one-half of the commodity with respect to which such service is performed, or (B) in the employ of a group of operators of farms, or a cooperative organization of which such operators are members, in the performance of service described in subdivision (A) of this subdivision, but only if such operators produced more than one-half of the commodity with respect to which such service is performed. Subdivisions (A) and (B) of this subdivision shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or~~

~~(v) On a farm operated for profit if such service is not in the course of the employer's trade or business.~~

~~As used in this section, the term farm includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses, or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards;~~

~~(b) Domestic service, except as provided in subdivision (4)(d) of this section, in a private home, local college club, or local chapter of a college fraternity or sorority;~~

~~(c) Service not in the course of the employer's trade or business performed in any calendar quarter by an employee, unless the cash remuneration paid for such service is fifty dollars or more and such service is performed by an individual who is regularly employed by such employer to perform such service and, for the purposes of this subdivision, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if (i) on each of some twenty-four days during such quarter such individual performs for such employer for some portion of the day service not in the course of the employer's trade or business, or (ii) such individual was regularly employed, as determined under subdivision (c)(i) ~~(i)~~ of this subdivision, by such employer in the performance of such service during the preceding calendar quarter;~~

~~(d) Service performed by an individual in the employ of his or her son, daughter, or spouse and service performed by a child under the age of twenty-one in the employ of his or her father or mother;~~

~~(e) Service performed in the employ of the United States Government or an instrumentality of the United States immune under the Constitution of the United States from the contributions imposed by sections 48-648 and 48-649 and sections 64 to 67 of this act, except that, to the extent that the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation act, all of the Employment Security Law shall be applicable to such instrumentalities and to services performed for such instrumentalities in the same manner, to the same extent, and on the same terms as to all other employers, individuals, and services, except that if this state is not certified for any year by the Secretary of Labor of the United States under section 3304 of the Internal Revenue Code as defined in section 49-801.01, the payments required of such instrumentalities with respect to such year shall be refunded by the commissioner from the fund in the same manner and within the same period as is provided in section 48-660, with respect to contributions erroneously collected;~~

~~(f) Service performed in the employ of this state or any political~~

subdivision thereof or any instrumentality of any one or more of the foregoing if such services are performed by an individual in the exercise of his or her duties: (i) As an elected official; (ii) as a member of the legislative body or a member of the judiciary of a state or political subdivision thereof; (iii) as a member of the Army National Guard or Air National Guard; (iv) as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency; or (v) as an election official or election worker if the amount of remuneration received by the individual during the calendar year for services as an election official or election worker is less than one thousand dollars;

(g) For the purposes of subdivisions (4)(a) and (4)(b) of this section, service performed:

(i) In the employ of (A) a church or convention or association of churches or (B) an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches;

(ii) By a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry or by a member of a religious order in the exercise of the duties required by such order;

(iii) In a facility conducted for the purpose of carrying out a program of rehabilitation for an individual whose earning capacity is impaired by age or physical or mental deficiency or injury, or providing remunerative work for the individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market, by an individual receiving such rehabilitation or remunerative work;

(iv) As part of an unemployment work relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work relief or work training; or

(v) By an inmate of a custodial or penal institution;

(h) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of Congress;

(i) Service performed in any calendar quarter in the employ of any organization exempt from income tax under section 501(a) of the Internal Revenue Code as defined in section 49-801.01, other than an organization described in section 401(a) of the Internal Revenue Code as defined in section 49-801.01, or under section 521 thereof, if the remuneration for such service is less than fifty dollars;

(j) Service performed in the employ of a school, college, or university, if such service is performed (i) by a student who is enrolled, regularly attending classes at, and working for such school, college, or university pursuant to a financial assistance arrangement with such school, college, or university or (ii) by the spouse of such student, if such spouse is advised, at the time such spouse commences to perform such service, that (A) the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university and (B) such employment will not be covered by any program of unemployment insurance;

(k) Service performed as a student nurse in the employ of a hospital or nurses training school by an individual who is enrolled and is regularly attending classes in a nurses training school chartered or approved pursuant to state law; and service performed as an intern in the employ of a hospital by an individual who has completed a four-year course in a medical school chartered or approved pursuant to state law;

(l) Service performed by an individual as a real estate salesperson, as an insurance agent, or as an insurance solicitor, if all such service performed by such individual is performed for remuneration solely by way of commission;

(m) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(n) Service performed by an individual in the sale, delivery, or distribution of newspapers or magazines under a written contract in which (i) the individual acknowledges that the individual performing the service and the service are not covered and (ii) the newspapers and magazines are sold by him or her at a fixed price with his or her compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him or her, whether or not he or she is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back;

(o) Service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this subdivision shall not apply to service performed in a program established for or on behalf of an employer or a group of employers;

(p) Service performed in the employ of a hospital, if such service is performed by a patient of the hospital;

(q) Service performed for a motor carrier, as defined in 49 U.S.C. 13102 or section 75-302, as amended, by a lessor leasing one or more motor vehicles driven by the lessor or one or more drivers provided by the lessor under a

lease, with the motor carrier as lessee, executed pursuant to 49 C.F.R. part 376, Title 291, Chapter 3, as amended, of the rules and regulations of the Public Service Commission, or the rules and regulations of the Division of Motor Carrier Services. This shall not preclude the determination of an employment relationship between the lessor and any personnel provided by the lessor in the conduct of the service performed for the lessee;

(r) Service performed by an individual for a business engaged in compilation of marketing data bases if such service consists only of the processing of data and is performed in the residence of the individual;

(s) Service performed by an individual as a volunteer research subject who is paid on a per study basis for scientific, medical, or drug-related testing for any organization other than one described in section 501(c)(3) of the Internal Revenue Code as defined in section 49-801.01 or any governmental entity;

(t) Service performed by a direct seller if:

(i) Such person is engaged in sales primarily in person and is:

(A) Engaged in the trade or business of selling or soliciting the sale of consumer products or services to any buyer on a buy-sell basis or a deposit-commission basis for resale, by the buyer or any other person, in the home or otherwise than in a permanent retail establishment;

(B) Engaged in the trade or business of selling or soliciting the sale of consumer products or services in the home or otherwise than in a permanent retail establishment; or

(C) Engaged in the trade or business of the delivering or distribution of newspapers or shopping news, including any services directly related to such trade or business;

(ii) Substantially all the remuneration, whether or not paid in cash, for the performance of the services described in subdivision (t)(i) of this subdivision is directly related to sales or other output, including the performance of services, rather than to the number of hours worked; and

(iii) The services performed by the person are performed pursuant to a written contract between such person and the person for whom the services are performed and the contract provides that the person will not be treated as an employee for federal and state tax purposes. Sales by a person whose business is conducted primarily by telephone or any other form of electronic sales or solicitation is not service performed by a direct seller under this subdivision;

(u) Service performed by an individual who is a participant in the National and Community Service State Grant Program, also known as AmeriCorps, because a participant is not considered an employee of the organization receiving assistance under the national service laws through which the participant is engaging in service pursuant to 42 U.S.C. 12511(30)(B); and

(v) Service performed at a penal or custodial institution by a person committed to a penal or custodial institution;

(7) If the services performed during one-half or more of any pay period by an individual for the person employing him or her constitute employment, all the services of such individual for such period shall be deemed to be employment, but if the services performed during more than one-half of any such pay period by an individual for the person employing him or her do not constitute employment, then none of the services of such individual for such period shall be deemed to be employment. As used in this subdivision, the term pay period means a period, of not more than thirty-one consecutive days, for which a payment of remuneration is ordinarily made to such individual by the person employing him or her. This subdivision shall not be applicable with respect to services performed in a pay period by an individual for the person employing him or her when any of such service is excepted by subdivision (6)(h) of this section; and

(8) Notwithstanding the foregoing exclusions from the definition of employment, services shall be deemed to be in employment if with respect to such services a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment compensation fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act, as amended, is required to be covered under the Employment Security Law.

Sec. 8. Section 48-606, Revised Statutes Cumulative Supplement, 2016, is amended to read:

48-606 (1) It shall be the duty of the Commissioner of Labor to administer the Employment Security Law. He or she shall have the power and authority to employ such persons, make such expenditures, require such reports, make such investigations, and take such other action as he or she deems necessary or suitable, ~~to that end if the same are consistent with the Employment Security Law. The commissioner shall determine his or her own organization and methods of procedure in accordance with such law and shall have an official seal which shall be judicially noticed. Not later than the first thirty-first day of January December of each year, the commissioner shall submit to the Governor a report covering the administration and operation of such law during the preceding combined tax rate computational period ending September 30. The fiscal year and shall make such recommendations for amendments to such law as he or she deems proper. Such report shall include a balance sheet of the money in the fund in which there shall be provided, if possible, a reserve against the liability in future years to pay benefits in excess of the then current contributions. The , which reserve shall be set up by the commissioner in accordance with accepted actuarial principles on the basis of statistics of~~

~~employment, business activity, and other relevant factors for the longest possible period.~~ Whenever the commissioner believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, he or she shall promptly inform the Governor and the Clerk of the Legislature ~~thereof~~ and make recommendations with respect thereto. Such information and recommendations submitted to the Clerk of the Legislature shall be submitted electronically. Each member of the Legislature shall receive an electronic copy of such information upon ~~by making a request for it~~ to the commissioner.

(2) The commissioner may establish a schedule of fees to recover the cost of services including, but not limited to, copying, preparation of forms and other materials, responding to inquiries for information, payments for returned check charges and electronic payments not accepted, and furnishing publications prepared by the commissioner pursuant to the Employment Security Law. Fees received pursuant to this subsection shall be deposited in the Employment Security Administration Fund.

(3) Nothing in this section shall be construed to allow the department to charge any fee for making a claim for unemployment benefits or receiving assistance from the state employment service established pursuant to section 48-662 when performing functions within the purview of the federal Wagner-Peyser Act, 29 U.S.C. 49 et seq., as amended.

Sec. 9. Section 48-606.01, Reissue Revised Statutes of Nebraska, is amended to read:

48-606.01 The commissioner, with the written consent of the Department of Administrative Services, is authorized and empowered to use any funds available under either subdivision (1)(a) or (1)(b) of section 48-621, for the purpose of acquiring suitable office space within the corporate limits of the state capital city for the administration of the Employment Security Law. Office space may be acquired by purchase, by contract, or in any other manner including the right to use such funds, or any part thereof, to assist in financing the construction of any building erected by the State of Nebraska or any of its agencies. If wherein available space will be provided for the Department of Labor assists in financing the construction of any building erected by the State of Nebraska or any of its agencies department under a lease or contract between the commissioner and the State of Nebraska or such other agency, whereby the Department of Labor shall department will continue to occupy such space rent free after the cost of financing such building has been liquidated. The commissioner, upon approval by the Department of Administrative Services, is authorized and empowered to use any such funds to acquire suitable office space for local employment offices anywhere in the State of Nebraska.

Sec. 10. Section 48-609, Reissue Revised Statutes of Nebraska, is amended to read:

48-609 (1) Subject to other provisions of the Employment Security Law, the Commissioner of Labor is authorized to appoint, fix the compensation of, and prescribe the duties and powers of such officers, accountants, attorneys, experts, and other persons as may be necessary in the performance of his or her duties under such law. The commissioner may delegate to any such person such power and authority as he or she deems reasonable and proper for the effective administration of such law. Employees handling money or signing warrants under such law shall be bonded or insured as required by section 11-201. The commissioner may pay the share of the premium from the Employment Security Administration Fund. The commissioner shall classify positions under such law and shall establish salary schedules and minimum personnel standards for the positions so classified. ~~He or she shall provide for the holding of examinations to determine the qualifications of applicants for the positions so classified, and except for temporary appointments of not to exceed six months in duration, such personnel shall be appointed on the basis of efficiency and fitness as determined in such examinations.~~ The commissioner shall follow State Personnel System rules, regulations, and contract requirements adopt, promulgate, and enforce fair and reasonable rules and regulations for appointments, promotions, and demotions, and terminations for cause based upon ratings of efficiency and fitness ~~and for terminations for cause.~~

(2) ~~The commissioner may provide for a contributory retirement system for the employees of the department employed prior to July 1, 1984, and paid from funds provided pursuant to Title III of the Social Security Act or funds from other federal sources, or let a contract for such purpose with an insurance company licensed in Nebraska, and pay the employer's share of such system or contract from the Employment Security Administration Fund as long as this fund is wholly financed from Title III of the Social Security Act or from other federal sources. The employee's contribution to any such plan shall be deducted from his or her salary. Any person employed by the department after June 30, 1984, and paid from funds provided pursuant to Title III of the Social Security Act or funds from other federal sources shall be enrolled in the State Employees Retirement System of the State of Nebraska when he or she becomes eligible.~~

Sec. 11. Section 48-612, Reissue Revised Statutes of Nebraska, is amended to read:

48-612 (1) Each employer, whether or not subject to the Employment Security Law, shall keep true and accurate work records containing such information as required by the Commissioner of Labor ~~may prescribe~~. Such records shall be open to inspection and be subject to being copied by the commissioner or his or her authorized representatives at any reasonable time and as often as may be necessary. The commissioner and a hearing officer the

~~appeal tribunal~~ may require from any such employer any sworn or unsworn reports, with respect to persons employed by it, ~~deemed which he, she, or it deems~~ necessary for the effective administration of such law. Except as otherwise provided in section 48-612.01, information ~~thus~~ obtained pursuant to this section or obtained from any employer or individual pursuant to the administration of the Employment Security Law ~~such law~~ shall be held confidential.

(2) Any employee of the commissioner who violates any provision of sections 48-606 to 48-616 shall be guilty of a Class III misdemeanor.

(3) All letters, reports, communications, or any other matters, either oral or written, from an employer or his or her workers to each other or to the commissioner or any of his or her agents, representatives, or employees ~~which shall have been~~ written or made in connection with the requirements and administration of the Employment Security Law, or the rules and regulations thereunder, shall be absolutely privileged. Any such letters, reports, communications, or other matters and shall not be made the subject matter or basis for any suit for slander or libel in any court of this state, unless the same be false in fact and malicious in intent.

Sec. 12. Section 48-612.01, Reissue Revised Statutes of Nebraska, is amended to read:

48-612.01 (1) Information obtained pursuant to subsection (1) of section 48-612 may be disclosed under the following circumstances:

(a) Any claimant or employer or representative of a claimant or employer, as a party before a hearing officer ~~an appeal tribunal~~ or court regarding an unemployment claim or tax appeal, shall be supplied with information obtained in the administration of the Employment Security Law, to the extent necessary for the proper presentation of the claim or appeal;

(b) The names, addresses, and identification numbers of employers may be disclosed to the Nebraska Workers' Compensation Court which may use such information for purposes of enforcement of the Nebraska Workers' Compensation Act;

(c) Hearing officer ~~Appeal tribunal~~ decisions rendered pursuant to the Employment Security Law and designated as precedential decisions by the commissioner on the coverage of employers, employment, wages, and benefit eligibility may be published in printed or electronic format if all social security numbers have been removed and such disclosure is otherwise consistent with federal and state law;

(d) To a public official for use in the performance of his or her official duties. For purposes of this subdivision, performance of official duties means the administration or enforcement of law or the execution of the official responsibilities of a federal, state, or local elected official. Administration of law includes research related to the law administered by the public official. Execution of official responsibilities does not include solicitation of contributions or expenditures to or on behalf of a candidate for public office or to a political party;

(e) To an agent or contractor of a public official to whom disclosure is permissible under subdivision (d) of this subsection;

(f) For use in reports and publications containing information collected exclusively for statistical purposes under a cooperative agreement with the federal Bureau of Labor Statistics. This subdivision does not restrict or impose any condition on the transfer of any other information to the federal Bureau of Labor Statistics under an agreement or the federal Bureau of Labor Statistics' disclosure or use of such information; and

(g) In response to a court order.

(2) Information about an individual or employer obtained pursuant to subsection (1) of section 48-612 may be disclosed to:

(a) One who acts as an agent for the individual or employer when the agent presents a written release from the individual or employer, where practicable, or other evidence of authority to act on behalf of the individual or employer;

(b) An elected official who is performing constituent services if the official presents reasonable evidence that the individual or employer has authorized such disclosure;

(c) An attorney who presents written evidence that he or she is representing the individual or employer in a matter arising under the Employment Security Law; or

(d) A third party or its agent carrying out the administration or evaluation of a public program. The ~~, if that~~ third party or agent must obtain ~~obtains~~ a written release from the individual or employer to whom the information pertains. To constitute informed consent, the release shall be signed and shall include a statement:

(i) Specifically identifying the information that is to be disclosed;

(ii) That state government files will be accessed to obtain that information;

(iii) Identifying the specific purpose or purposes for which the information is sought and that information obtained under the release will only be used for that purpose or purposes; and

(iv) Identifying and describing all the parties who may receive the ~~information~~ disclosed information.

(3) Information obtained pursuant to subsection (1) of section 48-612 may be disclosed under the following circumstances:

(a) To an individual or employer if the information requested pertains only to the individual or employer making the request;

(b) To a local, state, or federal governmental official, other than a

clerk of court, attorney, or notary public acting on behalf of a litigant, with authority to obtain such information by subpoena under state or federal law; and

(c) To a federal official for purposes of unemployment compensation program oversight and audits, including disclosures under 20 C.F.R. part 601 and 29 C.F.R. parts 96 and 97 as they existed on January 1, 2007.

(4) If the purpose for which information is provided under subsection (1), (2), or (3) of this section is not related to the administration of the Employment Security Law or the unemployment insurance compensation program of another jurisdiction, the commissioner shall recover the costs of providing such information from the requesting individual or entity prior to providing the information. Costs shall be recovered to such individual or entity unless the costs are nominal or the entity is a governmental agency which the commissioner has determined provides reciprocal services.

(5) Any person who receives information under subsection (1) or (2) of this section and rediscloses such information for any purpose other than the purpose for which it was originally obtained shall be guilty of a Class III misdemeanor.

Sec. 13. Section 48-613, Reissue Revised Statutes of Nebraska, is amended to read:

48-613 In the discharge of the duties imposed by the Employment Security Law, the Commissioner of Labor, an impartial hearing officer employed by the Department of Labor appeal tribunal, and any duly authorized representative of any of them shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with a disputed claim or the administration of such law.

Sec. 14. Section 48-614, Reissue Revised Statutes of Nebraska, is amended to read:

48-614 The Commissioner of Labor, a hearing officer an appeal tribunal, or a duly authorized representative of the commissioner ~~or an appeal tribunal~~ may petition a court to enforce a subpoena issued by the commissioner or a hearing officer an appeal tribunal in case of contumacy by any person, or refusal of any person to obey such a subpoena. Any court of this state which has subject matter jurisdiction and has venue jurisdiction of the place where the person guilty of contumacy or refusal to obey is found, resides, or transacts business has jurisdiction to issue such person an order requiring him or her to appear before the commissioner, a hearing officer the appeal tribunal, or a duly authorized representative and to produce evidence or give testimony if so ordered touching the matter under investigation or in question. Any failure to obey such order of the court may be punished by the court as contempt. Any person who without just cause fails or refuses to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, and other records, if it is in his or her power so to do, in obedience to a subpoena of the commissioner, a hearing officer an appeal tribunal, or a duly authorized representative shall be guilty of a Class III misdemeanor. Each day such violation continues shall be a separate offense.

Sec. 15. Section 48-616, Reissue Revised Statutes of Nebraska, is amended to read:

48-616 In the administration of the Employment Security Law, the Commissioner of Labor shall cooperate, to the fullest extent consistent with such law, with the Secretary of Labor of the United States. The commissioner and is authorized and directed to adopt ~~take such action, through the adoption of~~ appropriate rules and regulations, administrative methods, and standards, as may be necessary to secure to this state and its citizens all advantages available under the Social Security Act, under sections 3303 and 3304 of the Federal Unemployment Tax Act, and under the Act of Congress entitled An act to provide for the establishment of a national employment system and for cooperation with states in the promotion of such system, and for other purposes, approved June 6, 1933, as amended. The commissioner shall comply with the regulations of the Secretary of Labor relating to the receipt or expenditure by this state of money granted under any of such acts. The commissioner and shall make such reports, in such form and containing such information as the Secretary of Labor may from time to time require, and shall comply with such provisions as the Secretary of Labor may from time to time find necessary to assure the correctness and verification of such reports. Upon request, ~~therefor~~ the commissioner shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment the name, address, ordinary occupation, and employment status of each recipient of benefits and such recipient's rights to further benefits under the Employment Security Law. The commissioner may afford reasonable cooperation with every agency of the United States charged with the administration of any unemployment insurance law.

Sec. 16. Section 48-617, Reissue Revised Statutes of Nebraska, is amended to read:

48-617 (1) There is hereby established as a special fund, separate and apart from all public money or funds of this state, an Unemployment Compensation Fund. The ~~which~~ fund shall be administered by the Commissioner of Labor exclusively for the purposes of the Employment Security Law. The This fund shall consist of:

(a) ~~All (1) all~~ contributions and payments in lieu of contributions collected under such law together with any interest thereon collected pursuant

to sections 48-655 to 48-660.01, except as provided in subdivision (1)(b) of section 48-621; ~~τ~~

~~(b) Interest (2) interest earned upon any money in the fund; ~~τ~~~~

~~(c) Any (3) any property or securities acquired through the use of money belonging to the fund; ~~τ~~~~

~~(d) All (4) all earnings of such property or securities; ~~τ~~~~

~~(e) All (5) all money credited to this state's account in the Unemployment Trust Fund pursuant to section 903 of the federal Social Security Act, as amended; ~~τ~~ and~~

~~(f) All (6) all other money received for the fund from any other source.~~

~~(2) Any money in the Unemployment Compensation Fund available for investment by the State of Nebraska shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.~~

Sec. 17. Section 48-618, Reissue Revised Statutes of Nebraska, is amended to read:

48-618 (1) The Commissioner of Labor shall designate a treasurer and custodian of the Unemployment Compensation Fund fund, who shall be selected in accordance with section 48-609. The treasurer ~~τ~~ and who shall administer the Unemployment Compensation Fund such fund in accordance with the directions of the commissioner and shall issue his or her warrants upon it in accordance with such rules and regulations as adopted and promulgated by the commissioner shall prescribe. The treasurer He or she shall maintain within the Unemployment Compensation Fund fund three separate accounts:

~~(a) (1) A clearing account; ~~τ~~~~

~~(b) An (2) an Unemployment Trust Fund account; ~~τ~~ and~~

~~(c) A (3) a benefit account.~~

~~(2) All money payable to the Unemployment Compensation Fund fund, upon receipt thereof by the commissioner, shall be forwarded to the treasurer. The treasurer who shall immediately deposit the same in the clearing account. Transfers of interest on delinquent contributions pursuant to subdivision (1) (b) of section 48-621 and refunds payable pursuant to section 48-660 may be paid from the clearing account upon warrants issued by the treasurer of the Unemployment Compensation Fund under the direction of the commissioner. After clearance thereof, all other money in the clearing account shall be immediately deposited with the Secretary of the Treasury of the United States of America to the credit of the account of this state in the Unemployment Trust Fund, established and maintained pursuant to section 904 of the Social Security Act, any provisions of law in this state relating to the deposit, administration, release, or disbursement of money in the possession or custody of this state to the contrary notwithstanding. The benefit account shall consist of all money requisitioned from this state's account in the Unemployment Trust Fund. Except as herein otherwise provided, money in the clearing and benefit accounts may be deposited by the treasurer under the direction of the commissioner in any bank or public depository in which general funds of the state may be deposited. No ~~τ~~ but no public deposit insurance charge or premium shall be paid out of the Unemployment Compensation Fund fund.~~

~~(3) The Unemployment Trust Fund is to be maintained pursuant to section 904 of the Social Security Act, any provisions of law in this state relating to the deposit, administration, release, or disbursement of money in the possession or custody of this state to the contrary notwithstanding.~~

~~(4) Any money in the Unemployment Trust Fund available for investment by the State of Nebraska shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.~~

~~(5) The treasurer shall be bonded or insured as required by section 11-201.~~

Sec. 18. Section 48-619, Reissue Revised Statutes of Nebraska, is amended to read:

48-619 (1) Money shall be requisitioned from this state's account in the Unemployment Trust Fund solely for the payment of benefits in accordance with lawful rules and regulations adopted and promulgated prescribed by the Commissioner of Labor, except that subject to the limitations therein contained, money credited to this fund pursuant to section 903 of the federal Social Security Act, as amended, may be appropriated upon an appropriation duly made by the Legislature in accordance with section 903 of the federal Social Security Act ~~τ~~ be used for the administration of the Employment Security Law. For and shall for such purposes and to the extent required, credits to the account pursuant to section 903 of the federal Social Security Act may be transferred to the Employment Security Administration Fund established in subdivision (1)(a) of section 48-621. The commissioner shall from time to time requisition from the Unemployment Trust Fund such amounts, not exceeding the amounts standing to this state's account therein, as he or she deems necessary for the payment of benefits for a reasonable future period, not to exceed the amounts standing to this state's account therein. Upon receipt thereof, the treasurer shall deposit such money in the benefit account and shall issue his or her warrants as aforesaid and as provided by law for the payment of benefits solely from such benefit account. Expenditures of such money in the benefit account and refunds from the clearing account shall not be subject to any provisions of law requiring specific appropriations.

~~(2) Any balance of money requisitioned from the Unemployment Trust Fund, which remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned, shall, at the discretion~~

of the commissioner, either be:

(a) ~~Deducted~~ ~~deducted~~ from estimates for, and may be utilized for the payment of, benefits during succeeding periods; or

(b) ~~Redeposited~~, ~~in the discretion of the commissioner,~~ shall be redeposited with the Secretary of the Treasury of the United States of America, to the credit of this state's account in the Unemployment Trust Fund, as provided in section 48-618.

(3) As used in this section, the term warrant shall include a signature negotiable instrument, electronic funds transfer system, telephonic funds transfer system, electric funds transfer system, funds transfers as provided for in article 4A, Uniform Commercial Code, mechanical funds transfer system, or other funds transfer system established by the treasurer. The warrant, when it is a dual signature negotiable instrument, shall affect the state's cash balance in the bank when redeemed by the treasurer, not when cashed by a financial institution.

Sec. 19. Section 48-620, Reissue Revised Statutes of Nebraska, is amended to read:

48-620 (1) The provisions of sections 48-617 to 48-619, to the extent that they relate to the Unemployment Trust Fund, shall be operative only so long as such Unemployment Trust Fund continues to exist and so long as the Secretary of the Treasury of the United States of America continues to maintain for this state a separate book account of all funds deposited therein by this state for benefit purposes. The separate book account for this state shall also include the, ~~together with this state's proportionate share of the earnings from the~~ of such Unemployment Trust Fund, from which no other state is permitted to make withdrawals. If and when the such Unemployment Trust Fund ceases to exist or such separate book account is no longer maintained, all money, properties, or securities therein belonging to the Unemployment Compensation Fund of this state shall be transferred to the treasurer of the Unemployment Compensation Fund.

(2) ~~Any money in the Unemployment Trust Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.~~ If advances to the Unemployment Trust Fund under Title XII of the federal Social Security Act are necessary, any interest required to be paid on such advances shall be paid in a timely manner and shall not be paid by this state, directly or indirectly, by an equivalent reduction in state unemployment taxes or otherwise, from amounts in the Unemployment Compensation Fund.

Sec. 20. Section 48-621, Revised Statutes Cumulative Supplement, 2016, is amended to read:

48-621 (1) The administrative fund shall consist of the Employment Security Administration Fund and the Employment Security Special Contingent Fund. Each fund shall be maintained as a separate and distinct account in all respects, as follows:

(a) There is hereby created in the state treasury a special fund to be known as the Employment Security Administration Fund. All money credited to this fund is hereby appropriated and made available to the Commissioner of Labor. All money in this fund shall be expended solely for the purposes and in the amounts found necessary as defined by the specific federal programs, state statutes, and contract obligations for the proper and efficient administration of all programs of the Department of Labor. The fund shall consist of all money appropriated by this state and all money received from the United States of America or any agency thereof, including the Department of Labor and the Railroad Retirement Board, or from any other source for such purpose. Money received from any agency of the United States or any other state as compensation for services or facilities supplied to such agency, any amounts received pursuant to any surety bond or insurance policy for losses sustained by the Employment Security Administration Fund or by reason of damage to equipment or supplies purchased from money in such fund, and any proceeds realized from the sale or disposition of any equipment or supplies which may no longer be necessary for the proper administration of such programs shall also be credited to this fund. All money in the Employment Security Administration Fund this fund shall be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as is provided by law for other special funds in the state treasury. Any balances in this fund, except balances of money therein appropriated from the General Fund of this state, shall not lapse at any time. Fund balances ~~but~~ shall be continuously available to the commissioner for expenditure consistent with the Employment Security Law. Any money in the Employment Security Administration Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act; and

(b) There is hereby created in the state treasury a special fund to be known as the Employment Security Special Contingent Fund. Any money in the Employment Security Special Contingent Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. All money collected under section 48-655 as interest on delinquent contributions, less refunds, shall be credited to this fund from the clearing account of the Unemployment Compensation Fund at the end of each calendar quarter. Such money shall not be expended or available for expenditure in any manner to which ~~would~~ permit its substitution for, or a corresponding reduction in, federal funds which, would in the absence of such money, would be available to finance expenditures for the administration of the unemployment insurance law. However, nothing ~~but~~

~~nothing~~ in this section shall prevent the money in the Employment Security Special Contingent Fund from being used as a revolving fund to cover necessary and proper expenditures necessary and proper under the law for which federal funds have been duly requested but not yet received. Upon receipt of duly requested federal funds, covered, ~~subject to the charging of such expenditures shall be charged against such federal funds when received.~~ Money in the Employment Security Special Contingent Fund ~~The money in this fund may only be~~ used by the Commissioner of Labor ~~only~~ as follows:

(i) To replace within a reasonable time any money received by this state pursuant to section 302 of the federal Social Security Act, as amended, and required to be paid under section 48-622;

(ii) To meet special extraordinary and contingent expenses which are deemed essential for good administration but which are not provided in grants from the Secretary of Labor of the United States. ~~No and, for this purpose, no~~ expenditures shall be made from this fund ~~for this purpose~~ except on written authorization by the Governor at the request of the Commissioner of Labor; and

(iii) To be transferred to the Job Training Cash Fund.

(2)(a) Money credited to the account of this state in the Unemployment Trust Fund by the United States Secretary of the Treasury pursuant to section 903 of the Social Security Act may not be requisitioned from this state's account or used except:

(i) ~~For~~ for the payment of benefits pursuant to section 48-619; and

(ii) ~~For and for~~ the payment of expenses incurred for the administration of the Employment Security Law and public employment offices. Money requisitioned or used for this purpose must be ~~Such money may be requisitioned pursuant to section 48-619 for the payment of benefits. Such money may also be requisitioned and used for the payment of expenses incurred for the administration of the Employment Security Law and public employment offices but only pursuant to a specific appropriation by the Legislature. Any such appropriation law shall specify the amount and purposes for which the money is appropriated and must be enacted before and only if the expenses may be~~ are incurred and the money may be ~~is~~ requisitioned after the date of enactment of an appropriation law which specifies the purposes for which such money is appropriated and the amounts appropriated therefor. Such appropriation is subject to the following conditions:

(A) Money ~~(i) The period within which such money may be obligated for is limited to a limited period ending not more than two years after the effective date of the appropriation law; and~~

(B) ~~An (ii) The amount which may be obligated amount shall is limited to an amount which does not exceed the aggregate amount by which the aggregate of the amounts transferred to the account of this state pursuant to section 903 of the Social Security Act less exceeds the aggregate of the amounts used by this state pursuant to the Employment Security Law and amounts charged against the amounts transferred to the account of this state.~~

(b) For purposes of subdivision (2)(a)(ii)(B) of this section, the amounts appropriated ~~obligated under an appropriation~~ for the administrative purposes described in such subdivision shall be charged against transferred amounts when ~~at the exact time the obligation is entered into.~~

(c) The appropriation, obligation, and expenditure or other disposition of money appropriated under this subsection shall be accounted for in accordance with standards established by the United States Secretary of Labor.

(d) Money appropriated as provided in this subsection for the payment of ~~expenses of administration~~ expenses shall be requisitioned as needed for the payment of obligations incurred under such appropriation. Upon ~~and, upon~~ requisition, administration expenses shall be credited to the Employment Security Administration Fund from which such payments shall be made. Money so credited shall, until expended, remain a part of the Employment Security Administration Fund. If not ~~and, if it will not be~~ immediately expended, credited money shall be returned promptly to the account of this state in the Unemployment Trust Fund.

(e) Notwithstanding subdivision (2)(a) of this section, money credited with respect to federal fiscal years 1999, 2000, and 2001 shall be used solely for the administration of the unemployment compensation program and are not subject to appropriation by the Legislature.

(3) ~~There is hereby appropriated out of the funds made available to this state in federal fiscal year 2002 under section 903(d) of the federal Social Security Act, as amended, the sum of \$6,800,484, or so much thereof as may be necessary, to be used, under the direction of the Department of Labor, for the administration of the Employment Security Law and public employment offices. The expenditure or other disposition of money appropriated under this subsection shall be accounted for in accordance with standards established by the United States Secretary of Labor. Reed Act distributions appropriated pursuant to Title III of the federal Social Security Act and the federal Wagner-Peyser Act for the purpose of administering the state unemployment compensation and employment service programs to the extent allowed under such acts and the regulations adopted pursuant thereto. Except as specifically provided in this subsection, all provisions of subsection (2) of this section, except subdivision (2)(a)(i) of this section, shall apply to this appropriation. The commissioner shall submit an annual report to the Governor, the Speaker of the Legislature, and the chairpersons of the Appropriations Committee and the Business and Labor Committee of the Legislature describing expenditures made pursuant to this subsection. The report submitted to the~~

~~committees and the Speaker of the Legislature shall be submitted electronically.~~

Sec. 21. Section 48-622.01, Revised Statutes Cumulative Supplement, 2016, is amended to read:

48-622.01 (1) There is hereby created in the state treasury a special fund to be known as the State Unemployment Insurance Trust Fund. All state unemployment insurance tax collected under sections 48-648 to 48-661 and sections 64 to 67 of this act, less refunds, shall be paid into the fund. Such money shall be held in trust for payment of unemployment insurance benefits. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act, except that interest earned on money in the fund shall be credited to the Nebraska Training and Support Trust Fund through June 30, 2015, and thereafter to the Nebraska Training and Support Cash Fund at the end of each calendar quarter.

(2) The commissioner shall have the authority to determine when and in what amounts withdrawals from the State Unemployment Insurance Trust Fund for payment of benefits are necessary. Amounts withdrawn for payment of benefits shall be immediately forwarded to the Secretary of the Treasury of the United States of America to the credit of the state's account in the Unemployment Trust Fund, any provision provisions of law in this state relating to the deposit, administration, release, or disbursement of money in the possession or custody of this state to the contrary notwithstanding.

(3) If and when the state unemployment insurance tax ceases to exist as determined by the Governor, all money then in the State Unemployment Insurance Trust Fund less accrued interest shall be immediately transferred to the credit of the state's account in the Unemployment Trust Fund, any provision provisions of law in this state relating to the deposit, administration, release, or disbursement of money in the possession or custody of this state to the contrary notwithstanding. The determination to eliminate the state unemployment insurance tax shall be based on the solvency of the state's account in the Unemployment Trust Fund and the need for training of Nebraska workers. Accrued interest in the State Unemployment Insurance Trust Fund shall be credited to the Nebraska Training and Support Trust Fund through June 30, 2015, and thereafter to the Nebraska Training and Support Cash Fund.

~~(4) Upon certification from the commissioner that disallowed costs by the United States Department of Labor for FY2007-08, FY2008-09, and FY2009-10, or any one of them, have been reduced to an amount certain by way of settlement or final judgment, the State Treasurer shall transfer the amount of such settlement or final judgment from the State Unemployment Insurance Trust Fund to the Employment Security Special Contingent Fund. The total amount of such transfers shall not exceed \$2,816,345. The amount of the reappropriation of Federal Funds appropriated in FY2004-05 under section 903(d) of the federal Social Security Act shall be reduced by the amount transferred.~~

~~(5) Upon certification from the commissioner that the amount needed to settle pending class action litigation and terminate the contributory retirement system established pursuant to section 48-609 has been reduced to an amount certain, the State Treasurer shall transfer the amount certified by the commissioner as needed to effectuate the settlement from the State Unemployment Insurance Trust Fund to the Employment Security Special Contingent Fund. The amount transferred pursuant to this subsection shall not exceed two million seven hundred seventy-three thousand dollars.~~

Sec. 22. Section 48-622.02, Revised Statutes Cumulative Supplement, 2016, is amended to read:

48-622.02 (1) ~~Until July 1, 2015:~~

~~(a) There is in the state treasury a special fund to be known as the Nebraska Training and Support Trust Fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. All money deposited or paid into the fund is hereby appropriated and made available to the commissioner. No expenditures shall be made from the fund without the written authorization of the Governor upon the recommendation of the commissioner. Any interest earned on money in the State Unemployment Insurance Trust Fund shall be credited to the Nebraska Training and Support Trust Fund;~~

~~(b) Money in the Nebraska Training and Support Trust Fund shall be used for (i) administrative costs of establishing, assessing, collecting, and maintaining state unemployment insurance tax liability and payments, (ii) administrative costs of creating, operating, maintaining, and dissolving the State Unemployment Insurance Trust Fund and the Nebraska Training and Support Trust Fund, (iii) support of public and private job training programs designed to train, retrain, or upgrade work skills of existing Nebraska workers of for-profit and not-for-profit businesses, (iv) recruitment of workers to Nebraska, (v) training new employees of expanding Nebraska businesses, (vi) the costs of creating a common web portal for the attraction of businesses and workers to Nebraska, and (vii) payment of unemployment insurance benefits if solvency of the state's account in the Unemployment Trust Fund and of the State Unemployment Insurance Trust Fund so require; and~~

~~(c) There is within the Nebraska Training and Support Trust Fund a separate account to be known as the Administrative Costs Reserve Account. Money shall be allocated from the Nebraska Training and Support Trust Fund to the Administrative Costs Reserve Account in amounts sufficient to pay the anticipated administrative costs identified in subdivision (1)(b) of this section.~~

~~(2) On and after July 1, 2015:~~

~~(1) (a) The Nebraska Training and Support Cash Fund is created. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. On July 1, 2015, the State Treasurer shall transfer any money in the Nebraska Training and Support Trust Fund to the Nebraska Training and Support Cash Fund. No expenditures shall be made from the Nebraska Training and Support Cash Fund without the written authorization of the Governor upon the recommendation of the commissioner. Any interest earned on money in the State Unemployment Insurance Trust Fund shall be credited to the Nebraska Training and Support Cash Fund. †~~

~~(2) (b) Money in the Nebraska Training and Support Cash Fund shall be used for (a) (i) administrative costs of establishing, assessing, collecting, and maintaining state unemployment insurance tax liability and payments, (b) (ii) administrative costs of creating, operating, maintaining, and dissolving the State Unemployment Insurance Trust Fund and the Nebraska Training and Support Cash Fund, (c) (iii) support of public and private job training programs designed to train, retrain, or upgrade work skills of existing Nebraska workers of for-profit and not-for-profit businesses, (d) (iv) recruitment of workers to Nebraska, (e) (v) training new employees of expanding Nebraska businesses, (f) (vi) the costs of creating a common web portal for the attraction of businesses and workers to Nebraska, (g) (vii) developing and conducting labor availability and skills gap studies pursuant to the Sector Partnership Program Act, for which money may be transferred to the Sector Partnership Program Fund as directed by the Legislature, and (h) (viii) payment of unemployment insurance benefits if solvency of the state's account in the Unemployment Trust Fund and of the State Unemployment Insurance Trust Fund so require. †~~

~~(3) (c) The Administrative Costs Reserve Account is created within the Nebraska Training and Support Cash Fund. Money shall be allocated from the Nebraska Training and Support Cash Fund to the Administrative Costs Reserve Account in amounts sufficient to pay the anticipated administrative costs identified in subsection (2) subdivision (2)(b) of this section. † and~~

~~(4) (d) The State Treasurer shall transfer two hundred fifty thousand dollars from the Nebraska Training and Support Cash Fund to the Sector Partnership Program Fund no later than July 15, 2016.~~

Sec. 23. Section 48-622.03, Revised Statutes Cumulative Supplement, 2016, is amended to read:

48-622.03 (1) There is hereby created as of January 1, 1996, the Nebraska Worker Training Board. The board shall consist ~~consisting~~ of seven members appointed and serving for terms determined by the Governor as follows:

- (a) A representative of employers in Nebraska;
- (b) A representative of employees in Nebraska;
- (c) A representative of the public;
- (d) The Commissioner of Labor or a designee;
- (e) The Director of Economic Development or a designee;
- (f) The Commissioner of Education or a designee; and
- (g) The chairperson of the governing board of the Nebraska Community College Association or a designee.

~~(2) Beginning July 1, 1996, and annually thereafter, the Governor shall appoint a chairperson for the board. The chairperson of the Nebraska Worker Training Board shall be either the representative of the employers in Nebraska, the representative of the employees, or the representative of the public.~~

~~(3) Beginning July 1, 1996, through June 30, 2015, the board shall prepare an annual program plan for the upcoming fiscal year containing guidelines for the program financed by the Nebraska Training and Support Trust Fund. Beginning July 1, 2015, and annually thereafter, the board shall prepare an annual program plan for the upcoming fiscal year containing guidelines for the program financed by the Nebraska Training and Support Cash Fund. The guidelines shall include, but not be limited to, guidelines for certifying training providers, criteria for evaluating requests for the use of money under section 48-622.02, and guidelines for requiring employers to provide matching funds. The guidelines shall give priority to training that contributes to the expansion of the Nebraska workforce and increasing the pool of highly skilled workers in Nebraska.~~

~~(4) Beginning September 1, 1997, through June 30, 2015, the board shall provide a report to the Governor covering the activities of the program financed by the Nebraska Training and Support Trust Fund for the previous fiscal year. Beginning July 1, 2015, and annually thereafter, the board shall provide a report to the Governor covering the activities of the program financed by the Nebraska Training and Support Cash Fund for the previous fiscal year. The report shall contain an assessment of the effectiveness of the program and its administration.~~

Sec. 24. Section 48-623, Reissue Revised Statutes of Nebraska, is amended to read:

48-623 All benefits provided in the Employment Security Law shall be payable from the Unemployment Compensation Fund. All benefits shall be paid through employment offices in accordance with such rules and regulations adopted and promulgated by as the Commissioner of Labor ~~may prescribe~~.

Sec. 25. Section 48-624, Reissue Revised Statutes of Nebraska, is amended to read:

48-624 ~~(1) For any benefit year beginning on or after January 1, 2001, through December 31, 2005, an individual's weekly benefit amount shall be one-~~

~~half his or her average weekly wage rounded down to the nearest even whole dollar amount, but shall not exceed one-half of the state average weekly wage as annually determined under section 48-121.02.~~

~~(2) For any benefit year beginning on or after January 1, 2006, through December 31, 2007, an individual's weekly benefit amount shall be one-half of his or her average weekly wage rounded down to the nearest even whole dollar amount, but shall not exceed two hundred eighty-eight dollars per week.~~

~~(3) For any benefit year beginning on or after January 1, 2008, through December 31, 2010, an individual's weekly benefit amount shall be one-half of his or her average weekly wage rounded down to the nearest even whole dollar amount, but shall not exceed the lesser of one-half of the state average weekly wage as annually determined under section 48-121.02 or the previous year's maximum weekly benefit amount plus ten dollars per week.~~

For any benefit year beginning on or after January 1, 2018:

~~(1) An (4) For any benefit year beginning on or after January 1, 2011, an individual's weekly benefit amount shall be one-half of his or her average weekly wage rounded down to the nearest even whole dollar amount, but shall not exceed one-half of the state average weekly wage as annually determined under section 48-121.02; -~~

~~(2) (5) For purposes of this section, an individual's average weekly wage shall equal the wages paid for insured work in the highest quarter of the base period divided by thirteen; and -~~

~~(3) Any change in the weekly benefit amounts prescribed in this section or in the maximum annual benefit amount prescribed in section 48-626 shall be applicable for the calendar year following the annual determination made pursuant to section 48-121.02.~~

Sec. 26. Section 48-625, Revised Statutes Cumulative Supplement, 2016, is amended to read:

48-625 (1) Each eligible individual who is unemployed in any week shall be paid with respect to such week a benefit in an amount equal to his or her full weekly benefit amount if he or she has wages payable to him or her with respect to such week equal to one-fourth of such benefit amount or less. In the event he or she has wages payable to him or her with respect to such week greater than one-fourth of such benefit amount, he or she shall be paid with respect to that week an amount equal to the individual's weekly benefit amount less that part of wages payable to the individual with respect to that week in excess of one-fourth of the individual's weekly benefit amount. In the event there is any deduction from such individual's weekly benefit amount because of earned wages pursuant to this subsection or as a result of the application of section 32 of this act subdivision (5) of section 48-628, the resulting benefit payment, if not an exact dollar amount, shall be computed to the next lower dollar amount.

(2) Any amount of unemployment compensation payable to any individual for any week, if not an even dollar amount, shall be rounded to the next lower full dollar amount.

~~No deduction shall be made for any supplemental payments received by a claimant under the provisions of subsection (b) of section 408 of Title IV of the Veterans Readjustment Assistance Act of 1952.~~

The percentage of benefits and the percentage of extended benefits which are federally funded may be adjusted in accordance with the Balanced Budget and Emergency Deficit Control Act of 1985, Public Law 99-177.

~~(2) Vacation leave pay including that received in a lump sum or upon separation from employment shall be prorated in an amount reasonably attributable to each week claimed and considered payable with respect to such week.~~

Sec. 27. Section 48-626, Reissue Revised Statutes of Nebraska, is amended to read:

48-626 (1) For any benefit year beginning before October 1, 2018, any Any otherwise eligible individual shall be entitled during any benefit year to a total amount of benefits equal to whichever is the lesser of (a) (1) twenty-six times his or her benefit amount or (b) (2) one-third of his or her wages in the employment of each employer per calendar quarter of his or her base period; except that when any individual has been separated from his or her employment with a base period employer under the circumstances under which he or she was or could have been determined disqualified under section 40 or 42 of this act subdivision (1) or (2) of section 48-628, the total benefit amount based on the employment from which he or she was so separated shall be reduced by an amount equal to the number of weeks for which he or she is or would have been disqualified had he or she filed a claim immediately after the separation, multiplied by his or her weekly benefit amount, but not more than one reduction may be made for each separation. In no event shall the benefit amount based on employment for any employer be reduced to less than one benefit week when the individual was or could have been determined disqualified under subdivision (1) of section 42 of this act 48-628.

(2) For any benefit year beginning on or after October 1, 2018, any otherwise eligible individual shall be entitled during any benefit year to a total amount of benefits equal to whichever is the lesser of (a) twenty-six times his or her weekly benefit amount or (b) one-third of his or her wages in the employment of each employer per calendar quarter of his or her base period; except that when any individual has been separated from his or her employment with a base period employer under circumstances under which he or she was or could have been determined disqualified under section 40 or 42 of this act, the total benefit amount based on the employment from which he or she was so separated shall be reduced by an amount determined pursuant to subsection (3)

of this section, but not more than one reduction may be made for each separation. In no event shall the benefit amount based on employment for any employer be reduced to less than one benefit week when the individual was or could have been determined disqualified under section 42 of this act.

(3) For purposes of determining the reduction of benefits described in subsection (2) of this section:

(a) If the claimant has been separated from his or her employment under circumstances under which he or she was or could have been determined disqualified under section 42 of this act, his or her total benefit amount shall be reduced by:

(i) Two times his or her weekly benefit amount if he or she left work voluntarily for the sole purpose of accepting previously secured, permanent, full-time, insured work, which he or she does accept, which offers a reasonable expectation of betterment of wages or working conditions, or both, and for which he or she earns wages payable to him or her; or

(ii) Thirteen times his or her weekly benefit amount if he or she left work voluntarily without good cause for any reason other than that described in subdivision (3)(a)(i) of this section; and

(b) If the claimant has been separated from his or her employment under circumstances under which he or she was or could have been determined disqualified under section 40 of this act, his or her total benefit amount shall be reduced by fourteen times his or her weekly benefit amount.

(4) For purposes of sections 48-623 to 48-626, wages shall be counted as wages for insured work for benefit purposes with respect to any benefit year only if such benefit year begins subsequent to the date on which the employer by whom such wages were paid has satisfied the conditions of section 48-603 or subsection (3) of section 48-661 with respect to becoming an employer.

(5) In order to determine the benefits due under this section and sections 48-624 and 48-625, each employer shall make reports, in conformity with reasonable rules and regulations adopted and promulgated by the commissioner, of the wages of any claimant. If any such employer fails shall fail to make such a report within the time prescribed, the commissioner may accept the statement of such claimant as to his or her wages, and any benefit payments based on such statement of earnings, in the absence of fraud or collusion, shall will be final as to the amount.

Sec. 28. Section 48-627, Reissue Revised Statutes of Nebraska, is amended to read:

48-627 An unemployed individual shall be eligible to receive benefits with respect to any week, only if the Commissioner of Labor finds:

(1) He or she has registered for work at an employment office, is actively searching for work, and thereafter reports continued to report at, an employment office in accordance with such rules and regulations as the commissioner may adopt and promulgate. The prescribe, except that the commissioner may, by rule and regulation, waive or alter any either or both of the requirements of this subdivision as to individuals attached to regular jobs and as to such other types of cases or situations if the commissioner, with respect to which he or she finds that compliance with such requirements, would be oppressive, or would be inconsistent with the purposes of the Employment Security Law, except that no such rule or regulation shall conflict with section 48-623;

(2) He or she has made a claim for benefits, in accordance with section 48-629;

(3)(a) He or she is able to work and is available for work.

(b) No individual, who is otherwise eligible, shall be deemed ineligible, or unavailable for work, because he or she is on vacation without pay during such week, if such vacation is not the result of his or her own action as distinguished from any collective action by a collective-bargaining agent or other action beyond his or her individual control, and regardless of whether he or she was has not been notified of the vacation at the time of his or her hiring.

(c) An individual who is otherwise eligible shall not be deemed unavailable for work or failing to engage in an active work search solely because such individual is seeking part-time work if the majority of the weeks of work in an individual's base period include part-time work. For purposes of this subdivision, seeking only part-time work shall mean seeking less than full-time work having comparable hours to the individual's part-time work in the base period, except that the individual must be available for work at least twenty hours per week.

(d) Receipt of a non-service-connected total disability pension by a veteran at the age of sixty-five or more shall not of itself bar the veteran from benefits as not able to work.

(e) An otherwise eligible individual while engaged in a training course approved for him or her by the commissioner shall be considered available for work for the purposes of this section.

(f) An inmate sentenced to and in custody of a penal or custodial institution shall be considered unavailable for work for purposes of this section;

(4) He or she has been unemployed for a waiting period of one week. No week shall be counted as a week of unemployment for the purpose of this subdivision (a) unless it occurs within the benefit year, which includes the week with respect to which he or she claims payment of benefits, (b) if benefits have been paid with respect thereto, or (c) unless the individual was eligible for benefits with respect thereto, as provided in sections 48-627 and

~~48-628 and sections 29 and 32 to 42 of this act, except for the requirements of this subdivision and of subdivision (6) of section 48-628; and~~

~~(5)(a) For any benefit year beginning on or after January 1, 2006, he or she has, within his or her base period, been paid a total sum of wages for employment by employers equal to not less than two thousand five hundred dollars, of which sum at least eight hundred dollars has been paid in each of two quarters in his or her base period, and subsequent to filing the claim which establishes the previous benefit year, the individual has earned wages in insured work of at least six times his or her weekly benefit amount for the previous benefit year.~~

~~(b) For any benefit year beginning on or after July 1, 2011, he or she has (i) within his or her base period, been paid a total sum of wages for employment by employers equal to not less than three thousand seven hundred seventy dollars, of which sum at least one thousand eight hundred fifty dollars has been paid in one quarter in his or her base period and eight hundred dollars has been paid in a second quarter of his or her base period, and (ii) subsequent to filing the claim which establishes the previous benefit year, earned wages in insured work of at least six times his or her weekly benefit amount for the previous benefit year. Commencing January 1, 2012, and each January 1 thereafter, the amount which an individual is required to earn within his or her base period shall be adjusted annually. The adjusted amount shall be equal to the then current amount adjusted by the cumulative percentage change in the Consumer Price Index for All Urban Consumers published by the Federal Bureau of Labor Statistics for the one-year period ending on the previous September 30.~~

~~(c) For the purposes of this subdivision (5), (i) for the determination of monetary eligibility, wages paid within a base period shall not include wages from any calendar quarter previously used to establish a valid claim for benefits, (ii) wages shall be counted as wages for insured work for benefit purposes with respect to any benefit year only if such benefit year begins subsequent to the date on which the employer, by whom such wages were paid, has satisfied the conditions of section 48-603 or subsection (3) of section 48-661, with respect to becoming an employer, and (iii) with respect to weeks of unemployment beginning on or after January 1, 1978, wages for insured work for benefit purposes with respect to any benefit year shall include wages paid for services as defined by subdivision (4)(a), (b), (c), or (d) of section 48-604 to the extent that such services were not services in employment under subdivision (4)(a) of section 48-604 or section 48-661 immediately prior to September 2, 1977, even though the employer by whom such wages were paid had not satisfied the conditions of subdivision (8), (9), (10), or (11) of section 48-603 with respect to becoming an employer at the time such wages were paid except to the extent that assistance under Title II of the federal Emergency Jobs and Unemployment Assistance Act of 1974 was paid on the basis of such services; and~~

~~(5) (6) He or she is participating in reemployment services at no cost to such individual as directed by the commissioner, such as job search assistance services, if the individual has been determined to be likely to exhaust regular benefits and to need reemployment services pursuant to a profiling system established by rule and regulation of the commissioner which is in compliance with section 303(j)(1) of the federal Social Security Act, unless the commissioner determines that:~~

~~(a) The individual has completed such services; or~~

~~(b) There there is justifiable cause for the claimant's failure to participate in such services.~~

~~Sec. 29. (1) In addition to the requirements of section 48-627, for any benefit year beginning on or after January 1, 2018, an unemployed individual shall be monetarily eligible to receive benefits if the commissioner finds he or she has:~~

~~(a) Earned total wages for employment by employers equal to not less than four thousand one hundred forty-five dollars and seventy-four cents within his or her base period. Of such total wages, at least one thousand eight hundred fifty dollars shall have been paid in one quarter in his or her base period and eight hundred dollars shall have been paid in a second quarter of his or her base period; and~~

~~(b) Earned wages in insured work of at least six times his or her weekly benefit amount for the previous benefit year subsequent to filing the claim which establishes the previous benefit year.~~

~~(2) Beginning on January 1, 2019, and each January 1 thereafter, the amount which an individual is required to earn within his or her base period under subdivision (1)(a) of this section shall be adjusted annually. The adjusted amount shall be equal to the then current amount adjusted by the cumulative percentage change in the Consumer Price Index for All Urban Consumers published by the Federal Bureau of Labor Statistics for the one-year period ending on the previous September 30. If such adjusted amount is not a whole dollar amount, the adjusted amount shall be rounded down to the nearest whole dollar amount.~~

~~(3) For purposes of this section:~~

~~(a) For the determination of monetary eligibility, wages paid within a base period shall not include wages from any calendar quarter previously used to establish a valid claim for benefits; and~~

~~(b) For benefit purposes, wages shall be counted as wages for insured work with respect to any benefit year only if such benefit year begins subsequent to the date on which the employer, by whom such wages were paid, has satisfied the~~

conditions of section 48-603 or subsection (3) of section 48-661 with respect to becoming an employer.

Sec. 30. Section 48-628, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-628 An individual shall be disqualified for benefits:~~

~~(1)(a) For the week in which he or she has left work voluntarily without good cause, if so found by the commissioner, and for the thirteen weeks which immediately follow such week. A temporary employee of a temporary help firm has left work voluntarily without good cause if the temporary employee does not contact the temporary help firm for reassignment upon completion of an assignment and the temporary employee has been advised by the temporary help firm of his or her obligation to contact the temporary help firm upon completion of assignments and has been advised by the temporary help firm that the temporary employee may be denied benefits for failure to do so; or~~

~~(b) For the week in which he or she has left work voluntarily for the sole purpose of accepting previously secured, permanent, full-time, insured work, which he or she does accept, which offers a reasonable expectation of betterment of wages or working conditions, or both, and for which he or she earns wages payable to him or her, if so found by the commissioner, and for the two weeks which immediately follow such week;~~

~~(2) For the week in which he or she has been discharged for misconduct connected with his or her work, if so found by the commissioner, and for the fourteen weeks which immediately follow such week. If the commissioner finds that such individual's misconduct was gross, flagrant, and willful, or was unlawful, the commissioner shall totally disqualify such individual from receiving benefits with respect to wage credits earned prior to discharge for such misconduct. In addition to the fourteen-week benefit disqualification assessed under this subdivision, the commissioner shall cancel all wage credits earned as a result of employment with the discharging employer if the commissioner finds that the individual was discharged for misconduct in connection with the work which was not gross, flagrant, and willful or unlawful but which included being under the influence of any intoxicating beverage or being under the influence of any controlled substance listed in section 28-405 not prescribed by a physician licensed to practice medicine or surgery when the individual is so under the influence on the worksite or while engaged in work for the employer;~~

~~(1) An individual shall be disqualified for benefits for (3)(a) For any week of unemployment in which the commissioner finds he or she has failed, without good cause, to apply for available, suitable work when so directed by the employment office or the commissioner, to accept suitable work offered him or her, or to return to his or her customary self-employment, if any, and the commissioner so finds, and for the twelve weeks which immediately thereafter. The follow such week, and his or her total benefit amount to which he or she is then entitled shall be reduced by an amount equal to the number of weeks for which he or she has been disqualified by the commissioner.~~

~~(2) (b) In determining whether or not any work is suitable for an individual, the commissioner shall consider the following:~~

~~(a) The degree of risk involved to the individual's health, safety, and morals; τ~~

~~(b) His his or her physical fitness and prior training; τ~~

~~(c) His his or her experience and prior earnings; τ~~

~~(d) His his or her length of unemployment and prospects for securing local work in his or her customary occupation; τ and~~

~~(e) The the distance of the available work from his or her residence.~~

~~(3) (c) Notwithstanding any other provisions of the Employment Security Law, no work shall be deemed suitable and benefits shall not be denied under such law to any otherwise eligible individual for refusing to accept new work under any of the following conditions:~~

~~(a) (i) If the position offered is vacant due directly to a strike, lockout, or other labor dispute;~~

~~(b) If (ii) if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; or~~

~~(c) If (iii) if, as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.~~

~~(4) (d) Notwithstanding any other provisions in subdivision (3) of this section relating to failure to apply for or a refusal to accept suitable work, no otherwise eligible individual shall be denied benefits with respect to any week in which he or she is in training with the approval of the commissioner, by reason of the application of the provisions in subdivision (3) of this section relating to failure to apply for or a refusal to accept suitable work.~~

~~(5) (e) No individual shall be disqualified for refusing to apply for available, full-time work or accept full-time work under subsection (1) subdivision (3)(a) of this section solely because such individual is seeking part-time work if the majority of the weeks of work in an individual's base period include part-time work. For purposes of this subsection subdivision, seeking only part-time work shall mean seeking less than full-time work having comparable hours to the individual's part-time work in the base period, except that the individual must be available for work at least twenty hours per week. τ~~

~~(4) For any week with respect to which the commissioner finds that his or her total unemployment is due to a stoppage of work which exists because of a~~

labor dispute at the factory, establishment, or other premises at which he or she is or was last employed, except that this subdivision shall not apply if it is shown to the satisfaction of the commissioner that (a) the individual is not participating in, financing, or directly interested in the labor dispute which caused the stoppage of work and (b) he or she does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating, financing, or directly interested in the dispute. If in any case, separate branches of work, which are commonly conducted as separate businesses in separate premises, are conducted in separate departments of the same premises, each such department shall, for the purposes of this subdivision, be deemed to be a separate factory, establishment, or other premises;

(5) For any week with respect to which he or she is receiving or has received remuneration in the form of (a) wages in lieu of notice, or a dismissal or separation allowance, (b) compensation for temporary disability under the workers' compensation law of any state or under a similar law of the United States, (c) retirement or retired pay, pension, annuity, or other similar periodic payment under a plan maintained or contributed to by a base period or chargeable employer, or (d) a gratuity or bonus from an employer, paid after termination of employment, on account of prior length of service, or disability not compensated under the workers' compensation law. Such payments made in lump sums shall be prorated in an amount which is reasonably attributable to such week. If the prorated remuneration is less than the benefits which would otherwise be due, he or she shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration. The prorated remuneration shall be considered wages for the quarter to which it is attributable. Military service-connected disability compensation payable under 38 U.S.C. chapter 11 and primary insurance benefits payable under Title II of the Social Security Act, as amended, or similar payments under any act of Congress shall not be deemed to be disqualifying or deductible from the benefit amount. No deduction shall be made for the part of any retirement pension which represents return of payments made by the individual. In the case of a transfer by an individual or his or her employer of an amount from one retirement plan to a second qualified retirement plan under the Internal Revenue Code, the amount transferred shall not be deemed to be received by the claimant until actually paid from the second retirement plan to the claimant. No deduction shall be made for any benefit received under a supplemental unemployment benefit plan described in subdivision (29)(g) of section 48-602;

(6) For any week with respect to which or a part of which he or she has received or is seeking unemployment benefits under an unemployment compensation law of any other state or of the United States, except that if the appropriate agency of such other state or of the United States finally determines that he or she is not entitled to such unemployment benefits, this disqualification shall not apply;

(7) For any week of unemployment if such individual is a student. For the purpose of this subdivision, student shall mean an individual registered for full attendance at and regularly attending an established school, college, or university, unless the major portion of his or her wages for insured work during his or her base period was for services performed while attending school, except that attendance for training purposes under a plan approved by the commissioner for such individual shall not be disqualifying;

(8) For any week of unemployment if benefits claimed are based on services performed:

(a) In an instructional, research, or principal administrative capacity for an educational institution, if such week commences during the period between two successive academic years or terms, or when an agreement provides instead for a similar period between two regular, but not successive, terms during such period, if such individual performs such services in the first of such academic years or terms and if there is a contract or reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms;

(b) In any other capacity for an educational institution, if such week commences during a period between two successive academic years or terms, if such individual performs such services in the first of such academic years or terms, and if there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms, except that if benefits are denied to any individual for any week under subdivision (8)(b) of this section and such individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of the benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of subdivision (8)(b) of this section;

(c) In any capacity described in subdivision (8)(a) or (b) of this section if such week commences during an established and customary vacation period or holiday recess if such individual performs such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such vacation period or holiday recess;

(d) In any capacity described in subdivision (8)(a) or (b) of this section in an educational institution while in the employ of an educational service

agency, and such individual shall be disqualified as specified in subdivisions (8)(a), (b), and (c) of this section. As used in this subdivision, educational service agency shall mean a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing services to one or more educational institutions; and

(e) In any capacity described in subdivision (8)(a) or (b) of this section in an educational institution if such services are provided to or on behalf of the educational institution while in the employ of an organization or entity described in section 3306(c)(7) or 3306(c)(8) of the Federal Unemployment Tax Act, 26 U.S.C. 3306(c)(7) or (8), and such individual shall be disqualified as specified in subdivisions (8)(a), (b), and (c) of this section;

(9) For any week of unemployment benefits if substantially all the services upon which such benefits are based consist of participating in sports or athletic events or training or preparing to so participate, if such week of unemployment begins during the period between two successive sport seasons or similar periods, if such individual performed such services in the first of such seasons or similar periods, and if there is a reasonable assurance that such individual will perform such services in the later of such seasons or similar periods;

(10) For any week of unemployment benefits if the services upon which such benefits are based are performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was permanently residing in the United States under color of law at the time such services were performed, including an alien who was lawfully present in the United States as a result of the application of section 212(d)(5) of the Immigration and Nationality Act, 8 U.S.C. 1182(d)(5). Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits. In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of his or her alien status shall be made except upon a preponderance of the evidence;

(11) Notwithstanding any other provisions of the Employment Security Law, no otherwise eligible individual shall be denied benefits for any week because he or she is in training approved under section 236(a)(1) of the federal Trade Act of 1974, 19 U.S.C. 2296(a)(1), nor shall such individual be denied benefits by reason of leaving work to enter such training, if the work left is not suitable employment, or because of the application to any such week in training of provisions of the Employment Security Law, or any applicable federal unemployment compensation law, relating to availability for work, active search for work, or refusal to accept work. For purposes of this subdivision, suitable employment shall mean, with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment, as defined for purposes of the federal Trade Act of 1974, and wages for such work at not less than eighty percent of the individual's average weekly wage as determined for purposes of such act;

(12) For any week during which the individual is on a leave of absence; and

(13) For any week of unemployment benefits or for waiting week credit if he or she has been disqualified from the receipt of benefits pursuant to section 48-663.01 two or more times in the five-year period immediately prior to filing his or her most recent claim. This subdivision shall not apply if the individual has repaid in full any overpayments established in conjunction with the disqualifications assessed under section 48-663.01 during that five-year period.

Sec. 31. An individual shall be disqualified for benefits for any week with respect to which, or a part of which, he or she has received or is seeking unemployment benefits under an unemployment compensation law of any other state or of the United States. If the appropriate agency of such other state or of the United States finally determines that he or she is not entitled to such unemployment benefits, the disqualification provided in this section shall not apply.

Sec. 32. (1) An individual shall be disqualified for benefits for any week in which he or she is receiving or has received remuneration in the form of:

(a) Wages in lieu of notice or a dismissal or separation allowance;

(b) Vacation leave pay, including that received in a lump sum or upon separation from employment;

(c) Compensation for temporary disability under the workers' compensation law of any state or under a similar law of the United States;

(d) Retirement or retired pay, pension, annuity, or other similar periodic payment under a plan maintained or contributed to by a base period or chargeable employer; or

(e) A gratuity or a bonus from an employer, paid after termination of employment, on account of prior length of service, or disability not compensated under the workers' compensation law.

(2) Payments described in subsection (1) of this section that are made in a lump sum shall be prorated in an amount which is reasonably attributable to such week. If the prorated remuneration is less than the benefits which would otherwise be due, he or she shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration. The prorated remuneration shall be considered wages for the quarter to which it is

attributed.

(3) Military service-connected disability compensation payable under 38 U.S.C. chapter 11 and primary insurance benefits payable under Title II of the Social Security Act, as amended, or similar payments under any act of Congress shall not be deemed to be disqualifying or deductible from the benefit amount.

(4) No deduction shall be made for the part of any retirement pension which represents return of payments made by the individual. In the case of a transfer by an individual or his or her employer of an amount from one retirement plan to a second qualified retirement plan under the Internal Revenue Code, the amount transferred shall not be deemed to be received by the claimant until actually paid from the second retirement plan to the claimant.

(5) No deduction shall be made for any benefit received under a supplemental unemployment benefit plan described in subdivision (35)(g) of section 48-602.

(6) No deduction shall be made for any supplemental payments received by a claimant under the provisions of subsection (b) of section 408 of Title IV of the Veterans' Readjustment Assistance Act of 1952.

Sec. 33. (1) An individual shall be disqualified for benefits for any week of unemployment if such individual is a student unless the major portion of his or her wages for insured work during his or her base period was for services performed while attending school. Attendance at a school, college, or university for training purposes, under a plan approved by the commissioner for such individual, shall not be disqualifying.

(2) For purposes of this section, student means an individual who is registered for full-time status at and regularly attends an established school, college, university, training facility, or other educational institution or who is on vacation during or between two successive academic years or terms.

Sec. 34. (1) An individual shall be disqualified for unemployment benefits for any week if the services upon which such benefits are based are performed by an alien. This section shall apply unless such alien:

(a) Is an individual who was lawfully admitted for permanent residence at the time such services were performed;

(b) Was lawfully present for purposes of performing such services; or

(c) Was permanently residing in the United States under color of law at the time such services were performed, including an alien who was lawfully present in the United States as a result of the application of section 212(d)(5) of the Immigration and Nationality Act, 8 U.S.C. 1182(d)(5).

(2) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits. In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of his or her alien status shall be made except upon a preponderance of the evidence.

Sec. 35. An individual shall be disqualified for unemployment benefits for any week if substantially all the services upon which such benefits are based consist of participating in sports or athletic events or training or preparing to so participate, if:

(1) Such week of unemployment begins during the period between two successive sport seasons or similar periods;

(2) Such individual performed such services in the first of such seasons or similar periods; and

(3) There is a reasonable assurance that such individual will perform such services in the later of such seasons or similar periods.

Sec. 36. An individual shall be disqualified for benefits for any week of unemployment if claimed benefits are based on services performed:

(1) In an instructional, research, or principal administrative capacity for an educational institution, if:

(a) Such week commences during the period between two successive academic years or terms, or when an agreement provides instead for a similar period between two regular, but not successive, terms during such period;

(b) Such individual performs such services in the first of such academic years or terms; and

(c) There is a contract or reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms;

(2) In any other capacity for an educational institution, if such week commences during a period between two successive academic years or terms, such individual performs such services in the first of such academic years or terms, and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms. If benefits are denied to any individual for any week under this subdivision and such individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of the benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this subdivision;

(3) In any capacity described in subdivision (1) or (2) of this section in an educational institution while in the employ of an educational service agency, and such individual shall be disqualified as specified in subdivisions (1) and (2) of this section. As used in this subdivision, educational service agency means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing services to one or more

educational institutions;

(4) In any capacity described in subdivision (1) or (2) of this section in an educational institution if such services are provided to or on behalf of the educational institution while in the employ of an organization or entity described in section 3306(c)(7) or 3306(c)(8) of the Federal Unemployment Tax Act, 26 U.S.C. 3306(c)(7) or (8), and such individual shall be disqualified as specified in subdivisions (1), (2), and (3) of this section; and

(5) In any capacity described in subdivision (1) or (2) of this section if such week commences during an established and customary vacation period or holiday recess if such individual performs such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such vacation period or holiday recess.

Sec. 37. (1) Notwithstanding any other provisions of the Employment Security Law, no otherwise eligible individual shall be denied benefits for any week because he or she is in training approved under section 236(a)(1) of the federal Trade Act of 1974, 19 U.S.C. 2296(a)(1). Such an individual shall not be denied benefits by reason of leaving work to enter such training if the work left is not suitable employment or because of the application to any such week in training of provisions of the Employment Security Law, or any applicable federal unemployment compensation law, relating to availability for work, active search for work, or refusal to accept work.

(2) For purposes of this section, suitable employment means, with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment, as defined for purposes of the federal Trade Act of 1974, and wages for such work at not less than eighty percent of the individual's average weekly wage as determined for purposes of such act.

Sec. 38. An individual shall be disqualified for benefits for any week during which the individual is on a leave of absence.

Sec. 39. (1) An individual shall be disqualified for benefits for any week with respect to which the commissioner finds that his or her total unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises where he or she is or was last employed. This section shall not apply if it is shown to the satisfaction of the commissioner that:

(a) The individual is not participating in, financing, or directly interested in the labor dispute which caused the stoppage of work; and

(b) He or she does not belong to a grade or class of workers that includes members who, immediately before the commencement of the stoppage, were employed at the premises where the stoppage occurs and who are participating, financing, or directly interested in the dispute.

(2) If in any case, separate branches of work, which are commonly conducted as separate businesses in separate premises, are conducted in separate departments of the same premises, each such department shall, for purposes of this section, be deemed to be a separate factory, establishment, or other premises.

Sec. 40. (1) An individual shall be disqualified for benefits for the week in which he or she has been discharged for misconduct connected with his or her work, if so found by the commissioner, and for the fourteen weeks immediately thereafter.

(2) If the commissioner finds that the individual was discharged for misconduct that was not gross, flagrant, and willful or unlawful but which included being under the influence of any intoxicating beverage or any controlled substance listed in section 28-405 not prescribed by a physician licensed to practice medicine or surgery while the individual is on the worksite or while the individual is engaged in work for the employer, the commissioner shall cancel all wage credits earned as a result of employment with the discharging employer.

(3) If the commissioner finds that the individual's misconduct was gross, flagrant, and willful, or was unlawful, the commissioner shall totally disqualify such individual from receiving benefits with respect to wage credits earned prior to discharge for such misconduct.

Sec. 41. An individual shall be disqualified for benefits for any week of unemployment benefits or for waiting week credit if he or she has been disqualified from the receipt of benefits pursuant to section 48-663.01 two or more times in the five-year period immediately prior to filing his or her most recent claim. This section shall not apply if the individual has repaid in full all overpayments established in conjunction with the disqualifications assessed under section 48-663.01 during that five-year period.

Sec. 42. An individual shall be disqualified for benefits:

(1) For any benefit year beginning before October 1, 2018:

(a) For the week in which he or she has left work voluntarily without good cause, if so found by the commissioner, and for the thirteen weeks immediately thereafter. For purposes of this subdivision, a temporary employee of a temporary help firm has left work voluntarily without good cause if the temporary employee does not contact the temporary help firm for reassignment upon completion of an assignment and the temporary employee has been advised by the temporary help firm of his or her obligation to contact the temporary help firm upon completion of assignments and has been advised by the temporary help firm that the temporary employee may be denied benefits for failure to do so; or

(b) For the week in which he or she has left work voluntarily for the sole

purpose of accepting previously secured, permanent, full-time, insured work, if so found by the commissioner, and for the two weeks immediately thereafter. For this subdivision to apply, such work shall:

- (i) Be accepted by the individual;
 - (ii) Offer a reasonable expectation of betterment of wages or working conditions, or both; and
 - (iii) Enable the individual to earn wages payable to him or her; or
- (2) For any benefit year beginning on or after October 1, 2018, for the week in which he or she has left work voluntarily without good cause, if so found by the commissioner, and for all subsequent weeks until the individual has earned wages in insured work in an amount of at least four times his or her weekly benefit amount and has separated from the most recent subsequent employment under nondisqualifying conditions. For purposes of this subdivision, a temporary employee of a temporary help firm has left work voluntarily without good cause if the temporary employee does not contact the temporary help firm for reassignment upon completion of an assignment and the temporary employee has been advised by the temporary help firm of his or her obligation to contact the temporary help firm upon completion of assignments and has been advised by the temporary help firm that the temporary employee may be denied benefits for failure to do so.

Sec. 43. Section 48-628.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-628.01~~ Good cause for voluntarily leaving employment shall include, but not be limited to, the following reasons:

(1) An individual has made all reasonable efforts to preserve the employment but voluntarily leaves his or her work for the necessary purpose of escaping abuse at the place of employment or abuse as defined in section 42-903 between household members;

(2) An individual left his or her employment voluntarily due to a bona fide non-work-connected illness or injury that prevented him or her from continuing the employment or from continuing the employment without undue risk of harm to the individual;

(3) An individual left his or her employment to accompany his or her spouse to the spouse's employment in a different city or new military duty station;

(4) An individual left his or her employment because his or her employer required the employee to relocate;

(5)(a) An individual is a construction worker and left his or her employment voluntarily for the purpose of accepting previously secured insured work in the construction industry if the commissioner finds that:

(i)(A) The quit occurred within thirty days immediately prior to the established termination date of the job which the individual voluntarily leaves, (B) the specific starting date of the new job is prior to the established termination date of the job which the worker quits, (C) the new job offered employment for a longer period of time than remained available on the job which the construction worker voluntarily quit, and (D) the worker had worked at least twenty days or more at the new job after the established termination date of the previous job unless the new job was terminated by a contract cancellation; or

(ii)(A) The construction worksite of the job which the worker quit was more than fifty miles from his or her place of residence, (B) the new construction job was fifty or more miles closer to his or her residence than the job which he or she quit, and (C) the worker actually worked twenty days or more at the new job unless the new job was terminated by a contract cancellation.

(b) The provisions of this subdivision (5) shall not apply if the individual is separated from the new job under conditions resulting in a disqualification from benefits under section 40 or 42 of this act subdivision (1) or (2) of section 48-628;

(6) An individual accepted a voluntary layoff to avoid bumping another worker;

(7) An individual left his or her employment as a result of being directed to perform an illegal act;

(8) An individual left his or her employment because of unlawful discrimination or workplace harassment on the basis of race, sex, or age;

(9) An individual left his or her employment because of unsafe working conditions; ~~or~~

(10) An individual left his or her employment to attend school; or

(11) ~~(10)~~ Equity and good conscience demand a finding of good cause.

Sec. 44. Section 48-628.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-628.02~~ (1) As used in the Employment Security Law, unless the context otherwise requires:

(a) Extended benefit period means a period which begins with the third week after a week for which there is a state "on" indicator and ends with either of the following weeks, whichever occurs later: (i) The third week after the first week for which there is a state "off" indicator or (ii) the thirteenth consecutive week of such period, except that no extended benefit period may begin by reason of a state "on" indicator before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to this state;

(b) Extended benefits means benefits, including benefits payable to federal civilian employees and to ex-servicemen or ex-servicewomen pursuant to

5 U.S.C. chapter 85, payable to an individual for weeks of unemployment in his or her eligibility period;

(c) Eligibility period of an individual means the period consisting of the weeks in his or her benefit year which begin in an extended benefit period and, if his or her benefit year ends within such extended benefit period, any weeks thereafter which begin in such period. Notwithstanding any other provision of the Employment Security Law, if the benefit year of any individual ends within an extended benefit period, the remaining balance of extended benefits that such individual would, but for this section, be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced, but not below zero, by the product of the number of weeks for which the individual received any amounts as trade readjustment allowances within that benefit year multiplied by the individual's weekly benefit amount for extended benefits;

(d) Exhaustee means an individual who, with respect to any week of unemployment in his or her eligibility period:

(i)(A) Has received, prior to such week, all of the regular benefits that were available to him or her under the Employment Security Law of this state or under the unemployment insurance law of any other state, including dependents' allowances and benefits payable to federal civilian employees and ex-servicemen or ex-servicewomen under 5 U.S.C. chapter 85, in his or her current benefit year that includes such week, except for the purposes of this subdivision, an individual shall be deemed to have received all of the regular benefits that were available to him or her although as a result of a pending appeal with respect to wages or employment or both wages and employment that were not considered in the original monetary determination in his or her benefit year, he or she may subsequently be determined to be entitled to added regular benefits; or (B) his or her benefit year having expired prior to such week, has no, or insufficient, wages or employment or both wages and employment on the basis of which he or she could establish a new benefit year that would include such week;

(ii) Has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965, and such other federal laws as are specified in regulations issued by the United States Secretary of Labor; and

(iii) Has not received and is not seeking unemployment benefits under the unemployment compensation law of Canada, but if he or she is seeking such benefits and the appropriate agency finally determines that he or she is not entitled to benefits under such law, he or she is considered an exhaustee;

(e) Rate of insured unemployment means the percentage, used by the commissioner in determining whether there is a state "on" or state "off" indicator, derived by dividing (i) the average weekly number of individuals filing claims for regular compensation under the Employment Security Law for weeks of unemployment with respect to the most recent thirteen-consecutive-week period, as determined by the commissioner on the basis of his or her reports to the United States Secretary of Labor, by (ii) the average monthly employment covered under the Employment Security Law for the first four of the most recent six completed calendar quarters ending before the end of such thirteen-week period;

(f) Regular benefits means benefits payable to an individual under the Employment Security Law of this state or under the unemployment insurance law of any other state, including benefits payable to federal civilian employees and to ex-servicemen or ex-servicewomen pursuant to 5 U.S.C. chapter 85, other than extended benefits;

(g) State "off" indicator means a week for which ~~that~~ the commissioner determines that, for the period consisting of such week and the immediately preceding twelve weeks, neither subdivision (1)(h)(i) or (1)(h)(ii) of this section was satisfied; and

(h) State "on" indicator means a week for which ~~that~~ the commissioner determines that, for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment, not seasonally adjusted, under the Employment Security Law: (i) Equalled or exceeded one hundred twenty percent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years and equalled or exceeded five percent or (ii) equalled or exceeded six percent.

(2) Except when the result would be inconsistent with the other provisions of this section, as provided in the rules and regulations of the commissioner, the provisions of the Employment Security Law which apply to claims for or payment of regular benefits shall apply to claims for and payment of extended benefits. An individual shall be eligible to receive extended benefits with respect to any week of unemployment in his or her eligibility period only if the commissioner finds that with respect to such week:

(a) Such individual is an exhaustee;

(b) Such ~~such~~ individual has satisfied the requirements of the Employment Security Law for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits;

(c) Sections 45 and 46 of this act ~~sections 48-628.03 and 48-628.04~~ do not apply; and

(d) Such ~~such~~ individual has been paid wages for insured work during the individual's base period equal to at least one and one-half times the wages paid in that calendar quarter of the individual's base period in which such

wages were highest.

(3) The weekly extended benefit amount payable to an individual for a week of total unemployment in his or her eligibility period shall be an amount equal to the weekly benefit amount payable to him or her during his or her applicable benefit year. The total extended benefit amount payable to any eligible individual with respect to his or her applicable benefit year shall be the least of the following amounts:

(a) Fifty percent of the total amount of regular benefits which were payable to him or her under the Employment Security Law in his or her applicable benefit year; or

(b) Thirteen ~~thirteen~~ times his or her weekly benefit amount which was payable to him or her under the Employment Security Law for a week of total unemployment in the applicable benefit year.

(4) Whenever an extended benefit period is to become effective in this state as a result of a state "on" indicator or an extended benefit period is to be terminated in this state as a result of a state "off" indicator, the commissioner shall make an appropriate public announcement. Computations required to determine the rate of insured unemployment shall be made by the commissioner in accordance with regulations prescribed by the United States Secretary of Labor. Any amount of extended benefits payable to any individual for any week, if not an even dollar amount, shall be rounded to the next lower full dollar amount.

(5) Notwithstanding any other provision of the Employment Security Law, during an extended benefit period, the Governor may provide for the payment of emergency unemployment compensation pursuant to Public Law 110-252, as amended, or any substantially similar federal unemployment compensation paid entirely from federal funds to individuals prior to the payment of extended benefits pursuant to this section and sections 45 and 46 of this act ~~48-628.02 to 48-628.04.~~

Sec. 45. Section 48-628.03, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-628.03~~ (1) An individual shall be ineligible for payment of extended benefits for any week of unemployment in his or her eligibility period if the commissioner finds that during such period (a) he or she failed to accept any offer of suitable work or failed to apply for any suitable work to which he or she was referred by the commissioner or (b) he or she failed to actively engage in seeking work as prescribed under subsection (5) of this section.

(2) Any individual who has been found ineligible for extended benefits by reason of subsection (1) of this section shall also be denied benefits beginning with the first day of the week following the week in which such failure occurred and until he or she (a) has been employed in each of four subsequent weeks, whether or not consecutive, and (b) has earned remuneration equal to not less than four times the extended weekly benefit amount.

(3) For purposes of this section, the term suitable work means ~~shall mean~~, with respect to any individual, any work which is within such individual's capabilities and for which the gross average weekly remuneration payable for the work exceeds the sum of the individual's average weekly benefit amount payable to him or her during his or her applicable benefit year, plus the amount, if any, of supplemental unemployment compensation benefits as defined in section 501(c)(17)(D) of the Internal Revenue Code payable to such individual for such week. Such work must also pay wages equal to the higher of the federal minimum wage or the applicable state or local minimum wage. No individual shall be denied extended benefits for failure to accept an offer or referral to any job which meets the definition of suitability contained in this subsection if (a) the position was not offered to such individual in writing or was not listed with the employment service, (b) such failure could not result in a denial of benefits under the definition of suitable work for regular benefit claimants in ~~subdivision (3) of section 48-628,~~ to the extent that the criteria of suitability in that section are not inconsistent with the provisions of this subsection, or (c) the individual furnishes satisfactory evidence to the commissioner that his or her prospects for obtaining work in his or her customary occupation within a reasonably short period are good. If such evidence is deemed satisfactory for this purpose, the determination of whether any work is suitable with respect to such individual shall be made in accordance with the definition of suitable work in ~~subdivision (3) of section 48-628~~ without regard to the definition specified by this subsection.

(4) Notwithstanding the provisions of subsection (3) of this section to the contrary, no work shall be deemed to be suitable work for an individual which does not accord with the labor standard provisions set forth under subsection (3) ~~subdivision (3)(c)~~ of section 48-628, nor shall an individual be denied benefits if such benefits would not be deniable by reason of subsection (4) ~~the provision set forth in subdivision (3)(d)~~ of section 48-628.

(5) For the purposes of subsection (1) of this section, an individual shall be treated as actively engaged in seeking work during any week if the individual has engaged in a systematic and sustained effort to obtain work during such week and the individual furnishes tangible evidence that he or she has engaged in such effort during such week.

(6) The state employment service shall refer any claimant entitled to extended benefits under this section to any suitable work which meets the criteria prescribed in subsection (3) of this section.

(7) An individual shall not be eligible to receive extended benefits with respect to any week of unemployment in his or her eligibility period if such individual has been disqualified for benefits under ~~subdivision (1), (2), or~~

~~(3) of section 48-628 or section 40 or 42 of this act unless such individual has earned wages for services performed in subsequent employment in an amount not less than four hundred dollars.~~

Sec. 46. Section 48-628.04, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-628.04~~ (1) Except as provided in subsection (2) of this section, payment of extended benefits shall not be made to any individual for any week if (a) extended benefits would, but for this section, have been payable for such week pursuant to an interstate claim filed in any state under the interstate benefit payment plan, and (b) an extended benefit period is not in effect for such week in such state.

(2) Subsection (1) of this section shall not apply with respect to the first two weeks for which extended benefits are payable, determined without regard to this section, pursuant to an interstate claim filed under the interstate benefit payment plan to the individual from the extended benefit account established for the benefit year.

Sec. 47. Section 48-628.05, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-628.05~~ (1) In addition to any other unemployment benefits to which an individual is entitled under the Employment Security Law, an individual who has exhausted all regular unemployment benefits for which he or she has been determined eligible shall continue to be eligible for up to twenty-six additional weeks of unemployment benefits if such individual:

(a)(i) Was involuntarily separated from employment as a result of a permanent reduction of operations at the individual's place of employment or (ii) is unemployed as the result of a separation from a declining occupation;

(b) Is enrolled and making satisfactory progress in a (i) training program approved for him or her by the commissioner or (ii) job training program authorized under the federal Workforce Innovation and Opportunity Act Investment Act of 1998, as amended;

(c) Is receiving training which is preparing the individual for entry into a high-demand occupation;

(d) Is enrolled in training no later than the end of the benefit year established with respect to the separation that makes the individual eligible for the training benefit. Individuals shall be notified of the enrollment requirement at the time of their initial determination of eligibility for regular benefits; and

(e) Is not receiving similar stipends or other training allowances for nontraining costs. Similar stipend means an amount provided under a program with similar aims, such as providing training to increase employability, and in approximately the same amounts.

(2) The amount of unemployment benefits payable to an individual for a week of unemployment under this section shall be equal to the amount of unemployment benefits which he or she has been determined eligible for under section 48-624 less any deductions or offsets authorized under the Employment Security Law.

(3) If an individual begins to receive unemployment benefits under this section while enrolled in a training program described in subsection (1) of this section during a benefit year, such individual shall continue to receive such benefits so long as he or she continues to make satisfactory progress in such training program, except that such benefits shall not exceed twenty-six times the individual's weekly benefit amount for the most recent benefit year as determined under section 48-624.

(4) No benefits shall be payable under this section until the individual has exhausted all (a) regular unemployment benefits, (b) extended benefits as defined in subdivision (1)(b) of section 44 of this act ~~48-628.02~~, and (c) unemployment benefits paid entirely from federal funds to which he or she is entitled, including, but not limited to, trade readjustment assistance, emergency unemployment compensation, or other similar federally funded unemployment benefits.

(5) For purposes of this section, regular unemployment benefits means all unemployment benefits for which an individual is eligible payable under sections 48-624 to 48-626, extended unemployment benefits payable under section 44 of this act ~~48-628.02~~, and any unemployment benefits funded solely by the federal government.

Sec. 48. Section 48-629, Reissue Revised Statutes of Nebraska, is amended to read:

48-629 Claims for benefits shall be made in accordance with such rules and regulations as the commissioner may adopt and promulgate ~~prescribe~~. Each employer shall post and maintain printed statements of such rules and regulations in places readily accessible to individuals in his or her service and shall make available to each such individual, at the time he or she becomes unemployed, a printed statement of such rules and regulations. Such printed statements shall be supplied by the commissioner to each employer without cost to the employer.

Sec. 49. Section 48-629.01, Reissue Revised Statutes of Nebraska, is amended to read:

48-629.01 (1) An individual filing a new claim for unemployment compensation shall, at the time of the filing of such claim, be advised that:

(a) Unemployment compensation is subject to federal and state income tax;

(b) Requirements exist pertaining to estimated tax payments;

(c) The individual may elect to have federal income tax withheld from the individual's payment of unemployment compensation at the amount specified in

the Internal Revenue Code; ~~and~~

(d) The individual may elect to have state income tax withheld from the individual's payment of unemployment compensation at the rate of five percent; and

~~(e) (d)~~ The individual shall be permitted to change a previously elected withholding status.

(2) Amounts deducted and withheld from unemployment compensation for federal income tax purposes shall remain in the Unemployment Compensation Fund until transferred to the federal Internal Revenue Service as a payment of income tax. Amounts deducted and withheld from unemployment compensation for state income tax purposes shall remain in the Unemployment Compensation Fund until transferred to the Department of Revenue as a payment of income tax.

(3) The commissioner shall follow all procedures specified by the United States Department of Labor and the federal Internal Revenue Service pertaining to the deducting and withholding of income tax.

(4) Amounts shall be deducted and withheld under this section only after amounts are deducted and withheld for any overpayments of unemployment compensation, child support obligations, or any other amounts required to be withheld under the Employment Security Law.

Sec. 50. Section 48-630, Revised Statutes Cumulative Supplement, 2016, is amended to read:

48-630 (1) A determination upon a claim filed pursuant to section 48-629 shall be made promptly by a representative designated by the commissioner, hereinafter referred to as an adjudicator.

~~(2) A determination a deputy, and shall include a statement as to whether and in what amount claimant is entitled to benefits for the week with respect to which the determination is made and, in the event of a denial, shall state the reasons therefor. A determination with respect to the first week of a benefit year shall also include a statement as to whether the claimant has been paid the wages required under section 29 of this act subdivision (5) of section 48-627, and, if so, the first day of the benefit year, his or her weekly benefit amount, and the maximum total amount of benefits payable to him or her with respect to such benefit year. Any benefits to which a claimant has been found eligible shall not be withheld because of the filing of an appeal under section 48-634 and such benefits shall be paid until the appeal tribunal has rendered its decision modifying or reversing the determination allowing such benefits if the claimant is otherwise eligible. Any benefits received by any person to which, under a redetermination or decision pursuant to sections 48-630 to 48-640, he or she has been found not entitled shall be treated as erroneous payments in accordance with the provisions of section 48-665. Whenever any claim involves the application of the provisions of section 39 of this act subdivision (4) of section 48-628, the adjudicator deputy shall promptly transmit his or her full findings of fact, with respect to such section that subdivision, to the commissioner, who, on the basis of the evidence submitted and such additional evidence as he or she may require, shall affirm, modify, or set aside such findings of fact and transmit to the adjudicator deputy a decision upon the issue involved under such section the subdivision, which shall be deemed to be the decision of the adjudicator deputy. All claims arising out of the same alleged labor dispute may be considered at the same time.~~

(3) In the event a claim is denied, a determination shall state the reasons therefor. Regardless of the outcome, the parties shall be promptly notified of the determination, together with the reasons therefor, and such determination shall be deemed to be the final decision on the claim, unless an appeal is filed with the department appeal tribunal in the manner prescribed in section 48-634.

(4) Any benefits for which a claimant has been found eligible shall not be withheld because of an appeal filed under section 48-634, and such benefits shall be paid until a hearing officer has rendered a decision modifying or reversing the determination allowing such benefits if the claimant is otherwise eligible. Any benefits received by any person to which he or she had been found not entitled, under a redetermination or decision pursuant to sections 48-630 to 48-638, shall be treated as erroneous payments in accordance with section 48-665.

Sec. 51. Section 48-631, Revised Statutes Cumulative Supplement, 2016, is amended to read:

48-631 (1) The adjudicator deputy may reconsider a determination if ~~whenever~~ he or she finds that:

(a) An an error in computation or identity has occurred in connection with the determination;

(b) Wages therewith, or that wages of the claimant pertinent to such determination, but not considered in connection therewith, have been newly discovered; or

(c) Benefits, or that benefits have been allowed or denied or the amount of benefits has been set based on fixed on the basis of misrepresentations of fact.

(2) No, but no such redetermination shall be made after two years from the date of the original determination.

(3) Notice of any such redetermination shall be promptly given to the parties entitled to notice of the original determination, in the manner prescribed in section 48-630 with respect to notice of an original determination.

(4) If the amount of benefits is increased or decreased by a upon such

redetermination, an appeal therefrom may be filed solely with respect to the matters involved in such increase or decrease ~~may be filed~~ in the manner and subject to the limitations provided in section 48-634. Subject to the same limitations and for the same reasons, the Commissioner of Labor may reconsider the determination, in any case in which the final decision has been rendered by a hearing officer ~~an appeal tribunal~~ or a court, and may apply to the hearing officer ~~tribunal~~ or court which rendered such final decision to issue a revised decision. In the event that an appeal involving an original determination is pending as of the date a redetermination thereof is issued, such appeal, unless withdrawn, shall be treated as an appeal of the ~~from such~~ redetermination.

Sec. 52. Section 48-632, Revised Statutes Cumulative Supplement, 2016, is amended to read:

48-632 (1) Notice of a determination upon a claim shall be promptly given to the claimant by electronic notice delivery ~~thereof~~ or by mailing such notice to his or her last-known address. A claimant shall elect to receive either electronic notice or mailed notice when he or she files a new claim or establishes a new benefit year. A claimant may change his or her election at any time. In addition, notice of any determination, together with the reasons therefor, shall be promptly given in the same manner to any employer from whom the claimant received wages on or after the first day of the base period for his or her most recent claim if such employer, ~~and who~~ has indicated prior to the determination, in such manner as required by rule and regulation of the commissioner, that such individual may be ineligible or disqualified under any provision of the Employment Security Law. An employer shall provide information to the department in respect to the request for information within ten days after the mailing or electronic transmission of a request.

(2) If the employer provided information pursuant to subsection (6 7) of section 48-652 on the claim establishing the previous benefit year but did not receive a determination because of no involvement of base period wages and there are wages from that employer in the base period for the most recent claim, the employer shall be provided the opportunity to provide new information that such individual may be ineligible or disqualified under any provision of the Employment Security Law on the current claim. This subsection shall not apply to employers who did not receive a determination because the separation was determined to result from a lack of work.

(3) ~~If On or after October 1, 2012,~~ if an employer fails to provide information to the department within the time period specified in subsection (1) of this section, the employer shall forfeit any appeal rights otherwise available pursuant to section 48-634.

Sec. 53. Section 48-634, Revised Statutes Cumulative Supplement, 2016, is amended to read:

48-634 (1) The claimant or any other party entitled to notice of a determination as provided in section 48-632, ~~may~~ file an appeal from such determination with the department.

(2) ~~An Notice of~~ appeal must be in writing or in accordance with rules and regulations adopted and promulgated by the commissioner and must be delivered and received within twenty days after the date of mailing of the notice of determination to the parties' ~~his or her~~ last-known address or, if such notice is not mailed, after the date of delivery of such notice of determination, except that for good cause shown an appeal filed outside the prescribed time period may be heard.

(3) In accordance with section 303 of the federal Social Security Act, 42 U.S.C. 503, the commissioner shall provide the opportunity for a fair hearing before an impartial hearing officer ~~appeal tribunal~~ on each appeal.

(4) ~~(2)~~ Unless the appeal is withdrawn, a hearing officer ~~the appeal tribunal~~, after affording the parties reasonable opportunities for a fair hearing, shall make findings and conclusions and on the basis thereof affirm, modify, or reverse such determination.

(5) If an appeal involves a question as to whether services were performed by the claimant in employment or for an employer, a hearing officer ~~the tribunal~~ shall give special notice of such issue and of the pendency of the appeal to the employer and to the commissioner, both of whom shall be parties to the proceeding and be afforded a reasonable opportunity to adduce evidence bearing on such question.

(6) The parties shall be promptly notified of a hearing officer's ~~the tribunal's~~ decision and shall be furnished with a copy of the decision and the findings and conclusions in support of the decision.

(7) The commissioner shall be a party entitled to notice in any proceeding involving a claim for benefits before a hearing officer.

Sec. 54. Section 48-635, Reissue Revised Statutes of Nebraska, is amended to read:

48-635 (1) ~~The presentation of manner in which~~ disputed claims shall be presented and the conduct of hearings and appeals shall be in accordance with the rules and regulations adopted and promulgated ~~prescribed~~ by the commissioner for determining the rights of the parties, whether or not such rules and regulations conform to common-law or statutory rules of evidence and other technical rules of procedure.

(2) A full and complete record shall be kept of all proceedings in connection with the disputed claims.

(3) All testimony at any hearing upon a disputed claim shall be recorded, but need not be transcribed unless the disputed claim is further appealed.

Sec. 55. Section 48-637, Revised Statutes Cumulative Supplement, 2016, is amended to read:

48-637 The final decisions of a hearing officer an appeal tribunal, and the principles of law declared by him or her it in arriving at such decisions, unless expressly or impliedly overruled by a later decision of a hearing officer the tribunal or by a court of competent jurisdiction, shall be binding upon the commissioner and any adjudicator deputy in subsequent proceedings which involve similar questions of law, except that if in connection with any subsequent proceeding the commissioner or an adjudicator a deputy has serious doubt as to the correctness of any principle so declared, he or she may certify his or her findings of fact in such case, together with the question of law involved to a hearing officer who the appeal tribunal, which, after giving notice and reasonable opportunity for hearing upon the law to all parties to such proceedings, shall thereupon certify to the commissioner, such adjudicator, deputy and such parties his or her its answer to the question submitted. If the question thus certified to a hearing officer the appeal tribunal arises in connection with a claim for benefits, a hearing officer the tribunal in his or her its discretion may remove to himself or herself itself the entire proceedings on such claim, and, after proceeding in accordance with the requirements of sections 48-634 to 48-643 with respect to proceedings before a hearing officer an appeal tribunal, shall render his or her its decision upon the entire claim.

Sec. 56. Section 48-638, Reissue Revised Statutes of Nebraska, is amended to read:

48-638 (1) Any party to the proceedings before a hearing officer the appeal tribunal may appeal the hearing officer's tribunal's decision by filing a petition (a) (1) in the district court of the county in which the individual claiming benefits claims to have been last employed or in which such claimant resides, (b) (2) in any district court of this state upon which the parties may agree, or (c) (3) if neither subdivision (1)(a) (1) or (b) (2) of this section applies, then in the district court of Lancaster County.

(2) If the commissioner is not the petitioning party, he or she shall be a party defendant in every appeal. Such appeal shall otherwise be governed by the Administrative Procedure Act.

(3) An appeal may be taken from the decision of the district court to the Court of Appeals in accordance with the Administrative Procedure Act.

(4) No bond shall be required as a condition of initiating a proceeding for judicial review or entering an appeal from the decision of the court upon such review. Costs which would be otherwise taxed to a claimant shall be taxed in such courts to the commissioner regardless of the result of the action unless justice and equity otherwise require. Notwithstanding any general statute to the contrary, no filing fee shall be charged by a hearing officer or by the clerk of any court for any service required by sections 48-634 to 48-638.

(5) In any proceeding for judicial review pursuant to this section, the commissioner may be represented by any qualified attorney employed and designated by the commissioner for that purpose or, at the commissioner's request, by the Attorney General.

Sec. 57. Section 48-643, Reissue Revised Statutes of Nebraska, is amended to read:

48-643 Witnesses subpoenaed pursuant to sections 48-629 to 48-644 shall be allowed fees at a rate fixed by the commissioner, not to exceed and not exceeding the amount allowed for witness fees in district court. Such fees shall be deemed an a part of the expense of administering the Employment Security Law.

Sec. 58. Section 48-644, Revised Statutes Cumulative Supplement, 2016, is amended to read:

48-644 (1) Benefits shall be promptly paid in accordance with a determination or redetermination.

(2) If pursuant to a determination or redetermination benefits are payable in any amount as to which there is no dispute, such amount of benefits shall be promptly paid regardless of any appeal.

(3) The commencement of a proceeding for judicial review pursuant to section 48-638 shall not operate as a supersedeas or stay.

(4) If an employer is otherwise entitled to noncharging of benefits pursuant to sections 48-630 and 48-652, and a decision allowing benefits is finally reversed, no employer's account shall be charged with benefits paid pursuant to the erroneous determination, and benefits shall not be paid for any subsequent weeks of unemployment involved in such reversal.

Sec. 59. Section 48-645, Reissue Revised Statutes of Nebraska, is amended to read:

48-645 (1) Any agreement by an individual to waive, release, or commute his or her rights to benefits or any other rights under the Employment Security Law shall be void.

(2) Any agreement by an individual in the employ of any person or concern to pay all or any portion of an employer's contributions required under such law from such employer, shall be void.

(3) No employer shall:

(a) Directly directly or indirectly make, or require, or accept any deduction from wages to finance the employer's contributions required from him or her;

(b) Require, or require or accept any waiver of any right hereunder by any individual in his or her employ;

(c) Discriminate, or discriminate in regard to the hiring, rehiring, or tenure of work of any individual on account of any claim made by such

individual for benefits under the Employment Security Law; or

~~(d) Obstruct, or in any manner obstruct or impede the filing of claims for benefits in any manner.~~

(4) Any employer, officer, or agent of an employer who violates any provision of this section shall be guilty of a Class II misdemeanor.

Sec. 60. Section 48-647, Reissue Revised Statutes of Nebraska, is amended to read:

48-647 (1)(a) Any assignment, pledge, or encumbrance of any right to benefits which are or may become due or payable under sections 48-623 to 48-626 shall be void except as set forth in this section. Such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy ~~whatsoever~~ provided for the collection of debt. Benefits received by any individual, so long as they are not mingled with other funds of the recipient, shall be exempt from any remedy ~~whatsoever~~ for the collection of all debts, except debts incurred for necessities furnished to such individual or his or her spouse or dependents during the time when such individual was unemployed.

~~(b) Any waiver of any exemption provided for in this section shall be void.~~ Any assignment, pledge, or encumbrance of any right or claim to contributions or to any money credited to any employer's reserve account in the Unemployment Compensation Fund shall be void. Such right or claim to contributions or money, and the same shall be exempt from levy, execution, attachment, or any other remedy ~~whatsoever~~ provided for the collection of debt.

~~(c) Any, and any~~ waiver of any exemption provided for in this section shall be void.

(2)(a) An individual filing a new claim for unemployment compensation shall, at the time of filing such claim, disclose whether or not he or she owes child support obligations as defined under subdivision (h) of this subsection. If such individual discloses that he or she owes child support obligations and is determined to be eligible for unemployment compensation, the commissioner shall notify the Department of Health and Human Services that the individual has been determined to be eligible for unemployment compensation.

(b) The commissioner shall deduct and withhold from any unemployment compensation otherwise payable to an individual disclosing child support obligations:

(i) The amount specified by the individual to the commissioner to be deducted under this subsection, if neither subdivision (ii) nor (iii) of this subdivision is applicable;

(ii) The amount, if any, determined pursuant to an agreement between the Department of Health and Human Services and such individual owing the child support obligations to have a specified amount withheld ~~if and~~ such agreement ~~is being~~ submitted to the commissioner, unless subdivision (iii) of this subdivision is applicable; or

(iii) The amount otherwise required to be ~~so~~ deducted and withheld from such unemployment compensation pursuant to legal process, as that term is defined in subdivision (2)(i) of this section, properly served upon the commissioner.

(c) Any amount deducted and withheld under subdivision (b) of this subsection shall be paid by the commissioner to the Department of Health and Human Services.

(d) Any amount deducted and withheld under subdivision (b) or (g) of this subsection shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by such individual to the Department of Health and Human Services in satisfaction of his or her child support obligations.

(e) For purposes of subdivisions (a) through (d) and (g) of this subsection, the term unemployment compensation shall mean any compensation payable under the Employment Security Law, ~~and~~ including amounts payable by the commissioner pursuant to an agreement ~~under~~ by any federal law providing for compensation, assistance, or allowances with respect to unemployment.

(f) This subsection shall apply only if appropriate arrangements have been made for reimbursement by the Department of Health and Human Services for the administrative costs incurred by the commissioner under this section which are attributable to child support obligations being enforced by the department.

(g) The Department of Health and Human Services and the commissioner shall develop and implement a collection system to carry out the intent of this subdivision. The collection system shall, at a minimum, provide that:

(i) The commissioner shall periodically notify the Department of Health and Human Services of the information listed in section 43-1719 with respect to individuals determined to be eligible for unemployment compensation during such period;

(ii) Unless the county attorney, the authorized attorney, or the Department of Health and Human Services has sent a notice on the same support order under section 43-1720, upon the notification required by subdivision (2)(g)(i) of this section, the Department of Health and Human Services shall send notice to any such individual who owes child support obligations and who is subject to income withholding pursuant to subdivision (2)(a), (2)(b)(ii), or (2)(b)(iii) of section 43-1718.01. The notice shall be sent by certified mail to the last-known address of the individual and shall state the same information as required under section 43-1720;

(iii)(A) If the support obligation is not based on a foreign support order entered pursuant to section 43-1729 and the individual requests a hearing, the Department of Health and Human Services shall hold a hearing within fifteen days of the date of receipt of the request. The hearing shall be in accordance

with the Administrative Procedure Act. The assignment shall be held in abeyance pending the outcome of the hearing. The department shall notify the individual and the commissioner of its decision within fifteen days of ~~the date~~ the hearing ~~is held~~; and

(B) If the support obligation is based on a foreign support order entered pursuant to section 43-1729 and the individual requests a hearing, the county attorney or authorized attorney shall apply the procedures described in sections 43-1732 to 43-1742;

(iv)(A) If no hearing is requested by the individual under this subsection or pursuant to a notice sent under section 43-1720, (B) if after a hearing under this subsection or section 43-1721 the Department of Health and Human Services determines that the assignment should go into effect, (C) in cases in which the court has ordered income withholding for child support pursuant to subsection (1) of section 43-1718.01, or (D) in cases in which the court has ordered income withholding for child support pursuant to section 43-1718.02 and the case subsequently becomes one in which child support collection services are being provided under Title IV-D of the federal Social Security Act, as amended, the Department of Health and Human Services shall certify to the commissioner the amount to be withheld for child support obligations from the individual's unemployment compensation. Such amount shall not ~~in any case~~ exceed the maximum amount permitted to be withheld under section 303(b) of the federal Consumer Credit Protection Act, 15 U.S.C. 1673(b)(2)(A) and (B), and the amount withheld to satisfy a debt ~~an arrearage~~ of child support when added to the amount withheld to pay current support shall not exceed such maximum amount;

(v) The collection system shall comply with the requirements of Title III and Title IV-D of the federal Social Security Act, as amended;

(vi) The collection system shall be in addition to and not in substitution for or derogation of any other available remedy; and

(vii) The Department of Health and Human Services and the commissioner shall adopt and promulgate rules and regulations to carry out subdivision (2) (g) of this section.

(h) For purposes of this subsection, the term child support obligations shall include only obligations which are being enforced pursuant to a plan described in section 454 of the federal Social Security Act which has been approved by the Secretary of Health and Human Services under Part D of Title IV of the federal Social Security Act.

(i) For purposes of this subsection, the term legal process shall mean any writ, order, summons, or other similar process in the nature of garnishment, which:

(i) Is issued by a court of competent jurisdiction of any state, territory, or possession of the United States or an authorized official pursuant to order of such a court of competent jurisdiction or pursuant to state law. For purposes of this subdivision, the chief executive officer of the Department of Health and Human Services shall be deemed an authorized official pursuant to order of a court of competent jurisdiction or pursuant to state law; and

(ii) Is directed to, and the purpose of which is to compel, the commissioner to make a payment for unemployment compensation otherwise payable to an individual in order to satisfy a legal obligation of such individual to provide child support.

(j) Nothing in this subsection shall be construed to authorize withholding from unemployment compensation of any support obligation other than child support obligations.

(3)(a) An individual filing a new claim for unemployment compensation shall, at the time of filing such claim, disclose whether or not he or she owes an uncollected overissuance, as defined in 7 U.S.C. 2022(c)(1) as such section existed on January 1, 2017 ~~2009~~, of Supplemental Nutrition Assistance Program benefits, if not otherwise known or disclosed to the state Supplemental Nutrition Assistance Program agency. The commissioner shall notify the state Supplemental Nutrition Assistance Program agency enforcing such obligation of any individual disclosing that he or she owes an uncollected overissuance whom the commissioner determines is eligible for unemployment compensation.

(b) The commissioner shall deduct and withhold from any unemployment compensation payable to an individual who owes an uncollected overissuance:

(i) ~~The~~ the amount specified by the individual to the commissioner to be deducted and withheld under this subsection; ~~τ~~

(ii) ~~The~~ the amount, if any, determined pursuant to an agreement submitted to the state Supplemental Nutrition Assistance Program agency under 7 U.S.C. 2022(c)(3)(A), ~~as such section existed on January 1, 2017; 2009,~~ or

(iii) ~~Any~~ any amount otherwise required to be deducted and withheld from unemployment compensation pursuant to 7 U.S.C. 2022(c)(3)(B), ~~as such section existed on January 1, 2017 2009.~~

(c) Any amount deducted and withheld under this subsection shall be paid by the commissioner to the state Supplemental Nutrition Assistance Program agency.

(d) Any amount deducted and withheld under subdivision (b) of this subsection shall be treated ~~for all purposes~~ as if it were paid to the individual as unemployment compensation and paid by such individual to the state Supplemental Nutrition Assistance Program agency as repayment of the individual's uncollected overissuance.

(e) For purposes of this subsection, unemployment compensation means any compensation payable under the Employment Security Law, including amounts

payable by the commissioner pursuant to an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment.

(f) This subsection applies only if arrangements have been made for reimbursement by the state Supplemental Nutrition Assistance Program agency for the administrative costs incurred by the commissioner under this subsection which are attributable to the repayment of uncollected overissuances to the state Supplemental Nutrition Assistance Program agency.

Sec. 61. Section 48-648, Revised Statutes Cumulative Supplement, 2016, is amended to read:

48-648 (1) With respect to wages for employment, combined ~~Combined~~ tax shall accrue and become payable by each employer not otherwise entitled to make payments in lieu of contributions for each calendar year in which he or she is subject to the Employment Security Law, ~~with respect to wages for employment.~~ Such combined tax shall become due and be paid by each employer to the commissioner for the State Unemployment Insurance Trust Fund and the Unemployment Trust Fund in such manner and at such times as the commissioner may, by rule and regulation, prescribe. Such combined tax ~~and~~ shall not be deducted, in whole or in part, from the wages of individuals in such employer's employ.

(2) The commissioner may require any employer whose annual payroll for either of the two preceding calendar years has equaled or exceeded one hundred thousand dollars to file combined tax returns and pay combined taxes owed by an electronic method approved by the commissioner, except when the employer establishes to the satisfaction of the commissioner that filing the combined tax return or payment of the tax by an electronic method would create work a hardship for on the employer.

(3) In the payment of any combined tax, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent. If the combined tax due for any reporting period is less than five dollars, the employer need not remit the combined tax.

(4) ~~(2)~~ If two or more related corporations or limited liability companies concurrently employ the same individual and compensate such individual through a common paymaster which is one of such corporations or limited liability companies, each such corporation or limited liability company shall be considered to have paid as remuneration to such individual only the amounts actually disbursed by it to such individual and shall not be considered to have paid as remuneration to such individual amounts actually disbursed to such individual by another of such corporations or limited liability companies. An employee of a wholly owned subsidiary shall be considered to be concurrently employed by the parent corporation, company, or other entity and the wholly owned subsidiary whether or not both companies separately provide remuneration.

(5) ~~(3)~~ The professional employer organization shall report and pay combined tax, penalties, and interest owed for upon ~~for upon~~ wages earned by worksite employees under the client's employer account number using the client's combined tax rate. The client is liable for the payment of unpaid combined tax, penalties, and interest owed for upon ~~for upon~~ wages paid to worksite employees, and the worksite employees shall be considered employees of the client for purposes of the Employment Security Law.

(6) The Commissioner of Labor may require by rule and regulation that each employer subject to the Employment Security Law shall submit to the commissioner quarterly wage reports on such forms and in such manner as the commissioner may prescribe. The commissioner may require any employer whose annual payroll for either of the two preceding calendar years has equaled or exceeded one hundred thousand dollars to file wage reports by an electronic method approved by the commissioner, except when the employer establishes to the satisfaction of the commissioner that filing by an electronic method would create a hardship for the employer. The quarterly wage reports shall be used by the commissioner to make monetary determinations of claims for benefits.

Sec. 62. Section 48-648.02, Reissue Revised Statutes of Nebraska, is amended to read:

48-648.02 As used in sections 48-648 and 48-649 and sections 64 to 67 of this act only, the term wages shall not include that part of the remuneration paid to an individual by an employer or by the predecessor of such employer with respect to employment within this or any other state during a calendar year which exceeds ~~(1) seven thousand dollars in calendar year 2005, (2) eight thousand dollars in calendar year 2006, and (3) nine thousand dollars in calendar year 2007 and each calendar year thereafter~~ unless that part of the remuneration is subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund.

Sec. 63. Section 48-649, Reissue Revised Statutes of Nebraska, is amended to read:

48-649 The commissioner shall, for each calendar year, determine the combined tax rate applicable to each employer on the basis of his or her actual experience in the payment of contributions and with respect to benefits charged against his or her separate experience account, ~~in accordance with sections 64 to 67 of this act. the following requirements:~~

(1) ~~The commissioner shall, by December 1 of each calendar year, and based upon information available through the department, determine the state unemployment insurance tax rate for the following year. The state unemployment insurance tax rate shall be zero percent if:~~

~~(a) The average balance in the State Unemployment Insurance Trust Fund at~~

the end of any three months in the preceding calendar year is greater than one percent of state taxable wages for the same preceding year; or

~~(b) The balance in the State Unemployment Insurance Trust Fund equals or exceeds thirty percent of the average month end balance of the state's account in the Unemployment Trust Fund for the three lowest calendar months in the preceding year;~~

~~(2)(a) If the state unemployment insurance tax rate is not zero percent as determined in this section, the combined tax rate shall be divided so that not less than eighty percent of the combined tax rate equals the contribution rate and not more than twenty percent of the combined tax rate equals the state unemployment insurance tax rate except for employers who are assigned a combined tax rate of five and four-tenths percent or more. For those employers, the state unemployment insurance tax rate shall equal zero and their combined tax rate shall equal their contribution rate.~~

~~(b) When the state unemployment insurance tax rate is determined to be zero percent pursuant to subdivision (1) of this section, the contribution rate for all employers shall equal one hundred percent of the combined tax rate;~~

~~(3) In calendar year 2005, an employer's combined tax rate shall be three and five-tenths percent of his or her annual payroll unless and until (a) benefits have been payable from and chargeable to his or her experience account throughout the preceding one calendar year and (b) contributions have been payable to the fund and credited to his or her experience account with respect to the two preceding calendar years. Subject to fair and reasonable rules and regulations of the commissioner issued with due regard for the solvency of the fund, in calendar year 2005 the combined tax rate required of each employer who meets the requirements of subdivisions (a) and (b) of this subdivision shall be based directly on his or her contributions to and benefit experience of his or her experience account and shall be determined by the commissioner for each calendar year at its beginning. Such rate shall not be greater than three and five-tenths percent of his or her annual payroll if his or her experience account exhibits a positive balance as of the beginning of such calendar year, but for any employer who has been subject to the payment of contributions for any two preceding calendar years, regardless of whether such years are consecutive, and whose experience account exhibits a negative balance as of the beginning of such calendar year, the rate shall be greater than three and five-tenths percent of his or her annual payroll but not greater than five and four-tenths percent of his or her annual payroll until such time as the experience account exhibits a positive balance, and thereafter the rate shall not be greater than three and five-tenths percent of his or her annual payroll. For calendar year 2005, the standard rate shall be five and four-tenths percent of the employer's annual payroll. As used in this subdivision, standard rate shall mean the rate from which all reduced rates are calculated;~~

~~(4)(a) Effective January 1, 2006, an employer's combined tax rate (i) for employers other than employers engaged in the construction industry shall be the lesser of the state's average combined tax rate as determined pursuant to subdivisions (4)(e), (4)(f), and (4)(g) of this section or two and five-tenths percent and (ii) for employers in the construction industry shall be the category twenty rate determined pursuant to subdivisions (4)(e) and (4)(f) of this section, unless and until:~~

~~(A) Benefits have been payable from and chargeable to his or her experience account throughout the preceding four calendar quarters; and~~

~~(B) Wages for employment have been paid by the employer in each of the two preceding four calendar quarter periods.~~

~~For purposes of this subdivision (4)(a), employers engaged in the construction industry means all employers primarily engaged in business activities classified as sector 23 business activities under the North American Industry Classification System.~~

~~(b) In no event shall the combined tax rate for employers who fail to meet the requirements of subdivision (4)(a) of this section be less than one and twenty-five hundredths percent.~~

~~(c) For any employer who has not paid wages for employment during each of the two four calendar quarter periods ending on September 30 of any year, but has paid wages for employment in any two four calendar quarter periods, regardless of whether such four calendar quarter periods are consecutive, such employer's combined tax rate for the following tax year shall be:~~

~~(i) The highest combined tax rate for employers with a positive experience account balance if the employer's experience account balance exhibits a positive balance as of September 30 of the year of rate computation; or~~

~~(ii) The standard rate if the employer's experience account exhibits a negative balance as of September 30 of the year of rate computation.~~

~~(d) Beginning with rate calculations for calendar year 2006 and each year thereafter, the combined tax rate for employers who meet the requirements of subdivision (4)(a) of this section shall be calculated according to subdivisions (4)(e), (4)(f), and (4)(g) of this section and shall be based upon the employer's experience rating record and determined from the employer's reserve ratio, which is the percent obtained by dividing the amount by which, if any, the employer's contributions credited from the time the employer first or most recently became an employer, whichever date is later, and up to and including September 30 of the year the rate computation is made, plus any part of the employer's contributions due for that year paid on or before October 31 of such year, exceed the employer's benefits charged during the same period, by the employer's average annual taxable payroll for the sixteen consecutive-calendar quarter period ending September 30 of the year in which the rate~~

computation is made. For an employer with less than sixteen consecutive calendar quarters of contribution experience, the employer's average taxable payroll shall be determined based upon the four calendar quarter periods for which contributions are payable.

(e) Each eligible experience rated employer shall be assigned to one of twenty rate categories with a corresponding experience factor as follows:

Category	Experience Factor
1	0.00
2	0.25
3	0.40
4	0.45
5	0.50
6	0.60
7	0.65
8	0.70
9	0.80
10	0.90
11	0.95
12	1.00
13	1.05
14	1.10
15	1.20
16	1.35
17	1.55
18	1.80
19	2.15
20	2.60

Eligible experience rated employers shall be assigned to rate categories from highest to lowest according to their experience reserve ratio with category one being assigned to accounts with the highest reserve ratios and category twenty being assigned to accounts with the lowest reserve ratios. Each category shall be limited to no more than five percent of the state's total taxable payroll, except that:

(i) Any employer which has a portion of its taxable wages fall into one category and a portion into the next higher category shall be assigned to the lower category;

(ii) No employer with a reserve ratio calculated to five decimal places equal to another employer similarly calculated shall be assigned to a higher rate than the employer to which it has the equal reserve ratio; and

(iii) No employer with a positive experience account balance shall be assigned to category twenty.

(f) The state's reserve ratio shall be calculated by dividing the amount available to pay benefits in the Unemployment Trust Fund and the State Unemployment Insurance Trust Fund as of September 30, 2005, and each September 30 thereafter, less any outstanding obligations and amounts appropriated therefrom by the state's total wages from the four calendar quarters ending on such September 30. For purposes of this section, total wages means all remuneration paid by an employer in employment. The state's reserve ratio shall be applied to the table in this subdivision to determine the yield factor for the upcoming rate year.

State's Reserve Ratio	Yield Factor
1.45 percent and above	= 0.70
1.30 percent up to but not including 1.45	= 0.75
1.15 percent up to but not including 1.30	= 0.80

1.00 percent up to but not including 1.15	=	0.90
0.85 percent up to but not including 1.00	=	1.00
0.70 percent up to but not including 0.85	=	1.10
0.60 percent up to but not including 0.70	=	1.20
0.50 percent up to but not including 0.60	=	1.25
0.45 percent up to but not including 0.50	=	1.30
0.40 percent up to but not including 0.45	=	1.35
0.35 percent up to but not including 0.40	=	1.40
0.30 percent up to but not including 0.35	=	1.45
Below 0.30 percent	=	1.50

Once the yield factor for the upcoming rate year has been determined, it is multiplied by the amount of unemployment benefits paid from combined tax during the four calendar quarters ending September 30 of the preceding year. The resulting figure is the planned yield for the rate year. The planned yield is divided by the total taxable wages for the four calendar quarters ending September 30 of the previous year and carried to four decimal places to create the average combined tax rate for the rate year.

(g) The average combined tax rate is assigned to rate category twelve as established in subdivision (4)(e) of this section. Rates for each of the remaining nineteen categories are determined by multiplying the average combined tax rate by the experience factor associated with each category and carried to four decimal places. Employers who are delinquent in filing their combined tax reports as of October 31 of any year shall be assigned to category twenty for the following calendar year unless the delinquency is corrected prior to December 31 of the year of rate calculation.

(h) As used in this subdivision (4) of this section, standard rate means the rate assigned to category twenty for that year. For calendar years 2006 and thereafter, the standard rate shall be not less than five and four-tenths percent of the employer's annual taxable payroll;

(5) Any employer may at any time make voluntary contributions up to the amount necessary to qualify for one rate category reduction, additional to the required contributions, to the fund to be credited to his or her account. Voluntary contributions received after March 10, 2005, for rate year 2005 or January 10 for rate year 2006 and thereafter shall not be used in rate calculations for the same calendar year;

(6) As used in sections 48-648 to 48-654, the term payroll means the total amount of wages during a calendar year, except as otherwise provided in section 48-654, by which the combined tax was measured; and

(7)(a) The state or any of its instrumentalities shall make payments in lieu of contributions in an amount equal to the full amount of regular benefits plus one-half of the amount of extended benefits paid during each calendar quarter that is attributable to service in employment of the state or any of its instrumentalities. The commissioner after the end of each calendar quarter shall notify any state instrumentality or other public employer of the amount of regular benefits and one-half the amount of extended benefits paid that are attributable to service in its employment and the instrumentality or public employer so notified shall reimburse the fund within thirty days after receipt of such notice. For all tax years beginning before January 1, 2010, the commissioner may require that any employer whose annual payroll for either of the two preceding calendar years has equaled or exceeded five hundred thousand dollars to pay the reimbursement by an electronic method approved by the commissioner, except when the employer establishes to the satisfaction of the commissioner that payment of the reimbursement by an electronic method would work a hardship on the employer. For all tax years beginning on or after January 1, 2010, the commissioner may require any employer whose annual payroll for either of the two preceding calendar years has equaled or exceeded one hundred thousand dollars to pay the reimbursement by an electronic method approved by the commissioner, except when the employer establishes to the satisfaction of the commissioner that payment of the reimbursement by an electronic method would work a hardship on the employer.

(b) After December 31, 1977, the state or any of its political subdivisions and any instrumentality of one or more of the foregoing or any other governmental entity for which services in employment as is provided by subdivision (4)(a) of section 48-604 are performed shall be required to pay contributions and after December 31, 1996, combined tax on wages paid for services rendered in its or their employment on the same basis as any other employer who is liable for the payment of combined tax under the Employment Security Law, unless the state or any political subdivision thereof and any instrumentality of one or more of the foregoing or any other governmental entity for which such services are performed files with the commissioner its written election not later than January 31, 1978, or if such employer becomes subject to this section after January 1, 1978, not later than thirty days after

~~such subjectivity begins, to become liable to make payments in lieu of contributions in an amount equal to the full amount of regular benefits plus one-half of the amount of extended benefits paid during each calendar quarter that is attributable to service in employment of such electing employer prior to December 31, 1978, and in an amount equal to the full amount of regular benefits plus the full amount of extended benefits paid during each calendar quarter that is attributable to service in employment of such electing employer after January 1, 1979. Eligible employers electing to make payments in lieu of contributions shall not be liable for state unemployment insurance tax payments. The commissioner, after the end of each calendar quarter, shall notify any such employer that has so elected of the amount of benefits for which it is liable to pay pursuant to its election that have been paid that are attributable to service in its employment and the employer so notified shall reimburse the fund within thirty days after receipt of such notice.~~

~~(c) Any employer which makes an election in accordance with subdivision (b) of this subdivision to become liable for payments in lieu of contributions shall continue to be liable for payments in lieu of contributions for all benefits paid based upon wages paid for service in employment of such employer while such election is effective and such election shall continue until such employer files with the commissioner, not later than December 1 of any calendar year, a written notice terminating its election as of December 31 of that year and thereafter such employer shall again be liable for the payment of contributions and for the reimbursement of such benefits as may be paid based upon wages paid for services in employment of such employer while such election was effective.~~

Sec. 64. (1) By December 1 of each calendar year, the commissioner shall determine the state unemployment insurance tax rate for the following year based on information available through the department. The state unemployment insurance tax rate shall be zero percent if:

(a) The average balance in the State Unemployment Insurance Trust Fund at the end of any three months in the preceding calendar year is greater than one percent of state taxable wages for the same preceding year; or

(b) The balance in the State Unemployment Insurance Trust Fund equals or exceeds thirty percent of the average month end balance of the state's account in the Unemployment Trust Fund for the three lowest calendar months in the preceding year.

(2) If the state unemployment insurance tax rate is determined to be zero percent pursuant to subsection (1) of this section, the contribution rate for all employers shall equal one hundred percent of the combined tax rate.

(3) If the state unemployment insurance tax rate is not zero percent as determined in this section, the combined tax rate shall be divided so that not less than eighty percent of the combined tax rate equals the contribution rate and not more than twenty percent of the combined tax rate equals the state unemployment insurance tax rate except for employers who are assigned a combined tax rate of five and four-tenths percent or more. For those employers, the state unemployment insurance tax rate shall equal zero and their combined tax rate shall equal their contribution rate.

Sec. 65. (1) Until benefits have been payable from and chargeable to an employer's experience account throughout the preceding four calendar quarters and wages for employment have been paid by the employer in each of the two preceding four-calendar-quarter periods, the employer's combined tax rate shall be:

(a) For employers not engaged in the construction industry, the lesser of the value of the state's average combined tax rate as determined pursuant to section 66 of this act or two and five-tenths percent; and

(b) For employers engaged in the construction industry, the value of the category twenty rate determined pursuant to section 66 of this act.

(2) In no event shall the combined tax rate under subsection (1) of this section be less than one and twenty-five hundredths percent.

(3) For any employer who has not paid wages for employment during each of the two preceding four-calendar-quarter periods ending on September 30, but has paid wages for employment in any two four-calendar-quarter periods, regardless of whether such four-calendar-quarter periods are consecutive, such employer's combined tax rate for the following tax year shall be:

(a) The highest combined tax rate for employers with a positive experience account balance if the employer's experience account balance exhibits a positive balance as of September 30 of the year of rate computation; or

(b) The standard rate if the employer's experience account exhibits a negative balance as of September 30 of the year of rate computation.

Sec. 66. (1) Once benefits have been payable from and chargeable to an employer's experience account throughout the preceding four calendar quarters and wages for employment have been paid by the employer in each of the two preceding four-calendar-quarter periods, the employer's combined tax rate shall be calculated according to this section. The combined tax rate shall be based upon the employer's experience rating record and determined from the employer's reserve ratio.

(2) The employer's reserve ratio is the percent obtained by dividing (a) the amount by which the employer's contributions credited from the time the employer first or most recently became an employer, whichever date is later, and up to and including September 30 of the year the rate computation is made, plus any part of the employer's contributions due for that year paid on or before October 31 of such year, exceed the employer's benefits charged during the same period, by (b) the employer's average annual taxable payroll for the

sixteen-consecutive-calendar-quarter period ending September 30 of the year in which the rate computation is made. For an employer with less than sixteen consecutive calendar quarters of contribution experience, the employer's average taxable payroll shall be determined based upon the four-calendar-quarter periods for which contributions were payable.

(3) Each eligible experience rated employer shall be assigned to one of twenty rate categories with a corresponding experience factor as follows:

<u>Category</u>	<u>Experience Factor</u>
<u>1</u>	<u>0.00</u>
<u>2</u>	<u>0.25</u>
<u>3</u>	<u>0.40</u>
<u>4</u>	<u>0.45</u>
<u>5</u>	<u>0.50</u>
<u>6</u>	<u>0.60</u>
<u>7</u>	<u>0.65</u>
<u>8</u>	<u>0.70</u>
<u>9</u>	<u>0.80</u>
<u>10</u>	<u>0.90</u>
<u>11</u>	<u>0.95</u>
<u>12</u>	<u>1.00</u>
<u>13</u>	<u>1.05</u>
<u>14</u>	<u>1.10</u>
<u>15</u>	<u>1.20</u>
<u>16</u>	<u>1.35</u>
<u>17</u>	<u>1.55</u>
<u>18</u>	<u>1.80</u>
<u>19</u>	<u>2.15</u>
<u>20</u>	<u>2.60</u>

Eligible experience rated employers shall be assigned to rate categories from highest to lowest according to their experience reserve ratio, with category one assigned to accounts with the highest reserve ratios and category twenty assigned to accounts with the lowest reserve ratios. Each category shall be limited to no more than five percent of the state's total taxable payroll, except that:

(a) Any employer with a portion of its taxable wages falling into two consecutive categories shall be assigned to the lower category;

(b) No employer with a reserve ratio calculated to five decimal places equal to the similarly calculated reserve ratio of another employer shall be assigned to a higher rate than the employer to which it has the equal reserve ratio; and

(c) No employer with a positive experience account balance shall be assigned to category twenty.

(4) The state's reserve ratio shall be calculated annually by dividing the amount available to pay benefits in the Unemployment Trust Fund and the State Unemployment Insurance Trust Fund as of September 30, less any outstanding obligations and amounts appropriated from those funds, by the state's total wages from the four calendar quarters ending on September 30. For purposes of this section, total wages means all remuneration paid by an employer in employment. The state's reserve ratio shall be applied to the table in this subsection to determine the yield factor for the upcoming rate year.

<u>State's Reserve Ratio</u>	<u>Yield Factor</u>
<u>1.45 percent and above</u>	<u>≡ 0.70</u>
<u>1.30 percent up to but not including 1.45</u>	<u>≡ 0.75</u>
<u>1.15 percent up to but not including 1.30</u>	<u>≡ 0.80</u>

<u>1.00 percent up to but not including 1.15</u>	<u>=</u>	<u>0.90</u>
<u>0.85 percent up to but not including 1.00</u>	<u>=</u>	<u>1.00</u>
<u>0.70 percent up to but not including 0.85</u>	<u>=</u>	<u>1.10</u>
<u>0.60 percent up to but not including 0.70</u>	<u>=</u>	<u>1.20</u>
<u>0.50 percent up to but not including 0.60</u>	<u>=</u>	<u>1.25</u>
<u>0.45 percent up to but not including 0.50</u>	<u>=</u>	<u>1.30</u>
<u>0.40 percent up to but not including 0.45</u>	<u>=</u>	<u>1.35</u>
<u>0.35 percent up to but not including 0.40</u>	<u>=</u>	<u>1.40</u>
<u>0.30 percent up to but not including 0.35</u>	<u>=</u>	<u>1.45</u>
<u>Below 0.30 percent</u>	<u>=</u>	<u>1.50</u>

Once the yield factor for the upcoming rate year has been determined, it is multiplied by the amount of unemployment benefits paid from combined tax during the four calendar quarters ending September 30 of the preceding year. The resulting figure is the planned yield for the rate year. The planned yield is divided by the total taxable wages for the four calendar quarters ending September 30 of the previous year and carried to four decimal places to create the average combined tax rate for the rate year.

(5) The average combined tax rate is assigned to rate category twelve as established in subsection (3) of this section. Rates for each of the remaining nineteen categories are determined by multiplying the average combined tax rate by the experience factor associated with each category and carried to four decimal places. Employers who are delinquent in filing their combined tax reports as of October 31 of any year shall be assigned to category twenty for the following calendar year unless the delinquency is corrected prior to December 31 of the year of rate calculation.

(6) In addition to required contributions, an employer may make voluntary contributions to the fund to be credited to his or her account. Voluntary contributions by employers may be made up to the amount necessary to qualify for one rate category reduction. Voluntary contributions received after January 10 shall not be used in rate calculations for the same calendar year.

(7) As used in sections 48-648 to 48-654 and sections 64 to 67 of this act, the term payroll means the total amount of wages during a calendar year, except as otherwise provided in section 48-654, by which the combined tax was measured.

Sec. 67. (1) The state or any of its political subdivisions and any instrumentality of one or more of the foregoing or any other governmental entity for which services in employment as provided in subdivision (4)(a) of section 48-604 are performed shall be required to pay combined tax on wages paid for services rendered in its or their employment on the same basis as any other employer who is liable for the payment of combined tax under the Employment Security Law, unless the state or any political subdivision thereof and any instrumentality of one or more of the foregoing or any other governmental entity for which such services are performed files with the commissioner its written election not later than thirty days after such employer becomes subject to this section to become liable to make payments in lieu of contributions in an amount equal to the full amount of regular benefits plus the full amount of extended benefits paid during each calendar quarter that is attributable to service in employment of such electing employer.

(2) Eligible employers electing to make payments in lieu of contributions shall not be liable for combined tax payments.

(3) The commissioner, after the end of each calendar quarter, shall notify any such employer that has elected to make payments in lieu of contributions of the amount of benefits for which it is liable to pay pursuant to its election that have been paid that are attributable to service in its employment and the employer so notified shall reimburse the fund within thirty days after receipt of such notice.

(4) Any employer which makes an election in accordance with this section to become liable for payments in lieu of contributions shall continue to be liable for payments in lieu of contributions for all benefits paid based upon wages paid for service in employment of such employer while such election is effective. Any such election shall continue until such employer files with the commissioner, not later than December 1 of any calendar year, a written notice terminating its election as of December 31 of that year. Upon termination of the election, such employer shall again be liable for the payment of contributions and for the reimbursement of such benefits as may be paid based upon wages paid for services in employment of such employer while such election was effective.

(5) The commissioner may require any employer subject to this section whose annual payroll for either of the two preceding calendar years has equaled or exceeded one hundred thousand dollars to pay the amount owed pursuant to this section by an electronic method approved by the commissioner, except when the employer establishes to the satisfaction of the commissioner that payment

by an electronic method would create a hardship for the employer.

Sec. 68. Section 48-650, Reissue Revised Statutes of Nebraska, is amended to read:

48-650 The commissioner shall determine the rate of combined tax applicable to each employer pursuant to section 48-649 and sections 64 to 67 of this act and may determine, at any time during the year, whether services performed by an individual were employment or for an employer. Any such determination shall become conclusive and binding upon the employer unless, within thirty days after the prompt mailing of notice thereof to his or her last-known address or in the absence of mailing within thirty days after the delivery of such notice, the employer files an appeal with the department in accordance with rules and regulations adopted and promulgated by the commissioner ~~an appeal tribunal~~. No employer shall have standing, in any proceeding involving his or her combined tax rate or combined tax liability, to contest the chargeability to his or her account of any benefits paid in accordance with a determination, redetermination, or decision pursuant to sections 48-629 to 48-644 except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute services performed in employment for him or her and only in the event that he or she was not a party to such determination, redetermination, or decision or to any other proceedings under the Employment Security Law in which the character of such services was determined. A full and complete record shall be kept of all proceedings in connection with such hearing. All testimony at any such hearing shall be recorded but need not be transcribed unless there is a further appeal. The employer shall be promptly notified of a hearing officer's ~~the appeal tribunal's~~ decision which shall become final unless the employer or the commissioner appeals within thirty days after the date of service of the decision of the hearing officer ~~appeal tribunal~~. The appeal shall otherwise be governed by the Administrative Procedure Act.

Sec. 69. Section 48-651, Reissue Revised Statutes of Nebraska, is amended to read:

48-651 (1) The commissioner may provide for the following by rule and regulation:

(a) Periodic ~~for periodic~~ notification to employers of benefits paid and chargeable to their accounts or of the status of such accounts; and

(b) Notification ~~, and for notification~~ to all base period employers of any individual of the establishment of such individual's benefit year.

(2) Any ~~, and any~~ such notification, in the absence of an application for redetermination filed in such manner and within such period as the commissioner may prescribe, shall become conclusive and binding upon the employer for all purposes. Such redeterminations, made after notice and opportunity for hearing, and the commissioner's findings of fact in connection therewith may be introduced in any subsequent administrative or judicial proceedings involving the determination of the combined tax rate of any employer for any calendar year.

Sec. 70. Section 48-652, Revised Statutes Cumulative Supplement, 2016, is amended to read:

48-652 (1)(a) A separate experience account shall be established for each employer who is liable for payment of combined tax contributions. Whenever and wherever in the Employment Security Law the terms reserve account or experience account are used, unless the context clearly indicates otherwise, such terms shall be deemed interchangeable and synonymous and reference to either of such accounts shall refer to and also include the other.

(b) A separate reimbursement account shall be established for each employer who is liable for payments in lieu of contributions. All benefits paid with respect to service in employment for such employer shall be charged to his or her reimbursement account, and such employer shall be billed for and shall be liable for the payment of the amount charged when billed by the commissioner. Payments in lieu of contributions received by the commissioner on behalf of each such employer shall be credited to such employer's reimbursement account, and two or more employers who are liable for payments in lieu of contributions may jointly apply to the commissioner for establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of such employers. The commissioner shall adopt and promulgate ~~prescribe~~ such rules and regulations as he or she deems necessary with respect to applications for establishment, maintenance, and termination of group accounts authorized by this subdivision.

(2) All contributions paid by an employer shall be credited to the experience account of such employer. State unemployment insurance tax payments shall not be credited to the experience account of each employer. Partial payments of combined tax shall be credited so that at least eighty percent of the combined tax payment excluding interest and penalty is credited first to contributions due. ~~In addition to contributions credited to the experience account, each employer's account shall be credited as of June 30 of each calendar year with interest at a rate determined by the commissioner based on the average annual interest rate paid by the Secretary of the Treasury of the United States of America upon the state's account in the Unemployment Trust Fund for the preceding calendar year multiplied by the balance in his or her experience account at the beginning of such calendar year. If the total credits as of such date to all employers' experience accounts are equal to or greater than ninety percent of the total amount in the Unemployment Compensation Fund, no interest shall be credited for that year to any employer's account.~~ Contributions with respect to prior years which are received on or before

January 31 of any year shall be considered as having been paid at the beginning of the calendar year. All voluntary contributions which are received on or before January 10 of any year shall be considered as having been paid at the beginning of the calendar year.

(3)(a) Each experience account shall be charged only for benefits based upon wages paid by such employer. No benefits shall be charged to the experience account of any employer if:

(i) ~~Such~~ such benefits were paid on the basis of a period of employment from which the claimant (A) left work voluntarily without good cause, (B) left work voluntarily due to a nonwork-connected illness or injury, (C) left work voluntarily with good cause to escape abuse as defined in section 42-903 between household members as provided in subdivision (1) of section 43 of this act 48-628.01, (D) left work from which he or she was discharged for misconduct connected with his or her work, (E) left work voluntarily and is entitled to unemployment benefits without disqualification in accordance with subdivision (3) or (5) of section 43 of this act 48-628.01, or (F) was involuntarily separated from employment and such benefits were paid pursuant to section 47 of this act; 48-628.05, and

(ii) ~~The~~ the employer has filed timely notice of the facts on which such exemption is claimed in accordance with rules and regulations adopted and promulgated ~~prescribed~~ by the commissioner. ~~No benefits shall be charged to the experience account of any employer if such benefits were paid on the basis of wages paid in the base period that are wages for insured work solely by reason of subdivision (5)(c)(iii) of section 48-627.~~

(b) No benefits shall be charged to the experience account of any employer if such benefits were paid during a week when the individual was participating in training approved under section 236(a)(1) of the federal Trade Act of 1974, 19 U.S.C. 2296(a)(1).

(c) ~~(b)~~ Each reimbursement account shall be charged only for benefits paid that were based upon wages paid by such employer in the base period that were wages for insured work solely by reason of section 29 of this act subdivision (5) of section 48-627.

(d)(i) ~~(c)~~ Benefits paid to an eligible individual shall be charged against the account of his or her most recent employers within his or her base period against whose accounts the maximum charges hereunder have not previously been made in the inverse chronological order in which the employment of such individual occurred. The maximum amount so charged against the account of any employer, other than an employer for which services in employment as provided in subdivision (4)(a) of section 48-604 are performed, shall not exceed the total benefit amount to which such individual was entitled as set out in section 48-626 with respect to base period wages of such individual paid by such employer plus one-half the amount of extended benefits paid to such eligible individual with respect to base period wages of such individual paid by such employer. The commissioner shall adopt and promulgate ~~by~~ rules and regulations determining ~~prescribe~~ the manner in which benefits shall be charged against the account of several employers for whom an individual performed employment during the same quarter or during the same base period.

(ii) Any benefit check duly issued and delivered or mailed to a claimant and not presented for payment within one year from the date of its issue may be invalidated and the amount thereof credited to the Unemployment Compensation Fund, except that a substitute check may be issued and charged to the fund on proper showing at any time within the year next following. Any charge made to an employer's account for any such invalidated check shall stand as originally made.

(4)(a) An employer's experience account shall be ~~deemed to be~~ terminated one calendar year after such employer has ceased to be subject to the Employment Security Law, except that if the commissioner finds that an employer's business is closed solely because of ~~the entrance of~~ one or more of the owners, officers, partners, or limited liability company members or the majority stockholder entered into the armed forces of the United States, or of any of its allies, ~~after July 1, 1950~~, such employer's account shall not be terminated and, if the business is resumed within two years after the discharge or release from active duty in the armed forces of such person or persons, the employer's experience account shall be deemed to have been continuous throughout such period.

(b) An experience account terminated pursuant to this subsection shall be reinstated if:

(i) ~~The~~ the employer becomes subject again to the Employment Security Law within one calendar year after termination of such experience account;

(ii) ~~The~~ and the employer makes a written application for reinstatement of such experience account to the commissioner within two calendar years after termination of such experience account; and

(iii) ~~The~~ (ii) the commissioner finds that the employer is operating substantially the same business as prior to the termination of such experience account.

(5) All money in the Unemployment Compensation Fund shall be kept mingled and undivided. In no case shall the ~~The~~ payment of benefits to an individual ~~shall in no case~~ be denied or withheld because the experience account of any employer does not have a total of contributions paid in excess of benefits charged to such experience account.

(6) ~~A contributory or reimbursable employer shall be relieved of charges if the employer was previously charged for wages and the same wages are being used a second time to establish a new claim as a result of the October 1, 1988,~~

change in the base period.

(6) ~~(7)~~ If an individual's base period wage credits represent part-time employment for a contributory employer and the contributory employer continues to employ the individual to the same extent as during the base period, then the contributory employer's experience account shall not be charged if the contributory employer has filed timely notice of the facts on which such exemption is claimed in accordance with rules and regulations adopted and promulgated ~~prescribed~~ by the commissioner.

(7) ~~(8)~~ If a contributory employer responds to the department's request for information within the time period set forth in subsection (1) of section 48-632 and provides accurate information as known to the employer at the time of the response, the employer's experience account shall not be charged if the individual's separation from employment is voluntary and without good cause as determined under section 42 of this act ~~subdivision (1) of section 48-628~~.

Sec. 71. Section 48-654, Revised Statutes Cumulative Supplement, 2016, is amended to read:

48-654 (1) Subject to section 48-654.01, any employer that acquires the organization, trade, or business, or substantially all the assets thereof, of another employer shall immediately notify the commissioner of the acquisition thereof, and may, pursuant to rules and regulations adopted and promulgated ~~prescribed~~ by the commissioner, assume the position of such acquired employer with respect to the resources and liabilities of such acquired employer's experience account as if no change with respect to such acquired employer's experience account has occurred.

(2) The commissioner may provide by rule and regulation for partial transfers of experience accounts, except that such partial transfers of accounts shall be construed to allow computation and fixing of contribution rates only where an employer has transferred at any time a definable and segregable portion of his or her payroll and business to a transferee-employer.

(3) For an acquisition which occurs during either of the first two calendar quarters of a calendar year or during the fourth quarter of the preceding calendar year, a new rate of contributions, payable by the transferee-employer with respect to wages paid by him or her after midnight of the last day of the calendar quarter in which such acquisition occurs and prior to midnight of the following September 30, shall be computed in accordance with this section. For the purpose of computing such new rate of contributions, the computation date with respect to any such acquisition shall be September 30 of the preceding calendar year and the term payroll shall mean the total amount of wages by which contributions to the transferee's account and to the transferor's account were measured for four calendar quarters ending September 30 preceding the computation date.

Sec. 72. Section 48-654.01, Reissue Revised Statutes of Nebraska, is amended to read:

48-654.01 (1) For purposes of this section:

(a) Knowingly means having actual knowledge of or acting with deliberate ignorance or reckless disregard of the prohibition involved;

(b) Person means an individual, a partnership, a limited liability company, a corporation, or any other legally recognized entity;

(c) Trade or business includes the employer's workforce; and

(d) Violates or attempts to violate includes intent to evade, misrepresentation, or willful nondisclosure.

(2) Notwithstanding any other provision of law, the following shall apply regarding assignment of combined tax rates and transfer of an employer's experience account:

(a) If an employer transfers its trade or business, or a portion thereof, to another employer and, at the time of the transfer, there is substantially common ownership, management, or control of the two employers, then the employer's experience account attributable to the transferred trade or business shall be transferred to the employer to whom such business is transferred. The rates of both employers shall be recalculated in accordance with section 48-654. The transfer of some or all of an employer's workforce to another employer shall be considered a transfer of trade or business when, as the result of such transfer, the transferring employer no longer performs trade or business with respect to the transferred workforce and such trade or business is performed by the employer to whom the workforce is transferred. If, following a transfer of experience under this subdivision, the commissioner determines that a substantial purpose of the transfer of trade or business was to obtain a lower combined tax rate, then the experience rating accounts of the employers involved shall be combined into a single account and a single rate assigned to such account; or

(b) Whenever a person is not an employer at the time it acquires the trade or business of an employer, the employer's experience account of the acquired business shall not be transferred to such person if the commissioner finds that the business was acquired solely or primarily for the purpose of obtaining a lower combined tax rate. Instead, such person shall be assigned the new employer combined tax rate under section 48-649 and section 65 of this act. In determining whether the business was acquired solely or primarily for the purpose of obtaining a lower combined tax rate, the commissioner shall use objective factors which may include:

(i) ~~The~~ The cost of acquiring the business;

(ii) Whether ~~whether~~ the person continued the business enterprise of the acquired business;

(iii) How ~~how~~ long such business enterprise was continued; or

(iv) ~~whether~~ whether a substantial number of new employees were hired for performance of duties unrelated to the business activity conducted prior to the acquisition.

(3)(a) If a person knowingly violates or attempts to violate this section, or if a person knowingly advises another person in a way that results in a violation of this section and:

(i) The person is an employer, such employer shall be assigned the highest combined tax rate assignable under section 48-649 and sections 64 to 67 of this act for the rate year during which the violation or attempted violation occurred and for the three rate years immediately following such rate year. However, if the person's business is already at the highest combined tax rate or if the amount of increase in the combined tax rate would be less than two percent, then a penalty combined tax rate of two percent of taxable wages shall be imposed for the rate year during which the violation or attempted violation occurred and for the three rate years immediately following such year; or

(ii) The person is not an employer, such person shall be subject to a civil penalty of not more than five thousand dollars.

(b) In addition to any civil penalties that may apply under this subsection, such person shall be guilty of a Class IV felony.

(4) The commissioner shall establish procedures to identify the transfer or acquisition of a business for purposes of evading combined tax liability.

Sec. 73. Section 48-655, Revised Statutes Cumulative Supplement, 2016, is amended to read:

48-655 (1) Combined taxes or payments in lieu of contributions unpaid on the date on which they are due and payable, as prescribed by the commissioner, shall bear interest at the rate of one and one-half percent per month from such date until payment, plus accrued interest, is received by the commissioner, except that no interest shall be charged subsequent to the date of the erroneous payment of an amount equal to the amount of the delayed payment into the unemployment trust fund of another state or to the federal government. Interest collected pursuant to this section shall be paid in accordance with subdivision (1)(b) of section 48-621. If, after due notice, any employer defaults in any payment of combined taxes or payments in lieu of contributions or interest thereon, the amount due may be collected (a) by civil action in the name of the commissioner and the employer adjudged in default shall pay the costs of such action, (b) by setoff against any state income tax refund due the employer pursuant to sections 77-27,197 to 77-27,209, or (c) as provided in subsection (2) of this section. Civil actions brought under this section to collect combined taxes or interest thereon or payments in lieu of contributions or interest thereon from an employer shall be heard by the court at the earliest possible date and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under section 48-638.

(2) The commissioner may recover a covered unemployment compensation debt, as defined in 26 U.S.C. 6402, by setoff against a liable party's ~~person's~~ federal income tax refund. Such setoff shall be made in accordance with such section and United States Treasury regulations and guidelines adopted pursuant thereto. The commissioner shall notify the debtor that the commissioner plans to recover the debt through setoff against any federal income tax refund, and the debtor shall be given sixty days to present evidence that all or part of the liability is either not legally enforceable or is not a covered unemployment compensation debt. The commissioner shall review any evidence presented and determine that the debt is legally enforceable and is a covered unemployment compensation debt before proceeding further with the offset. The amount recovered, less any administrative fees charged by the United States Treasury, shall be credited to the debt owed. Any determination rendered under this subsection that the liable party's ~~person's~~ federal income tax refund is not subject to setoff does not require the commissioner to amend the commissioner's initial determination that formed the basis for the proposed setoff.

Sec. 74. Section 48-656, Reissue Revised Statutes of Nebraska, is amended to read:

48-656 (1) If any employer fails to file a report or return required by the commissioner for the determination of combined taxes, the commissioner may make such reports or returns or cause them to be made and determine the combined taxes payable, on the basis of such information as he or she may be able to obtain, and shall collect the combined taxes as determined together with any interest thereon due under section 48-655. The commissioner shall immediately notify the employer of the assessment, in writing, by registered or certified mail, in the usual course, and such assessment shall be final unless the employer protests such assessment within fifteen days after the mailing of the notice. If the employer protests such assessment, the employer shall have an opportunity to be heard by a hearing officer ~~an appeal tribunal~~ upon written request therefor. After the hearing, the hearing officer ~~appeal tribunal~~ shall immediately notify the employer in writing of his or her ~~its~~ decision, and the assessment, if any, shall be final upon issuance of such notice.

(2) If any employer files a report or return required by the commissioner for the determination of combined taxes but fails to pay all or some part of the combined taxes actually due for the reported period, the commissioner may determine the combined taxes actually payable on the basis of such information as he or she may be able to obtain and shall collect the combined taxes as determined together with any interest due under section 48-655. The commissioner shall immediately notify the employer of the assessment, in

writing by registered or certified mail in the usual course, and such assessment shall be final unless the employer protests such assessment within fifteen days after the mailing of the notice. If the employer protests such assessment, the employer shall have an opportunity to be heard by a hearing officer ~~an appeal tribunal~~ upon a written request therefor. After the hearing, the hearing officer ~~appeal tribunal~~ shall immediately notify the employer in writing of his or her ~~its~~ decision and the assessment, if any, shall be final upon issuance of such notice.

(3) ~~Any Beginning with the first calendar quarter of 1990,~~ any employer or any officer or agent of an employer who fails to file a required quarterly combined tax report and wage schedule by the tenth day of the second month following the end of the calendar quarter shall pay a penalty to the commissioner of one-tenth of one percent of the total wages paid during the quarter, except that the penalty shall not be less than twenty-five nor more than two hundred dollars. For good cause shown, the commissioner may waive the penalty in accordance with rules and regulations adopted and promulgated by the commissioner. The commissioner shall remit any penalty collected to the State Treasurer who shall credit it to the pool account of the Employment Security Special Contingent Fund.

Sec. 75. Section 48-660.01, Revised Statutes Cumulative Supplement, 2016, is amended to read:

48-660.01 (1) Benefits paid to employees of nonprofit organizations shall be financed in accordance with this section. For the purpose of this section, a nonprofit organization is an organization, or group of organizations, described in subdivision (9) of section 48-603.

(2)(a) Any nonprofit organization which is, or becomes, subject to the Employment Security Law shall pay combined tax under sections 48-648 to 48-661 and sections 64 to 67 of this act unless it elects, in accordance with this subsection, to pay to the commissioner for the unemployment fund an amount, equal to the amount of regular benefits and of one-half of the extended benefits paid, that is attributable to service in the employ of such nonprofit organization, to individuals for weeks of unemployment which begin during the effective period of such election.

(b) Any nonprofit organization which is, or becomes, subject to the Employment Security Law may elect to become liable for payments in lieu of contributions for a period of not less than twelve months beginning with the date on which such subjectivity begins by filing a written notice of its election with the commissioner not later than thirty days immediately following the date of the determination of such subjectivity.

(c) Any nonprofit organization which makes an election in accordance with subdivision (b) of this subsection shall continue to be liable for payments in lieu of contributions until it files with the commissioner a written notice terminating its election not later than thirty days prior to the beginning of the taxable year for which such termination shall first be effective.

(d) Any nonprofit organization which has been paying combined tax under the Employment Security Law may change to a reimbursable basis by filing with the commissioner not later than thirty days prior to the beginning of any taxable year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by the organization for that and the next year.

(e) The commissioner may for good cause extend the period within which a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after December 31, 1969.

(f) The commissioner, in accordance with such rules and regulations as he or she may adopt and promulgate, shall notify each nonprofit organization of any determination which he or she may make of its status as an employer and of the effective date of any election which it makes and of any termination of such election. Such determinations shall be subject to redetermination and appeal, and the appeal shall be in accordance with the Administrative Procedure Act.

(3) Payments in lieu of contributions shall be made in accordance with this subsection as follows:

(a) At the end of each calendar quarter, or at the end of any other period as determined by the commissioner, the commissioner shall bill each nonprofit organization, or group of such organizations, which has elected to make payment in lieu of contributions for an amount equal to the full amount of regular benefits plus one-half of the amount of extended benefits paid during such quarter or other prescribed period that is attributable to service in the employ of such organization;

(b) Payment of any bill rendered under subdivision (a) of this subsection shall be made not later than thirty days after such bill was mailed to the last-known address of the nonprofit organization or was otherwise delivered to it unless there has been an application for review and redetermination in accordance with subdivision (d) of this subsection;

(c) Payments made by any nonprofit organization under this subsection shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the organization;

(d) The amount due specified in any bill from the commissioner shall be conclusive on the organization unless, not later than thirty days after the bill was mailed to its last-known address or otherwise delivered to it, the organization files an application for redetermination by the commissioner setting forth the grounds for such application. The commissioner shall promptly

review and reconsider the amount due specified in the bill and shall thereafter issue a redetermination in any case in which such application for redetermination has been filed. Any such redetermination shall be conclusive on the organization unless the organization appeals the redetermination, and the appeal shall be in accordance with the Administrative Procedure Act; and

(e) Past-due payments of amounts in lieu of contributions shall be subject to the same interest that, pursuant to section 48-655, applies to past-due contributions, and the commissioner may file a lien against such nonprofit organization in accordance with the Uniform State Tax Lien Registration and Enforcement Act. Such liens shall set forth the amount of payments in lieu of contributions and interest in default and shall be enforced as provided in the Uniform State Tax Lien Registration and Enforcement Act.

(4) If any nonprofit organization is delinquent in making payments in lieu of contributions as required under subsection (3) of this section, the commissioner may terminate such organization's election to make payments in lieu of contributions as of the beginning of the next taxable year, and such termination shall be effective for that and the next taxable year.

(5) Each employer that is liable for payments in lieu of contributions shall pay to the commissioner for the fund the amount of regular benefits plus the amount of one-half of extended benefits paid that are attributable to service in the employ of such employer. If benefits paid to an individual are based on wages paid by more than one employer and one or more of such employers are liable for payments in lieu of contributions, the amount payable to the fund by each employer that is liable for such payments shall be determined in accordance with section 48-652.

Sec. 76. Section 48-662, Reissue Revised Statutes of Nebraska, is amended to read:

48-662 The state employment service is hereby established in the Department of Labor, State of Nebraska. The commissioner of such department, in the conduct of such service, shall establish and maintain free public employment offices in such number and in such places as may be necessary for the proper administration of the Employment Security Law and for the purpose of performing such functions as are within the purview of the Act of Congress entitled An act to provide for the establishment of a national employment system and for cooperation with the states in the promotion of such system, and for other purposes, approved June 6, 1933, (48 Stat. 113; 29 U.S.C. 49 (c)), as amended, herein referred to as the Wagner-Peyser Act. The provisions of the Act of Congress are hereby accepted by this state and the Department of Labor is hereby designated and constituted the agency of this state for the purposes of such act. All money received by this state under the Act of Congress shall be paid into the Employment Security Administration Fund and shall be expended solely for the maintenance of the state system of public employment offices. There shall also be credited to the Employment Security Administration Fund for the same purpose, any sums appropriated by the Legislature from the General Fund of the state for the purposes of maintaining public employment offices or of matching funds granted under the Wagner-Peyser Act. For the purpose of establishing and maintaining free public employment offices and promoting the use of their facilities, the commissioner is authorized to enter into agreements with the Railroad Retirement Board, any other agency of the United States or of this or any other state charged with the administration of any law whose purposes are reasonably related to the purposes of the Employment Security Law such ~~sections~~, any political subdivision of this state, or any private nonprofit organization and as a part of such agreements may accept money, services, or quarters as a contribution to the maintenance of the state system of public employment offices or as reimbursement for services performed. All money received for such purposes shall be paid into the Employment Security Administration Fund.

Sec. 77. Section 48-663, Reissue Revised Statutes of Nebraska, is amended to read:

48-663 Whoever obtains or increases any benefit or other payment under sections 48-623 to 48-629 and sections 29 and 31 to 47 of this act or under an employment security law of any other state, the federal government, or a foreign government, either for himself or herself or for any other person, (1) by making a false statement or representation knowing it to be false by oral, written, or electronic communication that can be attributed to such person by use of a personal identification number or other identification process or (2) by knowingly failing to disclose a material fact shall be guilty of a Class III misdemeanor. Each such false statement or representation or failure to disclose a material fact shall constitute a separate offense. Prosecution under this section may be instituted within three years after the time the offense was committed in any county where any part of the crime was committed, including the county in which the person received the benefits.

Sec. 78. Section 48-663.01, Revised Statutes Cumulative Supplement, 2016, is amended to read:

48-663.01 (1)(a) Notwithstanding any other provision of this section, or of section 48-627 or 48-663, an individual who willfully fails to disclose amounts earned during any week with respect to which benefits are claimed by him or her or who willfully fails to disclose or has falsified as to any fact which would have disqualified him or her or rendered him or her ineligible for benefits during such week, shall forfeit all or part of his or her benefit rights, as determined by an adjudicator ~~a deputy~~, with respect to uncharged wage credits accrued prior to the date of such failure or to the date of such falsifications.

(b) In addition to any benefits which he or she may be required to repay pursuant to subdivision (1)(a) of this section, if an overpayment is established pursuant to this section ~~on or after October 1, 2013~~, an individual shall be required to pay to the department a penalty equal to fifteen percent of the amount of benefits received as a result of such willful failure to disclose or falsification. All amounts collected pursuant to this subdivision shall be remitted for credit to the Unemployment Compensation Fund.

(c) An appeal may be taken from any determination made pursuant to subdivision (1)(a) of this section in the manner provided in section 48-634.

(2)(a) If any person liable to repay an overpayment of unemployment benefits resulting from a determination under subdivision (1)(a) of this section and pay the penalty required under subdivision (1)(b) of this section fails or refuses to repay such overpayment and pay any penalty assessed within twelve months after the date the overpayment determination becomes final, the commissioner may issue a levy on salary, wages, or other regular payments due to or received by such person and such levy shall be continuous from the date the levy is served until the amount of the levy is satisfied. Notice of the levy shall be mailed to the person whose salary, wages, or other regular payment is levied upon at his or her last-known address not later than the date that the levy is served. Exemptions or limitations on the amount of salary, wages, or other regular payment that can be garnished or levied upon by a judgment creditor shall apply to levies made pursuant to this section. Appeal of a levy may be made in the manner provided in section 48-634, but such appeal shall not act as a stay of the levy.

(b) Any person upon whom a levy is served who fails or refuses to honor the levy without cause may be held liable for the amount of the levy up to the value of the assets of the person liable to repay the overpayment that are under the control of the person upon whom the levy is served at the time of service and thereafter.

Sec. 79. Section 48-664, Reissue Revised Statutes of Nebraska, is amended to read:

48-664 Any employer, whether or not subject to the Employment Security Law, or any officer or agent of such an employer or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled thereto, to obtain benefits for an individual not entitled thereto, to avoid becoming or remaining subject to such law, or to avoid or reduce any contribution or other payment required from an employer under sections 48-648 and 48-649 and sections 64 to 67 of this act, or who willfully fails or refuses to make any such contributions or other payment or to furnish any reports required under the Employment Security Law or to produce or permit the inspection or copying of records as required under such law, shall be guilty of a Class III misdemeanor. Each such false statement or representation or failure to disclose a material fact and each day of such failure or refusal shall constitute a separate offense. An individual employer, partner, corporate officer, or member of a limited liability company or limited liability partnership who willfully fails or refuses to make any combined tax payment shall be jointly and severally liable for the payment of such combined tax and any penalties and interest owed thereon. When an unemployment benefit overpayment occurs, in whole or in part, as the result of a violation of this section by an employer, the amount of the overpayment recovered shall not be credited back to such employer's experience account.

Sec. 80. Section 48-665, Revised Statutes Cumulative Supplement, 2016, is amended to read:

48-665 (1) Any person who has received any sum as benefits under the Employment Security Law to which he or she was not entitled shall be liable to repay such sum to the commissioner for the fund. Any such erroneous benefit payments shall be collectible (a) without interest by civil action in the name of the commissioner, (b) by offset against any future benefits payable to the claimant with respect to the benefit year current at the time of such receipt or any benefit year which may commence within three years after the end of such current benefit year, except that no such recoupment by the withholding of future benefits shall be had if such sum was received by such person without fault on his or her part and such recoupment would defeat the purpose of the Employment Security Law or would be against equity and good conscience, (c) by setoff against any state income tax refund due the claimant pursuant to sections 77-27,197 to 77-27,209, or (d) as provided in subsection (2) of this section.

(2) The commissioner may recover a covered unemployment compensation debt, as defined in 26 U.S.C. 6402, by setoff against a liable party's person's federal income tax refund. Such setoff shall be made in accordance with such section and United States Treasury regulations and guidelines adopted pursuant thereto. The commissioner shall notify the debtor that the commissioner plans to recover the debt through setoff against any federal income tax refund, and the debtor shall be given sixty days to present evidence that all or part of the liability is either not legally enforceable or is not a covered unemployment compensation debt. The commissioner shall review any evidence presented and determine that the debt is legally enforceable and is a covered unemployment compensation debt before proceeding further with the offset. The amount recovered, less any administrative fees charged by the United States Treasury, shall be credited to the debt owed. Any determination rendered under this subsection that the liable party's person's federal income tax refund is not subject to setoff does not require the commissioner to amend the

commissioner's initial determination that formed the basis for the proposed setoff.

Sec. 81. Section 48-675, Revised Statutes Cumulative Supplement, 2016, is amended to read:

48-675 (1) The commissioner shall approve or disapprove a short-time compensation plan in writing within thirty days after its receipt and promptly communicate the decision to the employer. A decision disapproving the plan shall clearly identify the reasons for the disapproval. The disapproval shall be final, but the employer shall be allowed to submit another short-time compensation plan for approval not earlier than forty-five days after the date of the disapproval.

(2)(a) A short-time compensation plan will only be approved for a contributory employer that (a) is eligible for experience rating under section 66 of this act ~~subdivision (4)(a) of section 48-649~~, (b) has a positive balance in the employer's experience account, (c) has filed all quarterly reports and other reports required under the Employment Security Law, and (d) has paid all obligation assessments, contributions, interest, and penalties due through the date of the employer's application.

(b) A short-time compensation plan will only be approved for an employer liable for making payments in lieu of contributions that has filed all quarterly reports and other reports required under the Employment Security Law and has paid all obligation assessments, payments in lieu of contributions, interest, and penalties due through the date of the employer's application.

Sec. 82. Section 48-679, Revised Statutes Cumulative Supplement, 2016, is amended to read:

48-679 An individual is eligible to receive short-time compensation with respect to any week only if the individual is monetarily eligible for unemployment compensation, not otherwise disqualified for unemployment compensation, and:

(1) During the week, the individual is employed as a member of an affected unit under an approved short-time compensation plan, which was approved prior to that week, and the plan is in effect with respect to the week for which short-time compensation is claimed;

(2) Notwithstanding any other provisions of the Employment Security Law relating to availability for work and actively seeking work, the individual is available for the individual's usual hours of work with the short-time compensation employer, which may include, for purposes of this section, participating in training to enhance job skills that is approved by the commissioner such as employer-sponsored training or training funded under the federal Workforce Innovation and Opportunity Act, 29 U.S.C. 3101 ~~Investment Act of 1998, 29 U.S.C. 2801~~ et seq.; and

(3) Notwithstanding any other provision of law, an individual covered by a short-time compensation plan is deemed unemployed in any week during the duration of such plan if the individual's remuneration as an employee in an affected unit is reduced based on a reduction of the individual's usual weekly hours of work under an approved short-time compensation plan.

Sec. 83. Section 48-682, Revised Statutes Cumulative Supplement, 2016, is amended to read:

48-682 An individual who has received all of the short-time compensation or combined unemployment compensation and short-time compensation available in a benefit year shall be considered an exhaustee for purposes of extended benefits under section 44 of this act ~~48-628.02~~ and, if otherwise eligible under such section, shall be eligible to receive extended benefits.

Sec. 84. Section 48-2903, Reissue Revised Statutes of Nebraska, is amended to read:

48-2903 (1) An individual performing construction labor services for a contractor is presumed an employee and not an independent contractor for purposes of the Employee Classification Act, unless:

(a) The individual meets the criteria found in subdivision (5) of section 48-604;

(b) The individual has been registered as a contractor pursuant to the Contractor Registration Act prior to commencing construction work for the contractor; and

(c) The individual has been assigned a combined tax rate pursuant to ~~subdivision (4) of section 48-649~~ and sections 64 to 67 of this act or is exempted from unemployment insurance coverage pursuant to subdivision (6) of section 48-604.

(2) An individual performing delivery services for a contractor is presumed an employee and not an independent contractor for purposes of the Employee Classification Act, unless the individual meets the criteria found in subdivision (5) of section 48-604 or is exempted from unemployment insurance coverage pursuant to subdivision (6) of section 48-604.

(3) The Employee Classification Act shall not be construed to affect or apply to a common-law or statutory action providing for recovery in tort and shall not be construed to affect or change the common-law interpretation of independent contractor status as it relates to tort liability or a workers' compensation claim. The act shall also not be construed to affect or alter the use of the term independent contractor as interpreted by the Department of Revenue and shall not be construed to affect any action brought pursuant to the Nebraska Revenue Act of 1967.

Sec. 85. Section 84-1301, Reissue Revised Statutes of Nebraska, is amended to read:

84-1301 For purposes of the State Employees Retirement Act, unless the

context otherwise requires:

(1) Actuarial equivalent means the equality in value of the aggregate amounts expected to be received under different forms of an annuity payment. The mortality assumption used for purposes of converting the member cash balance account shall be the 1994 Group Annuity Mortality Table using a unisex rate that is fifty percent male and fifty percent female. For purposes of converting the member cash balance account attributable to contributions made prior to January 1, 1984, that were transferred pursuant to the act, the 1994 Group Annuity Mortality Table for males shall be used;

(2) Annuity means equal monthly payments provided by the retirement system to a member or beneficiary under forms determined by the board beginning the first day of the month after an annuity election is received in the office of the Nebraska Public Employees Retirement Systems or the first day of the month after the employee's termination of employment, whichever is later. The last payment shall be at the end of the calendar month in which the member dies or in accordance with the payment option chosen by the member;

(3) Annuity start date means the date upon which a member's annuity is first effective and shall be the first day of the month following the member's termination or following the date the application is received by the board, whichever is later;

(4) Cash balance benefit means a member's retirement benefit that is equal to an amount based on annual employee contribution credits plus interest credits and, if vested, employer contribution credits plus interest credits and dividend amounts credited in accordance with subdivision (4)(c) of section 84-1319;

(5)(a) Compensation means gross wages or salaries payable to the member for personal services performed during the plan year. Compensation does not include insurance premiums converted into cash payments, reimbursement for expenses incurred, fringe benefits, per diems, or bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, except for retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements. Compensation includes overtime pay, member retirement contributions, and amounts contributed by the member to plans under sections 125, 403(b), and 457 of the Internal Revenue Code or any other section of the code which defers or excludes such amounts from income.

(b) Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code shall be disregarded. For an employee who was a member of the retirement system before the first plan year beginning after December 31, 1995, the limitation on compensation shall not be less than the amount which was allowed to be taken into account under the retirement system as in effect on July 1, 1993;

(6) Date of disability means the date on which a member is determined to be disabled by the board;

(7) Defined contribution benefit means a member's retirement benefit from a money purchase plan in which member benefits equal annual contributions and earnings pursuant to section 84-1310 and, if vested, employer contributions and earnings pursuant to section 84-1311;

(8) Disability means an inability to engage in a substantially gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration;

(9) Employee means any employee of the State Board of Agriculture who is a member of the state retirement system on July 1, 1982, and any person or officer employed by the State of Nebraska whose compensation is paid out of state funds or funds controlled or administered by a state department through any of its executive or administrative officers when acting exclusively in their respective official, executive, or administrative capacities. Employee does not include (a) judges as defined in section 24-701, (b) members of the Nebraska State Patrol, except for those members of the Nebraska State Patrol who elected pursuant to section 60-1304 to remain members of the State Employees Retirement System of the State of Nebraska, (c) employees of the University of Nebraska, (d) employees of the state colleges, (e) employees of community colleges, (f) employees of the Department of Labor employed prior to July 1, 1984, and paid from funds provided pursuant to Title III of the federal Social Security Act or funds from other federal sources, except that if the contributory retirement plan or contract let pursuant to section 48-609, as such section existed prior to the operative date of this act, is terminated, such employees shall become employees for purposes of the State Employees Retirement Act on the first day of the first pay period following the termination of such contributory retirement plan or contract, (g) employees of the State Board of Agriculture who are not members of the state retirement system on July 1, 1982, (h) the Nebraska National Guard air and army technicians, (i) persons eligible for membership under the School Employees Retirement System of the State of Nebraska who have not elected to become members of the retirement system pursuant to section 79-920 or been made members of the system pursuant to such section, except that those persons so eligible and who as of September 2, 1973, are contributing to the State Employees Retirement System of the State of Nebraska shall continue as members of such system, or (j) employees of the Coordinating Commission for Postsecondary Education who are eligible for and have elected to become members of a qualified retirement program approved by the commission which is commensurate with retirement programs at the University of Nebraska. Any

individual appointed by the Governor may elect not to become a member of the State Employees Retirement System of the State of Nebraska;

(10) Employee contribution credit means an amount equal to the member contribution amount required by section 84-1308;

(11) Employer contribution credit means an amount equal to the employer contribution amount required by section 84-1309;

(12) Final account value means the value of a member's account on the date the account is either distributed to the member or used to purchase an annuity from the plan, which date shall occur as soon as administratively practicable after receipt of a valid application for benefits, but no sooner than forty-five days after the member's termination;

(13) Five-year break in service means five consecutive one-year breaks in service;

(14) Full-time employee means an employee who is employed to work one-half or more of the regularly scheduled hours during each pay period;

(15) Fund means the State Employees Retirement Fund created by section 84-1309;

(16) Guaranteed investment contract means an investment contract or account offering a return of principal invested plus interest at a specified rate. For investments made after July 19, 1996, guaranteed investment contract does not include direct obligations of the United States or its instrumentalities, bonds, participation certificates or other obligations of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Government National Mortgage Association, or collateralized mortgage obligations and other derivative securities. This subdivision shall not be construed to require the liquidation of investment contracts or accounts entered into prior to July 19, 1996;

(17) Interest credit rate means the greater of (a) five percent or (b) the applicable federal mid-term rate, as published by the Internal Revenue Service as of the first day of the calendar quarter for which interest credits are credited, plus one and one-half percent, such rate to be compounded annually;

(18) Interest credits means the amounts credited to the employee cash balance account and the employer cash balance account at the end of each day. Such interest credit for each account shall be determined by applying the daily portion of the interest credit rate to the account balance at the end of the previous day. Such interest credits shall continue to be credited to the employee cash balance account and the employer cash balance account after a member ceases to be an employee, except that no such credit shall be made with respect to the employee cash balance account and the employer cash balance account for any day beginning on or after the member's date of final account value. If benefits payable to the member's surviving spouse or beneficiary are delayed after the member's death, interest credits shall continue to be credited to the employee cash balance account and the employer cash balance account until such surviving spouse or beneficiary commences receipt of a distribution from the plan;

(19) Member cash balance account means an account equal to the sum of the employee cash balance account and, if vested, the employer cash balance account and dividend amounts credited in accordance with subdivision (4)(c) of section 84-1319;

(20) One-year break in service means a plan year during which the member has not completed more than five hundred hours of service;

(21) Participation means qualifying for and making the required deposits to the retirement system during the course of a plan year;

(22) Part-time employee means an employee who is employed to work less than one-half of the regularly scheduled hours during each pay period;

(23) Plan year means the twelve-month period beginning on January 1 and ending on December 31;

(24) Prior service means service before January 1, 1964;

(25) Regular interest means the rate of interest earned each calendar year commencing January 1, 1975, as determined by the retirement board in conformity with actual and expected earnings on the investments through December 31, 1984;

(26) Required contribution means the deduction to be made from the compensation of employees as provided in section 84-1308;

(27) Retirement means qualifying for and accepting the retirement benefit granted under the State Employees Retirement Act after terminating employment;

(28) Retirement application means the form approved and provided by the retirement system for acceptance of a member's request for either regular or disability retirement;

(29) Retirement board or board means the Public Employees Retirement Board;

(30) Retirement date means (a) the first day of the month following the date upon which a member's request for retirement is received on a retirement application if the member is eligible for retirement and has terminated employment or (b) the first day of the month following termination of employment if the member is eligible for retirement and has filed an application but has not yet terminated employment;

(31) Retirement system means the State Employees Retirement System of the State of Nebraska;

(32) Service means the actual total length of employment as an employee and shall not be deemed to be interrupted by (a) temporary or seasonal suspension of service that does not terminate the employee's employment, (b) leave of absence authorized by the employer for a period not exceeding twelve months, (c) leave of absence because of disability, or (d) military service,

when properly authorized by the retirement board. Service does not include any period of disability for which disability retirement benefits are received under section 84-1317;

(33) State department means any department, bureau, commission, or other division of state government not otherwise specifically defined or exempted in the act, the employees and officers of which are not already covered by a retirement plan;

(34) Surviving spouse means (a) the spouse married to the member on the date of the member's death or (b) the spouse or former spouse of the member if survivorship rights are provided under a qualified domestic relations order filed with the board pursuant to the Spousal Pension Rights Act. The spouse or former spouse shall supersede the spouse married to the member on the date of the member's death as provided under a qualified domestic relations order. If the benefits payable to the spouse or former spouse under a qualified domestic relations order are less than the value of benefits entitled to the surviving spouse, the spouse married to the member on the date of the member's death shall be the surviving spouse for the balance of the benefits;

(35) Termination of employment occurs on the date on which the agency which employs the member determines that the member's employer-employee relationship with the State of Nebraska is dissolved. The agency which employs the member shall notify the board of the date on which such a termination has occurred. Termination of employment does not occur if an employee whose employer-employee relationship with the State of Nebraska is dissolved enters into an employer-employee relationship with the same or another agency of the State of Nebraska and there are less than one hundred twenty days between the date when the employee's employer-employee relationship ceased with the state and the date when the employer-employee relationship commenced with the same or another agency. It is the responsibility of the employer that is involved in the termination of employment to notify the board of such change in employment and provide the board with such information as the board deems necessary. If the board determines that termination of employment has not occurred and a retirement benefit has been paid to a member of the retirement system pursuant to section 84-1321, the board shall require the member who has received such benefit to repay the benefit to the retirement system; and

(36) Vesting credit means credit for years, or a fraction of a year, of participation in another Nebraska governmental plan for purposes of determining vesting of the employer account.

Sec. 86. Section 84-1307, Reissue Revised Statutes of Nebraska, is amended to read:

84-1307 (1) The membership of the retirement system shall be composed of all persons who are or were employed by the State of Nebraska and who maintain an account balance with the retirement system.

(2) The following employees of the State of Nebraska are authorized to participate in the retirement system: (a) All permanent full-time employees shall begin participation in the retirement system upon employment; and (b) all permanent part-time employees who have attained the age of eighteen years may exercise the option to begin participation in the retirement system within the first thirty days of employment. An employee who exercises the option to begin participation in the retirement system pursuant to this section shall remain in the retirement system until his or her termination of employment or retirement, regardless of any change of status as a permanent or temporary employee.

(3) On and after July 1, 2010, no employee shall be authorized to participate in the retirement system provided for in the State Employees Retirement Act unless the employee (a) is a United States citizen or (b) is a qualified alien under the federal Immigration and Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on January 1, 2009, and is lawfully present in the United States.

(4) For purposes of this section, (a) permanent full-time employees includes employees of the Legislature or Legislative Council who work one-half or more of the regularly scheduled hours during each pay period of the legislative session and (b) permanent part-time employees includes employees of the Legislature or Legislative Council who work less than one-half of the regularly scheduled hours during each pay period of the legislative session.

(5)(a) Within the first one hundred eighty days of employment, a full-time employee may apply to the board for vesting credit for years of participation in another Nebraska governmental plan, as defined by section 414(d) of the Internal Revenue Code. During the years of participation in the other Nebraska governmental plan, the employee must have been a full-time employee, as defined in the Nebraska governmental plan in which the credit was earned. The board may adopt and promulgate rules and regulations governing the assessment and granting of vesting credit.

(b) If the contributory retirement plan or contract let pursuant to section 48-609, as such section existed prior to the operative date of this act, is terminated, employees of the Department of Labor who are active participants in such contributory retirement plan or contract on the date of termination of such plan or contract shall be granted vesting credit for their years of participation in such plan or contract.

(6) Any employee who qualifies for membership in the retirement system pursuant to this section may not be disqualified for membership in the retirement system solely because such employee also maintains separate employment which qualifies the employee for membership in another public retirement system, nor may membership in this retirement system disqualify such an employee from membership in another public employment system solely by

reason of separate employment which qualifies such employee for membership in this retirement system.

(7) State agencies shall ensure that employees authorized to participate in the retirement system pursuant to this section shall enroll and make required contributions to the retirement system immediately upon becoming an employee. Information necessary to determine membership in the retirement system shall be provided by the employer.

Sec. 87. This act becomes operative on January 1, 2018.

Sec. 88. Original sections 8-716, 25-1912, 48-301, 48-606.01, 48-609, 48-612, 48-612.01, 48-613, 48-614, 48-616, 48-617, 48-618, 48-619, 48-620, 48-623, 48-624, 48-626, 48-627, 48-628, 48-628.01, 48-628.02, 48-628.03, 48-628.04, 48-628.05, 48-629, 48-629.01, 48-635, 48-638, 48-643, 48-645, 48-647, 48-648.02, 48-649, 48-650, 48-651, 48-654.01, 48-656, 48-662, 48-663, 48-664, 48-2903, 84-1301, and 84-1307, Reissue Revised Statutes of Nebraska, and sections 48-601, 48-602, 48-603.01, 48-604, 48-606, 48-621, 48-622.01, 48-622.02, 48-622.03, 48-625, 48-630, 48-631, 48-632, 48-634, 48-637, 48-644, 48-648, 48-652, 48-654, 48-655, 48-660.01, 48-663.01, 48-665, 48-675, 48-679, and 48-682, Revised Statutes Cumulative Supplement, 2016, are repealed.

Sec. 89. The following sections are outright repealed: Sections 48-640, 48-641, 48-642, 48-646, and 81-402, Reissue Revised Statutes of Nebraska, and sections 48-648.01 and 48-669, Revised Statutes Cumulative Supplement, 2016.