

LEGISLATIVE BILL 811

Approved by the Governor March 18, 1986

Introduced by Barrett, 39; Vickers, 38

AN ACT relating to workers' compensation; to amend sections 16-1010, 16-1011, 16-1030, 16-1031, 23-2409, 24-902, 33-106, 44-219, 44-222, 44-359, 44-767, 44-1206, 44-1402, 44-2002, 44-2404, 44-2406, 44-2411, 48-103, 48-106, 48-108 to 48-112, 48-114 to 48-118, 48-120, 48-122.01, 48-123 to 48-126, 48-127 to 48-134, 48-136 to 48-159, 48-159.08 to 48-173, 48-175, 48-175.01, 48-177 to 48-180, 48-182, 48-185 to 48-188, 48-190 to 48-198, 48-1,100, 48-1,102, 48-1,103, 48-1,105 to 48-1,109, 52-401, 55-159, 60-537, 60-2503, 81-8,219, and 81-8,239.01 to 81-8,239.04, Reissue Revised Statutes of Nebraska, 1943, sections 15-1006, 15-1008, 23-120, and 24-701, Revised Statutes Supplement, 1984, and sections 16-1012, 16-1032, 24-209, 48-122, and 48-655, Revised Statutes Supplement, 1985; to rename an act; to rename a court; to rename funds; to provide for the transfer of funds; to provide duties for the Revisor of Statutes; to harmonize provisions; to eliminate obsolete sections; and to repeal the original sections, and also sections 48-159.07 and 48-182.01, Reissue Revised Statutes of Nebraska, 1943.

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

Section 1. That section 15-1006, Revised Statutes Supplement, 1984, be amended to read as follows:

15-1006. (1) In case any firefighter or police officer shall become permanently and totally disabled, from accident or other cause, for the work he or she was doing at the time of such accident or other cause, while in the line of duty, he or she shall forthwith be placed upon the roll of pensioned firefighters or police officers, at the rate of either fifty per cent or fifty-eight per cent of regular pay as defined in section 15-1001.01 paid monthly, except that if such disability occurred after such firefighter or police officer was eligible to retire, the rate shall be increased two per cent per year for each additional year

of service from the time of such eligibility up to the time of such disability, but not to exceed a total increase of ten per cent. In case of the death of any firefighter or police officer who has been placed on such pension roll for such disability, his or her pension paid monthly shall be paid to the surviving spouse so long as he or she remains unmarried, if they were married prior to the receipt of the benefits, and upon the surviving spouse's death or remarriage, to the minor children until the youngest living child reaches eighteen years of age, except that any such firefighter or police officer shall have, as set forth in subsection (2) of this section, the election, on or prior to the effective date of such disability retirement, or within thirty days thereafter, to elect to nominate a survivor beneficiary in accordance with the provisions of option A or option B contained in subsection (1) of section 15-1002, the payments to be based upon the amount provided under such designated option for retirement as of the date on which such firefighter or police officer was placed on the pension roll because of such disability.

(2) The election shall apply where when such disability occurs after such firefighter or police officer is eligible to retire.

(3) In case of the temporary total disability of a firefighter or police officer received while in the line of duty, he or she shall receive his or her salary and earned fringe benefits during the continuance of such disability for a period not to exceed twelve months, except that if it shall be ascertained by the city council or other proper municipal authorities within twelve months that such disability has become permanent, then such salary and earned fringe benefits shall cease and the disabled person shall be entitled to the benefits of the provisions with reference to pensions in case of total and permanent disability contained in subsections (1) and (2) of this section. All payments of pension or salary provided by this section shall be subject to deduction of amounts paid under the Nebraska ~~Workmen's~~ Workers' Compensation Act, as hereinafter provided in sections 15-1001 to 15-1015.

(4) In case any such firefighter or police officer shall become permanently and totally disabled, from accident or other cause, for the work he or she was doing at the time of such accident or other cause, while not in the line of duty, the disabled person shall forthwith be placed upon the roll of pensioned firefighters or police officers at the following

percentage of regular pay as defined in section 15-1001.01: (a) Either fifteen per cent or twenty-three per cent if he or she has five years of service or more but less than ten years; (b) either thirty per cent or thirty-nine per cent if he or she has ten years of service or more but less than fifteen years; or (c) either forty-five per cent or fifty-three per cent if he or she has fifteen years of service or more. If such accident or other cause results in death while not in line of duty, the same pension shall be paid to the surviving spouse during his or her lifetime or until remarriage, or a reduced amount shall be paid to a surviving beneficiary pursuant to an election made under the provisions of section 15-1002, which election, for purposes of this subsection, may be made at any time after five years of service. In case of the death of any firefighter or police officer who has been placed on such pension roll for such disability, his or her pension paid monthly shall be paid to the surviving spouse so long as he or she remains unmarried, if they were married prior to the receipt of the benefits, and upon the surviving spouse's death or remarriage, to the minor children until the youngest living child reaches eighteen years of age. Any such firefighter or police officer shall have, as set forth in subsection (2) of this section, the election, on or prior to the effective date of such disability retirement or within thirty days thereafter, to elect to nominate a survivor beneficiary in accordance with the provisions of option A or option B contained in subsection (1) of section 15-1002, the payments to be based upon the amount provided under such designated option for retirement as of the date on which such firefighter or police officer was placed on the pension roll because of such disability.

(5) All payments of pensions provided by this section shall be reduced by the sum of the following amounts: (a) Amounts paid by the city or its insurer under the provisions of Chapter 48, article 1, Nebraska Workers' Compensation Act; and (b) amounts paid under any disability insurance program supported in whole or in part by the city.

Sec. 2. That section 15-1008, Revised Statutes Supplement, 1984, be amended to read as follows:

15-1008. Notwithstanding any prior provisions of this act, no firefighter or police officer shall be entitled during any period of disability to receive in full both his or her pension or salary and earned fringe benefits, as herein provided, and in addition benefits

under the Workmen's Nebraska Workers' Compensation Act. All Workmen's Compensation Act benefits under the Nebraska Workers' Compensation Act shall be payable in full to such firefighter or police officer or his or her dependents as provided in ~~such act~~ the Nebraska Workers' Compensation Act, but all amounts paid by the city or its insurer under ~~such act~~ the Nebraska Workers' Compensation Act to any disabled firefighter or police officer entitled to receive a salary and earned fringe benefits or pension during such disability, or to the surviving spouse or children of any deceased firefighter or police officer, shall be considered as payments on account of such salary and earned fringe benefits or pension and shall be credited thereon. The remaining balance of such pension or salary and earned fringe benefits, if any, shall be payable as otherwise provided by this act.

Sec. 3. That section 16-1010, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-1010. When prior to retirement, any police officer participating in the retirement system established pursuant to sections 16-1001 to 16-1019 shall die in the line of duty or in case death is caused by or is the result of injuries received while in the line of duty, the entire retirement value shall be payable to the beneficiary specified by the deceased police officer prior to his or her death, or to the deceased police officer's estate in the event that no beneficiary was specified. The retirement value may be received by the beneficiary in the form of a single lump-sum payment, straight life annuity, or any other optional form of benefit specified in the group annuity contract. For a police officer that is survived by a spouse or minor children, a retirement pension of fifty per cent of regular pay shall be paid to the surviving spouse, or upon his or her remarriage or death, to the minor child or children during such child's or children's minority subject to deduction of the amounts paid as workmen's workers' compensation benefits on account of death, as provided in section 16-1012. To the extent that the retirement value at the date of death exceeds the amount required to purchase the specified retirement pension, reduced by any amounts paid as workmen's workers' compensation benefits, the excess shall be applied to increase the amount of the pension benefit. In the event that the specified retirement pension is payable, the retirement value shall be retained by the city.

Sec. 4. That section 16-1011, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-1011. In case any police officer shall become permanently and totally disabled from accident or other cause while in the line of duty and such police officer because of such disability is unable to resume the duties he or she was performing at the time of injury, such police officer shall forthwith be placed upon the roll of pensioned police officers at the regular retirement pension of fifty per cent of regular pay, as defined in section 16-1002. In case of temporary total disability of a police officer received while in the line of duty, he or she shall receive his or her salary during the continuance of such disability for a period not to exceed twelve months, except that if it shall be ascertained by the city council or other proper municipal authorities within twelve months that such disability has become permanent, then the salary shall cease and he or she shall be entitled to the benefits for pensions in case of total and permanent disability. All payments of pension or salary provided by this section shall be subject to deduction of amounts paid under Chapter 48, article 1 the Nebraska Workers' Compensation Act. Total payments to a disabled police officer, in excess of amounts paid as ~~workmen's~~ workers' compensation benefits, shall not be less than the retirement value at the date of disability.

Sec. 5. That section 16-1012, Revised Statutes Supplement, 1985, be amended to read as follows:

16-1012. No police officer shall be entitled during any period of temporary disability to receive in full both his or her salary and his or her benefits under Chapter 48, article 1 the Nebraska Workers' Compensation Act. All Nebraska ~~worker's~~ workers' compensation benefits shall be payable in full to such police officer as provided in Chapter 48, article 1 the Nebraska Workers' Compensation Act, but all amounts paid by the city or its insurer under Chapter 48, article 1, the Nebraska Workers' Compensation Act to any disabled police officer entitled to receive a salary during such disability shall be considered as payments on account of such salary and shall be credited thereon. The remaining balance of such salary, if any, shall be payable as otherwise provided in sections 16-1001 to 16-1019.

Sec. 6. That section 16-1030, Reissue Revised Statutes of Nebraska, 1943, be amended to read as

follows:

16-1030. When prior to retirement, any firefighter participating in the retirement system established pursuant to sections 16-1020 to 16-1038 shall die in the line of duty or in case death is caused by or is the result of injuries received while in the line of duty, the entire retirement value shall be payable to the beneficiary specified by the deceased firefighter prior to his or her death, or to the deceased firefighter's estate in the event that no beneficiary was specified. The retirement value may be received by the beneficiary in the form of a single lump-sum payment, straight life annuity, or any other optional form of benefit specified in the group annuity contract. For a firefighter who is survived by a spouse or minor children, a retirement pension of fifty per cent of regular pay shall be paid to the surviving spouse, or upon his or her remarriage or death, to the minor child or children during such child's or children's minority subject to deduction of the amounts paid as ~~workmen's~~ workers' compensation benefits on account of death, as provided in section 16-1032.

In the event the surviving spouse or minor children of such deceased firefighter dies before the aggregate amount of pension payments received by the firefighter and his or her survivor beneficiaries, if any, equals the total amount in the employee's account, including interest, the difference between the total amount in the employee's account and the aggregate amount of pension payments received by the retired firefighter and his or her surviving beneficiaries, if any, shall be paid in a single sum to the firefighter's duly qualified personal representative, except that if the difference is less than five hundred dollars, the city may pay the same to such claimant or claimants as the retirement committee, in its discretion, shall determine to be entitled to the funds.

To the extent that the retirement value at the date of death exceeds the amount required to purchase the specified retirement pension, reduced by any amounts paid as ~~workmen's~~ workers' compensation benefits, the excess shall be applied to increase the amount of the pension benefit. In the event that the specified retirement pension is payable, the retirement value shall be retained by the city.

Sec. 7. That section 16-1031, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-1031. In case any firefighter shall become

permanently and totally disabled from accident or other cause, while in the line of duty, and such firefighter because of such disability is unable to resume the duties he or she was performing at the time of injury, such firefighter shall forthwith be placed upon the roll of pensioned firefighters at the regular retirement pension of fifty per cent of regular pay, as defined in section 16-1021. In case of temporary total disability of a firefighter received while in the line of duty, he or she shall receive his or her salary during the continuance of such disability for a period not to exceed twelve months, except that if it shall be ascertained by the city within twelve months that such disability has become permanent, then the salary shall cease and he or she shall be entitled to the benefits for pensions in case of total and permanent disability. All payments of pension or salary provided by this section shall be subject to deduction of amounts paid under Chapter 48, article 1 the Nebraska Workers' Compensation Act. Total payments to a disabled firefighter, in excess of amounts paid as ~~workmen's~~ workers' compensation benefits, shall not be less than the retirement value at the date of disability.

Sec. 8. That section 16-1032, Revised Statutes Supplement, 1985, be amended to read as follows:

16-1032. No firefighter shall be entitled during any period of temporary disability to receive in full both his or her salary and his or her benefits under Chapter 48, article 1 the Nebraska Workers' Compensation Act. All Nebraska ~~worker's~~ workers' compensation benefits shall be payable in full to such firefighter as provided in Chapter 48, article 1 the Nebraska Workers' Compensation Act, but all amounts paid by the city or its insurer under Chapter 48, article 1 the Nebraska Workers' Compensation Act to any disabled firefighter entitled to receive a salary during such disability shall be considered as payments on account of such salary and shall be credited thereon. The remaining balance of such salary, if any, shall be payable as otherwise provided in sections 16-1020 to 16-1038.

Sec. 9. That section 23-120, Revised Statutes Supplement, 1984, be amended to read as follows:

23-120. The county board shall erect or otherwise provide a suitable courthouse, jail, and other necessary county buildings and for that purpose borrow money and issue the bonds of the county to pay for the same. Agreements entered into under section 24-903

shall be deemed to be in compliance with this section. The board shall keep such buildings in repair and provide suitable rooms and offices for the accommodation of the several courts of record, ~~compensation court~~ Nebraska Workers' Compensation Court or any member judge thereof, Commissioner of Labor for the conduct and operation of the state free employment service, county board, county clerk, county treasurer, county sheriff, clerk of the district court, county superintendent, county surveyor, county agricultural agent, and county attorney, if the county attorney shall hold his or her office at the county seat, and provide suitable furniture therefor. All such courts which desire such accommodation shall be suitably housed in the courthouse. No appropriation exceeding (1) one million dollars in counties having in excess of two hundred fifty thousand inhabitants, (2) five hundred thousand dollars in counties having in excess of one hundred fifty thousand inhabitants and not in excess of two hundred fifty thousand inhabitants, (3) one hundred fifty thousand dollars in counties having in excess of thirty thousand inhabitants and not in excess of one hundred fifty thousand inhabitants, or (4) seventy-five thousand dollars in all other counties shall be made within a one-year period for the complete erection or repair of any county building, except as hereinafter provided, without first submitting the proposition to a vote of the people of the county at a general election or a special election ordered by the board for that purpose and obtaining the approval of a majority of the legal voters thereon. The county board of any county in this state is hereby authorized and empowered, when requested so to do by petition signed by at least fifty-five per cent of the legal voters in the county, based on the average vote of the two preceding general elections, to make an annual levy not exceeding seventeen and five-tenths cents on each one hundred dollars upon the actual value of all the taxable property in the county, except intangible property, for the purpose of providing a fund for the erection of a courthouse or jail, such fund to be used only in the construction of a courthouse or jail or to pay the expenses of tearing down an existing courthouse or jail or making improvement thereon. The total estimated amount to be raised by such special levy shall not exceed the sum of two hundred thousand dollars and such levy may be spread over a term of years, not exceeding twenty, to produce such sum. In counties having no bonded indebtedness, the county board, without the

filing of such petition, may levy a tax of not to exceed five and two-tenths cents on each one hundred dollars upon the actual value of all the taxable property of the county, except intangible property, per year for not exceeding ten years for the purpose of providing a fund for the erection or repair of a jail or courthouse and procuring a site therefor, but in no case shall the levy of taxes made by the county board for all purposes, including the taxes levied herein provided for the erection or repair of a courthouse or jail, exceed in any one year the sum of fifty cents on every one hundred dollars of the actual value of all the taxable property of the county, except intangible property. In the event any county has on hand funds accumulated by a general levy for courthouse purposes, sale of county property, or otherwise, the limitations on appropriations made within a one-year period contained in this section shall not apply.

Sec. 10. That section 23-2409, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-2409. ~~The provisions of this~~ This act shall not apply to:

(1) Any claim based upon an act or omission of an employee of a political subdivision, exercising due care, in the execution of a statute, ordinance, or officially adopted resolution, rule, or regulation, whether or not such statute, ordinance, resolution, rule, or regulation be valid;

(2) Any claim based upon the exercise or performance of or the failure to exercise or perform a discretionary function or duty on the part of the political subdivision or an employee of the political subdivision, whether or not the discretion be abused;

(3) Any claim arising in respect to the assessment or collection of any tax or fee, or the detention of any goods or merchandise by any law enforcement officer;

(4) Any claim caused by the imposition or establishment of a quarantine by the state or a political subdivision, whether such quarantine relates to persons or property;

(5) Any claim arising out of assault, battery, false arrest, false imprisonment, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights; or

(6) Any claim by an employee of the political subdivision which is covered by the Nebraska ~~workmen's~~

compensaten law Workers' Compensation Act.

Sec. 11. That section 24-209, Revised Statutes Supplement, 1985, be amended to read as follows:

24-209. (1) One copy of the Supreme Court Reports shall be furnished by the Supreme Court to each judge of the Supreme Court, Nebraska Workers' Compensation Court, and district, separate juvenile, ~~workmen's compensation~~, and county courts, to each county law library, to each state library, to each officer of the executive departments of this state, to the Clerk of the Legislature, and to each judge of the United States District and Circuit Courts of this state; to the Legislative Council, two copies; to the library of the College of Law of the University of Nebraska, as provided in sections 85-176 and 85-177; to the Nebraska Publications Clearinghouse, eight copies; and to the State Court Administrator's Office, up to ten copies.

(2) One advance copy of the opinions of the Nebraska Supreme Court in pamphlet form, known as the Nebraska Advance Sheets, shall be furnished to each judge of the Supreme Court, Nebraska Workers' Compensation Court, and district, separate juvenile, and county, ~~workmen's compensation~~, and municipal courts, as many advance copies as may be requested by the members of the Legislature shall be furnished to the Clerk of the Legislature, two advance copies shall be furnished to each standing committee of the Legislature, up to twenty-five advance copies shall be furnished to the Attorney General, and the State Court Administrator shall be furnished as many advance copies as he or she deems necessary for the operation of the Supreme Court.

(3) The balance of the Supreme Court Reports and Nebraska Advance Sheets shall be sold as called for at such price as shall be prescribed by the Supreme Court. The Supreme Court shall also prescribe the price for microform copies of the reports. The money received from such sales shall be paid into the Supreme Court Reports Cash Fund which is hereby created.

(4) Upon request from any office or entity entitled to free copies of the Supreme Court Reports or the Nebraska Advance Sheets, the court may stop sending the publications to such office or entity until the request is withdrawn.

Sec. 12. That section 24-701, Revised Statutes Supplement, 1984, be amended to read as follows:

24-701. As used in sections 24-701 to 24-714, unless the context otherwise requires:

(1) Fund shall mean the Nebraska Retirement Fund for Judges;

(2) Judge shall mean and include (a) all duly elected or appointed Chief Justices or Judges of the Supreme Court and judges of the district courts of Nebraska, who shall serve in such capacity on and after January 3, 1957, (b)(i) all duly appointed judges of the Nebraska Workmen's Compensation Court who shall serve served in such capacity on and after September 20, 1957, and prior to the effective date of this act and (ii) judges of the Nebraska Workers' Compensation Court who shall serve in such capacity on and after the effective date of this act. (c) judges of separate juvenile courts, (d) judges of the county courts of the respective counties, who shall serve in such capacity on and after January 5, 1961, except acting judges of the county court appointed pursuant to section 24-507, (e) judges of the county court and associate county judges, except (i) associate county judges serving on a pro tempore basis as designated by the Supreme Court or (ii) associate county judges appointed after August 26, 1983, and (f) judges of municipal courts established by Chapter 26, article 1, who served in such capacity on and after October 23, 1967, and prior to July 1, 1985;

(3) Prior service shall mean all the periods of time any person has served as a (a) Judge of the Supreme Court or judge of the district court prior to January 3, 1957, (b) judge of the county court prior to January 5, 1961, (c) judge of the Nebraska Workmen's Compensation Court prior to September 20, 1957, (d) judge of the separate juvenile court, or (e) judge of the municipal court prior to October 23, 1967;

(4) Current service shall mean the period of service (a) any Judge of the Supreme Court or judge of the district court shall serve in such capacity from and after January 3, 1957, (b)(i) any judge of the Nebraska Workmen's Compensation Court shall serve served in such capacity from and after September 20, 1957, and prior to the effective date of this act and (ii) any judge of the Nebraska Workers' Compensation Court shall serve in such capacity on and after the effective date of this act. (c) any county judge shall serve in such capacity from and after January 5, 1961, (d) any judge of a separate juvenile court shall have served in such capacity, (e) any judge of the municipal court shall serve in such capacity subsequent to October 23, 1967, and prior to July 1, 1985, and (f) any judge of the county court or associate county judge shall serve in such capacity subsequent to January 4, 1973;

(5) Military service shall mean active service of (a) any Judge of the Supreme Court or district court in any of the armed forces of the United States during a war or national emergency prior or subsequent to September 18, 1955, (b) any judge of the Nebraska Workmen's Compensation Court or the Nebraska Workers' Compensation Court in any of the armed forces of the United States during a war or national emergency prior or subsequent to September 20, 1957, (c) any judge of the municipal court in any of the armed forces of the United States during a war or national emergency prior or subsequent to October 23, 1967, and prior to July 1, 1985, if such service commenced while such judge was holding the office of judge, and (d) any judge of the county court or associate county judge in any of the armed forces of the United States during a war or national emergency prior or subsequent to January 4, 1973, if such service commenced while such judge was holding the office of judge. The board shall have the power to determine when a national emergency exists or has existed for the purpose of applying this definition and provision;

(6) Total years of service shall mean the total number of years served as a judge, including prior service, military service, and current service as defined in this section computed to the nearest one-twelfth year;

(7) Salary shall mean the statutory salary of a judge or the salary being received by such judge pursuant to law;

(8) Beneficiary shall mean a person so designated by a judge in the last written designation of beneficiary on file with the board or, if no designated person survives or if no designation is on file, the estate of such judge;

(9) Annuity shall mean a series of equal monthly payments payable at the end of each calendar month during the life of a retired judge. The first payment shall be made as of the end of the calendar month in which such annuity was awarded and the last payment shall be at the end of the calendar month in which such judge shall die. The first payment shall include all amounts accrued since the effective date of the award of annuities, including a pro rata portion of the monthly amount of any fraction of a month elapsing between the effective date of such annuity and the end of the calendar month in which such annuity began;

(10) Board shall mean the Public Employees Retirement Board;

(11) Member shall mean a judge, as defined in subdivision (2) of this section, eligible to participate in the retirement system established under the provisions of sections 24-701 to 24-714;

(12) Original member shall mean a judge who first served as a judge, as defined in subdivision (2) of this section, prior to December 25, 1969, and who does not elect to become a future member on or before June 30, 1970;

(13) Future member shall mean a judge who first served as a judge, as defined in subdivision (2) of this section, on or after December 25, 1969, or shall mean a judge who first served as a judge, as defined in subdivision (2) of this section, prior to December 25, 1969, who elects to become a future member on or before June 30, 1970, as provided in subsection (8) (9) of section 24-703;

(14) Final average salary shall mean the average monthly salary for the last four years' service as a judge or, in the event of a judge serving less than four years, the average monthly salary for such judge's period of service. The final average salary of any judge who has retired or who will retire during or at the end of the presently current judicial term shall mean the average monthly salary for his or her last year of service before retirement;

(15) Regular interest shall mean the rate of interest earned each fiscal year commencing July 1, 1974, as determined by the retirement board in conformity with actual and expected earnings on its investments; and

(16) Normal retirement date shall mean the first day of the month following attainment of age sixty-five.

Sec. 13. That section 24-902, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

24-902. Any civil case pending in either the county court, the ~~workmen's compensation court~~ Nebraska Workers' Compensation Court, or the district court in any county having a population of four thousand or less and not having adequate facilities for the trial of jury or other contested cases may be tried in any adjoining county with the same effect as if tried in the county in which the case was filed or venued.

Sec. 14. That section 33-106, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

33-106. In addition to the judges retirement

fund fee and except as otherwise provided by law, the fees of the clerk of the district court shall be as follows: There shall be a docket fee of forty dollars for each civil and criminal case except (1) a case commenced by filing a transcript of judgment as hereinafter provided, 7 (2) proceedings under the Workmen's Nebraska Workers' Compensation Law Act and the Employment Security Law, ~~where when~~ provision is made for the fees that may be charged, 7 and (3) a criminal case appealed to the district court from any court inferior thereto as hereinafter provided. There shall be a docket fee of twenty-five dollars for each case commenced by filing a transcript of judgment from another court in this state for the purpose of obtaining a lien. There shall be a docket fee of twenty-five dollars for each criminal case appealed to the district court from any court inferior thereto. In all cases, other than those appealed from an inferior court or original filings which are within jurisdictional limits of an inferior court and ~~where when~~ a jury is demanded in district court, the docket fee shall cover all fees of ~~said the~~ clerk, except that ~~said the~~ clerk shall be paid for each copy or transcript ordered of any pleading, record, or other paper, and that ~~said the~~ clerk shall be entitled to a fee of fifteen dollars for making a complete record of a case. The 7 said fee to shall be taxed as a part of the costs of the case, except when expressly waived by the parties to the action. In all civil cases, except habeas corpus cases wherein a poverty affidavit is filed and approved by the court, and for all other services, the docket fee or other fee shall be paid by the party filing the case or requesting the service at the time the case is filed or the service requested. For any other service which may be rendered or performed by ~~said the~~ clerk but which is not required in the discharge of his or her official duties, the fee shall be the same as that of a notary public but in no case less than one dollar.

Sec. 15. That section 44-219, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-219. No domestic mutual insurance company shall begin to transact the business of insurance until (1) it has received not less than one hundred applications for insurance unless organized to write (a) workmen's workers' compensation and employer's liability insurance, in which case it shall receive applications from at least twenty employers covering in the aggregate five hundred employees, or (b) the class of insurance

specified in subdivision (4) of section 44-201, in which case no application shall be required; and in addition thereto (2) it shall have received in cash one annual premium for each application for insurance. No mutual insurance company shall hereafter transact any kind of insurance as specified in section 44-201 in this state unless it has and maintains a minimum surplus, in cash or invested as provided by law, of at least five hundred thousand dollars, nor shall it hereafter transact the kind of insurance specified in subdivision (2) of section 44-201 and in addition thereto one or more kinds of insurance other than those specified in subdivisions (3) and (9) thereof in this state unless it has and maintains a minimum surplus, in cash or invested as provided by law, of at least one million dollars.

Sec. 16. That section 44-222, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-222. Except as otherwise provided by law, no insurance company shall expose itself to any loss on any one risk in an amount exceeding ten per cent of its surplus to policyholders as reflected by the last annual statement of the company, except that ; ~~PROVIDED~~; domestic assessment associations organized for the primary purpose of writing insurance coverage on farm properties and which write such insurance in less than thirty-one counties in Nebraska; shall not write any policy for an amount in excess of one-eighth of one per cent of its insurance in force. The term any one risk shall mean, in the case of property insurance, all properties insured by the same insurance company which are customarily considered by underwriters to be subject to loss or destruction from the same hazard or occurrence except hazards or occurrences of a catastrophic nature. The term surplus to policyholders shall mean the amount obtained by subtracting, from the admitted assets, actual liabilities, including any reserves which by law must be maintained. In the case of a stock company, surplus to policyholders shall also include the paid-up and outstanding capital stock. Any reinsurance, taking effect simultaneously with the policy or bond, shall be deducted in determining whether any one risk or policy exceeds the limitation of risk or policy prescribed in this section. This section shall not be applicable to marine insurance, as distinguished from inland marine insurance, title insurance, ~~workmen's~~ or workers' compensation or employer's liability insurance, nor to any policy or type of coverage as to which the maximum possible loss to the insurance company

is not ascertainable on issuance of the policy.

Sec. 17. That section 44-359, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-359. In all cases ~~where~~ when the beneficiary, or other person entitled thereto, brings an action upon any type of insurance policy, except ~~workmen's workers'~~ workers' compensation insurance, or upon any certificate issued by a fraternal beneficiary association, against any company, person, or association doing business in this state, the court, upon rendering judgment against such company, person, or association, shall allow the plaintiff a reasonable sum as an attorney's fee in addition to the amount of his or her recovery, to be taxed as part of the costs. If such cause is appealed, the appellate court shall likewise allow a reasonable sum as an attorney's fee for the appellate proceedings, except ; PROVIDED, that if the plaintiff ~~shall fail~~ fails to obtain judgment for more than may have been offered by such company, person, or association in accordance with section 25-901, then the plaintiff shall not recover the attorney's fee provided by this section.

Sec. 18. That section 44-767, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-767. Nothing in sections 44-710, 44-711, 44-749 to 44-767, or in this act shall apply to or affect (1) any policy of workmen's workers' compensation insurance or any policy of liability insurance with or without supplementary coverage therein, ; (2) any policy or contract of reinsurance, ; or (3) life insurance, endowment or annuity contracts, or contracts supplemental thereto which contain only such provisions relating to sickness and accident insurance as (a) provide additional benefits in case of death, dismemberment, or loss of sight by accident; and as (b) operate to safeguard such contracts against lapse, or to give a special surrender value or special benefit or annuity in the event that the insured or annuitant shall become totally and permanently disabled, as defined by the contract or supplemental contract. The provisions of sections Sections 44-710.03 to 44-710.09, 44-710.12, and 44-710.16 shall not apply to those forms of sickness and accident policies enumerated in section 44-758 or sections 44-760 to 44-765, except ; PROVIDED, that no such policy shall contain any provision relative to notice or proof of loss, or the time for paying benefits, or the time within which suit may be brought

upon the policy, which in the opinion of the Director of Insurance is less favorable to the insured than would be permitted by the policy provisions set forth in sections 44-710.03 and 44-710.04.

Sec. 19. That section 44-1206, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1206. In addition to the requirement that a fund, in cash or invested as provided by law, be on deposit with the attorney as provided in subdivision (7) of section 44-1203, it shall be a further requirement that such beginning deposit be continually maintained with such attorney, and in addition thereto there shall at all times be maintained with such attorney as a reserve, a sum in cash or convertible securities equal to fifty per cent of the aggregate net annual deposits collected and credited to the accounts of the subscribers on policies having one year or less to run, and pro rata on those for longer periods, plus claim and loss reserves as required for the same kind of insurance in other cases; or in lieu thereof, at the option of the attorney, one hundred per cent of the aggregate net unearned deposits collected and credited to the accounts of participating subscribers, plus such claim and loss reserves. In computing aggregate net annual deposits and aggregate net unearned deposits, credit will be given for reinsurance in reputable solvent companies. If at any time the assets on deposit with the attorney shall not equal the fund necessary to be maintained as provided above and in addition thereto the reserves as computed herein, the subscribers or their attorney for them shall make up any deficiency. In case of workmen's workers' compensation insurance, the Department of Insurance may require of any such attorney a bond or deposit of money with a bank or trust company of this state, for the purpose of securing deferred payments or installments for compensation benefits provided for by the Workmen's Nebraska Workers' Compensation Act, of Nebraska.

Sec. 20. That section 44-1402, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1402. Sections 44-1401 to 44-1442 apply to all kinds of insurance, authorized under subdivisions (4), (5), (6), (7), (8), (10), (12), and (13) of section 44-201, and to all forms of motor vehicle insurance and insurance on farm tractors, farm machinery, and other equipment authorized under subdivision (1) of section 44-201, including such insurance written by the exchange

of reciprocal or interinsurance contracts, on risks or operations in this state, except:

(1) Reinsurance, other than joint reinsurance to the extent stated in sections 44-1429 and 44-1430;

(2) Accident and health insurance; and

(3) Insurance against loss of or damage to aircraft or against liability, other than workmen's workers' compensation and employers' liability, arising out of the ownership, maintenance, or use of aircraft.

If any kind of insurance, subdivision or combination thereof, or type of coverage, subject to sections 44-1401 to 44-1442, is also subject to regulation by another rate regulatory act of this state, an insurer to which both acts are otherwise applicable shall file with the Director of Insurance, hereinafter referred to as director, a designation as to which rate regulatory act shall be applicable to it with respect to such kind of insurance, subdivision or combination thereof, or type of coverage.

Sec. 21. That section 44-2002, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2002. (1) It shall be unlawful for any insurer to transact insurance business in this state, as set forth in subsection (2) of this section, without a certificate of authority from the director. This ; ~~PROVIDED; that this~~ section shall not apply to:

(a) The lawful transaction of surplus lines insurance;

(b) The lawful transaction of reinsurance by insurers;

(c) Transactions in this state involving a policy lawfully solicited, written, and delivered outside of this state covering only subjects of insurance not resident, located, or expressly to be performed in this state at the time of issuance, and which transactions are subsequent to the issuance of such policy;

(d) Attorneys acting in the ordinary relation of attorney and client in the adjustment of claims or losses;

(e) Transactions in this state involving group life and group sickness and accident or blanket sickness and accident insurance or group annuities ~~where when~~ the master policy of such groups was lawfully issued and delivered in and pursuant to the laws of a state in which the insurer was authorized to do an insurance business, to a group organized for purposes other than the procurement of insurance, and ~~where when~~ the

policyholder is domiciled or otherwise has a bona fide situs;

(f) Transactions in this state involving any policy of insurance or annuity contract issued prior to December 25, 1969;

(g) Transactions in this state relative to a policy issued or to be issued outside this state involving insurance on vessels, craft or hulls, cargoes, marine builder's risk, marine protection, and indemnity or other risk, including strikes and war risks commonly insured under ocean or wet marine forms of policy; or

(h) Transactions in this state involving contracts of insurance issued to one or more industrial insureds, which is hereby defined as an insured, which procures the insurance of any risk or risks other than life and annuity contracts by use of the services of a full-time employee acting as an insurance manager or buyer or the services of a regularly and continuously retained qualified insurance consultant, whose aggregate annual premiums for insurance on all risks, other than ~~workmen's~~ workers' compensation insurance, total at least twenty-five thousand dollars, and who has at least twenty-five full-time employees.

(2) Any of the following acts in this state effected by mail or otherwise by or on behalf of an unauthorized insurer is deemed to constitute the transaction of an insurance business in this state. The venue of an act committed by mail is at the point where the matter transmitted by mail is delivered and takes effect. Unless the context otherwise requires, insurer, as used in this section, shall include all corporations, associations, partnerships, and individuals, engaged as principals in the business of insurance and also includes interinsurance exchanges and mutual benefit societies:

(a) The making of or proposing to make, as an insurer, an insurance contract;

(b) The making of or proposing to make, as guarantor or surety, any contract of guaranty or suretyship as a vocation and not merely incidental to any other legitimate business or activity of the guarantor or surety;

(c) The taking or receiving of any application for insurance;

(d) The receiving or collection of any premium, commission, membership fees, assessments, dues, or other consideration for any insurance or any part thereof;

(e) The issuance or delivery of contracts of

insurance to residents of this state or to persons authorized to do business in this state;

(f) Directly or indirectly acting as an agent for or otherwise representing or aiding on behalf of another any person or insurer in the solicitation, negotiation, procurement, or effectuation of insurance or renewals thereof or in the dissemination of information as to coverage or rates, or forwarding of applications, or delivery of policies or contracts, or inspection of risks, a fixing of rates or investigation or adjustment of claims or losses or in the transaction of matters subsequent to effectuation of the contract and arising out of it, or in any other manner representing or assisting a person or insurer in the transaction of insurance with respect to subjects of insurance resident, located, or to be performed in this state. ~~The provisions of this~~ This subsection shall not operate to prohibit full-time salaried employees of a corporate insured from acting in the capacity of an insurance manager or buyer in placing insurance in behalf of such employer;

(g) The transaction of any kind of insurance business specifically recognized as transacting an insurance business within the meaning of the statutes relating to insurance; or

(h) The transacting or proposing to transact any insurance business in substance equivalent to any of the foregoing in a manner designed to evade the provisions of the statutes.

(3)(a) The failure of an insurer transacting insurance business in this state to obtain a certificate of authority shall not impair the validity of any act or contract of such insurer and shall not prevent such insurer from defending any action at law or suit in equity in any court of this state, but no insurer transacting insurance business in this state without a certificate of authority shall be permitted to maintain an action in any court of this state to enforce any right, claim, or demand arising out of the transaction of such business until such insurer shall have obtained a certificate of authority.

(b) In the event of failure of any such unauthorized insurer to pay any claim or loss within the provisions of any insurance contract, any person who assisted or in any manner aided directly or indirectly in the procurement of such insurance contract shall be liable to the insured for the full amount of the claim or loss in the manner provided by the provisions of such insurance contract.

Sec. 22. That section 44-2404, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2404. There is hereby created a nonprofit unincorporated legal entity to be known as the Nebraska Property and Liability Insurance Guaranty Association. All insurers defined as member insurers in subdivision (6) of section 44-2403 shall be and remain members of the association as a condition of their authority to transact insurance in this state. The association shall perform its functions under a plan of operation established and approved by the provisions of pursuant to section 44-2408; and shall exercise its powers through a board of directors established by the provisions of section 44-2405. For purposes of administration and assessment, the association shall be divided into three separate accounts: (a) The workmen's workers' compensation insurance account; (b) the automobile insurance account; and (c) the account for all other insurance to which sections 44-2401 to 44-2418 apply the Nebraska Property and Liability Insurance Guaranty Association Act applies.

Sec. 23. That section 44-2406, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2406. (1) The association shall be obligated only to the extent of the covered claims existing prior to the date a member company becomes an insolvent insurer or arising within thirty days after it has been determined that the insurer is an insolvent insurer, or before the policy expiration date if less than thirty days after such determination, or before the insured replaces the policy or on request effects cancellation, if he or she does so within thirty days of such dates, but such obligation shall include only that amount of each covered claim which is less than three hundred thousand dollars, except that the association shall pay the amount required by law on any covered claim arising out of a workmen's workers' compensation policy. In no event shall the association be obligated to a policyholder or claimant in an amount in excess of the face amount of the policy from which the claim arises.

(2) The director shall transmit to the association all covered claims timely filed with him or her pursuant to the provisions of sections 44-127.01 to 44-127.05. The association shall thereupon be considered to have been designated the director's representative pursuant to section 44-127.07, and it

shall proceed to investigate, hear, settle, and determine such claims unless the claimant shall, within thirty days from the date the claim is filed with the director, file with the director a written demand that the claim be processed in the liquidation proceedings as a claim not covered by ~~sections 44-2401 to 44-2418~~ the Nebraska Property and Liability Insurance Guaranty Association Act. In regard to those claims transmitted to the association by the director, the association and claimants shall have all of the rights and obligations, and be subject to the same limitations and procedures, as are specified in sections 44-127.05 to 44-127.11, for the determination of claims.

(3) In the case of claims arising from bodily injury, sickness, or disease, including death resulting therefrom, the amount of any such award shall not exceed the claimant's reasonable expenses incurred for necessary medical, surgical, X-ray, and dental services, including prosthetic devices and necessary ambulance, hospital, professional nursing, and funeral services, and any amounts actually lost by reason of claimant's inability to work and earn wages or salary or their equivalent, but not other income, that would otherwise have been earned in the normal course of such injured claimant's employment. Such award may also include payments in fact made to others, not members of claimant's household, which were reasonably incurred to obtain from such other persons ordinary and necessary services for the production of income in lieu of those services the claimant would have performed for himself or herself had he or she not been injured. The amount of any such award under this subsection shall be reduced by the amount the claimant is entitled to receive as the beneficiary under any health, accident, or disability insurance, or under any salary or wage continuation program under which he or she is entitled to benefits, or from his or her employer in the form of ~~workmen's~~ workers' compensation benefits, or any other such benefits to which the claimant is legally entitled, and any claimant who intentionally fails to correctly disclose his or her rights to any such benefits shall forfeit all rights to which he or she may have by the provisions of ~~sections 44-2401 to 44-2418~~ the Nebraska Property and Liability Insurance Guaranty Association Act.

(4) A third party having a covered claim against any insured of an insolvent member insurer may file such claim with the director pursuant to ~~the provisions of~~ sections 44-127.01 to 44-127.05, and the

association shall process such claim in the manner specified in subsections (2) and (3) of this section. The 7 PROVIDED, that the filing of such claim shall constitute an unconditional general release of all liability of such insured in connection with the claim, unless the association thereafter denies the claim for the reason that the insurance policy issued by the insolvent member company does not afford coverage, or unless the claimant shall, within thirty days from the date of filing his or her claim with the director, file with the director a written demand that the claim be processed in the liquidation proceedings as a claim not covered by sections 44-2401 to 44-2418 the Nebraska Property and Liability Insurance Guaranty Association Act.

Sec. 24. That section 44-2411, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2411. (1) Any person having a claim against his or her own insurer under any provisions of his or her own insurance policy, which claim is also a covered claim against an insolvent member insurer under the provisions of sections 44-2401 to 44-2418 the Nebraska Property and Liability Insurance Guaranty Association Act, shall be required to exhaust all of his or her rights under his or her own policy before the association is obligated to pay the covered claim under sections 44-2401 to 44-2418 such act. Any amount payable on a covered claim by the provisions of sections 44-2401 to 44-2418 such act shall be reduced by the amount of such recovery under the claimant's own insurance policy.

(2) Any person having a claim which may be recovered under more than one insurance guaranty association, or its equivalent, shall seek recovery first from the association of the place of residence of the insured, except that if it is a first party claim for damage to property with a permanent location, from the association of the location of the property, and if it is a workmen's workers' compensation claim, from the association of the residence of the claimant. Any recovery pursuant to the Nebraska Property and Liability Insurance Guaranty Association Act under the provisions of sections 44-2401 to 44-2418 shall be reduced by the amount of the recovery from any other insurance guaranty association or its equivalent.

Sec. 25. That section 48-103, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-103. If an employer, as defined in section 48-106, does not carry a policy of workmen's workers' compensation insurance nor qualify as a self-insurer, he or she loses the right to interpose the three defenses mentioned in section 48-102 in any action brought against him or her for personal injury or death of an employee.

Sec. 26. That section 48-106, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-106. (1) The Nebraska Workers' Compensation Act ~~previstsens of this act~~ shall apply to the State of Nebraska and every governmental agency created by it, and to every employer in this state, including nonresident employers performing work in the State of Nebraska, employing one or more employees, in the regular trade, business, profession, or vocation of such employer, except railroad companies engaged in interstate or foreign commerce.

(2) The following are declared not to be hazardous occupations and not within the provisions of this act the Nebraska Workers' Compensation Act: Employers of household domestic servants and employers of farm or ranch laborers, except as hereinafter provided, ~~except~~ ~~PROVIDED~~, that any such employer may elect to provide and pay compensation for accidental injuries sustained by any of his or her employees by insuring and keeping insured his or her employees in some corporation, association, or organization authorized and licensed to transact the business of workmen's workers' compensation insurance in this state.

(3) The procuring by any such employer of such a policy of insurance, referred to in subsection (2) of this section, which is in full force and effect at the time of an accident to any of his or her employees, shall be conclusive proof of such employer's and his or her employees' election to be bound by ~~sections 48-109 to 48-147~~ the Nebraska Workers' Compensation Act, to all intents and purposes as if they had not been specifically excluded by the terms of this section. Such employer of household domestic servants and such employer of farm or ranch laborers who has procured such a policy of insurance may elect to return to the status of being not within the provisions of ~~Chapter 48, article 1,~~ the Nebraska Workers' Compensation Act by (a) no longer carrying a policy of workmen's workers' compensation insurance, and (b) posting and thereafter keeping continuously posted for a period of at least one year in a conspicuous place about the place or places

where his or her workers workmen are employed a written or printed notice of election not to be bound by the provisions of such act. Chapter 48, article 1-

Sec. 27. That section 48-108, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-108. No claim or agreement for legal services or disbursements in support of any demand made or suit brought under the provisions of this act Nebraska Workers' Compensation Act shall be an enforceable lien against the amounts to be paid as damages or compensation or be valid or binding in any other respect, unless the same be approved in writing by the judge presiding at the trial, or, in case of settlement without trial, by a judge of the Nebraska Workmen's Workers' Compensation Court. After such approval, if notice in writing be given the defendant of such claim or agreement for legal services and disbursements, the same shall be a lien against any amount thereafter to be paid as damages or compensation. When the employee's compensation is payable by the employer in periodical installments, the compensation court shall fix, at the time of approval, the proportion of each installment to be paid on account of legal services and disbursements.

Sec. 28. That section 48-109, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-109. If both employer and employee become subject to sections 48-109 to 48-147 the Nebraska Workers' Compensation Act, both shall be bound by the schedule of compensation provided in this such act, which compensation shall be paid in every case of injury or death caused by accident or occupational disease arising out of and in the course of employment, except accidents caused by, or resulting in any degree from the employee's willful negligence as defined in section 48-151.

Sec. 29. That section 48-110, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-110. When employer and employee shall by agreement, express or implied, or otherwise as provided in section 48-112 accept the provisions of sections 48-109 to 48-147 the Nebraska Workers' Compensation Act, compensation shall be made for personal injuries to or for the death of such employee by accident arising out of and in the course of his or her employment, without regard to the negligence of the employer, according to

the schedule provided in this such act, in all cases except when the injury or death is caused by willful negligence on the part of the employee. The burden of proof of such fact shall be upon the employer.

Sec. 30. That section 48-111, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-111. Such agreement or the election provided for in section 48-112 shall be a surrender by the parties thereto of their rights to any other method, form, or amount of compensation or determination thereof than as provided in sections 48-109 to 48-147 the Nebraska Workers' Compensation Act, and an acceptance of all the provisions of said sections such act, and shall bind the employee himself or herself, and for compensation for his or her death shall bind his or her legal representatives, his or her surviving spouse widow and next of kin, as well as the employer, and the legal representatives of a deceased employer, and those conducting the business of the employer during bankruptcy or insolvency. For the purpose of this section, if the employer carries a policy of workmen's workers' compensation insurance, the term employer shall also include the insurer. The exemption from liability given an employer and insurer by this section shall also extend to all employees, officers, or directors of such employer or insurer, but such exemption given an employee, officer, or director of an employer or insurer shall not apply in any case when the injury or death is proximately caused by the willful and unprovoked physical aggression of such employee, officer, or director.

Sec. 31. That section 48-112, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-112. In the occupations described in section 48-106, all contracts of employment shall be presumed to have been made with reference and subject to the provisions of sections 48-109 to 48-147 Nebraska Workers' Compensation Act. Every such employer and every employee is presumed to accept and come under such sections.

Sec. 32. That section 48-114, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-114. The following shall constitute employers subject to the provisions of this act Nebraska Workers' Compensation Act: (1) The state and every governmental agency created by it; and (2) every person,

firm, or corporation, including any public service corporation, who is engaged in any trade, occupation, business, or profession as described in section 48-106, and who has any person in service under any contract of hire, express or implied, oral or written.

Sec. 33. That section 48-115, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-115. The terms employee and workman worker are used interchangeably and have the same meaning throughout Chapter 48, article 1 the Nebraska Workers' Compensation Act. Such terms include the plural and all ages and both sexes and shall be construed to mean:

(1) Every person in the service of the state or of any governmental agency created by it, including the Nebraska National Guard and members of the military forces of the State of Nebraska, under any appointment or contract of hire, expressed or implied, oral or written. ~~For 7 PROVIDED, that {a} for the purposes of Chapter 48, article 1 the Nebraska Workers' Compensation Act, (a) volunteer firefighters of any fire department of any rural or suburban fire protection district, city, or village, which fire department is regularly organized under the laws of the State of Nebraska, shall be deemed employees of such rural or suburban fire protection district, city, or village while in the performance of their duties as members of such department and shall be considered as having entered and as acting in the regular course of their employment when traveling from any place from which they have been called to active duty to a fire station or other place where firefighting equipment that their company or unit is to use is located or to any emergency that the volunteer firefighters may be officially called to participate in.~~ 7 (b) members of such volunteer fire department, before they are entitled to benefits under Chapter 48, article 1 the Nebraska Workers' Compensation Act, shall be recommended by the chief of the fire department for membership therein to the board of directors, the mayor and city commission, the mayor and council, or the chairperson and board of trustees, as the case may be, and upon confirmation shall be deemed employees of the rural or suburban fire protection district, city, or village. 7 (c) members of such fire department after confirmation to membership may be removed by a majority vote of such board of directors, commission, council, or board and thereafter shall not be considered employees of such rural or suburban fire protection district, city, or village. 7 (d) firefighters of any fire

department of any rural or suburban fire protection district, city, or village shall be considered as acting in the performance and within the scope of their duties in fighting fire or saving property or life outside of the corporate limits of their respective districts, cities, or villages, but only if directed to do so by the chief of the fire department or some person authorized to act for such chief. ¶ (e) any members of the state Civil Defense Agency, any local organization for civil defense, or any civil defense mobile support unit, which state Civil Defense Agency, local organization for civil defense, or civil defense mobile support unit is regularly organized under the laws of the State of Nebraska, shall be deemed employees of such state Civil Defense Agency, local organization for civil defense, or civil defense mobile support unit while in the performance of their duties as members of such state Civil Defense Agency, local organization, or mobile support unit. ¶ (f) any person fulfilling conditions of probation pursuant to any order of any court of this state who shall be working for a governmental body pursuant to any condition of probation shall be deemed an employee of such governmental body for the purposes of Chapter 48, article 1, the Nebraska Workers' Compensation Act. (g) volunteer ambulance drivers and attendants who provide ambulance service for any county, city, or village or any combination of such county, city, or village under the authority of section 23-378 shall be deemed employees of the county, city, or village or combination thereof while in the performance of their duties as such ambulance drivers or attendants and shall be considered as having entered into and as acting in the regular course of their employment when traveling from any place from which they have been called to active duty to a hospital or other place where the ambulance they are to use is located or to any emergency in which the volunteer drivers or attendants may be officially called to participate, but such volunteer ambulance drivers or attendants shall be considered as acting in the performance and within the scope of their duties outside of the corporate limits of their respective county, city, or village only if officially directed to do so. ¶ (h) before such volunteer ambulance drivers or attendants shall be entitled to benefits under Chapter 48, article 1 the Nebraska Workers' Compensation Act. they shall be confirmed to perform such duties by the county board or the governing body of the city or village or combination thereof, as the case may be, and upon such confirmation

shall be deemed employees of the county, city, or village or combination thereof and may be removed by majority vote of such county board or governing body of the city or village, and (i) members of a law enforcement reserve force appointed in accordance with section 81-1438 shall be deemed employees of the county or city for which they were appointed; and

(2) Every person in the service of an employer who is engaged in any trade, occupation, business, or profession as described in section 48-106 under any contract of hire, expressed or implied, oral or written, including aliens and also including minors, who for the purpose of making election of remedies under Chapter 48, article 17, the Nebraska Workers' Compensation Act shall have the same power of contracting and electing as adult employees.

As used in subdivisions (1) and (2) of this section, the terms employee and workman worker shall not be construed to include any person whose employment is not in the usual course of the trade, business, profession, or occupation of his or her employer.

If an employee subject to Chapter 48, article 17, the Nebraska Workers' Compensation Act suffers an injury on account of which he or she or, in the event of his or her death, his or her dependents would otherwise have been entitled to the benefits provided by Chapter 48, article 1 such act, the employee or, in the event of his or her death, his or her dependents shall be entitled to the benefits provided under Chapter 48, article 1 such act, if the injury or injury resulting in death occurred within this state, or if at the time of such injury (a) the employment was principally localized within this state, (b) the employer was performing work within this state, or (c) the contract of hire was made within this state.

(3) Every executive officer of a corporation elected or appointed under the provisions or authority of the charter, articles of incorporation, or bylaws of such corporation shall be an employee of such corporation under the provisions of Chapter 48, article 1 Nebraska Workers' Compensation Act, except that an executive officer of a Nebraska corporation who owns twenty-five per cent or more of the common stock of such corporation may waive his or her right to coverage. Such waiver shall be in writing and filed with the secretary of the corporation and the Nebraska Workmen's Workers' Compensation Court. Such waiver, as prescribed by the Nebraska Workmen's Compensation Court compensation court, shall include a statement in

substantially the following form: Notice. I am aware that health and accident insurance policies frequently exclude coverage for personal injuries caused by accident or occupational disease arising out of and in the course of employment. Before waiving my rights to coverage under workmen's compensation law the Nebraska Workers' Compensation Act, I certify that I have carefully examined the terms of my health and accident coverage. Such waiver shall become effective from the date of receipt by the compensation court and shall remain in effect until the waiver is terminated by the officer in writing and filed with the secretary of the corporation and the Nebraska Workmen's Compensation Court compensation court. The termination of the corporate executive officer's waiver shall be effective upon receipt of the termination by the compensation court. It shall not be permissible to terminate a waiver prior to one year after the waiver has become effective.

(4) Each individual employer, partner, or self-employed person who is actually engaged in the individual employer's, partnership's, or self-employed person's business on a substantially full-time basis may elect to bring himself or herself within the provisions of Chapter 48, article 1 the Nebraska Workers' Compensation Act, if he or she (a) files with his or her current workmen's workers' compensation insurer written notice of election to have the same rights as an employee only for purposes of workmen's workers' compensation insurance coverage acquired by and for such individual employer, partner, or self-employed person or (b) gives notice of such election and such insurer collects a premium for such coverage acquired by and for such individual employer, partner, or self-employed person. This election shall be effective from the date of receipt by the insurer for the current policy and subsequent policies issued by such insurer until such time as such employer, partner, or self-employed person files a written statement withdrawing such election with the current workmen's workers' compensation insurer or until such coverage by such insurer is terminated, whichever occurs first. When so included, the individual employer, partner, or self-employed person shall have the same rights as an employee only with respect to the benefits provided under Chapter 48, article 1 the Nebraska Workers' Compensation Act. If any individual employer, partner, or self-employed person who is actually engaged in the individual employer's, partnership's, or self-employed person's

business on a substantially full-time basis has not elected to bring himself or herself within the provisions of Chapter 48, article 17, the Nebraska Workers' Compensation Act pursuant to this subdivision and any health, accident, or other insurance policy issued to or renewed by such person after July 10, 1984, contains an exclusion of coverage, if the insured is otherwise entitled to workmen's workers' compensation coverage, such exclusion shall be null and void as to such person.

Sec. 34. That section 48-115.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-115.01. Sections 48-115, 48-115.01, and 48-146 shall be so construed as to effectuate their general purpose to extend workmen's workers' compensation coverage to additional employees and officers as soon as the same may be done under the Constitution of Nebraska.

Sec. 35. That section 48-116, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-116. Any person, firm, or corporation creating or carrying into operation any scheme, artifice, or device to enable him or her, them, or it to execute work without being responsible to the workmen workers for the provisions of this act, the Nebraska Workers' Compensation Act shall be included in the term employer, and with the immediate employer shall be jointly and severally liable to pay the compensation herein provided for and be subject to all the provisions of this act such act. This section, however, shall not be construed as applying to an owner who lets a contract to a contractor in good faith, or a contractor, who, in good faith, lets to a subcontractor a portion of his or her contract, if the owner or principal contractor, as the case may be, requires the contractor or subcontractor, respectively, to procure a policy or policies of insurance from an insurance company licensed to make write such insurance in this state, which policy or policies of insurance shall guarantee payment of compensation according to this the Nebraska Workers' Compensation Act to injured workmen workers.

Sec. 36. That section 48-117, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-117. Where when compensation is claimed from, or proceedings taken against a person, firm, or corporation under section 48-116, the compensation shall

be calculated with reference to the wage the workman worker was receiving from the person by whom he or she was immediately employed at the time of the injury.

Sec. 37. That section 48-118, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-118. Where When a third person is liable to the employee or to the dependents, for the injury or death, the employer shall be subrogated to the right of the employee or to the dependents against such third person, and the recovery by such employer shall not be limited to the amount payable as compensation to such employee or dependents, but such employer may recover any amount which such employee or his or her dependents should have been entitled to recover. Any recovery by the employer against such third person, in excess of the compensation paid by the employer after deducting the expenses of making such recovery, shall be paid forthwith to the employee or to the dependents, and shall be treated as an advance payment by the employer, on account of any future installments of compensation; PROVIDED, that nothing in ~~this section or act~~ the Nebraska Workers' Compensation Act shall be construed to deny the right of an injured employee or of his or her personal representative to bring suit against such third person in his or her own name or in the name of the personal representative based upon such liability, but in such event an employer having paid or paying compensation to such employee or his or her dependents shall be made a party to the suit for the purpose of reimbursement, under the above provided right of subrogation, of any compensation paid. Before the making of a claim or the bringing of suit against such third person by the employee or his or her personal representative or by the employer or his or her insurer, each shall give to all others, unless waived in writing, notice of not less than thirty days, by certified or registered mail, an opportunity to join in the making of such claim or the instituting of an action and to be represented by counsel. If a party entitled to notice cannot be found, the clerk of the Nebraska Workmen's Workers' Compensation Court shall become the agent of such party for the giving of such notice as required in this section, and the notice when given to the clerk of the Nebraska Workmen's Workers' Compensation Court shall include an affidavit setting forth the facts, including the steps taken to locate such party. After the expiration of thirty days, for failure to receive notice or other good cause shown, the district court before

which the action is pending shall allow either party to intervene in such action, and if no action is pending then the district court in which it could be brought shall allow either party to commence such action. Each shall have an equal voice in the claim and the prosecution of such suit and any dispute arising shall be passed upon by the court before which the case is pending and if no action is pending then by the district court in which such action could be brought. If either party after the giving of such notice fails, by and through his or her attorney, to join in the making of such claim and the prosecuting of the suit, such party shall waive any and all claims or causes of action for improper prosecution of such suit or inadequacy of a settlement made in accordance herewith, and the party bringing the claim or prosecuting the suit shall be entitled to deduct from any amount recovered the reasonable expenses of making such recovery, including a reasonable sum for attorney's fees, which expenses and attorney's fees shall be prorated to the amounts payable to the employer or his or her insurer under the above right of subrogation and to the amount in excess of such amount payable to the employer or his or her insurer under his or her right of subrogation, and which expenses and attorney's fees shall be apportioned by the court between the parties as their interests appear at the time of such recovery. If either party makes the claim or prosecutes such action without the giving of a notice to the other party, the party bringing the claim and prosecuting such action shall not deduct expenses or attorney's fees from the amount payable to the other party.

If the employee or his or her personal representative or the employer or his or her compensation insurer join in the prosecuting of such claim and are represented by counsel, the reasonable expenses and the attorney's fees shall be, unless otherwise agreed upon, divided between such attorneys as directed by the court before which the case is pending and if no action is pending then by the district court in which such action could be brought. A settlement of any lawsuit commenced under the provisions of this section shall be void unless (1) such settlement and the distribution of the proceeds of the settlement thereof are agreed upon in writing by the employee or his or her personal representative and the insurer of the employer if there be one, and if there be no insurer, then by the employer, or (2) in the absence of such agreement, such settlement is approved by the court before which the

action is pending.

In any case in which an injured employee is entitled to benefits from the Second Injury Fund and recovery is had against the third party liable to the employee for the injury, the Second Injury Fund shall be subrogated to the rights of the employee against such third party to the extent of the benefits due to him or her or which shall become due to him or her from such fund, subject to the rights of the employer and his or her insurer.

Sec. 38. That section 48-120, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-120. The employer shall be liable for all reasonable medical, surgical, and hospital services, including plastic or reconstructive but not cosmetic surgery when the injury has caused disfigurement, appliances, supplies, prosthetic devices, and medicines as and when needed, which are required by the nature of the injury and which will relieve pain or promote and hasten the employee's restoration to health and employment, and shall include damage to or destruction of artificial members, dental appliances, teeth, hearing aids, and eyeglasses, but, in the case of dental appliances, hearing aids, or eyeglasses, only if such damage or destruction resulted from an accident which also caused personal injury entitling the employee to compensation therefor for disability or treatment, subject to the approval of and regulation by the ~~compensation court~~ Nebraska Workers' Compensation Court, not to exceed the regular charge made for such service in similar cases. The employee shall have the right to make the initial selection of his or her physician from among all licensed physicians in the state and shall have the right to make an alternative choice of physician if he or she is not satisfied with the physician first selected. If the employee shall select a physician located in a community not the home or place of work of the employee, and a physician is available in the local community or in a closer community, no travel expenses shall be required to be paid by the employer or his or her insurer. In cases of injury requiring dismemberment, or injuries involving major surgical operation, the employee may designate to his or her employer the physician or surgeon to perform the operation. If the injured employee unreasonably refuses or neglects to avail himself or herself of medical or surgical treatment, except as herein and otherwise provided, the employer shall not be liable for an

aggravation of such injury due to such refusal and neglect and the compensation court or judge thereof may suspend, reduce, or limit the compensation otherwise payable under the provisions of Chapter 48, article 1 Nebraska Workers' Compensation Act.

If, due to the nature of the injury or its occurrence away from the employer's place of business, the employee is unable to make such selection, the selection requirements of this section shall not apply as long as the inability to make a selection persists. The physician selected may arrange for any consultation, referral, or extraordinary or other specialized medical services as the nature of the injury shall require. The employer shall not be responsible for medical services furnished or ordered by any physician or other person selected by the employee in disregard of the provisions of this section.

No claim for such medical treatment shall be valid and enforceable unless, within fourteen days following the first treatment, the physician giving such treatment furnishes the employer and the court Nebraska Workers' Compensation Court a report of such injury and treatment on a form prescribed by the compensation court. The compensation court may excuse the failure to furnish such report within fourteen days when it finds it to be in the interest of justice to do so.

All physicians attending injured employees shall comply with all the rules and regulations adopted by the court Nebraska Workers' Compensation Court and shall make such reports as may be required by it at any time and at such times as required by it upon the condition or treatment of any injured employee or upon any other matters concerning cases in which they are employed. Generally, all medical and hospital information relevant to the particular injury shall, on demand, be made available to the employer, employee, carrier, and the compensation court. The party requesting such medical and hospital information shall pay the cost thereof. No such relevant information developed in connection with treatment or examination for which compensation is sought shall be considered a privileged communication for purposes of a workmen's workers' compensation claim. When a physician willfully fails to make any report required of him or her under this section, the compensation court may order the forfeiture of his or her right to all or part of payment due for services rendered in connection with the particular case.

Whenever the court Nebraska Workers'

Compensation Court deems it necessary, in order to assist it in resolving any issue of medical fact or opinion, it shall cause the employee to be examined by a physician or physicians selected by the compensation court and obtain from such physician or physicians a report upon the condition or matter which is the subject of inquiry. The compensation court may charge the cost of such examination to the carrier. The cost of such examination shall include the payment to the employee of all necessary and reasonable expenses incident to such examination, such as transportation and loss of wages.

The ~~court~~ Nebraska Workers' Compensation Court shall have the authority to determine the necessity, character, and sufficiency of any medical services furnished or to be furnished and shall have authority to order a change of doctor, physician, hospital, or rehabilitation facility when it deems such change is desirable or necessary. For the purpose of this section, physician shall mean any person licensed to practice medicine and surgery, osteopathic medicine, chiropractic, podiatry, or dentistry.

The ~~court~~ Nebraska Workers' Compensation Court may order the employer to make payment directly to the supplier of any services provided for in this section or reimbursement to anyone who has made any payment to the supplier for services provided in this section. No such supplier or payor may be made or become a party to any action before the compensation court.

Sec. 39. That section 48-122, Revised Statutes Supplement, 1985, be amended to read as follows:

48-122. (1) If death results from injuries and the deceased employee leaves one or more dependents dependent upon his or her earnings for support at the time of injury, the compensation, subject to ~~the provisions of~~ section 48-123, shall be not more than the maximum weekly income benefit specified in section 48-121.01 nor less than the minimum weekly income benefit specified in section 48-121.01; PROVIDED, that if at the time of injury the employee receives wages of less than the minimum weekly income benefit specified in section 48-121.01, then the compensation shall be the full amount of such wages per week, payable in the amount and to the persons enumerated in section 48-122.01 subject to the maximum limits specified in this section and section 48-122.03.

(2) When death results from injuries suffered in employment, if immediately prior to the accident the rate of wages was fixed by the day or hour, or by the

output of the employee, the weekly wages shall be taken to be computed upon the basis of a work week of a minimum of five days, if the wages are paid by the day, or upon the basis of a work week of a minimum of forty hours, if the wages are paid by the hour, or upon the basis of a work week of a minimum of five days or forty hours, whichever results in the higher weekly wage, if the wages are based on the output of the employee.

(3) Upon the death of an employee, resulting through personal injuries as herein defined, whether or not there be dependents entitled to compensation, the reasonable expenses of burial, not exceeding two thousand dollars, without deduction of any amount previously paid or to be paid for compensation or for medical expenses, shall be paid to his or her dependents, or if there be no dependents, then to his or her personal representative.

(4) Compensation under ~~this act~~ the Nebraska Workers' Compensation Act to alien dependents who are not residents of the United States, shall be the same in amount as is provided in each case for residents, except that at any time within one year after the death of the injured employee the employer may at his or her option commute all future installments of compensation to be paid to such alien dependents. The amount of the commuted payment shall be determined as provided in section 48-138.

(5) The consul general, consul, vice consul general, or vice consul of the nation of which the employee, whose injury results in death, is a citizen, or the representative of such consul general, consul, vice consul general, or vice consul residing within the State of Nebraska shall be regarded as the sole legal representative of any alien dependents of the employee residing outside of the United States and representing the nationality of the employee. Such consular officer, or his or her representative, residing in the State of Nebraska, shall have in behalf of such nonresident dependents, the exclusive right to adjust and settle all claims for compensation provided by ~~this act~~ the Nebraska Workers' Compensation Act, and to receive the distribution to such nonresident alien dependents of all compensation arising thereunder.

Sec. 40. That section 48-122.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-122.01. Compensation under section 48-122 shall be payable in the amount and to the following persons subject to the maximum limits specified in

sections 48-122 and 48-122.03:

(1) If there is a widow or widower and no children of the deceased, as defined in section 48-124, to such widow or widower, sixty-six and two-thirds per cent of the average weekly wage of the deceased, during widowhood or widowerhood;

(2) To the widow or widower, if there is a child or children living with the widow or widower, sixty per cent of the average weekly wage of the deceased, or fifty-five per cent, if such child is not or such children are not living with a widow or widower, and, in addition thereto, fifteen per cent for each child. When there are two or more such children, the indemnity benefits payable on account of such children shall be divided among such children, share and share alike;

(3) Two years' indemnity benefits in one lump sum shall be payable to a widow or widower upon remarriage;

(4) To the children, if there is no widow or widower, sixty-six and two-thirds per cent of such wage for one child, and fifteen per cent for each additional child, divided among such children, share and share alike;

(5) The income benefits payable on account of any child under this section shall cease when he or she dies, marries, or reaches the age of eighteen, or when a child over such age ceases to be physically or mentally incapable of self-support, or if actually dependent ceases to be actually dependent, or, if enrolled as a full-time student in any accredited educational institution, ceases to be so enrolled or reaches the age of twenty-five. A child who originally qualified as a dependent by virtue of being less than eighteen years of age may, upon reaching age eighteen, continue to qualify if he or she satisfies the tests of being physically or mentally incapable of self-support, actual dependency, or enrollment in an educational institution;

(6) To each parent, if actually dependent, twenty-five per cent;

(7) To the brothers, sisters, grandparents, and grandchildren, if actually dependent, twenty-five per cent to each such dependent. If there should be more than one of such dependents, the total income benefits payable on account of such dependents shall be divided share and share alike;

(8) The income benefits of each beneficiary under subdivisions (6) and (7) of this section shall be paid until he or she, if a parent or grandparent, dies,

marries, or ceases to be actually dependent, or, if a brother, sister, or grandchild, dies, marries, or reaches the age of eighteen or if over that age ceases to be physically or mentally incapable of self-support, or ceases to be actually dependent; and

(9) A person ceases to be actually dependent when his or her income from all sources exclusive of workmen's workers' compensation income benefits is such that, if it had existed at the time as of which the original determination of actual dependency was made, it would not have supported a finding of dependency. In any event, if the present annual income of an actual dependent person including workmen's workers' compensation income benefits at any time exceeds the total annual support received by the person from the deceased employee, the workmen's workers' compensation benefits shall be reduced so that the total annual income is no greater than such amount of annual support received from the deceased employee. In all cases, a person found to be actually dependent shall be presumed to be no longer actually dependent three years after each time as of which the person was found to be actually dependent. This presumption may be overcome by proof of continued actual dependency as defined in this subdivision and section 48-124.

Sec. 41. That section 48-123, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-123. The death of an injured employee prior to the expiration of the period within which he or she would receive such disability payment, shall be deemed to end such disability, and all liability for the remainder of such payment which he or she would have received in case he or she had lived shall be terminated, but the employer shall thereupon be liable for the following death benefit in lieu of any further disability indemnity: If the injury so received by such employee was the cause of his or her death and such deceased employee leaves dependents as hereinbefore specified, the death benefit shall be a sum sufficient, when added to the indemnity which shall at the time of death have been paid or become payable under the provisions of this act Nebraska Workers' Compensation Act to such deceased employee, to make the total compensation for the injury and death equal to the full amount which such dependents would have been entitled to receive under the provisions of section 48-122, in case the accident had resulted in immediate death; and such benefits shall be payable in the same manner and subject

to the same terms and conditions in all respects as payments made under the provisions of said such section. No deduction shall be made for the amount which may have been paid for medical and hospital services and medicines or for the expenses of burial. If the employee dies from some cause other than the injury, there shall be no liability for compensation to accrue after his or her death.

Sec. 42. That section 48-124, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-124. The following persons shall be conclusively presumed to be dependent for support upon a deceased employee: (1) A wife upon a husband with whom she is living or upon whom she is actually dependent at the time of his injury or death; (2) a husband upon a wife with whom he is living or upon whom he is actually dependent at the time of her injury or death; and (3) a child or children under the age of eighteen years, or over said such age, if physically or mentally incapable of self-support, or any child eighteen years of age or over who is actually dependent, or any child between eighteen and twenty-five years of age who is enrolled as a full-time student in any accredited educational institution.

The term child shall include a posthumous child, a child legally adopted or for whom adoption proceedings are pending at the time of death, an actually dependent child in relation to whom the deceased employee stood in the place of a parent for at least one year prior to the time of death, an actually dependent stepchild or an actually dependent illegitimate child. Child shall not include a married child unless receiving substantially entire support from the employee. Grandchild shall mean a child, as above defined, of a child, as above defined, except that as to the latter child, the limitations as to age in the above definition do not apply.

Brother or sister shall mean a brother or sister under eighteen years of age, or eighteen years of age or over and physically or mentally incapable of self-support, or eighteen years of age or over and actually dependent. The terms brother and sister shall include stepbrothers and stepsisters, half brothers and half sisters, and brothers and sisters by adoption; but shall not include married brothers or married sisters unless receiving substantially entire support from the employee.

Parent shall mean a mother or father, a

stepparent, a parent by adoption, a parent-in-law, and any person who for more than one year immediately prior to the death of the employee stood in the place of a parent to him or her, if actually dependent in each case.

Actually dependent shall mean dependent in fact upon the employee, and shall refer only to a person who received more than half of his or her support from the employee and whose dependency is not the result of failure to make reasonable efforts to secure suitable employment. When used as a noun, the word dependent shall mean any person entitled to death benefits. No person shall be considered a dependent, unless he or she be a member of the family of the deceased employee, or bears to him or her the relation of widow, widower, lineal descendant, ancestor, brother, or sister. Questions as to who constitute dependents and the extent of their dependency shall initially be determined as of the date of the accident to the employee, and the death benefit shall be directly recoverable by and payable to the dependent or dependents entitled thereto, or their legal guardians or trustees. No dependent of any injured employee shall be deemed, during the life of such employee, a party in interest to any proceeding by him or her for the enforcement or collection of any claim for compensation, nor as respects the compromise thereof by such employee.

Sec. 43. That section 48-125, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-125. (1) Except as hereinafter provided, all amounts of compensation payable under the ~~provisions of this act~~ Nebraska Workers' Compensation Act shall be payable periodically in accordance with the methods of payment of wages of the employee at the time of the injury or death; PROVIDED, fifty per cent shall be added for waiting time for all delinquent payments after thirty days' notice has been given of disability. Whenever the employer refuses payment, or when the employer neglects to pay compensation for thirty days after injury, and proceedings are held before the ~~compensation court~~ Nebraska Workers' Compensation Court, a reasonable attorney's fee shall be allowed the employee by the compensation court in all cases when the employee receives an award. If the employer files an application for a rehearing before the compensation court from an award of a judge of the compensation court and fails to obtain any reduction in the amount of such award, the compensation court shall allow the employee a

reasonable attorney's fee to be taxed as costs against the employer for such rehearing, and the Supreme Court shall in like manner allow the employee a reasonable sum as attorney's fees for the proceedings in ~~that court the~~ Supreme Court. If the employee files an application for a rehearing before the compensation court from an order of a judge of the compensation court denying an award and obtains an award or if the employee files an application for a rehearing before the compensation court from an award of a judge of the compensation court ~~where~~ when the amount of compensation due is disputed and obtains an increase in the amount of such award, the compensation court may allow the employee a reasonable attorney's fee to be taxed as costs against the employer for such rehearing, and the Supreme Court may in like manner allow the employee a reasonable sum as attorney's fees for the proceedings in ~~such court the~~ Supreme Court. A reasonable attorney's fee allowed pursuant to this section shall not affect or diminish the amount of the award.

(2) When an attorney's fee is allowed pursuant to this section, there shall further be assessed against the employer an amount of interest on the final award obtained, computed from the date compensation was payable, as provided in section 48-119, at a rate equal to the rate of interest allowed per annum under section 45-104.01, as such rate may from time to time be adjusted by the Legislature. Interest shall apply only to those weekly compensation benefits awarded which have accrued at the time payment is made by the employer. If the employer pays or tenders payment of compensation, the amount of compensation due is disputed, and the award obtained is greater than the amount paid or tendered by the employer, the assessment of interest shall be determined solely upon the difference between the amount awarded and the amount tendered or paid.

Sec. 44. That section 48-125.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-125.01. Any employer who knowingly transfers, sells, encumbers, assigns, or in any manner disposes of, conceals, secretes, or destroys any property or records belonging to such employer, after one of his or her employees has been injured within the purview of ~~Chapter 48, article 1~~ the Nebraska Workers' Compensation Act, and with intent to avoid the payment of compensation under ~~Chapter 48, article 17~~ such act to such employee or his or her dependents, shall be guilty of a Class I misdemeanor. In any case ~~where~~ when such

employer is a corporation, any officer or employee thereof, if knowingly participating or acquiescing in the act with intent to avoid the payment of compensation under Chapter 48, article 1 the Nebraska Workers' Compensation Act, shall be also individually guilty of a Class I misdemeanor as well as jointly and severally liable with such corporation for any fine imposed upon the corporation.

Sec. 45. That section 48-126, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-126. Wherever in this act the Nebraska Workers' Compensation Act the term wages is used, it shall be construed to mean the money rate at which the service rendered is recompensed under the contract of hiring in force at the time of the accident. It shall not include gratuities received from the employer or others, nor shall it include board, lodging, or similar advantages received from the employer, unless the money value of such advantages shall have been fixed by the parties at the time of hiring, except, PROVIDED, that if the insurance carrier shall have collected a premium based upon the value of such board, lodging, and similar advantages, then the value thereof shall become a part of the basis of determining compensation benefits. In occupations involving seasonal employment or employment dependent upon the weather, the employee's weekly wages shall be taken to be one-fiftieth of the total wages which he or she has earned from all occupations during the year immediately preceding the accident, unless it be shown that during such year, by reason of exceptional causes, such method of computation does not fairly represent the earnings of the employee. In such a case, the period for calculation shall be extended so far as to give a basis for the fair ascertainment of his or her average weekly earnings. In continuous employments, if immediately prior to the accident the rate of wages was fixed by the day or hour or by the output of the employee, his or her weekly wages shall be taken to be his or her average weekly income for the period of time ordinarily constituting his or her week's work, and using as the basis of calculation his or her earnings during as much of the preceding six months as he or she worked for the same employer, except as provided by the provisions of in sections 48-121 and 48-122. The calculation shall also be made with reference to the average earnings for a working day of ordinary length and exclusive of earnings from overtime; PROVIDED, that if the insurance company's policy of insurance provides

for the collection of a premium based upon such overtime, then such overtime shall become a part of the basis of determining compensation benefits.

Sec. 46. That section 48-127, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-127. If the employee is injured by reason of his or her intentional willful negligence, or by reason of being in a state of intoxication, neither he or she nor his or her beneficiaries shall receive any compensation under the provisions of this act Nebraska Workers' Compensation Act.

Sec. 47. That section 48-128, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-128. If an employee who has a preexisting permanent partial disability whether from compensable injury or otherwise, which is or is likely to be a hindrance or obstacle to his or her obtaining employment or obtaining reemployment if the employee should become unemployed and which was known to the employer prior to the occurrence of a subsequent compensable injury, receives a subsequent compensable injury resulting in additional permanent partial or in permanent total disability so that the degree or percentage of disability caused by the combined disabilities is substantially greater than that which would have resulted from the last injury, considered alone and of itself; and if the employee is entitled to receive compensation on the basis of the combined disabilities, the employer at the time of the last injury shall be liable only for the degree or percentage of disability which would have resulted from the last injury had there been no preexisting disability, and for the additional disability the employee shall be compensated out of a special trust fund created for that purpose, which sum so set aside shall be known as the Second Injury Fund. If the subsequent compensable injury of such an employee shall result in the death of the employee and it shall be determined that the death would not have occurred except for such preexisting permanent partial disability, the employer shall pay the compensation benefits prescribed by this section for a period not exceeding three hundred twenty-five weeks and for any compensation benefits payable after such period of three hundred twenty-five weeks, the dependents shall be compensated out of the Second Injury Fund.

In order to qualify under this section, the employer must establish by written records that the

employer had knowledge of the preexisting permanent partial disability at the time that the employee was hired, or at the time the employee was retained in employment after the employer acquired such knowledge.

As used in this section, preexisting permanent partial disability shall mean any preexisting permanent condition, whether congenital or the result of injury or disease, of such seriousness as to constitute a hindrance or obstacle to obtaining employment or to obtaining reemployment if the employee should become unemployed.

No condition shall be considered a preexisting permanent partial disability under this section unless it would support a rating of twenty-five per cent loss of earning power or more or support a rating which would result in compensation payable for a period of ninety weeks or more for disability for permanent injury as computed under the provisions of subdivision (3) of section 48-121.

The Second Injury Fund shall be for the purpose of making payments in accordance with the provisions of this section. The State Treasurer shall be the custodian of the Second Injury Fund and all money and securities in the fund shall be held in trust by the State Treasurer and shall not be money or property of the state. The Second Injury Fund shall be raised and derived from the following source: Every insurance company which is transacting business in this state shall, on or before March 1 of each year, pay to the Director of Insurance an amount equal to one per cent of the gross amount of direct writing premiums received by it during the preceding calendar year for workmen's workers' compensation insurance business done in this state.

The computation of the amounts as provided in this section shall be made on forms furnished by the Department of Insurance, and shall be forwarded to the department together with a sworn statement by an appropriate fiscal officer of the company attesting the accuracy of the computation. The department shall furnish such forms to the companies prior to the end of the year for which the amounts are payable together with any information relative to the amounts as may be needed or desirable. Upon receipt of the payment, the director shall audit and examine the computations and satisfy himself or herself that the amounts have been properly paid in conformity with the provisions of this section.

The Director of Insurance, after notice and hearing pursuant to Chapter 44, article 23, may rescind or refuse to reissue the license of any company which

fails to remit the amounts due in conformity with the provisions of this section.

The Director of Insurance shall deposit the amounts paid, in conformity with the provisions of this section, with the State Treasurer for the benefit of the Second Injury Fund promptly upon completion of his or her audit and examination, and in no event later than May 1 of the year in which the amounts have been received, except that when there is a dispute as to the amount payable, the proceeds may not be deposited by the director with the State Treasurer until disposition of the controversy. One ; ~~PROVIDED, that one~~ per cent of the amount received shall be credited to the Department of Insurance to cover the costs of administration.

Every employer in the occupations described in section 48-106 who shall qualify as a self-insurer and who shall be issued a permit to self-insure shall furnish to the State Treasurer for the benefit of the Second Injury Fund an annual amount equal to one per cent of the prevailing premium rate which would be paid for a policy of workmen's workers' compensation insurance to insure such risk as provided in this section but in no event less than twenty-five dollars.

The amounts required to be paid by the insurance companies and self-insurers under this section shall be in addition to any other amounts, either in taxes, assessments, or otherwise, as required under any other law of this state.

The Nebraska Workmen's Workers' Compensation Court shall be charged with the conservation of the assets of the Second Injury Fund. In furtherance of this purpose the Attorney General shall appoint a member of his or her staff to represent the Second Injury Fund in all proceedings brought to enforce claims for or against the Second Injury Fund.

The State Treasurer, as custodian of the Second Injury Fund, shall furnish monthly to the Nebraska Workmen's Workers' Compensation Court a statement of such fund setting forth the balance thereof as of the beginning of each month, the income therefrom, and the sources thereof, the payments from such fund in itemized form, and the balance on hand as of the last day of the preceding month. The State Treasurer may receive and credit to the fund any sum or sums which may at any time be contributed to the state or the fund by the United States of America or any agency thereof to which the state may be or become entitled under any act of Congress or otherwise, by reason of any payment made from the fund.

When the fund shall equal or exceed four hundred thousand dollars, no further contributions thereto shall be required by employers or insurance carriers, but thereafter whenever the amount of the fund shall be reduced below two hundred thousand dollars, by reason of payments made pursuant to this section, or otherwise, or whenever the Nebraska Workmen's Workers' Compensation Court shall determine that payments likely to be made from the fund in the next succeeding year will probably cause the fund to be reduced below two hundred thousand dollars, the compensation court Nebraska Workmen's Compensation Court shall notify all self-insurers and the Director of Insurance, who shall notify all workmen's workers' compensation insurance carriers, that such contributions are forthwith to be resumed as of the date set in such notice and such contributions shall thereafter continue as provided in this section after the effective date of such notice, and such contributions shall thereafter continue until the fund shall again amount to four hundred thousand dollars. Out of said the Second Injury Fund, the additional compensation payments shall be made to such employee or dependent by the compensation court once each month in the same manner as the salaries of the employees of said the compensation court are paid. In all cases where when a claim is asserted by the state on behalf of the Second Injury Fund against an employer or employer's insurer under this section, or where when a claim is made against said the Second Injury Fund, the State of Nebraska shall be impleaded as a party plaintiff or defendant, as the case may require, and when so impleaded as a defendant, service of summons shall be had upon the Attorney General. It shall be the duty of the Attorney General to act as attorney for the state.

Any expenses necessarily incurred by the Second Injury Fund or by the Attorney General on behalf of the Second Injury Fund in any case where when a claim is asserted by the state on behalf of the Second Injury Fund against an employer or employer's insurer under this section, or when a claim is made against the Second Injury Fund, may be paid out of the Second Injury Fund. Such expenses may be taxed as costs and recovered by the Second Injury Fund in any such case in which the Second Injury Fund prevails.

Sec. 48. That section 48-129, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-129. In case any employee for whose injury

or death compensation is payable under this act, the Nebraska Workers' Compensation Act shall, at the time of the injury, be employed and paid jointly by two or more employers, as defined in section 48-114, such employers shall contribute to the payment of such compensation in proportion to their several wage liabilities to such employee. If one or more, but not all, of such employers should be subject to the provisions of sections 48-109 to 48-147 Nebraska Workers' Compensation Act, then the liability of such of them as are so subject shall be to pay that proportion of the entire compensation which their proportionate wage liability bears to the entire wages of the employee, except that ~~PROVIDED, HOWEVER,~~ nothing in this section shall prevent employers from making any arrangement between themselves for a different distribution of the ultimate burden of compensation.

Sec. 49. That section 48-130, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-130. No savings or insurance of the injured employee, or any contribution made by him or her to any benefit fund or protective association independent of this act the Nebraska Workers' Compensation Act shall be taken into consideration in determining the compensation to be paid thereunder; nor shall benefits derived from any other source than those paid or caused to be paid by the employer as herein provided, be considered in fixing compensation under this such act.

Sec. 50. That section 48-131, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-131. No agreement by an employee to waive his or her rights to compensation under this act the Nebraska Workers' Compensation Act shall be valid.

Sec. 51. That section 48-132, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-132. If an injured employee or a dependent is mentally incompetent or is a minor at the time when any right or privilege accrues to him or her under this act the Nebraska Workers' Compensation Act, his or her guardian or next friend may, in his or her behalf, claim and exercise such right or privilege.

Sec. 52. That section 48-133, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-133. No proceedings for compensation for

an injury under this act the Nebraska Workers' Compensation Act shall be maintained unless a notice of the injury shall have been given to the employer as soon as practicable after the happening thereof; PROVIDED, that all disputed claims for compensation or benefits shall be first submitted to the compensation court Nebraska Workers' Compensation Court. The notice shall be in writing, and shall state in ordinary language the time, place, and cause of the injury. It shall be signed by the person injured, or by a person in his or her behalf, or in the event of his or her death, by his or her legal representative or by a person in his or her behalf. The notice shall be served upon the employer or an agent thereof. Such service may be made by delivering the notice to the person on whom it is to be served, or leaving it at his or her residence or place of business, or by sending it by registered mail addressed to the person or corporation on whom it is to be served at his or her last-known residence or place of business. A notice given under the provisions of pursuant to this section shall not be held invalid or insufficient by reason of any inaccuracy in stating the time, place, or cause of the injury, unless it is shown that it was the intention to mislead, and the employer, or the insurance company carrying such risk, as the case may be, was in fact misled thereby. Want of such written notice shall not be a bar to proceedings under this act the Nebraska Workers' Compensation Act, if it be shown that the employer had notice or knowledge of the injury.

Sec. 53. That section 48-134, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-134. After an employee has given notice of an injury, as provided in section 48-133, and from time to time thereafter during the continuance of his or her disability, he or she shall, if so requested by the employer or the insurance company carrying such risk, submit himself or herself to an examination by a physician or surgeon legally authorized to practice medicine under the laws of the state in which he or she practices, furnished and paid for by the employer, or the insurance company carrying such risk, as the case may be. The employee shall have the right to have a physician provided and paid for by himself or herself present at the examination. The unreasonable refusal of the employee to submit to such examination shall deprive him or her of the right to compensation under this act the Nebraska Workers' Compensation Act during the

continuance of such refusal, and the period of such refusal shall be deducted from the period during which compensation would otherwise be payable.

Sec. 54. That section 48-136, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-136. The interested parties shall have the right to settle all matters of compensation between themselves with the consent of the insurance carrier, if any, and in accordance with the provisions of this act Nebraska Workers' Compensation Act: PROVIDED, that a copy of such settlement, duly verified by all parties, shall be filed with the compensation court Nebraska Workers' Compensation Court and no such settlement shall be binding unless the settlement is in accord accordance with such the provisions of this act.

Sec. 55. That section 48-137, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-137. In case of personal injury, all claims for compensation shall be forever barred unless, within two years after the accident, the parties shall have agreed upon the compensation payable under this act the Nebraska Workers' Compensation Act, or unless, within two years after the accident, one of the parties shall have filed a petition as provided in section 48-173. In case of death, all claims for compensation shall be forever barred unless, within two years after the death, the parties shall have agreed upon the compensation under this act the Nebraska Workers' Compensation Act, or unless, within two years after the death, one of the parties shall have filed a petition as provided in section 48-173. When payments of compensation have been made in any case, such limitation shall not take effect until the expiration of two years from the time of the making of the last payment. In the event of legal disability of an injured employee or his or her dependent such limitation shall not take effect until the expiration of two years from the time of removal of such legal disability.

Sec. 56. That section 48-138, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-138. The amounts of compensation payable periodically under the law by agreement of the parties with the approval of the compensation court, Nebraska Workers' Compensation Court may be commuted to one or more lump-sum payments, except compensation due for death and permanent disability, which may be commuted

only upon the order or decision of the compensation court and the district court; PROVIDED, that where commutation is agreed upon, or ordered by the court pursuant to this section, the lump sum to be paid shall be fixed at an amount which will equal the total sum of the probable future payments, capitalized at their present value upon the basis of interest calculated at five per cent per annum with annual rests. Upon paying such amount, the employer shall be discharged from all further liability on account of the injury or death, and be entitled to a duly executed release, upon filing which, or other due proof of payment, the liability of such employer under any agreement, award, findings, or decree shall be discharged of record.

Sec. 57. That section 48-139, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-139. Whenever an injured employee or his or her dependents and the employer agree that the amounts of compensation due as periodic payments for death, permanent disability, or claimed permanent disability, under this act the Nebraska Workers' Compensation Act, shall be commuted to one or more lump-sum payments, such settlement or agreement therefor shall be submitted to the Nebraska Workmen's Workers' Compensation Court, in the following manner: An application for the approval of such settlement, and a duplicate original of such application, both signed and verified by both parties, shall be filed with the clerk of the court, Nebraska Workers' Compensation Court and shall be entitled the same as an action by such employee or dependents against such employer and shall contain a concise statement of the terms of the settlement sought to be approved, together with a brief statement of the facts concerning the injury, the nature thereof, the wages received by the injured employee prior thereto, and the nature of the employment. If such application is approved by the Nebraska Workmen's Workers' Compensation Court, the application shall be submitted to a judge of the district court in the county in which the accident occurred unless otherwise stipulated by all the parties, but if the accident occurred outside of the State of Nebraska, the application shall, unless otherwise stipulated by all the parties, be submitted to the district court of Lancaster County. The judge of the district court, immediately, or within one week after the filing of such application, unless there be good cause for continuance, at chambers or in open court and in or out of term time, shall hold a hearing on the

application, and proof may be adduced, and witnesses subpoenaed and examined the same as in an action in equity. If, after such inquiry, the district court finds such settlement is made in conformity with the compensation schedule and for the best interests of the employee or his or her dependents under all the circumstances, and if such application has been approved by the Nebraska Workmen's Compensation Court compensation court, ~~it~~ the district court shall make an order approving the same. If such agreement or settlement be not approved, the district court may dismiss the application at the cost of the employer or continue the hearing, in the discretion of the district court. The fees of the clerk of the district court for filing, docketing, and indexing such application shall be ten dollars. Every such lump-sum settlement shall be final and conclusive unless procured by fraud. After the application is acted upon by the district court, a copy of the order of the district court shall be filed immediately with the Nebraska Workmen's Compensation Court compensation court by the employer or insurer.

Sec. 58. That section 48-140, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-140. All settlements by agreement of the parties with the approval of the compensation court Nebraska Workers' Compensation Court and all awards of compensation made by the compensation court, except those amounts payable periodically for six months or more, shall be final and not subject to readjustment; PROVIDED, no settlement shall be final unless it be in conformity with the provisions of this act Nebraska Workers' Compensation Act and approval by and a finding by the compensation court and the district court or any appellate court.

Sec. 59. That section 48-141, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-141. All amounts paid by an employer or by an insurance company carrying such risk, as the case may be, and received by the employee or his or her dependents, by lump-sum payments, shall be final, but the amount of any agreement or award payable periodically for six months or more may be modified as follows: (a) (1) At any time by agreement of the parties with the approval of the compensation court Nebraska Workers' Compensation Court; or (b) (2) if the parties cannot agree, then at any time after six months from the date of the agreement or award, an application

may be made by either party on the ground of increase or decrease of incapacity due solely to the injury or that the condition of a dependent has changed as to age or marriage, or by reason of the death of the dependent. In such case, the same procedure shall be followed as in sections 48-173 to 48-185 in case of disputed claim for compensation.

Sec. 60. That section 48-142, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-142. At any time after the amount of any award has been agreed upon by the parties and approved by the Nebraska ~~Workmen's~~ Workers' Compensation Court, a sum equal to the present value of all future installments of compensation may, ~~where~~ when death or the nature of the injury renders the amount of future payments certain, by leave of the compensation court, be paid by the employer, or by the insurance company carrying such risk, as the case may be, to any savings bank or trust company of this state, in good standing, and such sum together with all interest thereon, shall thereafter be held in trust for the employee or the dependents of the employee, who shall have no further recourse against the employer. The payment of such sum by the employer, evidenced by the receipt of the trustee to be filed with the compensation court, shall operate as a satisfaction of such award as to the employer. Payments from such fund shall be made by the trustee in the same amounts and at the same time as are herein required of the employer until the fund and interest shall be exhausted. In the appointment of the trustee, preference shall be given, in the discretion of the compensation court, to the choice of the injured employee or the dependents of the deceased employee as the case may be.

Sec. 61. That section 48-143, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-143. In case of death, where no executor or administrator is qualified, the Nebraska ~~Workmen's~~ Workers' Compensation Court shall, by order, direct payment to be made to such person as would be appointed administrator of the estate of such decedent, upon like terms as to bond for the proper application of compensation payments as are required of administrators.

Sec. 62. That section 48-144, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-144. Reports of accidents and settlements

shall be made in form and manner as prescribed and directed by the ~~compensation court~~ Nebraska Workers' Compensation Court. Such reports, if filed by an insurance company on behalf of an employer, shall be deemed to have been filed by the employer. When an injury results in the death of an employee who is a citizen or subject of a foreign country, the compensation court shall, after death has been reported to it, at once notify the superior consular officer of the country of which the employee at the time of his or her death was a citizen or subject, and whose consular district embraces the State of Nebraska, or the representative, residing in the State of Nebraska, of such consular officer, whom he or she shall have formally designated as his or her representative by a communication in writing to the compensation court. Such notification shall contain in addition to the name of the employee such further information as the compensation court may possess respecting the place of birth, parentage, and names and addresses of the dependents of the employee.

Sec. 63. That section 48-144.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-144.01. In every case of reportable injury occurring in the course of employment, the employer or insurance carrier shall file a report thereof with the ~~compensation court~~ Nebraska Workers' Compensation Court. Such report shall be filed within forty-eight hours in case of each injury resulting in either a death or in the hospitalization of five or more employees from one accident and within seven days in case of all other reportable injuries after the employer or insurance carrier has been given notice or has knowledge of any such injury. Reportable injuries are any occupational injuries or illnesses which result in: (1) Fatalities regardless of the time between the injury and death, or the length of the illness; (2) lost workday cases, other than fatalities that result in lost workdays; or (3) nonfatal cases without lost workdays which result in transfer to another job or termination of employment, or require medical treatment, or involve loss of consciousness or restriction of work or motion and include any diagnosed occupational illnesses which are reported to the employer but which are not classified as fatalities or lost workday cases. Medical treatment as used in this section shall include treatment administered by a physician or by registered professional personnel under the standing orders of a

physician but shall not include ~~first aid~~ first-aid treatment such as one-time treatment and subsequent observation of minor scratches, cuts, burns, and splinters which do not ordinarily require medical care even though provided by a physician or registered professional personnel. Lost workdays as used in this section shall mean the number of days, whether consecutive or not, after but not including the day of injury or illness during which the employee would have worked but could not do so or could not perform all or any part of his or her normal assignment during all or any part of the workday or shift, because of the occupational injury or illness.

Sec. 64. That section 48-144.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-144.02. Whenever any insurance carrier shall write a policy of ~~workmen's workers'~~ workers' compensation insurance under ~~this act the Nebraska Workers' Compensation Act~~, such carrier shall file a report showing the name and address of the insured employer, the name of the insurance carrier, the policy number, the effective date and expiration date of such policy, and such other information as the ~~compensation court~~ Nebraska Workers' Compensation Court may require. Such report shall be filed with the compensation court within ten days of the effective date of such policy.

Sec. 65. That section 48-144.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-144.03. If the insurer or employer intends to cancel a contract or policy of insurance issued by the insurer under ~~this act the Nebraska Workers' Compensation Act~~ within the policy period, he or she shall give notice to such effect in writing to the ~~compensation court~~ Nebraska Workers' Compensation Court and to the other party, fixing the date on which it is proposed that such cancellation be effective. Such notices shall be served personally on or sent by certified mail to the compensation court and the other party. No such cancellation shall be effective until ten days after the mailing of such notice, unless the employer has secured insurance with another carrier which would cause double coverage. In such event the cancellation shall be made effective as of the effective date of such other insurance.

In any case when the employer gives notice to the insurer that he or she intends to cancel a contract or policy of insurance issued by the insurer under

Chapter 48, article 1, the Nebraska Workers' Compensation Act within the policy period, the insurer shall immediately notify the Nebraska Workmen's Workers' Compensation Court that such policy is being canceled by the employer and the date on which it is proposed that such cancellation be effective.

Sec. 66. That section 48-144.04, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-144.04. Any employer or insurance carrier who fails, neglects, or refuses to file any report required of him or her by the compensation court Nebraska Workers' Compensation Court shall be guilty of a Class II misdemeanor for each such failure, neglect, or refusal. It shall be the duty of the Attorney General to act as attorney for the state. In addition to the penalty, where an employer or insurance carrier has been given notice, or the employer or the insurance carrier has knowledge, of any injury or death of an employee and fails, neglects, or refuses to file a report thereof, the limitations in sections 48-128 and 48-137 shall not begin to run against the claim of the injured employee or his or her dependents entitled to compensation or against the State of Nebraska on behalf of the Second Injury Fund, or in favor of either the employer or the insurance carrier until such report shall have been furnished as required by the compensation court.

Sec. 67. That section 48-145, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-145. To secure the payment of compensation under this act the Nebraska Workers' Compensation Act:

(1) Every employer in the occupations described in section 48-106 shall either (a) insure and keep insured his or her liability under this such act in some corporation, association, or organization authorized and licensed to transact the business of workmen's workers' compensation insurance in this state, or (b) as a self-insurer furnish to the State Treasurer an annual amount equal to two per cent of the prevailing premium rate which would be paid for like employment to any corporation, association, or organization, for carrying such risk as provided in this section but in no event less than twenty-five dollars. He or she shall also furnish to the compensation court Nebraska Workers' Compensation Court satisfactory proof of his or her financial ability to pay direct the compensation in the amount and manner when due as provided for in this act

the Nebraska Workers' Compensation Act. In the latter case the compensation court may in its discretion require the deposit of an acceptable security, indemnity, or bond to secure the payment of compensation liabilities as they are incurred. The compensation court may in its discretion withdraw such approval as a self-insurer at any time; -

(2) All money which a self-insurer is required to pay to the State Treasurer, under the provisions of subsection subdivision (1) of this section, shall be computed and tabulated under oath as of January 1; and paid to the State Treasurer immediately thereafter. The compensation court Nebraska Workers' Compensation Court, any member judge thereof, or any representative of the compensation court is empowered to audit any such payroll at its discretion. The compensation court shall be the sole judge as to what is the prevailing premium rate; and -

(3) Every employer who fails, neglects, or refuses to comply with the conditions set forth in subsections subdivision (1) or (2) of this section shall be required to respond in damages to an employee for personal injuries, or where when personal injuries result in the death of an employee, then to his or her dependents. All money paid by an employer to the State Treasurer, under the provisions of subsections subdivisions (1) and (2) of this section, shall be credited to the General Fund of the State of Nebraska, except that; PROVIDED, the provisions of subsections subdivisions (1) and (2) of this section, shall not apply to the State of Nebraska.

Sec. 68. That section 48-145.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-145.01. Any employer required to secure the payment of compensation under this act the Nebraska Workers' Compensation Act who willfully fails to secure the payment of such compensation shall be guilty of a Class I misdemeanor. In any case where when the employer is a corporation, any officer or employee of the corporation who had authority to secure payment of compensation on behalf of the corporation and willfully failed to do so shall be individually guilty of a Class I misdemeanor and such officer or employee shall be personally liable jointly and severally with such corporation for any compensation which may accrue under Chapter 48, article 1, the Nebraska Workers' Compensation Act in respect to any injury which may occur to any employee of such corporation while it shall

so fail to secure the payment of compensation as required by section 48-145. If an employer who is subject to the Workmen's Compensation Act Nebraska Workers' Compensation Act does not carry workmen's workers' compensation insurance nor qualify as a self-insurer, he or she may also be enjoined from doing business in this state until he or she complies with the provisions of subsection subdivision (1) of section 48-145. If ; PROVIDED; that if a temporary injunction is granted at the request of the State of Nebraska, no bond shall be required to make the injunction effective.

Sec. 69. That section 48-145.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-145.02. Every employer shall upon request of the Nebraska Workmen's Workers' Compensation Court report to it the number of his or her employees and the nature of their work and also the name of the insurance company with whom he or she has insured his or her liability under the Workmen's Nebraska Workers' Compensation Act and the number and date of expiration of such policy. Failure to furnish such report within ten days from the making of a request by certified or registered mail shall constitute presumptive evidence that the delinquent employer is violating the provisions of section 48-145.01.

Sec. 70. That section 48-145.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-145.03. Sections 48-125.01, 48-145.01, and 48-145.02 shall not affect any other liability of the employer under Chapter 48, article 1 the Nebraska Workers' Compensation Act.

Sec. 71. That section 48-146, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-146. No policy of insurance against liability arising under this act the Nebraska Workers' Compensation Act shall be issued unless it contains the agreement of the insurer that it will promptly pay to the person entitled to the same all benefits conferred by this such act, and all installments of the compensation that may be awarded or agreed upon, and that the obligation shall not be affected by the insolvency or bankruptcy of the employer or his or her estate or discharge therein or by any default of the insured after the injury, or by any default in the giving of any notice required by such policy, or otherwise. Such agreement shall be construed to be a

direct promise by the insurer to the person entitled to compensation enforceable in his or her name. Every policy for the insurance of the compensation herein provided, or against liability thereof, shall be deemed to be made subject to the provisions of this act Nebraska Workers' Compensation Act. No corporation, association, or organization shall enter into any such policy of insurance unless copies of such forms have been filed with and approved by the Department of Insurance. All policies insuring the payment of compensation under this act the Nebraska Workers' Compensation Act must contain a clause to the effect (1) that as between the employer and the insurer the notice to or knowledge of the occurrence of the injury on the part of the insured shall be deemed notice or knowledge, as the case may be, on the part of the insurer, (2) that jurisdiction of the insured for the purpose of this such act shall be jurisdiction of the insurer, and (3) that the insurer shall in all things be bound by the awards, judgments, or decrees rendered against such insured. All such policies insuring the payment of compensation shall include within their terms the payment of compensation to all employees, officers, or workmen workers who are within the scope and purview of this act the Nebraska Workers' Compensation Act.

Sec. 72. That section 48-146.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-146.01. The Director of Insurance, after consultation with carriers authorized to issue workmen's workers' compensation policies in this state, shall put into effect a reasonable system for the equitable apportionment among such carriers of applicants for such policies who are in good faith entitled to but are unable to procure such policies through ordinary methods. Such system shall be so drawn as to guarantee that such an applicant, if not in default on workmen's workers' compensation premiums, shall be covered by workmen's workers' compensation insurance following his or her application to the assigned risk system and tender of required premium. When any such system has been approved, all such carriers shall subscribe thereto and participate therein. Assignment shall be in such manner that, as far as practicable, no carrier shall be assigned a larger proportion of compensation premiums under assigned policies during any calendar year than that which the total of compensation premiums written in the state by such carrier during the preceding year bears to the total compensation premiums written in the

state by all such carriers during the preceding calendar year.

Sec. 73. That section 48-146.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-146.02. If the ~~compensation court~~ Nebraska Workers' Compensation Court shall find, after due notice and hearing at which the insurance organization shall be entitled to be heard in person or by counsel and present evidence, that such organization has repeatedly failed to comply with its obligations under the provisions of Chapter 48, article 1 the Nebraska Workers' Compensation Act, it may request the Director of Insurance to suspend or revoke the authorization of such organization to write ~~workmen's workers'~~ workers' compensation insurance under the provisions of Chapter 44 and Chapter 48, article 1 such act. Such suspension or revocation shall not affect the liability of any such organization under policies in force prior to the suspension or revocation.

Sec. 74. That section 48-147, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-147. Nothing in ~~this act~~ the Nebraska Workers' Compensation Act shall affect any existing contract for employer's liability insurance, or affect the organization of any mutual or other insurance company, or any arrangement existing between employers and employees, providing for payment to such employees, their families, dependents, or representatives, sick, accident, or death benefits in addition to the compensation provided for by ~~this such~~ such act; but liability for compensation under ~~this such~~ such act shall not be reduced or affected by any insurance of the injured employee, or any contribution or other benefit whatsoever, due to or received by the person entitled to such compensation, and the person so entitled shall, irrespective of any insurance or other contract, have the right to recover the same directly from the employer, and in addition thereto, the right to enforce in his ~~or her~~ or her own name in the manner provided in section 48-146 the liability of any insurer who may, in whole or in part, have insured the liability for such compensation. Payment; PROVIDED, payment in whole or in part of such compensation by either the employer or the insurer, as the case may be, shall, to the extent thereof, be a bar to recovery against the other, of the amount so paid. No agreement by an employee to pay any portion of premium paid by his ~~or her~~ or her employer or to contribute to a benefit fund or department maintained by

such employer for the purpose of providing compensation as required by this act the Nebraska Workers' Compensation Act shall be valid, and any employer who makes a deduction for such purpose from the pay of any employee entitled to the benefits of this such act shall be guilty of a Class II misdemeanor.

Sec. 75. That section 48-148, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-148. If any employee, or his or her dependents in case of death, of any employer subject to the Nebraska Workers' Compensation Act provisions of sections 48-109 to 48-147 files any claim with, or accepts any payment from such employer, or from any insurance company carrying such risk, on account of personal injury, or makes any agreement, or submits any question to the ~~court~~ Nebraska Workers' Compensation Court under said sections such act, such action shall constitute a release to such employer of all claims or demands at law, if any, arising from such injury.

Sec. 76. That section 48-149, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-149. No payments under this act the Nebraska Workers' Compensation Act shall be assignable or subject to attachment or garnishment, or be held liable in any way for any debts, except as provided in section 48-108.

Sec. 77. That section 48-150, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-150. The right to compensation and all compensation awarded any injured employee or for death claims to his or her dependents in any amount shall have the same preference against the assets of the employer as unpaid wages for labor, but such compensation shall not become a lien on the property of third persons by reason of such preference.

Sec. 78. That section 48-151, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-151. Throughout this act the Nebraska Workers' Compensation Act, the following words and phrases as used therein shall be considered to have the following meaning, respectively, unless the context shall clearly indicate a different meaning in the construction used:

(1) The term physician shall include surgeon and in either case shall mean one legally authorized to

practice his or her profession within the State of Nebraska and who is in good standing in his or her profession at the time; -

(2) The word accident as used in the Nebraska Workers' Compensation Act ~~this act~~ shall, unless a different meaning is clearly indicated by the context, be construed to mean an unexpected or unforeseen injury happening suddenly and violently, with or without human fault, and producing at the time objective symptoms of an injury. The claimant shall have a burden of proof to establish by a preponderance of the evidence that such unexpected or unforeseen injury was in fact caused by the employment. There shall be no presumption from the mere occurrence of such unexpected or unforeseen injury that the injury was in fact caused by the employment; -

(3) The term occupational disease shall mean only a disease which is due to causes and conditions which are characteristic of and peculiar to a particular trade, occupation, process, or employment and shall exclude all ordinary diseases of life to which the general public ~~are~~ is exposed; -

(4) The terms injury and personal injuries shall mean only violence to the physical structure of the body and such disease or infection as naturally results therefrom. The terms shall include disablement resulting from occupational disease arising out of and in the course of the employment in which the employee was engaged and which was contracted in ~~said~~ such employment. The terms shall include an aggravation of a preexisting occupational disease, the employer being liable only for the degree of aggravation of the preexisting occupational disease. The terms shall not be construed to include disability or death due to natural causes but occurring while the employee is at work, nor to mean an injury, disability, or death that is the result of a natural progression of any preexisting condition; -

(5) Death, when mentioned as a basis for the right to compensation, means shall mean only death resulting from such violence and its resultant effects or from occupational disease; -

(6) Without otherwise affecting either the meaning or the interpretation of the abridged clause, personal injuries arising out of and in the course of employment, it is hereby declared: Not to cover workmen workers except while engaged in, on, or about the premises where their duties are being performed, or where their service requires their presence as a part of such service at the time of the injury, and during the

hours of service as such workmen workers, and not to cover workmen workers who, on their own initiative, leave their line of duty or hours of employment for purposes of their own; -

(7) For the purpose of this act the Nebraska Workers' Compensation Act, willful negligence shall consist of (a) a deliberate act, (b) such conduct as evidences reckless indifference to safety, or (c) intoxication at the time of the injury, such intoxication being without the consent, knowledge, or acquiescence of the employer or the employer's agent, and -

(8) Whenever in this act the Nebraska Workers' Compensation Act the singular is used, the plural shall be included; where when the masculine gender is used, the feminine shall be included.

(9) Whenever the words this act occur in sections 48-101 to 48-151, they shall be construed as referring exclusively to said sections-

Sec. 79. That section 48-152, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-152. Recognizing that (1) industrial relations between employers and employees within the State of Nebraska are affected with a vital public interest, (2) an impartial and efficient administration of the Nebraska Workmen's Workers' Compensation Act is essential to the prosperity and well-being of the state, and (3) suitable laws should be enacted for the establishing and for the preservation of such an administration of the said act Nebraska Workers' Compensation Act, there is hereby created, pursuant to the provisions of Article V, section 1, of the Constitution of the State of Nebraska, a court, consisting of six judges, to be selected or retained in office in accordance with the provisions of Article V, section 21, of the Constitution of the State of Nebraska and to be known as the Nebraska Workmen's Workers' Compensation Court, which court shall have authority to administer and enforce all of the provisions of the Nebraska Workmen's Workers' Compensation Act, and any amendments thereof except such as are committed to the courts of appellate jurisdiction.

Sec. 80. That section 48-152.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-152.01. The members of the judicial nominating commission for the Nebraska Workmen's Workers' Compensation Court shall be selected on a

statewide basis as provided in section 24-803.

Sec. 81. That section 48-153, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-153. The Nebraska Workmen's Workers' Compensation Court shall consist of six judges. Judges holding office on August 30, 1981, shall continue in office until expiration of their respective terms of office and thereafter for an additional term which shall expire on the first Thursday after the first Tuesday in January immediately following the first general election at which they are retained in office after August 30, 1981. Judge of the Nebraska Workers' Compensation Court shall include any person appointed to the office of judge of the Nebraska Workmen's Compensation Court prior to the effective date of this act, pursuant to Article V, section 21, of the Nebraska Constitution. Any person serving as a judge of the Nebraska Workmen's Compensation Court immediately prior to the effective date of this act shall be a judge of the Nebraska Workers' Compensation Court. Their right to continue in office shall be determined in the manner provided in sections 24-813 to 24-818, and the terms of office thereafter shall be for six years beginning on the first Thursday after the first Tuesday in January immediately following their retention at such election. In case of a vacancy occurring in the ~~court~~ Nebraska Workers' Compensation Court, the same shall be filled in accordance with the provisions of Article V, section 21, of the Constitution of the State of Nebraska and the right of any judge so appointed to continue in office shall be determined in the manner provided in sections 24-813 to 24-818. All such judges shall hold office until their successors are appointed and qualified, or until death, voluntary resignation, or removal for cause. No judge of the compensation court Nebraska Workmen's Compensation Court shall, during his or her tenure in office as judge, hold any other office or position of profit, pursue any other business or avocation inconsistent or which interferes with his or her duties as such judge, or serve on or under any committee of any political party. The judges of such the compensation court shall reside in Lancaster County, Nebraska, unless, for the convenience of the compensation court, they are permitted to reside elsewhere by a majority vote of the compensation court, but no such judge shall be deemed thereby to have lost his or her residence at the place from which he or she was selected unless he or she so chooses.

Sec. 82. That section 48-153.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-153.01. No person shall be eligible for the office of judge of the Nebraska ~~Workmen's~~ Workers' Compensation Court unless he or she:

- (1) Is at least thirty years of age;
- (2) Is a citizen of the United States;
- (3) Has been engaged in the practice of law in the State of Nebraska for at least five years, which may include prior service as a judge;
- (4) Is currently admitted to practice before the Nebraska Supreme Court; and
- (5) Is a resident of the State of Nebraska, and remains a resident of such state during the period of service.

This ~~act~~ section shall not apply to a person serving as a judge of the Nebraska Workmen's Compensation Court on August 24, 1979, who continues to serve as a judge of the Nebraska Workmen's Compensation Court after August 24, 1979, and prior to the effective date of this act, and who continues to serve as a judge of the Nebraska Workers' Compensation Court on and after the effective date of this act.

Sec. 83. That section 48-154, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-154. Any judge of the Nebraska ~~Workmen's~~ Workers' Compensation Court may be removed in the same manner and for the same causes as a judge of the district court may be removed.

Sec. 84. That section 48-155, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-155. The judges of the Nebraska ~~Workmen's~~ Workers' Compensation Court shall, on July 1 of every odd-numbered year by a majority vote, select one of their number as presiding judge for the next two years. The presiding judge may designate one of the other judges to act as presiding judge in his or her stead whenever necessary during the disqualification, disability, or absence of the presiding judge. The presiding judge shall preside at all rehearings held by the compensation court, make all rulings for the compensation court at such rehearings, rule on all matters submitted to the compensation court except those arising in the course of original hearings before a single judge, assign or direct the assignment of the work of the compensation court to the several judges and

employees thereof, preside at such meetings of the judges of the compensation court as may be necessary and perform such other supervisory duties as the needs of the compensation court may require. During the disqualification, disability, or absence of the presiding judge, the acting presiding judge shall exercise all of the powers of the presiding judge.

Sec. 85. That section 48-155.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-155.01. When any judge of the Nebraska ~~Workmen's~~ Workers' Compensation Court shall be disqualified from acting in any case or matter before him or her, is temporarily absent from the state, or shall be temporarily unable to act in any cause or matter before him or her because of sickness or other emergency, the Governor may appoint a competent and disinterested person to act in place of such judge in such case or other matter, during such disqualification, absence, or emergency. The person so appointed shall possess the same powers, and be subject to the duties, restrictions, and liabilities therein as are prescribed by law respecting judges of ~~such the compensation court.~~ The ; PROVIDED, that the Governor may, in his or her discretion, by a single order, appoint some competent and disinterested person to act as acting judge in the place of any judge of ~~such the compensation~~ court during all such disqualifications, absences, and emergencies. Such appointment shall be for a period of two years from July 1 of each odd-numbered year. The acting judge shall be paid a salary per diem at the same rate and in the same manner as the regularly appointed judges and expenses as provided in sections 84-306.01 to 84-306.05 for state employees, which shall be paid by the compensation court in the same manner as other compensation court expenses except that such acting judge shall not pay into the Nebraska Retirement Fund for Judges nor be eligible for retirement benefits under sections 24-701 to 24-714. The acting judge shall be subject to call by the presiding judge.

Sec. 86. That section 48-156, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-156. A majority of the judges of the Nebraska ~~Workmen's~~ Workers' Compensation Court shall constitute a quorum to adopt rules and regulations, as provided in sections 48-163 and 48-164, to transact business, except ~~where when~~ the statute or a rule adopted by the compensation court permits one ~~member~~

judge thereof to act, and three judges shall constitute a quorum for the rehearing of any disputed claim for compensation. The act or decision of a majority of the judges constituting such quorum shall in all such cases be deemed the act or decision of the compensation court.

Sec. 87. That section 48-157, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-157. The presiding judge of the Nebraska ~~Workmen's~~ Workers' Compensation Court shall appoint a clerk of ~~such court~~ the Nebraska Workers' Compensation Court, who shall hold office at the pleasure of the compensation court. The judge shall in like manner appoint such other assistants and employees as he or she may deem necessary to carry out the ~~provisions of sections 48-101 to 48-191~~ Nebraska Workers' Compensation Act, including rehabilitation specialists. The clerk shall, under the direction of the presiding judge, keep a full and true record of the proceedings of the compensation court; and record all pleadings and other papers filed with the compensation court, and no other action shall be taken thereon until the same have been recorded. The clerk shall in like manner issue all necessary notices and writs, superintend the clerical business of the compensation court, and perform such other duties as the presiding judge may direct. All other assistants and employees of the compensation court shall perform such duties, pertaining to the affairs thereof, as the compensation court may prescribe. The clerk may, under the direction of the presiding judge, microfilm any court record. The original record and other papers may be destroyed, but only with the approval of the State Records Administrator pursuant to sections 84-1201 to 84-1220. The reproduction of the microfilm shall be admissible as evidence in any court of record in the State of Nebraska and, when duly certified, shall be evidence of equal credibility with the original record.

Notices of hearings, notices of continuances, and summonses may be destroyed without microfilming after a record of their issuance has been made in the docket book. A reproduction of the page of the docket book or of the microfilm of the page of the docket book showing such record and, in the case of summonses, showing issuance or return of the summons, when duly certified, shall be evidence of equal credibility with the original notice or summons. Correspondence, exhibits, and other papers which the court Nebraska Workers' Compensation Court deems to be irrelevant,

unimportant, or superfluous may be destroyed without microfilming. The compensation court may charge a fee for the reproduction of documents from microfilm sufficient to pay the costs incurred by the compensation court in providing the service.

Sec. 88. That section 48-158, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-158. Each of the judges of the Nebraska ~~Workmen's~~ Workers' Compensation Court, and the clerk thereof, shall, before entering upon or discharging any of the duties of his ~~or her~~ ~~or their~~ office, be bonded under the blanket surety bond required by section 11-201 and such judges and clerk shall, before entering upon the duties of his ~~or their~~ ~~office~~ offices, take and subscribe the statutory oath of office.

Sec. 89. That section 48-159, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-159. (1) As soon as the same may be legally paid under the Constitution of Nebraska, each judge of the Nebraska ~~Workmen's~~ Workers' Compensation Court shall receive an annual salary of thirty-seven thousand fifty dollars, payable in the same manner as the salaries of other state officers are paid. On January 1, 1981, the salary shall be increased to an amount equal to six per cent over the base salary. For the purposes of this section, base salary shall mean the amount derived by increasing thirty-six thousand nine hundred fifty dollars by six per cent. On January 6, 1983, and thereafter the salary paid shall be an amount equal to eighty-five per cent of the salary set for the Chief Justice and Judges of the Supreme Court. The clerk and all other assistants and employees of the compensation court shall receive such salaries as the compensation court shall determine, but not to exceed the amount of the appropriation made by the Legislature for such purpose. Such salaries shall be payable in the same manner as the salaries of other state employees are paid. Such assistants and employees shall not receive any other salary or pay for their services from any other source.

(2) In addition to the salaries, as provided by subsection (1) of this section, the judges of the ~~court~~ Nebraska Workers' Compensation Court, the clerk, and other assistants and employees of the compensation court shall be entitled, while traveling on the business of the compensation court, to be reimbursed by the state for their necessary traveling expenses, consisting of

transportation, subsistence, lodging, and such other items of expense as are necessary, to be paid as provided in sections 84-306.01 to 84-306.05 for state employees.

Sec. 90. That section 48-159.08, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-159.08. Section 48-159 shall be so interpreted as to effectuate its general purpose, to provide, in the public interest, adequate compensation as therein provided for judges of the Nebraska Workmen's Workers' Compensation Court and to give effect to such salary as soon as same may become operative under the Constitution of the State of Nebraska.

Sec. 91. That section 48-160, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-160. The Nebraska Workmen's Workers' Compensation Court shall have a seal for the authentication of its orders, awards, judgments, summons, subpoenas, and other writs. The seal may be either an engraved or ink stamp seal, and shall bear the words Nebraska Workmen's Workers' Compensation Court--Official Seal, and shall be judicially noticed.

Sec. 92. That section 48-161, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-161. All disputed claims for workmen's workers' compensation shall be submitted to the Nebraska Workmen's Workers' Compensation Court for a finding, award, order, or judgment.

Sec. 93. That section 48-162, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-162. The Nebraska Workmen's Workers' Compensation Court, or any judge thereof, is authorized and empowered to examine under oath or otherwise any person, employee, employer, agent, superintendent, foreman, or officer of any copartnership or corporation, any officer of any domestic insurance company, any agent of any foreign insurance company, or any medical practitioner, to issue subpoenas for the appearance of witnesses and the production of books and papers, to solemnize marriages, and to administer oaths with like effect as is done in other courts of law in this state. In the examination of any witness and in requiring the production of books, papers, and other evidence, the compensation court shall have and exercise all of the powers of a judge, magistrate, or other officer in the

taking of depositions or the examination of witnesses, including the power to enforce his or her orders by commitment for refusal to answer or for the disobedience of any such order. The compensation court may establish a schedule of fees for services including, but not limited to, copying, preparation of forms and other material, responding to inquiries for information, and publications prepared by the compensation court. In establishing fees the compensation court shall consider costs for time, material, and delivery.

There is hereby created the Nebraska Workmen's Workers' Compensation Court Cash Fund. All sums of money received from fees pursuant to this section and sections 48-157 and 48-165 shall be paid to the State Treasurer and deposited in the Nebraska Workmen's Workers' Compensation Court Cash Fund. Money in such fund shall be used to fund the services described in this section and sections 48-157 and 48-165. Any money in the Nebraska Workmen's Compensation Court Cash Fund shall, on the effective date of this act, be transferred to the Nebraska Workers' Compensation Court Cash Fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1269.

Sec. 94. That section 48-162.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-162.01. (1) One of the primary purposes of ~~this act~~ the Nebraska Workers' Compensation Act shall be restoration of the injured employee to gainful employment. To this end the Nebraska Workmen's Workers' Compensation Court may employ one or more specialists in physical, medical, and vocational rehabilitation to be appointed by the presiding judge. Salaries, other benefits, and expenses incurred for purposes of vocational rehabilitation may be paid from the Vocational Rehabilitation Fund created under section 48-162.02.

(2) Such specialists shall continuously study the problems of rehabilitation, both physical and vocational, and shall investigate and maintain a directory of all rehabilitation facilities, both private and public, which have been approved by the ~~court~~ Nebraska Workers' Compensation Court. The compensation court shall approve as qualified such facilities, institutions, and physicians as are capable of rendering competent rehabilitation service to seriously injured employees. No facility or institution shall be considered as qualified unless it is specifically

equipped to provide rehabilitation services for persons suffering from either some specialized type of disability or some general type of disability within the field of occupational injury and is staffed with trained and qualified personnel, and, with respect to physical rehabilitation, unless it is supervised by a physician qualified to render such service. No physician shall be considered qualified unless he or she has had the experience and training specified by the compensation court.

(3) An employee who has suffered an injury covered by ~~sections 48-101 to 48-151~~ the Nebraska Workers' Compensation Act shall be entitled to prompt medical and physical rehabilitation services. When as a result of the injury an employee is unable to perform work for which he or she has previous training or experience, he or she shall be entitled to such vocational rehabilitation services, including retraining and job placement, as may be reasonably necessary to restore him or her to suitable employment. If such services are not voluntarily offered and accepted, the ~~court~~ Nebraska Workers' Compensation Court or any judge thereof on its or his or her own motion, or upon application of the employee or employer, and after affording the parties an opportunity to be heard by the compensation court or judge thereof, may refer the employee to a qualified physician or facility for evaluation and report of the practicability of, need for, and kind of service, treatment, or training necessary and appropriate to render him or her fit for a remunerative occupation, the costs of such evaluation and report involving physical or medical rehabilitation to be borne by the employer or his or her insurer, except that the costs of such evaluation and report involving vocational rehabilitation shall be paid from the Vocational Rehabilitation Fund. When both physical or medical rehabilitation and vocational rehabilitation are involved, the costs may be apportioned by the compensation court between the employer and the Vocational Rehabilitation Fund. Upon receipt of such report, and after affording the parties an opportunity to be heard, the compensation court or judge thereof may order that the physical or medical services and treatment recommended in the report, or such other physical or medical rehabilitation treatment or service he, she, or they may deem necessary, be provided at the expense of the employer or his or her insurer.

Vocational rehabilitation training, treatment, or service shall be paid from the Vocational

Rehabilitation Fund.

(4) When physical or medical rehabilitation requires residence at or near the facility or institution, away from the employee's customary residence, either in or out of the State of Nebraska, the reasonable costs of his or her board, lodging, and travel shall be paid for by the employer or his or her insurer in addition to any other benefits payable under ~~sections 48-101 to 48-151~~ the Nebraska Workers' Compensation Act, including weekly compensation benefits for temporary disability. When vocational rehabilitation requires residence at or near the facility or institution and away from the employee's customary residence and whether within or without this state, the reasonable costs of his or her board, lodging, and travel shall be paid from the Vocational Rehabilitation Fund and weekly compensation benefits for temporary disability shall be paid by the employer or his or her insurer.

(5) The ~~court~~ Nebraska Workers' Compensation Court may cooperate on a reciprocal basis with federal and state agencies for vocational education or vocational, physical, or medical rehabilitation or with any public or private agency.

(6) Whenever the ~~court~~ Nebraska Workers' Compensation Court or judge thereof determines that there is a reasonable probability that with appropriate training, rehabilitation, or education a person who is entitled to compensation for total or partial disability which is or is likely to be permanent may be rehabilitated to the extent that he or she will require less care and attendance or to the extent that he or she can become gainfully employed or increase his or her earning capacity and that it is for the best interests of such person to undertake such training, rehabilitation, or education, if the injured employee without reasonable cause refuses to undertake the rehabilitation, training, or educational program determined by the compensation court or judge thereof to be suitable for him or her or refuses to be evaluated under the provisions of subsection (3) of this section, the compensation court or judge thereof may suspend, reduce, or limit the compensation otherwise payable under ~~sections 48-101 to 48-151~~ the Nebraska Workers' Compensation Act.

Sec. 95. That section 48-162.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-162.02. There is hereby created a special

trust fund for the purposes set forth in section 48-162.01, which sum so set aside shall be known as the Vocational Rehabilitation Fund.

The Vocational Rehabilitation Fund shall be for the purpose of making payments in accordance with the provisions of section 48-162.01. The State Treasurer shall be the custodian of the Vocational Rehabilitation Fund and all money and securities in the fund shall be held in trust by the State Treasurer and shall not be money or property of the state. The Vocational Rehabilitation Fund shall be raised and derived from the following source: Every insurance company which is transacting business in this state shall, on or before March 1 of each year, pay to the Director of Insurance an amount equal to one per cent of the gross amount of direct writing premiums received by it during the preceding calendar year for workmen's workers' compensation insurance business done in this state.

The computation of the amounts as provided in this section shall be made on forms furnished by the Department of Insurance and shall be forwarded to the department together with a sworn statement by an appropriate fiscal officer of the company attesting the accuracy of the computation. The department shall furnish such forms to the companies prior to the end of the year for which the amounts are payable together with any information relative to the amounts as may be needed or desirable. Upon receipt of the payment, the director shall audit and examine the computations and satisfy himself or herself that the amounts have been properly paid in conformity with the provisions of this section.

The Director of Insurance, after notice and hearing pursuant to Chapter 44, article 23, may rescind or refuse to reissue the license of any company which fails to remit the amounts due in conformity with the provisions of this section.

The Director of Insurance shall deposit the amounts paid, in conformity with the provisions of this section, with the State Treasurer for the benefit of the Vocational Rehabilitation Fund promptly upon completion of his or her audit and examination, and in no event later than May 1 of the year in which the amounts have been received, except that when there is a dispute as to the amount payable, the proceeds may not be deposited by the director with the State Treasurer until disposition of the controversy, and one per cent of the amount received shall be credited to the Department of Insurance to cover the costs of administration.

Every employer in the occupations described in section 48-106 who shall qualify as a self-insurer and who shall be issued a permit to self-insure shall furnish to the State Treasurer for the benefit of the Vocational Rehabilitation Fund an annual amount equal to one per cent of the prevailing premium rate which would be paid for a policy of workmen's workers' compensation insurance to insure such risk as provided in this section but in no event less than twenty-five dollars.

The amounts required to be paid by the insurance companies and self-insurers under this section shall be in addition to any other amounts, either in taxes, assessments, or otherwise, as required under any other law of this state.

The Nebraska Workmen's Workers' Compensation Court shall be charged with the conservation of the assets of the Vocational Rehabilitation Fund. The Attorney General shall appoint a member of his or her staff to represent the Vocational Rehabilitation Fund when necessary.

The State Treasurer, as custodian of the Vocational Rehabilitation Fund, shall furnish monthly to the Nebraska Workmen's Workers' Compensation Court a statement of such fund setting forth the balance thereof as of the beginning of each month, the income therefrom, and the sources thereof, the payments from such fund in itemized form, and the balance on hand as of the last day of the preceding month. The State Treasurer may receive and credit to the fund any sum or sums which may at any time be contributed to the state or the fund by the United States of America or any agency thereof to which the state may be or become entitled under any act of Congress or otherwise by reason of any payment made from the fund.

When the fund shall equal or exceed four hundred thousand dollars, no further contributions thereto shall be required by employers or insurance carriers, but thereafter whenever the amount of the fund shall be reduced below two hundred thousand dollars, by reason of payments made pursuant to this section, or otherwise, or whenever the Nebraska Workmen's Workers' Compensation Court shall determine that payments likely to be made from the fund in the next succeeding year will probably cause the fund to be reduced below two hundred thousand dollars, the compensation court Nebraska Workmen's Compensation Court shall notify all self-insurers and the Director of Insurance, who shall notify all workmen's workers' compensation insurance carriers, that such contributions are forthwith to be

resumed as of the date set in such notice and such contributions shall thereafter continue as provided in this section after the effective date of such notice, and such contributions shall thereafter continue until the fund shall again amount to four hundred thousand dollars. Out of the Vocational Rehabilitation Fund, payments shall be made in accordance with the provisions of section 48-162.01 in the same manner as for claims against the state.

Any expenses necessarily incurred by the Vocational Rehabilitation Fund may be paid out of the Vocational Rehabilitation Fund.

Sec. 96. That section 48-163, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-163. The Nebraska Workmen's Workers' Compensation Court may adopt and promulgate all reasonable rules and regulations necessary for carrying out the intent and purpose of ~~sections 48-191 to 48-199,~~ the Nebraska Workers' Compensation Act and shall administer and enforce all of the provisions of ~~said sections such act,~~ except such as are committed to the Supreme Court. ~~The ; PROVIDED; that the compensation court or any judge thereof may,~~ upon the motion of either party or upon its or his or her own motion, require the production of any books, papers, payrolls, medical reports, X-rays, photographs or plates, or any facts or matters which may be necessary to assist in a determination of the rights of either party in any matter pending before such compensation court or any judge thereof.

Sec. 97. That section 48-164, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-164. The Nebraska Workmen's Workers' Compensation Court shall regulate and provide the kind and character of notices and the services thereof and, in case of an injury by accident to an employee, the nature and extent of the proofs and evidence and the method of taking and furnishing the same for the establishment of the right to compensation. It shall determine the nature and form or forms of the application of those claiming to be entitled to benefits or compensation; and shall regulate the method of making investigations, physical examinations, and inspections and prescribe the time within which adjudications and awards shall be made, ~~;~~ except that when a petition for compensation is filed, a hearing shall be held within sixty days from the date of the filing thereof and an

order or award made and entered thereon within thirty days after such hearing. Such ~~PROVIDED~~, that such rules and regulations shall conform to the provisions of ~~sections 48-101 to 48-190~~ the Nebraska Workers' Compensation Act.

Sec. 98. That section 48-165, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-165. The Nebraska ~~Workmen's~~ Workers' Compensation Court shall prepare and furnish to employees, employers, and to insurance companies, licensed to write compensation insurance in this state, blank forms of application for benefits or compensation, elections to operate under ~~sections 48-109 to 48-115~~ the Nebraska Workers' Compensation Act, reports of injury or death, and such other blanks as may be deemed proper and advisable. The compensation court shall provide rules and regulations for the distribution of the blanks so prepared. It shall be the duty of the employers to constantly keep on hand a sufficient supply of such blanks. The compensation court may charge a fee for such forms sufficient to pay the costs incurred by the compensation court in the preparation and delivery of the forms.

Sec. 99. That section 48-166, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-166. On or before January 1 of each year, the Nebraska ~~Workmen's~~ Workers' Compensation Court shall issue an annual report for the past fiscal year which shall include (1) a statement of the number and amounts of settlements and awards made by the compensation court, (2) the causes of the accidents leading to the injuries for which the settlements and awards were made, (3) a statement of the total expense of the compensation court, (4) any other matters which the compensation court deems proper to include, and (5) any recommendations it may desire to make.

Sec. 100. That section 48-167, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-167. The Nebraska ~~Workmen's~~ Workers' Compensation Court shall keep and maintain, in its office at the State ~~House~~ Capitol, a full and true record of all proceedings, documents, or papers ordered filed, rules and regulations, and decisions or orders.

Sec. 101. That section 48-168, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-168. The Nebraska ~~Workmen's~~ Workers' Compensation Court shall not be bound by the usual common law or statutory rules of evidence or by any technical or formal rules of procedure, other than as herein provided, but may make the investigation in such manner as in its judgment is best calculated to ascertain the substantial rights of the parties and to carry out justly the spirit of ~~sections 48-101 to 48-190~~ the Nebraska Workers' Compensation Act.

Sec. 102. That section 48-169, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-169. A transcribed copy of the evidence and proceedings, or any specific part thereof, of any investigation taken by a stenographer for the Nebraska ~~Workmen's~~ Workers' Compensation Court, being certified and sworn to by such stenographer, to be a true and correct transcript of the testimony, or of a particular witness, or any specific part thereof, or to be a correct copy of the transcript of the proceedings had on such investigation so purporting to be taken and transcribed, may be received in evidence by the compensation court with the same effect as if such stenographer were present and testified to the facts certified. A copy of such transcript shall be furnished on demand to any party in interest upon payment of the fee therefor, as provided for transcripts in the district courts of the State of Nebraska.

Sec. 103. That section 48-170, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-170. Every order and award of a single judge of the Nebraska ~~Workmen's~~ Workers' Compensation Court shall be binding upon each party at interest unless an application for rehearing has been filed with the compensation court ~~Nebraska Workmen's Compensation Court~~ within fourteen days following the date of rendition of the order or award.

Sec. 104. That section 48-171, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-171. The Except as otherwise provided in sections 48-192 to 48-1,109, the words order, award, and judgment, as used in sections 48-101 to 48-190 the Nebraska Workers' Compensation Act, are used interchangeably and are deemed to have the same meaning.

Sec. 105. That section 48-172, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-172. There shall be no filing fees charged by the Nebraska Workmen's Workers' Compensation Court. When a reasonable attorney's fee is allowed the employee against the employer as provided in section 48-125, the compensation court shall further assess against the employer as costs of the employee, the cost of depositions if admitted into evidence, and may further assess against the employer the fees and mileage for necessary witnesses attending the proceedings at the instance of the employee. Both the necessity for the witness and the reasonableness of the fees shall be approved by the compensation court. Such witnesses shall be reimbursed for their necessary mileage at the rate provided in section 84-306.03 for state employees.

Sec. 106. That section 48-173, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-173. Procedure before the Nebraska Workmen's Workers' Compensation Court shall be as follows: In all cases involving a dispute with reference to workmen's workers' compensation, either party at interest, without cost, either in person or by attorney, may file with the compensation court a petition setting forth the names and places of residence of the parties and the facts relating to the employment at the time of the injury for which compensation is claimed, the injury in its extent and character, the amount of wages being received at the time of the injury, the knowledge of or notice to the employer of the occurrence of such injury, and such other facts as may be considered necessary for the information of the compensation court, and also stating the matter or matters in dispute and the contention of the petitioner with reference thereto.

Sec. 107. That section 48-175, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-175. (1) Whenever the post office address of the defendant is known, or may be ascertained by the officer or person charged with the duty of serving the same, such summons may be served by such officer or person by certified mail.

(2) In the event the party to be served, in accordance with subsection (1) of this section, is a corporation or a partnership, a certified copy of the summons shall be directed to the proper officer, agent, or member of such organization who is authorized by law to accept service of process.

(3) The officer, in making his or her return

of all processes served, in accordance with subsection (1) or (2) of this section, shall append to and file with the original return the return receipt as herein set forth. Any member judge of the compensation court Nebraska Workers' Compensation Court may serve or cause to be served such summons by certified mail as provided in this section.

Sec. 108. That section 48-175.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-175.01. (1) The performance of work in the State of Nebraska (a) by an employer, who is a nonresident of the State of Nebraska, (b) by any resident employer who becomes a nonresident of this state after the occurrence of an injury to an employee, or (c) by any agent of such an employer shall be deemed an appointment by such employer of the clerk of the Nebraska Workmen's Workers' Compensation Court as a true and lawful attorney and agent upon whom may be served all legal processes in any action or proceeding against him or her, arising out of or under the provisions of the Nebraska Workmen's Workers' Compensation Act, and said such performance of work shall be a signification of said the employer's agreement that any such process, which is so served in any action against him or her, shall be of the same legal force and validity as if served upon him or her personally within this state. The appointment of agent, thus made, shall not be revocable by death but shall continue and be binding upon the executor or administrator of such employer. For purposes of this section, performance of work shall include, but not be limited to, situations in which (i) the injury or injury resulting in death occurred within this state, (ii) the employment was principally localized within this state, or (iii) the contract of hire was made within this state.

(2) Service of such process, as referred to in subsection (1) of this section, shall be made by serving a copy thereof upon the clerk of the Nebraska Workmen's Workers' Compensation Court, personally in his or her office in the State Capitol or upon someone who, previous to such service, has been designated in writing by the clerk of the Nebraska Workmen's Workers' Compensation Court as the person or one of the persons with whom such copy may be left for such service upon the clerk of the Nebraska Workmen's Workers' Compensation Court, and such service shall be sufficient service upon the said employer. In ; PROVIDED; that in making such service, a copy of the petition; and a copy

of the process shall, within ten days after the date of service, be sent by the clerk of the Nebraska Workmen's Workers' Compensation Court, or such person acting for him or her in his or her office, to the defendant by registered or certified mail addressed to the defendant's last-known address, and the defendant's return receipt and affidavit of the clerk of the Nebraska Workmen's Workers' Compensation Court, or such person in his or her office acting for him or her, of compliance therewith shall be appended to such petition and filed in the office of the clerk of the Nebraska Workmen's Workers' Compensation Court. The 7 AND PROVIDED FURTHER, that the date of the mailing and the date of the receipt of the return card aforsaid are shall be properly endorsed on such petition and filed by the clerk of the Nebraska Workmen's Workers' Compensation Court, or someone acting for him or her.

(3) The court Nebraska Workers' Compensation Court shall, on its own motion, order such continuance of answer day and trial date, as may to the compensation court seem necessary to afford the defendant reasonable opportunity to plead and to defend. No such continuance shall be for more than ninety days except for good cause shown.

(4) It shall be the duty of the clerk of the Nebraska Workmen's Workers' Compensation Court to keep a record of all processes so served, in accordance with subsections (1) and (2) of this section, which record shall show the date of such service, and to so arrange and index said such record as to make the same readily accessible and convenient for inspection.

Sec. 109. That section 48-177, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-177. At the expiration of the time fixed for filing the answer, the presiding judge shall assign one of the judges of the court Nebraska Workers' Compensation Court to hear the cause. It shall be heard in the county in which the accident occurred, except as otherwise provided in section 24-902 and except that, upon the written stipulation of the parties, filed with the compensation court at least fourteen days before the date of hearing, the cause may be heard in any other county in the state. Upon a motion for dismissal duly filed by the plaintiff, showing that a dispute between the parties no longer exists, the compensation court may dismiss any such cause without a hearing thereon.

Sec. 110. That section 48-178, Reissue Revised Statutes of Nebraska, 1943, be amended to read

as follows:

48-178. The judge shall make such findings and orders, awards, or judgments as the ~~court~~ Nebraska Workers' Compensation Court or judge is authorized by law to make. Such findings, orders, awards, and judgments shall be signed by the judge before whom such proceedings were had. When proceedings are had before a judge of the compensation court, his or her findings, orders, awards, and judgments shall be conclusive upon all parties at interest unless reversed or modified upon rehearing or appeal as hereinafter provided.

Sec. 111. That section 48-178.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-178.01. Whenever any petition is filed and the claimant's right to compensation is not in issue, but the issue of liability is raised as between an employer and a carrier or between two or more employers or carriers, the compensation court Nebraska Workers' Compensation Court may order payment of compensation to be made immediately by one or more of such employers or carriers. When the issue is finally resolved, an employer or carrier held not liable shall be reimbursed for any such payments by the employer or carrier held liable.

Sec. 112. That section 48-179, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-179. Either party at interest who refuses to accept the findings, order, award, or judgment of the ~~court~~ Nebraska Workers' Compensation Court on the original hearing may, within fourteen days after the date thereof, file with the compensation court Nebraska Workmen's Compensation Court an application for a rehearing before the compensation court, plainly stating the errors on which such party relies for reversal or modification. Such party shall at the same time file with the compensation court copies of such application for the other party or parties at interest. The compensation court shall then immediately serve upon such other party or parties by mail or otherwise, as elsewhere herein provided, a copy of such application for rehearing, and shall proceed to hear the cause de novo within thirty days thereafter, except that when the parties submit to a settlement conference, as prescribed and directed by the compensation court, the compensation court shall hear the cause within forty-five days thereafter unless a settlement is reached. A shorthand record or tape recording shall be made of all testimony

and evidence submitted in such rehearing proceedings. The rehearing by the compensation court shall be held in Lancaster County, Nebraska, or in any other county in the state at the discretion of the compensation court. Within fourteen days after such rehearing the compensation court shall make its findings, order, award, or judgment, determining the issues in said such cause. Upon the joint stipulation of the parties to dismiss, the compensation court may dismiss such an application without a rehearing.

Sec. 113. That section 48-180, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-180. The Nebraska Workmen's Workers' Compensation Court may, on its own motion, modify or change its findings, order, award, or judgment at any time before appeal and within ten days from the date of such findings, order, award, or judgment for the purpose of correcting any ambiguity or clerical error.

Sec. 114. That section 48-182, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-182. In case either party at interest refuses to accept any final order of the Nebraska Workmen's Workers' Compensation Court after rehearing, such party may, within one month thereafter, file with the compensation court Nebraska Workmen's Compensation Court a notice of intention to appeal and within one month from the date of such final order file with the compensation court Nebraska Workmen's Compensation Court a praecipe for a bill of exceptions. Within two months from the date of the filing of the praecipe, the court reporter or transcriber shall deliver to the clerk of the Nebraska Workmen's Workers' Compensation Court a bill of exceptions which shall include a transcribed copy of the testimony and the evidence taken before the compensation court, which transcript when certified to by the person who made or transcribed the record shall constitute the bill of exceptions. The transcript and bill of exceptions shall be paid for by the party ordering the same, except ; ~~PROVIDED~~, that upon the affidavit of any claimant for workmen's workers' compensation, filed with or before the praecipe, that he or she is without means wherewith with which to pay, and unable to secure such means, payment may, in the discretion of the Nebraska Workmen's Compensation Court compensation court, be waived as to such claimant and the bill of exceptions shall be paid for by the compensation court in the same manner as other

compensation court expenses.

The procedure for preparation, settlement, signature, allowance, certification, filing, and amendment of a bill of exceptions shall be regulated and governed by rules of practice prescribed by the Supreme Court, except as otherwise provided in this section.

When a bill of exceptions has been ordered according to law, and the court reporter or transcriber fails to prepare and file the bill of exceptions with the clerk of the Nebraska ~~Workmen's~~ Workers' Compensation Court within two months from the date of the filing of the praecipe, the Supreme Court may, on the motion of any party accompanied by a proper showing, grant additional time for the preparation and filing of the bill of exceptions under such conditions as the court may require. Applications for such an extension of time shall be regulated and governed by rules of practice prescribed by the Supreme Court. A copy of such order granting an extension of time shall be filed with the Nebraska ~~Workmen's~~ Workers' Compensation Court by the party requesting such extension within five days after the date of such order.

Sec. 115. That section 48-185, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-185. Any appeal from the judgment of the Nebraska ~~Workmen's~~ Workers' Compensation Court after a rehearing shall be prosecuted and the procedure, including the designation of parties, handling of costs and the amounts thereof, filing of briefs, certifying the opinion of the Supreme Court to the Nebraska ~~Workmen's~~ Workers' Compensation Court compensation court, handling of the bill of exceptions, and issuance of the mandate, shall be in accordance with the general laws of the state and procedures regulating appeals in actions at law from the district courts to the Supreme Court except as otherwise provided in section 48-182 and this section. The proceedings to obtain a reversal, vacation, or modification of judgments, awards, or final orders made by the compensation court Nebraska ~~Workmen's~~ Workers' Compensation Court after a rehearing shall be by filing in the office of the clerk of the Nebraska ~~Workmen's~~ Workers' Compensation Court within one month after the rendition of such judgment or decree, or the making of such final order, a notice of intention to prosecute such appeal signed by the appellant or his or her attorney of record. No motion for a new trial shall be required to be filed. An appeal shall be deemed perfected and the Supreme Court shall have jurisdiction

of the cause when such notice of appeal shall have been filed in the office of the clerk of the Nebraska Workmen's Workers' Compensation Court, and after being so perfected no appeal shall be dismissed without notice, and no step other than the filing of such notice of appeal shall be deemed jurisdictional. The clerk of the Nebraska Workmen's Workers' Compensation Court shall forthwith forward a certified copy of such notice of appeal to the Clerk of the Supreme Court, whereupon the Clerk of the Supreme Court shall forthwith docket such appeal. Within one month from the date of filing of notice of appeal, the clerk of the Nebraska Workmen's Workers' Compensation 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 transcript shall contain the judgment, decree, or final order sought to be reversed, vacated, or modified and all pleadings filed with such clerk. Neither the form nor the substance of such transcript shall affect the jurisdiction of the Supreme Court. Such appeal shall be perfected within one month from the rendition of judgment by the Nebraska Workmen's Compensation Court compensation court, the cause shall be advanced for argument before the Supreme Court, and the Supreme Court shall render its judgment and write an opinion in such cases as speedily as possible. The findings of fact made by the Nebraska Workmen's Compensation Court compensation court after rehearing shall have the same force and effect as a jury verdict in a civil case. A judgment, order, or award of the Nebraska Workmen's Compensation Court compensation court may be modified, reversed, or set aside only upon the grounds that (1) the compensation court acted without or in excess of its powers, (2) the judgment, order, or award was procured by fraud, (3) there is not sufficient competent evidence in the record to warrant the making of the order, judgment, or award, or (4) the findings of fact by the compensation court do not support the order or award.

Sec. 116. That section 48-186, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-186. In all cases ~~where~~ when the accident occurred outside of the State of Nebraska, the hearing before a judge of the Nebraska Workmen's Workers' Compensation Court shall be at Lincoln, Nebraska, unless otherwise stipulated by the parties at least fourteen days before the date of hearing.

Sec. 117. That section 48-187, Reissue Revised Statutes of Nebraska, 1943, be amended to read

as follows:

48-187. No filing fees shall be charged by the clerk of any court for any service required by sections 48-101 to 48-190 the Nebraska Workers' Compensation Act, except as provided in sections 48-139 and 48-188.

Sec. 118. That section 48-188, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-188. Any order, award, or judgment by the Nebraska Workmen's Workers' Compensation Court, or any judge thereof, certified to by the clerk of said the compensation court or of the Supreme Court, certified to by the clerk thereof, for compensation pursuant to the Nebraska Workers' Compensation Act under the provisions of sections 48-101 to 48-1-109 may, as soon as the same become conclusive upon the parties at interest, be filed with the district court of any county or counties in the State of Nebraska upon the payment of a fee of two dollars to the clerk of the district court or courts where such order, award, or judgment is so filed, whereupon such order, award, or judgment shall have the same force and effect as a judgment of such district court or courts, and all proceedings in relation thereto shall thereafter be the same as though the order, award, or judgment had been rendered in a suit duly heard and determined by such district court or courts.

Sec. 119. That section 48-190, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-190. The state, and governmental agencies created by the state, may be sued in the Nebraska Workmen's Workers' Compensation Court upon claims for compensation benefits under the Nebraska Workmen's Workers' Compensation Law Act in the same manner as provided by such compensation law act for suits against individuals and corporations. In such proceedings summons issued by such the compensation court shall be served in the manner provided for service of a summons in a civil action. The issuance and service of summons in such manner shall be binding upon the state and such agencies in such actions, and the Attorney General is hereby authorized and empowered to waive the issuance and service of summons and enter voluntary appearance in such suits against the State of Nebraska.

Sec. 120. That section 48-191, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-191. Notwithstanding any more general or

special law respecting the subject matter hereof, whenever the last day of the period within which a party to an action may file any paper or pleading with the workmen's compensation court Nebraska Workers' Compensation Court, or take any other action with respect to a claim for compensation, falls on a Saturday, a Sunday, or on any day declared by statutory enactment or proclamation of the Governor to be a holiday, the next following day, which is not a Saturday, a Sunday, or a day declared by such enactment or proclamation to be a holiday, shall be deemed to be the last day for filing any such paper or pleading or taking any such other action with respect to a claim for compensation.

Sec. 121. That section 48-192, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-192. The Legislature declares that it is its intent and purpose through sections 48-192 to 48-1,109 to provide uniform procedures for the bringing of workmen's workers' compensation claims against the state, and that the procedures provided by sections 48-192 to 48-1,109 shall be used to the exclusion of all others.

Sec. 122. That section 48-193, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-193. As used in sections 48-192 to 48-1,109, unless the context otherwise requires:

(1) State agency shall include all departments, agencies, boards, courts, bureaus, and commissions of the State of Nebraska, and corporations whose primary function is to act as, and while acting as, instrumentalities or agencies of the State of Nebraska, including the University of Nebraska and the four state colleges, but shall not include corporations that are essentially private corporations. State agency shall not be construed to include any contractor with the State of Nebraska except and unless such contractor comes within the provisions of section 48-116;

(2) State Claims Board shall mean the board created by section 81-8,220;

(3) Employee of the state shall mean any one or more officers or employees of the state or any state agency, and shall include duly appointed members of boards or commissions when they are acting in their official capacity. State employee shall not be construed to include any contractor with the State of Nebraska unless such contractor comes within the

provisions of section 48-116;

(4) Workmen's Workers' compensation claim shall mean any claim against the State of Nebraska arising under Chapter 48, article 1 the Nebraska Workers' Compensation Act; and

(5) Award shall mean any amount determined by the State Claims Board to be payable to a claimant under sections 48-192 to 48-1,109, or the amount of any compromise or settlement under sections 48-192 to 48-1,109.

Sec. 123. That section 48-194, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-194. The Risk Manager, on behalf of the State Claims Board and with the advice of the Attorney General, shall have the authority to pay claims of all workmen's workers' compensation benefits when liability is undisputed. In any claims when liability or the amount of liability is disputed by the Attorney General, authority is hereby conferred upon the Attorney General to consider, ascertain, adjust, determine, and allow any workmen's workers' compensation claim. If any such claim is compromised or settled, the approval of the claimant, the State Claims Board, and the Attorney General shall be required, and such settlements also shall be approved by the Nebraska Workmen's Workers' Compensation Court and by the district court following the procedure in Chapter 48, article 1 the Nebraska Workers' Compensation Act.

Sec. 124. That section 48-195, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-195. The State Claims Board, with the approval of the Nebraska Workmen's Workers' Compensation Court, shall, pursuant to Chapter 84, article 9, adopt and promulgate such rules and regulations as are necessary to carry out the provisions of sections 48-192 to 48-1,109.

Sec. 125. That section 48-196, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-196. The State Claims Board, with the approval of the workmen's compensation court Nebraska Workers' Compensation Court, may delegate to a state agency the handling of workmen's workers' compensation claims of employees of that agency, under the supervision and direction of the Attorney General.

Sec. 126. That section 48-197, Reissue Revised Statutes of Nebraska, 1943, be amended to read

as follows:

48-197. All claims under sections 48-192 to 48-1,109 shall be filed with the Risk Manager of the State Claims Board. The Risk Manager shall immediately advise the Attorney General of the filing of any claim, and it shall be the duty of the Attorney General to cause a complete investigation to be made of all such claims. Whenever any state agency receives notice or has knowledge of any alleged injury under the Nebraska ~~workmen's compensation law~~ Workers' Compensation Act, such state agency shall immediately file a first report of such alleged injury with the Nebraska ~~Workmen's~~ Workers' Compensation Court and the Risk Manager, and shall file such other forms as may be required by such court or board.

Sec. 127. That section 48-198, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-198. Suits shall be brought in the Nebraska ~~Workmen's~~ Workers' Compensation Court as set out in ~~Chapter 48, article 1~~ the Nebraska Workers' Compensation Act, and the ~~compensation~~ court shall in each case designate and allow the amount of the attorney's fee and expenses to be paid from, but not in addition to, the award or judgment to the attorney representing the employee or his or her personal representatives, except as provided in section 48-125.

Sec. 128. That section 48-1,100, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-1,100. The Attorney General shall represent the state in any suit brought under sections 48-192 to 48-1,109, and is authorized to compromise or settle any such suit, with the approval of the Nebraska ~~Workmen's~~ Workers' Compensation Court.

Sec. 129. That section 48-1,102, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-1,102. Any award to a claimant and any judgment in favor of a claimant under sections 48-192 to 48-1,109 shall be certified by the Attorney General to the Director of Administrative Services, who shall promptly issue his or her warrant for payment of such award or judgment out of the ~~Workmen's~~ Workers' Compensation Claims Fund, if sufficient money is available in such fund, except that ~~7~~ PROVIDED, no portion in excess of fifty thousand dollars of any award or judgment shall be paid until such award or judgment has been reviewed by the Legislature and specific

appropriation made therefor. Delivery of any warrant in satisfaction of an award or judgment shall be made only upon receipt of a written receipt by the claimant in a form provided by the Attorney General.

Sec. 130. That section 48-1,103, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-1,103. There is hereby established in the state treasury a Workmen's Workers' Compensation Claims Fund, to be administered by the Risk Manager, from which all awards or judgments under sections 48-192 to 48-1,109 shall be paid. This fund shall be in such amount as the Legislature shall determine to be reasonably sufficient to meet anticipated claims. When the amount of money in the Workmen's Workers' Compensation Claims Fund is not sufficient to pay any awards or judgments under sections 48-192 to 48-1,109, the Risk Manager shall immediately advise the Legislature and request an emergency appropriation to satisfy such awards and judgments. Any money in the Workmen's Compensation Claims Fund shall, on the effective date of this act, be transferred to the Workers' Compensation Claims Fund. Any money in the Workers' Compensation Claims Fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1269.

Sec. 131. That section 48-1,105, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-1,105. From and after August 27, 1971, the authority of any state agency to sue or be sued in its own name shall not be construed to authorize suits against such state agency on workmen's workers' compensation claims except as authorized in sections 48-192 to 48-1,109. The remedies provided by sections 48-192 to 48-1,109 in such cases shall be exclusive.

Sec. 132. That section 48-1,106, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-1,106. Nothing in sections 48-192 to 48-1,109 shall be deemed to repeal any provision of law authorizing any state agency to consider, ascertain, adjust, compromise, settle, determine, allow, or pay any claim other than a workmen's workers' compensation claim as defined in sections 48-192 to 48-1,109.

Sec. 133. That section 48-1,107, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-1,107. The Risk Manager, with the approval

of the Nebraska Workmen's Workers' Compensation Court, may, if after proper investigation he or she deems it to be in the best interests of the state, purchase a policy or policies of insurance for investigation, servicing, and payment, or any one or two of such factors, of workmen's workers' compensation to protect the agencies and their employees. Such policy or policies shall contain such conditions, requirements, limitations, and amounts deemed necessary by the Risk Manager, and approved by the compensation court. The Risk Manager shall purchase such policy or policies by public letting and payment shall be made therefor out of the State Insurance Fund created pursuant to section 81-8,239.02.

Sec. 134. That section 48-1,108, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-1,108. Whenever a claim or suit against the state is covered by workmen's workers' compensation insurance, the provisions of the insurance policy on defense and settlement shall be applicable notwithstanding any inconsistent provisions of sections 48-192 to 48-1,109. The Attorney General and the State Claims Board shall cooperate with the insurance company.

Sec. 135. That section 48-1,109, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-1,109. When any employee is injured in any accident or suffers any occupational disease arising out of or in the course of his or her employment, such employee as soon as practicable shall report full information on such occurrence to the head of the agency by which he or she is employed. The head of the agency shall furnish immediately all available information on such occurrence to the Risk Manager. All employees shall cooperate fully with the Attorney General in the investigation of all workmen's workers' compensation claims. Failure to comply with the provisions of this section shall constitute grounds for dismissal from employment.

Sec. 136. (1) Sections 48-101 to 48-1.109 and this section shall be known and may be cited as the Nebraska Workers' Compensation Act.

(2) It is the intent of the Legislature that the changes made in this legislative bill shall not affect or alter any rights, privileges, or obligations existing immediately prior to the effective date of this act.

Sec. 137. That section 48-655, Revised Statutes Supplement, 1985, be amended to read as

follows:

48-655. Contributions 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 per cent 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 the provisions of section 48-621(b). If, after due notice, any employer defaults in any payment of contributions or payments in lieu of contributions or interest thereon, the amount due may be collected by civil action in the name of the commissioner and the employer adjudged in default shall pay the costs of such action. Civil actions brought under this section to collect contributions 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, and cases arising under the worker's compensation law of this state.

Sec. 138. That section 52-401, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

52-401. Whenever any person shall employ a physician, nurse, or hospital to perform professional service or services of any nature, in the treatment of or in connection with an injury, and such injured person shall claim damages from the party causing the injury, such physician, nurse, or hospital, as the case may be, shall have a lien upon any sum awarded the injured person in judgment or obtained by settlement or compromise on the amount due for the reasonable value of services necessarily performed, except ; PROVIDED, that no such lien shall be valid against anyone coming under the Workmen's Nebraska Workers' Compensation Act. In order to prosecute such lien, it shall be necessary for such physician, nurse, or hospital to serve a written notice upon the person or corporation from whom damages are claimed that such physician, nurse, or hospital claims a lien for such services, and stating therein the amount due and the nature of such services, except ; PROVIDED, HOWEVER, that whenever an action is pending in

court for the recovery of such damages, it shall be sufficient to file the notice of such lien in the pending action.

Sec. 139. That section 55-159, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

55-159. A member of the military forces of the State of Nebraska who incurs a personal injury which is caused by accident or occupational disease while in the active service of this state ordered by competent authority, which injury arises out of and in the course of his or her employment in active service, shall be entitled to workmen's workers' compensation benefits in accordance with the definitions and terms of Chapter 48, article 1 the Nebraska Workers' Compensation Act. If such member incurs death under the same conditions, the dependents of the deceased, if any, shall be entitled to workmen's workers' compensation benefits as provided in Chapter 48, article 1 the Nebraska Workers' Compensation Act. Any dispute arising under the provisions of this section shall be resolved under the provisions established by Chapter 48, article 1 the Nebraska Workers' Compensation Act. No workmen's workers' compensation benefits shall be paid under this section in any case to the extent that any benefits for injury or death are paid or payable under the provisions of Title 32, United States Code.

Sec. 140. That section 60-537, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-537. Such motor vehicle liability policy shall not insure any liability under any workmen's workers' compensation law nor any liability on account of bodily injury to or death of an employee of the insured while engaged in the employment, other than domestic, of the insured, or while engaged in the operation, maintenance, or repair of any such motor vehicle nor any liability for damage to property owned by, rented to, in charge of, or transported by the insured.

Sec. 141. That section 60-2503, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-2503. Chapter 48, article 1, providing compensation for workers injured during the course of their employment The Nebraska Workers' Compensation Act shall not apply to a person injured while participating in a ridesharing arrangement between his or her place of residence and place of employment or terminals near such

places, except that if the employer owns, leases, or contracts for the motor vehicle used in such arrangement, pays for the time spent in travel, or pays the expense of travel, Chapter 48, article 1, such act shall apply.

Sec. 142. That section 81-8,219, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-8,219. (1) The provisions of this act Sections 81-8,209 to 81-8,239 shall not apply to:

(a) Any claim based upon an act or omission of an employee of the state, exercising due care, in the execution of a statute or regulation, whether or not such statute or regulation be valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a state agency or an employee of the state, whether or not the discretion be abused;

(b) Any claim arising in respect to the assessment or collection of any tax or fee, or the detention of any goods or merchandise by any law enforcement officer;

(c) Any claim for damages caused by the imposition or establishment of a quarantine by the state, whether such quarantine relates to persons or property;

(d) Any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights;

(e) Any claim by an employee of the state which is covered by the Nebraska workmen's compensation law Workers' Compensation Act; or

(f) Any claim based on activities of the Nebraska National Guard, when such claim is cognizable under the National Guard Tort Claims Act of the United States, 32 USCA U.S.C.A. 715, or when such claim accrues as a result of active federal service or state service at the call of the Governor for quelling riots and civil disturbances.

(2) With respect to any tort claim based on the alleged insufficiency or want of repair of any highway or bridge on the state highway system, it is the intent of the Legislature to waive the state's immunity from suit and liability to the same extent that liability has been imposed upon counties pursuant to section 23-2410, and only to that extent. The Legislature further declares that judicial interpretations of section 23-2410 governing the

liability of counties on December 25, 1969, also shall be controlling on the liability of the state for the alleged insufficiency or want of repair of any highway or bridge. It is the further intent of the Legislature that the words insufficiency or want of repair shall refer to a spot or localized highway defect and shall not be construed to refer to the general or overall condition of a highway.

Sec. 143. That section 81-8,239.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-8,239.01. (1) As used in sections 44-1615, 44-1616, and 81-8,239.01 to 81-8,239.04, unless the context otherwise requires, the definition of state agencies found in section 81-8,210 shall apply, except that such term shall not include the Board of Regents of the University of Nebraska.

(2) There is hereby established a Risk Management Program for the State of Nebraska, which shall consist of the systematic identification of exposures to risk of loss as provided in this act and shall include the appropriate methods for dealing with such exposures in relation to the state budget pursuant to this act. Such program shall be administered by the Risk Manager; and shall include the operations of the State Claims Board and other operations provided in this act.

(3) Under the Risk Management Program, the Risk Manager shall have the authority and responsibility to:

(a) Employ any personnel necessary to administer the Risk Management Program;

(b) Develop and maintain loss and exposure data on all state property and liability risks;

(c) Develop and recommend risk reduction or elimination programs for the state and its agencies and to establish, implement, and monitor a statewide safety program;

(d) Determine which risk exposures shall be insured and which risk exposures shall be self-insured or assumed by the state;

(e) Establish standards for the purchase of necessary insurance coverage at the lowest costs, consistent with good underwriting practices and sound risk management techniques;

(f) Be the exclusive negotiating and contracting agency to purchase insurance and, after consultation with the state agency for which the insurance is purchased, enter into such contracts of

insurance on behalf of the state and its agencies, officials, agents, and employees to the extent deemed necessary and in the best interest of the state, and to authorize payment for such purchase of insurance out of the appropriate funds created by sections 44-1630 and 81-8,239.02;

(g) Determine whether the state suffered a loss for which self-insured property loss funds have been created, and authorize and administer payments for such loss from the State Self-Insured Property Fund for the purpose of replacing or rebuilding state property;

(h) Perform all duties assigned to the Risk Manager under Chapter 48, article 1, the Nebraska Workers' Compensation Act and sections 11-201 to 11-203, 44-1622, 44-1623, and 44-1630; and

(i) Recommend to the Legislature such legislation as may be necessary to carry out the purposes of this act, and to make appropriation requests for the administration of the Risk Management Program and the funding of the separate funds administered by the Risk Manager.

Sec. 144. That section 81-8,239.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-8,239.02. The following separate permanent revolving funds are established in the state treasury for use under the Risk Management Program according to the purposes for which each fund is established:

(1) The State Insurance Fund is hereby created for the purpose of purchasing insurance to cover property, fidelity, and liability risks of the state and ~~workmen's workers'~~ compensation claims against the state and other risks to which the state, or its agencies, officials, employees, or agents are exposed;

(2) The State Self-Insured Property Fund is hereby created for the purpose of replacing, repairing, or rebuilding state property which has incurred damage or is suffering other loss not fully covered by insurance; and

(3) The State Self-Insured Indemnification and Liability Fund is hereby created for the purpose of paying compensable liability and fidelity claims against the state, or its agencies, officials, employees, or agents, which are not fully covered by insurance and for paying indemnification claims under section 81-8,239.05. The creation of this fund shall not be interpreted as expanding the liability exposure of the state, or its agencies, officials, employees, or agents.

Sec. 145. That section 81-8,239.03, Reissue

Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-8,239.03. The Risk Manager shall present a budget request as provided in section 81-1113 for the Risk Management Program, which shall separately state the amount requested for the Tort Claims Fund, State Insurance Fund, State Self-Insured Property Fund, State Self-Insured Indemnification and Liability Fund, and the Workmen's Workers' Compensation Claims Fund, and such budget shall be based on the projected needs for such funds. The amounts for such funds attributable to cash fund agencies shall be separately stated and paid into the funds from an appropriation to each cash fund agency. If the amount of money in any of such funds shall not be sufficient to pay any awards or judgments authorized by sections 48-192 to 48-1,109 and 81-8,209 to 81-8,239, the Risk Manager shall immediately advise the Legislature, and request an emergency appropriation to satisfy such awards and judgments. Any money in such funds available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1259 ~~72-1269~~.

Sec. 146. That section 81-8,239.04, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-8,239.04. All money or property recovered by or returned to the state, including but not limited to dividends, money recovered pursuant to litigation, or the salvage value of damaged property for damages relating to either a liability or property loss for which money from the State Insurance Fund, State Self-Insured Property Fund, State Self-Insured Indemnification and Liability Fund, the Workmen's Workers' Compensation Claims Fund, or the Tort Claims Fund has been paid, shall be deposited in the respective fund, except that such money or property recovered under the terms of an insurance policy, the premiums for which were paid for by a cash fund agency, shall be deposited in the respective cash fund.

Sec. 147. The Revisor of Statutes shall substitute the phrase the Nebraska Workers' Compensation Court for the phrase the Nebraska Workmen's Compensation Court wherever the latter phrase appears in the following sections: 7-111, 24-703, 24-714, 24-729, 25-2301, 27-1101, 32-421.01, 49-617, 77-27.119, and 84-901.

Sec. 148. The Revisor of Statutes shall substitute the phrase the Nebraska Workers' Compensation Act for the phrase the Nebraska Workmen's Compensation

Act wherever the latter phrase appears in the following sections: 15-1005, 81-829.54, and 81-829.55.

Sec. 149. That original sections 16-1010, 16-1011, 16-1030, 16-1031, 23-2409, 24-902, 33-106, 44-219, 44-222, 44-359, 44-767, 44-1206, 44-1402, 44-2002, 44-2404, 44-2406, 44-2411, 48-103, 48-106, 48-108 to 48-112, 48-114 to 48-118, 48-120, 48-122.01, 48-123 to 48-126, 48-127 to 48-134, 48-136 to 48-159, 48-159.08 to 48-173, 48-175, 48-175.01, 48-177 to 48-180, 48-182, 48-185 to 48-188, 48-190 to 48-198, 48-1,100, 48-1,102, 48-1,103, 48-1,105 to 48-1,109, 52-401, 55-159, 60-537, 60-2503, 81-8,219, and 81-8,239.01 to 81-8,239.04, Reissue Revised Statutes of Nebraska, 1943, sections 15-1006, 15-1008, 23-120, and 24-701, Revised Statutes Supplement, 1984, and sections 16-1012, 16-1032, 24-209, 48-122, and 48-655, Revised Statutes Supplement, 1985, and also sections 48-159.07 and 48-182.01, Reissue Revised Statutes of Nebraska, 1943, are repealed.