

AMENDMENTS TO LB 265

Introduced by Business and Labor

1           1. Strike the original sections and insert the following  
2 sections:

3           Section 1. Section 20-113, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           20-113 Any incorporated city may enact ordinances and any  
6 county may adopt resolutions which are substantially equivalent to  
7 the ~~Act Prohibiting Unjust Discrimination in Employment Because of~~  
8 ~~Age~~, Age Discrimination in Employment Act, the Nebraska Fair  
9 Employment Practice Act, the Nebraska Fair Housing Act, and  
10 sections 20-126 to 20-143 and 48-1219 to 48-1227 or which are  
11 more comprehensive than such acts and sections in the protection of  
12 civil rights. No such ordinance or resolution shall place a duty or  
13 liability on any person, other than an employer, employment agency,  
14 or labor organization, for acts similar to those prohibited by  
15 section 48-1115. Such ordinance or resolution may include authority  
16 for a local agency to seek an award of damages or other equitable  
17 relief on behalf of the complainant by the filing of a petition  
18 in the district court in the county with appropriate jurisdiction.  
19 The local agency shall have within its authority jurisdiction  
20 substantially equivalent to or more comprehensive than the Equal  
21 Opportunity Commission or other enforcement agencies provided under  
22 such acts and sections and shall have authority to order backpay  
23 and other equitable relief or to enforce such orders or relief

1 in the district court with appropriate jurisdiction. Certified  
2 copies of such ordinances or resolutions shall be transmitted to  
3 the commission. When the commission determines that any such city  
4 or county has enacted an ordinance or adopted a resolution that  
5 is substantially equivalent to such acts and sections or is more  
6 comprehensive than such acts and sections in the protection of  
7 civil rights and has established a local agency to administer such  
8 ordinance or resolution, the commission may thereafter refer all  
9 complaints arising in such city or county to the appropriate local  
10 agency. All complaints arising within a city shall be referred  
11 to the appropriate agency in such city when both the city and  
12 the county in which the city is located have established agencies  
13 pursuant to this section. When the commission refers a complaint to  
14 a local agency, it shall take no further action on such complaint  
15 if the local agency proceeds promptly to handle such complaint  
16 pursuant to the local ordinance or resolution. If the commission  
17 determines that a local agency is not handling a complaint with  
18 reasonable promptness or that the protection of the rights of  
19 the parties or the interests of justice require such action, the  
20 commission may regain jurisdiction of the complaint and proceed  
21 to handle it in the same manner as other complaints which are  
22 not referred to local agencies. In cases of conflict between this  
23 section and section 20-332, for complaints subject to the Nebraska  
24 Fair Housing Act, section 20-332 shall control.

25 Any club which has been issued a license by the Nebraska  
26 Liquor Control Commission to sell, serve, or dispense alcoholic  
27 liquor shall have that license revoked if the club discriminates

1 because of race, color, religion, sex, familial status as defined  
2 in section 20-311, handicap as defined in section 20-313, or  
3 national origin in the sale, serving, or dispensing of alcoholic  
4 liquor to any person who is a guest of a member of such club.  
5 The procedure for revocation shall be as prescribed in sections  
6 53-134.04, 53-1,115, and 53-1,116.

7           Sec. 2. Section 48-601, Revised Statutes Cumulative  
8 Supplement, 2006, is amended to read:

9           48-601 Sections 48-601 to 48-671 and section 6 of this  
10 act shall be known and may be cited as the Employment Security Law.

11           Sec. 3. Section 48-602, Revised Statutes Cumulative  
12 Supplement, 2006, is amended to read:

13           48-602 For purposes of the Employment Security Law,  
14 unless the context otherwise requires:

15           (1) Base period ~~shall mean~~ means the last four completed  
16 calendar quarters immediately preceding the first day of an  
17 individual's benefit year, except that the commissioner may  
18 prescribe by rule and regulation that base period ~~shall mean~~  
19 means the first four of the last five completed calendar quarters  
20 immediately preceding the first day of an individual's benefit  
21 year;

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

24           (3) Benefit year, with respect to any individual, ~~shall~~  
25 ~~mean~~ means the one-year period beginning with the first day of  
26 the first week with respect to which the individual first files  
27 a valid claim for benefits, and thereafter the one-year period

1 beginning with the first day of the first week with respect to  
2 which the individual next files a valid claim for benefits after  
3 the termination of his or her last preceding benefit year. Any  
4 claim for benefits made in accordance with section 48-629 shall be  
5 deemed to be a valid claim for the purpose of this subdivision if  
6 the individual has been paid the wages for insured work required  
7 under section 48-627. For the purposes of this subdivision a week  
8 with respect to which an individual files a valid claim shall be  
9 deemed to be in, within, or during that benefit year which includes  
10 the greater part of such week;

11 (4) Calendar quarter ~~shall mean~~ means the period of three  
12 consecutive calendar months ending on March 31, June 30, September  
13 30, or December 31, or the equivalent thereof as the Commissioner  
14 of Labor may by rule and regulation prescribe;

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

20 (6) Combined tax ~~shall mean~~ means the employer liability  
21 consisting of contributions and the state unemployment insurance  
22 tax;

23 (7) Combined tax rate ~~shall mean~~ means the rate which is  
24 applied to wages to determine the combined taxes due;

25 (8) Commissioner ~~shall mean~~ means the Commissioner of  
26 Labor;

27 (9) Contribution rate ~~shall mean~~ means the percentage of

1 the combined tax rate used to determine the contribution portion of  
2 the combined tax;

3 (10) Contributions ~~shall mean~~ means that portion of the  
4 combined tax based upon the contribution rate portion of the  
5 combined tax rate which is deposited in the state Unemployment  
6 Compensation Fund as required by sections 48-648 and 48-649;

7 (11) Department ~~shall mean~~ means the Department of Labor;

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

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

17 (14) Hospital ~~shall mean~~ means an institution which has  
18 been licensed, certified, or approved by the Department of Health  
19 and Human Services Regulation and Licensure as a hospital;

20 (15) Institution of higher education ~~shall mean~~ means an  
21 institution which: (a) Admits as regular students only individuals  
22 having a certificate of graduation from a high school or the  
23 recognized equivalent of such a certificate; (b) is legally  
24 authorized in this state to provide a program of education beyond  
25 high school; (c) provides an educational program for which it  
26 awards a bachelor's degree or higher or provides a program which  
27 is acceptable for full credit toward such a degree, a program of

1 postgraduate or postdoctoral studies, or a program of training to  
2 prepare students for gainful employment in a recognized occupation;  
3 and (d) is a public or other nonprofit institution; notwithstanding  
4 any of the foregoing provisions of this subdivision, all colleges  
5 and universities in this state are institutions of higher education  
6 for purposes of this section;

7 (16) Insured work ~~shall mean~~ means employment for  
8 employers;

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

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

19 (19) Payments in lieu of contributions ~~shall mean~~ means  
20 the money payments to the Unemployment Compensation Fund required  
21 by sections 48-649, 48-652, 48-660.01, and 48-661;

22 (20) Professional employer agreement ~~shall mean~~ means a  
23 written professional employer services contract whereby:

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

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

3           (c) Employer responsibilities for worksite employees,  
4 including those of hiring, firing, and disciplining, are shared  
5 between the professional employer organization and the client  
6 by contract. The term professional employer agreement shall not  
7 include a contract between a parent corporation, company, or other  
8 entity and a wholly owned subsidiary;

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

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

20           (23) State unemployment insurance tax ~~shall mean~~ means  
21 that portion of the combined tax which is based upon the state  
22 unemployment insurance tax rate portion of the combined tax rate  
23 and which is deposited in the State Unemployment Insurance Trust  
24 Fund as required by sections 48-648 and 48-649;

25           (24) State unemployment insurance tax rate ~~shall mean~~  
26 means the percentage of the combined tax rate used to determine the  
27 state unemployment insurance tax portion of the combined tax;

1           (25) Temporary employee ~~shall mean~~ means an employee of  
2 a temporary help firm assigned to work for the clients of such  
3 temporary help firm;

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

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

22           (28) Unemployment Trust Fund ~~shall mean~~ means the trust  
23 fund in the Treasury of the United States of America established  
24 under section 904 of the federal Social Security Act, 42 U.S.C.  
25 1104, as such section existed on March 2, 2001, which receives  
26 credit from the state Unemployment Compensation Fund;

27           (29) Wages, except with respect to services performed

1 in employment as provided in subdivisions (4)(c) and (d) of  
2 section 48-604, ~~shall mean~~ means all remuneration for personal  
3 services, including commissions and bonuses, remuneration for  
4 personal services paid under a contract of hire, and the cash  
5 value of all remunerations in any medium other than cash. The  
6 reasonable cash value of remuneration in any medium other than  
7 cash shall be estimated and determined in accordance with rules  
8 and regulations prescribed by the commissioner. After December  
9 31, 1985, wages ~~shall include~~ includes tips which are received  
10 while performing services which constitute employment and which are  
11 included in a written statement furnished to the employer pursuant  
12 to section 6053(a) of the Internal Revenue Code as defined in  
13 section 49-801.01.

14 With respect to services performed in employment in  
15 agricultural labor as is provided in subdivision (4)(c) of section  
16 48-604, ~~or in domestic service as is provided in subdivision (4)(d)~~  
17 ~~of section 48-604,~~ wages shall ~~mean~~ means cash remuneration and the  
18 cash value of commodities not intended for personal consumption by  
19 the worker and his or her immediate family for such services. With  
20 respect to services performed in employment in domestic service as  
21 is provided in subdivision (4)(d) of section 48-604, wages means  
22 cash remuneration for such services.

23 The term wages ~~shall~~ does not include:

24 (a) The amount of any payment, including any amount paid  
25 by an employer for insurance or annuities or into a fund to  
26 provide for such payment, made to, or on behalf of, an individual  
27 in employment or any of his or her dependents under a plan

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

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

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

21 (d) Any payment made to, or on behalf of, an individual  
22 or his or her beneficiary (i) from or to a trust described in  
23 section 401(a) of the Internal Revenue Code as defined in section  
24 49-801.01 which is exempt from tax under section 501(a) of the  
25 Internal Revenue Code as defined in section 49-801.01 at the time  
26 of such payment unless such payment is made to an employee of the  
27 trust as remuneration for services rendered as such employee and

1 not as a beneficiary of the trust or (ii) under or to an annuity  
2 plan which, at the time of such payment, meets the requirements  
3 of section 401 of the Internal Revenue Code as defined in section  
4 49-801.01;

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

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

21 (g) Benefits paid under a supplemental unemployment  
22 benefit plan which satisfies the eight points set forth in Internal  
23 Revenue Service Revenue Ruling 56-249 as the ruling existed on  
24 March 2, 2001, and is in compliance with the standards set forth in  
25 Internal Revenue Service Revenue Rulings 58-128 and 60-330 as the  
26 rulings existed on March 2, 2001; and

27 (h) Remuneration for service performed in the employ of

1 any state in the exercise of his or her duties as a member of the  
2 Army National Guard or Air National Guard or in the employ of the  
3 United States of America as a member of any military reserve unit;

4 (30) Week ~~shall mean~~ means such period of seven  
5 consecutive days as the commissioner may by rule and regulation  
6 prescribe;

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

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

15 (33) Worksite employee ~~shall mean~~ means a person  
16 receiving wages or benefits from a professional employer  
17 organization pursuant to the terms of a professional employer  
18 agreement for work performed at a client's worksite.

19 Sec. 4. Section 48-606, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 48-606 (1) It shall be the duty of the Commissioner of  
22 Labor to administer the Employment Security Law. He or she shall  
23 have the power and authority to employ such persons, make such  
24 expenditures, require such reports, make such investigations, and  
25 take such other action as he or she deems necessary or suitable to  
26 that end if the same are consistent with the Employment Security  
27 Law. The commissioner shall determine his or her own organization

1 and methods of procedure in accordance with such law and shall  
2 have an official seal which shall be judicially noticed. Not  
3 later than the thirty-first day of December of each year, the  
4 commissioner shall submit to the Governor a report covering the  
5 administration and operation of such law during the preceding  
6 fiscal year and shall make such recommendations for amendments to  
7 such law as he or she deems proper. Such report shall include a  
8 balance sheet of the money in the fund in which there shall be  
9 provided, if possible, a reserve against the liability in future  
10 years to pay benefits in excess of the then current contributions,  
11 which reserve shall be set up by the commissioner in accordance  
12 with accepted actuarial principles on the basis of statistics of  
13 employment, business activity, and other relevant factors for the  
14 longest possible period. Whenever the commissioner believes that  
15 a change in contribution or benefit rates will become necessary  
16 to protect the solvency of the fund, he or she shall promptly  
17 inform the Governor and the Clerk of the Legislature thereof and  
18 make recommendations with respect thereto. Each member of the  
19 Legislature shall receive a copy of such information by making a  
20 request for it to the commissioner.

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

1 in the Employment Security Administration Fund.

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

8 Sec. 5. Section 48-612, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 48-612 (1) Each employer, whether or not subject to  
11 the Employment Security Law, shall keep true and accurate work  
12 records containing such information as the Commissioner of Labor  
13 may prescribe. Such records shall be open to inspection and  
14 be subject to being copied by the commissioner or his or her  
15 authorized representatives at any reasonable time and as often as  
16 may be necessary. The commissioner and the appeal tribunal may  
17 require from any such employer any sworn or unsworn reports, with  
18 respect to persons employed by it, which he, she, or it deems  
19 necessary for the effective administration of such law. ~~Information~~  
20 Except as otherwise provided in section 6 of this act, information  
21 thus obtained or obtained from any individual pursuant to the  
22 administration of such law, shall be held confidential. ~~7~~ ~~except~~  
23 ~~to the extent necessary for the proper presentation of the contest~~  
24 ~~of a claim, and shall not be published or be open to public~~  
25 ~~inspection, other than to public employees in the performance of~~  
26 ~~their public duties, in any manner revealing the individual's or~~  
27 ~~employing unit's identity, except that (a) any claimant, or his or~~

1 ~~her legal representative,~~ at a hearing before an appeal tribunal or  
2 court shall be supplied with information from such records to the  
3 extent necessary for the proper presentation of his or her claim  
4 and ~~(b) the Nebraska Workers' Compensation Court may use the names,~~  
5 ~~addresses,~~ and identification numbers of employers for purposes of  
6 enforcement of the Nebraska Workers' Compensation Act.

7       (2) Any employee of the commissioner who violates any  
8 provision of sections 48-606 to 48-616 or section 6 of this act  
9 shall be guilty of a Class III misdemeanor.

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

20       Sec. 6. (1) Information obtained pursuant to subsection  
21 (1) of section 48-612 may be disclosed under the following  
22 circumstances:

23       (a) To the extent necessary for the proper presentation  
24 of the contest of an unemployment benefit claim or tax appeal.  
25 Any claimant or employer or representative of a claimant or  
26 employer, as a party before an appeal tribunal or court regarding  
27 an unemployment claim or tax appeal, shall be supplied with

1 information obtained in the administration of the Employment  
2 Security Law, to the extent necessary for the proper presentation  
3 of his, her, or its claim or appeal;

4 (b) The Nebraska Workers' Compensation Court may use  
5 the names, addresses, and identification numbers of employers for  
6 purposes of enforcement of the Nebraska Workers' Compensation Act;

7 (c) Appeals records and decisions rendered under  
8 the Employment Security Law and designated as precedential  
9 determinations by the commissioner on the coverage of employers,  
10 employment, wages and benefit eligibility, if all social security  
11 account numbers have been removed and such disclosure is otherwise  
12 consistent with federal and state law;

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

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

26 (f) Information collected exclusively for statistical  
27 purposes under a cooperative agreement with the federal Bureau of

1 Labor Statistics. This subdivision does not restrict or impose any  
2 condition on the transfer of any other information to the federal  
3 Bureau of Labor Statistics under an agreement, or the federal  
4 Bureau of Labor Statistics' disclosure or use of such information;  
5 and

6 (g) In response to a court order.

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

9 (a) One who acts as an agent for the individual or  
10 employer when:

11 (i) The agent presents a written release from the  
12 individual or employer, where practicable, or other evidence of  
13 authority to act on behalf of the individual or employer;

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

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

20 (b) A third party or its agent carrying out the  
21 administration or evaluation of a public program, if that third  
22 party or agent obtains a written release from the individual or  
23 employer to whom the information pertains. To constitute informed  
24 consent, the release shall be signed and shall include a statement:

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

27 (ii) That state government files will be accessed to

1 obtain that information;

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

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

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

9 (a) Information about an individual or employer shall  
10 only be disclosed to the respective individual or employer;

11 (b) To a local, state, or federal governmental official  
12 other than a clerk of court, attorney, or notary public acting on  
13 behalf of a litigant, with authority to obtain such information by  
14 subpoena under state or federal law; and

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

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

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

5           Sec. 7. Section 48-624, Revised Statutes Cumulative  
6 Supplement, 2006, is amended to read:

7           48-624 (1) For any benefit year beginning on or after  
8 January 1, 2001, through December 31, 2005, an individual's weekly  
9 benefit amount shall be one-half his or her average weekly wage  
10 rounded down to the nearest even whole dollar amount, but shall  
11 not exceed one-half of the state average weekly wage as annually  
12 determined under section 48-121.02.

13           (2) For any benefit year beginning on or after January  
14 1, 2006, through December 31, 2007, an individual's weekly benefit  
15 amount shall be one-half of his or her average weekly wage rounded  
16 down to the nearest even whole dollar amount, but shall not exceed  
17 two hundred eighty-eight dollars per week.

18           (3) For any benefit year beginning on or after January  
19 1, 2008, through December 31, 2010, an individual's weekly benefit  
20 amount shall be one-half of his or her average weekly wage rounded  
21 down to the nearest even whole dollar amount, but shall not exceed  
22 the lesser of one-half of the state average weekly wage as annually  
23 determined under section 48-121.02 or the previous year's maximum  
24 weekly benefit amount plus ten dollars per week.

25           (4) For any benefit year beginning on or after January  
26 1, 2011, an individual's weekly benefit amount shall be one-half  
27 of his or her average weekly wage rounded down to the nearest even

1 whole dollar amount, but shall not exceed one-half of the state  
2 average weekly wage as annually determined under section 48-121.02.

3 ~~(5) If the state's reserve ratio on September 30, 2008,~~  
4 ~~or September 30, 2009, is less than four-tenths percent and~~  
5 ~~an emergency solvency surcharge is imposed pursuant to section~~  
6 ~~48-649.01 for such year, then the maximum weekly benefit amount for~~  
7 ~~the following calendar year shall not be increased over the then~~  
8 ~~current maximum weekly benefit amount.~~

9 ~~(6) (5)~~ For purposes of this section, an individual's  
10 average weekly wage shall equal the wages paid for insured work in  
11 the highest quarter of the base period divided by thirteen.

12 Sec. 8. Section 48-649, Revised Statutes Cumulative  
13 Supplement, 2006, is amended to read:

14 48-649 The commissioner shall, for each calendar year,  
15 determine the combined tax rate applicable to each employer on  
16 the basis of his or her actual experience in the payment of  
17 contributions and with respect to benefits charged against his or  
18 her separate experience account, in accordance with the following  
19 requirements:

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

25 (a) The average balance in the State Unemployment  
26 Insurance Trust Fund at the end of any three months in the  
27 preceding calendar year is greater than one percent of state

1 taxable wages for the same preceding year;

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

6 (c) The state advisory council determines that a zero  
7 percent state unemployment insurance tax rate is in the best  
8 interests of preserving the integrity of the state's account in the  
9 Unemployment Trust Fund;

10 ~~(2)~~ (2) (a) If the state unemployment insurance tax rate  
11 is not zero percent as determined in this section, the combined  
12 tax rate shall be divided so that not less than eighty percent  
13 of the combined tax rate equals the contribution rate and not  
14 more than twenty percent of the combined tax rate equals the  
15 state unemployment insurance tax rate except for employers who are  
16 assigned a combined tax rate of five and four-tenths percent or  
17 more. For those employers, the state unemployment insurance tax  
18 rate shall equal zero and their combined tax rate shall equal their  
19 contribution rate.

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

24 (3) In calendar year 2005, an employer's combined tax  
25 rate shall be three and five-tenths percent of his or her annual  
26 payroll unless and until (a) benefits have been payable from  
27 and chargeable to his or her experience account throughout the

1 preceding one calendar year and (b) contributions have been payable  
2 to the fund and credited to his or her experience account with  
3 respect to the two preceding calendar years. Subject to fair and  
4 reasonable rules and regulations of the commissioner issued with  
5 due regard for the solvency of the fund, in calendar year 2005  
6 the combined tax rate required of each employer who meets the  
7 requirements of subdivisions (a) and (b) of this subdivision shall  
8 be based directly on his or her contributions to and benefit  
9 experience of his or her experience account and shall be determined  
10 by the commissioner for each calendar year at its beginning. Such  
11 rate shall not be greater than three and five-tenths percent of his  
12 or her annual payroll if his or her experience account exhibits a  
13 positive balance as of the beginning of such calendar year, but for  
14 any employer who has been subject to the payment of contributions  
15 for any two preceding calendar years, regardless of whether such  
16 years are consecutive, and whose experience account exhibits a  
17 negative balance as of the beginning of such calendar year, the  
18 rate shall be greater than three and five-tenths percent of his  
19 or her annual payroll but not greater than five and four-tenths  
20 percent of his or her annual payroll until such time as the  
21 experience account exhibits a positive balance, and thereafter the  
22 rate shall not be greater than three and five-tenths percent of  
23 his or her annual payroll. For calendar year 2005, the standard  
24 rate shall be five and four-tenths percent of the employer's annual  
25 payroll. As used in this subdivision, standard rate shall mean the  
26 rate from which all reduced rates are calculated;

27 (4) (a) Effective January 1, 2006, an employer's combined

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

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

11 (B) Contributions have been payable to the fund and  
12 credited to his or her experience account with respect to each of  
13 the two preceding four-calendar-quarter periods.

14 For purposes of this subdivision (4)(a), employers  
15 engaged in the construction industry shall mean all employers  
16 primarily engaged in business activities classified as sector  
17 23 business activities under the North American Industrial  
18 Classification System.

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

22 (c) For any employer who has not been subject  
23 to the payment of contributions during each of the two  
24 four-calendar-quarter periods ending on September 30 of any  
25 year, but has been subject to the payment of contributions  
26 for any eight preceding calendar quarters, in any two  
27 four-calendar-quarter periods, regardless of whether such calendar

1 ~~quarters~~ four-calendar-quarter periods are consecutive, and whose  
2 such employer's combined tax rate for the following tax year shall  
3 be:

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

8 (ii) The standard rate if the employer's experience  
9 account exhibits a negative balance as of September 30 of the  
10 year of rate computation. ~~the rate shall be equal to or greater~~  
11 ~~than the highest combined tax rate for positive experience account~~  
12 ~~balance rated employers on his or her annual payroll but not~~  
13 ~~greater than the standard rate, until such time as the experience~~  
14 ~~account exhibits a positive balance. As used in the rate under this~~  
15 ~~subdivision, standard rate shall mean the rate assigned to category~~  
16 ~~twenty for that year. For calendar years 2006 and thereafter, the~~  
17 ~~standard rate shall be not less than five and four-tenths percent~~  
18 ~~of the employer's annual payroll.~~

19 (d) Beginning with rate calculations for calendar year  
20 2006 and each year thereafter, the combined tax rate for employers  
21 who meet the requirements of subdivision (4)(a) of this section  
22 shall be calculated according to subdivisions (4)(e) and (4)(f)  
23 (4)(g) of this section and shall be based upon the employer's  
24 experience rating record and determined from the employer's reserve  
25 ratio, which is the percent obtained by dividing the amount by  
26 which, if any, the employer's contributions credited from the time  
27 the employer first or most recently became an employer, whichever

1 date is later, and up to and including September 30 of the year  
2 the rate computation is made, plus any part of the employer's  
3 contributions due for that year paid on or before October 31  
4 of such year, exceed the employer's benefits charged during the  
5 same period, by the employer's average annual taxable payroll for  
6 the sixteen-consecutive-calendar-quarter period ending September  
7 30 of the year in which the rate computation is made. For an  
8 employer with less than sixteen consecutive calendar quarters of  
9 contribution experience, the employer's average taxable payroll  
10 shall be determined based upon the four-calendar-quarter periods  
11 for which contributions are payable.

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

15	Category	Experience Factor
16	1	<del>0.15</del> 0.00
17	2	0.25
18	3	0.40
19	4	0.45
20	5	0.50
21	6	0.60
22	7	0.65
23	8	0.70
24	9	0.80
25	10	0.90
26	11	0.95
27	12	1.00

1	13	1.05
2	14	1.10
3	15	<del>1.15</del> <u>1.20</u>
4	16	<del>1.30</del> <u>1.35</u>
5	17	<del>1.50</del> <u>1.55</u>
6	18	1.80
7	19	2.15
8	20	2.60

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

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

19 (ii) No employer with a reserve ratio calculated to five  
20 decimal places equal to another employer similarly calculated shall  
21 be assigned to a higher rate than the employer to which it has the  
22 equal reserve ratio.

23 (f) The state's reserve ratio shall be calculated by  
24 dividing the amount available to pay benefits in the Unemployment  
25 Trust Fund and the State Unemployment Insurance Trust Fund as of  
26 September 30, 2005, and each September 30 thereafter, less any  
27 outstanding obligations and amounts appropriated therefrom by the

1 state's total wages from the four calendar quarters ending on  
2 such September 30. For purposes of this section, total wages ~~shall~~  
3 ~~mean~~ means all remuneration paid by an employer in employment.  
4 The state's reserve ratio shall be applied to the table in this  
5 subdivision to determine the yield factor for the upcoming rate  
6 year.

7 State's Reserve Ratio	Yield	Factor
8 1.45 percent and above	=	0.70
9 1.30 percent up to but not including 1.45	=	0.75
10 1.15 percent up to but not including 1.30	=	0.80
11 1.00 percent up to but not including 1.15	=	0.90
12 0.85 percent up to but not including 1.00	=	1.00
13 0.70 percent up to but not including 0.85	=	1.10
14 0.60 percent up to but not including 0.70	=	1.20
15 0.50 percent up to but not including 0.60	=	1.25
16 0.45 percent up to but not including 0.50	=	1.30
17 0.40 percent up to but not including 0.45	=	1.35
18 0.35 percent up to but not including 0.40	=	1.40
19 0.30 percent up to but not including 0.35	=	1.45
20 Below 0.30 percent	=	1.50

21           Once the yield factor for the upcoming rate year has  
22 been determined, it is multiplied by the amount of unemployment  
23 benefits paid from combined tax during the four calendar quarters  
24 ending September 30 of the preceding year. The resulting figure is  
25 the planned yield for the rate year. The planned yield is divided  
26 by the total taxable wages for the four calendar quarters ending  
27 September 30 of the previous year and carried to ~~three~~ four decimal

1 places to create the average combined tax rate for the rate year.

2 (g) The average combined tax rate is assigned to rate  
3 category twelve as established in subdivision (4)(e) of this  
4 section. Rates for each of the remaining nineteen categories are  
5 determined by multiplying the average combined tax rate by the  
6 experience factor associated with each category and carried to  
7 four decimal places. Employers who are delinquent in filing their  
8 combined tax reports as of ~~the date of rate computation~~ October 31  
9 of any year shall be assigned to category twenty for the following  
10 calendar year unless the delinquency is corrected prior to December  
11 31 of the year of rate calculation; and ÷

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

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

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

1           (7) (a) The state or any of its instrumentalities shall  
2 make payments in lieu of contributions in an amount equal to  
3 the full amount of regular benefits plus one-half of the amount  
4 of extended benefits paid during each calendar quarter that is  
5 attributable to service in employment of the state or any of its  
6 instrumentalities. The commissioner after the end of each calendar  
7 quarter shall notify any state instrumentality or other public  
8 employer of the amount of regular benefits and one-half the amount  
9 of extended benefits paid that are attributable to service in its  
10 employment and the instrumentality or public employer so notified  
11 shall reimburse the fund within thirty days after receipt of such  
12 notice. The commissioner may require that any employer whose annual  
13 payroll for either of the two preceding calendar years has equaled  
14 or exceeded five hundred thousand dollars to pay the reimbursement  
15 by an electronic method approved by the commissioner, except when  
16 the employer establishes to the satisfaction of the commissioner  
17 that payment of the reimbursement by an electronic method would  
18 work a hardship on the employer;

19           (b) After December 31, 1977, the state or any of its  
20 political subdivisions and any instrumentality of one or more of  
21 the foregoing or any other governmental entity for which services  
22 in employment as is provided by subdivision (4) (a) of section  
23 48-604 are performed shall be required to pay contributions and  
24 after December 31, 1996, combined tax on wages paid for services  
25 rendered in its or their employment on the same basis as any  
26 other employer who is liable for the payment of combined tax under  
27 the Employment Security Law, unless the state or any political

1 subdivision thereof and any instrumentality of one or more of the  
2 foregoing or any other governmental entity for which such services  
3 are performed files with the commissioner its written election not  
4 later than January 31, 1978, or if such employer becomes subject  
5 to this section after January 1, 1978, not later than thirty  
6 days after such subjectivity begins, to become liable to make  
7 payments in lieu of contributions in an amount equal to the full  
8 amount of regular benefits plus one-half of the amount of extended  
9 benefits paid during each calendar quarter that is attributable to  
10 service in employment of such electing employer prior to December  
11 31, 1978, and in an amount equal to the full amount of regular  
12 benefits plus the full amount of extended benefits paid during each  
13 calendar quarter that is attributable to service in employment of  
14 such electing employer after January 1, 1979. Eligible employers  
15 electing to make payments in lieu of contributions shall not  
16 be liable for state unemployment insurance tax payments. The  
17 commissioner, after the end of each calendar quarter, shall notify  
18 any such employer that has so elected of the amount of benefits for  
19 which it is liable to pay pursuant to its election that have been  
20 paid that are attributable to service in its employment and the  
21 employer so notified shall reimburse the fund within thirty days  
22 after receipt of such notice; and

23 (c) Any employer which makes an election in accordance  
24 with subdivision (b) of this subdivision to become liable for  
25 payments in lieu of contributions shall continue to be liable for  
26 payments in lieu of contributions for all benefits paid based upon  
27 wages paid for service in employment of such employer while such

1 election is effective and such election shall continue until such  
2 employer files with the commissioner, not later than December 1  
3 of any calendar year, a written notice terminating its election  
4 as of December 31 of that year and thereafter such employer shall  
5 again be liable for the payment of contributions and for the  
6 reimbursement of such benefits as may be paid based upon wages paid  
7 for services in employment of such employer while such election was  
8 effective.

9           Sec. 9. Section 48-652, Revised Statutes Cumulative  
10 Supplement, 2006, is amended to read:

11           48-652 (1)(a) A separate experience account shall be  
12 established for each employer who is liable for payment of  
13 contributions. Whenever and wherever in the Employment Security  
14 Law the terms reserve account or experience account are used,  
15 unless the context clearly indicates otherwise, such terms shall be  
16 deemed interchangeable and synonymous and reference to either of  
17 such accounts shall refer to and also include the other.

18           (b) A separate reimbursement account shall be established  
19 for each employer who is liable for payments in lieu of  
20 contributions. All benefits paid with respect to service in  
21 employment for such employer shall be charged to his or her  
22 reimbursement account and such employer shall be billed for and  
23 shall be liable for the payment of the amount charged when billed  
24 by the commissioner. Payments in lieu of contributions received  
25 by the commissioner on behalf of each such employer shall be  
26 credited to such employer's reimbursement account, and two or more  
27 employers who are liable for payments in lieu of contributions may

1 jointly apply to the commissioner for establishment of a group  
2 account for the purpose of sharing the cost of benefits paid that  
3 are attributable to service in the employ of such employers. The  
4 commissioner shall prescribe such rules and regulations as he or  
5 she deems necessary with respect to applications for establishment,  
6 maintenance, and termination of group accounts authorized by this  
7 subdivision.

8           (2) All contributions paid by an employer shall be  
9 credited to the experience account of such employer. State  
10 unemployment insurance tax payments shall not be credited to  
11 the experience account of each employer. Partial payments of  
12 combined tax shall be credited so that at least eighty percent  
13 of the combined tax payment excluding interest and penalty is  
14 credited first to contributions due. In addition to contributions  
15 credited to the experience account, each employer's account shall  
16 be credited as of June 30 of each calendar year with interest  
17 at a rate determined by the commissioner based on the average  
18 annual interest rate paid by the Secretary of the Treasury of  
19 the United States of America upon the state's account in the  
20 Unemployment Trust Fund for the preceding calendar year multiplied  
21 by the balance in his or her experience account at the beginning  
22 of such calendar year. If the total credits as of such date to  
23 all employers' experience accounts are equal to or greater than  
24 ninety percent of the total amount in the Unemployment Compensation  
25 Fund, no interest shall be credited for that year to any employer's  
26 account. Contributions with respect to prior years which are  
27 received on or before January 31 of any year shall be considered

1 as having been paid at the beginning of the calendar year. All  
2 voluntary contributions which are received on or before ~~March~~  
3 January 10 of any year shall be considered as having been paid at  
4 the beginning of the calendar year.

5 (3) (a) Each experience account shall be charged only  
6 for benefits based upon wages paid by such employer. No benefits  
7 shall be charged to the experience account of any employer if (i)  
8 such benefits were paid on the basis of a period of employment  
9 from which the claimant (A) left work voluntarily without good  
10 cause, (B) left work voluntarily due to a nonwork-connected illness  
11 or injury, (C) left work voluntarily with good cause to escape  
12 abuse as defined in section 42-903 between household members as  
13 provided in subdivision (1) of section 48-628.01, (D) left work  
14 from which he or she was discharged for misconduct connected with  
15 his or her work, or (E) left work voluntarily and is entitled to  
16 unemployment benefits without disqualification in accordance with  
17 subdivision (3) or (5) of section 48-628.01 and (ii) the employer  
18 has filed timely notice of the facts on which such exemption is  
19 claimed in accordance with rules and regulations prescribed by  
20 the commissioner. No benefits shall be charged to the experience  
21 account of any employer if such benefits were paid on the basis  
22 of wages paid in the base period that are wages for insured work  
23 solely by reason of subdivision (5) (b) of section 48-627.

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

1           (c) Benefits paid to an eligible individual shall be  
2 charged against the account of his or her most recent employers  
3 within his or her base period against whose accounts the maximum  
4 charges hereunder have not previously been made in the inverse  
5 chronological order in which the employment of such individual  
6 occurred. The maximum amount so charged against the account of any  
7 employer, other than an employer for which services in employment  
8 as provided in subdivision (4) (a) of section 48-604 are performed,  
9 shall not exceed the total benefit amount to which such individual  
10 was entitled as set out in section 48-626 with respect to base  
11 period wages of such individual paid by such employer plus one-half  
12 the amount of extended benefits paid to such eligible individual  
13 with respect to base period wages of such individual paid by  
14 such employer. The commissioner shall by rules and regulations  
15 prescribe the manner in which benefits shall be charged against  
16 the account of several employers for whom an individual performed  
17 employment during the same quarter or during the same base period.  
18 Any benefit check duly issued and delivered or mailed to a claimant  
19 and not presented for payment within one year from the date of its  
20 issue may be invalidated and the amount thereof credited to the  
21 Unemployment Compensation Fund, except that a substitute check may  
22 be issued and charged to the fund on proper showing at any time  
23 within the year next following. Any charge made to an employer's  
24 account for any such invalidated check shall stand as originally  
25 made.

26           (4) (a) An employer's experience account shall be deemed  
27 to be terminated one calendar year after such employer has ceased

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

11 (b) An experience account terminated pursuant to this  
12 subsection shall be reinstated if (i) the employer becomes subject  
13 again to the Employment Security Law within one calendar year after  
14 termination of such experience account and the employer makes a  
15 written application for reinstatement of such experience account  
16 to the commissioner within two calendar years after termination of  
17 such experience account and (ii) the commissioner finds that the  
18 employer is operating substantially the same business as prior to  
19 the termination of such experience account.

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

26 (6) A contributory or reimbursable employer shall be  
27 relieved of charges if the employer was previously charged for

1 wages and the same wages are being used a second time to establish  
2 a new claim as a result of the October 1, 1988, change in the base  
3 period.

4 Sec. 10. Section 48-663.01, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 48-663.01 (1) Notwithstanding any other provision of this  
7 section, or of ~~sections~~ section 48-627 or 48-663, an individual  
8 who willfully fails to disclose amounts earned during any week  
9 with respect to which benefits are claimed by him or her or  
10 who willfully fails to disclose or has falsified as to any fact  
11 which would have disqualified him or her or rendered him or her  
12 ineligible for benefits during such week, shall forfeit all or  
13 part of his or her benefit rights, as determined by a deputy, with  
14 respect to uncharged wage credits accrued prior to the date of such  
15 failure or to the date of such falsifications. An appeal may be  
16 taken from any such determination in the manner provided in section  
17 48-634.

18 (2)(a) If any person liable to repay an overpayment  
19 of unemployment benefits resulting from a determination under  
20 subsection (1) of this section fails or refuses to repay such  
21 overpayment within twelve months after the date the overpayment  
22 determination becomes final, the commissioner may issue a levy on  
23 salary, wages, or other regular payments due to or received by  
24 such person and such levy shall be continuous from the date the  
25 levy is served until the amount of the levy is satisfied. Notice  
26 of the levy shall be mailed to the person whose salary, wages,  
27 or other regular payment if levied upon at his or her last-known

1 address not later than the date that the levy is served. Exemptions  
2 or limitations on the amount of salary, wages, or other regular  
3 payment that can be garnished or levied upon by a judgment creditor  
4 shall apply to levies made pursuant to this section. Appeal of a  
5 levy may be made in the manner provided in section 48-634, but such  
6 appeal shall not act as a stay of the levy.

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

13 Sec. 11. Section 48-664, Revised Statutes Cumulative  
14 Supplement, 2006, is amended to read:

15 48-664 Any employer, whether or not subject to the  
16 Employment Security Law, or any officer or agent of such an  
17 employer or any other person who makes a false statement or  
18 representation knowing it to be false, or who knowingly fails to  
19 disclose a material fact, to prevent or reduce the payment of  
20 benefits to any individual entitled thereto, to obtain benefits for  
21 an individual not entitled thereto, to avoid becoming or remaining  
22 subject to such law, or to avoid or reduce any contribution or  
23 other payment required from an employer under sections 48-648  
24 and 48-649, or who willfully fails or refuses to make any such  
25 contributions or other payment or to furnish any reports required  
26 under the Employment Security Law or to produce or permit the  
27 inspection or copying of records as required under such law, shall

1 be guilty of a Class III misdemeanor. Each such false statement  
2 or representation or failure to disclose a material fact and each  
3 day of such failure or refusal shall constitute a separate offense.  
4 An individual employer, partner, corporate officer, or member  
5 of a limited liability company or limited liability partnership  
6 who willfully fails or refuses to make any combined tax payment  
7 shall be jointly and severally liable for the payment of such  
8 combined tax and any penalties and interest owed thereon. When an  
9 unemployment benefit overpayment occurs, in whole or in part, as  
10 the result of a violation of this section by an employer, the  
11 amount of the overpayment recovered shall not be credited back to  
12 such employer's experience account.

13 Sec. 12. Section 48-720, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 48-720 As used in the Boiler Inspection Act, unless the  
16 context otherwise requires:

17 (1) Authorized inspection agency means an authorized  
18 inspection agency as defined in NB-369, National Board  
19 Qualifications and Duties for Authorized Inspection Agencies (AIAs)  
20 Performing Inservice Inspection Activities and Qualifications for  
21 Inspectors of Boilers and Pressure Vessels;

22 ~~(1)~~ (2) Board means the Boiler Safety Code Advisory  
23 Board;

24 ~~(2)~~ (3) Boiler means a closed vessel in which water or  
25 other liquid is heated, steam or vapor is generated, steam or  
26 vapor is superheated, or any combination thereof, under pressure  
27 or vacuum, for internal or external use to itself, by the direct

1 application of heat and an unfired pressure vessel in which the  
2 pressure is obtained from an external source or by the application  
3 of heat from an indirect or direct source. Boiler includes a fired  
4 unit for heating or vaporizing liquids other than water only when  
5 such unit is separate from processing systems and complete within  
6 itself; and

7 ~~(3)~~ (4) Commissioner means the Commissioner of Labor; and

8 -

9 (5) Department means the Department of Labor.

10 Sec. 13. Section 48-722, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 48-722 (1) Except as provided in subsection ~~(2)~~ (3) of  
13 this section, the state boiler inspector shall inspect or cause  
14 to be inspected at least once every twelve months all boilers  
15 required to be inspected by the Boiler Inspection Act to determine  
16 whether the boilers are in a safe and satisfactory condition and  
17 properly constructed and maintained for the purpose for which the  
18 boiler is used, except that (a) hobby boilers, steam farm traction  
19 engines, portable and stationary show engines, and portable and  
20 stationary show boilers, which are not otherwise exempted from the  
21 act pursuant to section 48-726, shall be subject to inspection  
22 at least once every twenty-four months and (b) the commissioner  
23 may, by rule and regulation, establish inspection periods for  
24 pressure vessels of more than twelve months, but not to exceed the  
25 inspection period recommended in the National Board Inspection Code  
26 or the American Petroleum Institute Pressure Vessel Inspection Code  
27 API-510 for pressure vessels being used for similar purposes. In

1 order to ensure that inspections are performed in a timely manner,  
2 the department may contract with an authorized inspection agency  
3 to perform any inspection authorized under the Boiler Inspection  
4 Act. If the department contracts with an authorized inspection  
5 agency to perform inspections, such contract shall be in writing  
6 and shall contain an indemnification clause wherein the authorized  
7 inspection agency agrees to indemnify and defend the department  
8 for loss occasioned by negligent or tortious acts committed by  
9 special inspectors employed by such authorized inspection agency  
10 when performing inspections on behalf of the department.

11           (2) No boilers required to be inspected by the act shall  
12 be operated without valid and current certification pursuant to  
13 rules and regulations adopted and promulgated by the commissioner  
14 in accordance with the requirements of the Administrative Procedure  
15 Act. The owner of any boiler installed after September 2, 1973,  
16 shall file a manufacturer's data report covering the construction  
17 of such boiler with the state boiler inspector. Such reports shall  
18 be used to assist the state boiler inspector in the certification  
19 of boilers. No boiler required to be inspected by the Boiler  
20 Inspection Act shall be operated at any type of public gathering or  
21 show without first being inspected and certified as to its safety  
22 by the state boiler inspector or a special inspector commissioned  
23 pursuant to section 48-731. Antique engines with boilers may be  
24 brought into the state from other states without inspection, but  
25 inspection as provided in this section shall be made and the boiler  
26 certified as safe before being operated.

27           ~~(2)~~ (3) The commissioner may, by rule and regulation,

1 waive the inspection of unfired pressure vessels registered with  
2 the State of Nebraska if the commissioner finds that the owner or  
3 user of the unfired pressure vessel follows a safety inspection and  
4 repair program that is based upon nationally recognized standards.

5           Sec. 14. Section 48-730, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           48-730 Before any boiler required to be inspected by the  
8 Boiler Inspection Act is installed, a ten days' written notice of  
9 intention to install the boiler shall be given to the commissioner,  
10 except that the commissioner may, upon application and good cause  
11 shown, waive the ten-day prior notice requirement. The notice shall  
12 designate the proposed place of installation, the type and capacity  
13 of the boiler, the use to be made of the boiler, the name of the  
14 company which manufactured the boiler, and whether the boiler is  
15 new or used. A boiler moved from one location to another shall be  
16 reinspected prior to being placed back into use.

17           Sec. 15. Section 48-731, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           48-731 (1) (a) ~~The Division of Safety and Labor Standards~~  
20 ~~of the Department of Labor~~ commissioner may issue a special  
21 inspector commission to an inspector in the employ of a company  
22 if the inspector has previously passed the examination prescribed  
23 by the National Board of Boiler and Pressure Vessel Inspectors and  
24 the company is an insurance company authorized to insure boilers  
25 in this state against loss from explosion or is an authorized  
26 inspection agency.

27           (b) Each ~~insurance company~~ which special inspector

1 employed by an insurance company or authorized inspection agency  
2 who has been issued a special inspector commission under this  
3 section shall submit to the state boiler inspector complete data of  
4 each boiler required to be inspected by the Boiler Inspection Act  
5 which is insured or inspected by such ~~company~~ insurance company or  
6 authorized inspection agency on forms approved by the commissioner.

7 (c) Insurance companies shall notify the ~~division~~  
8 department of new, canceled, or suspended risks relating to insured  
9 boilers. Insurance companies shall notify the ~~division~~ department  
10 of all boilers which the company insures, or any boiler for which  
11 insurance has been canceled, not renewed, or suspended within  
12 thirty days after such action. Authorized inspection agencies shall  
13 notify the department of any new or canceled agreements relating to  
14 the inspection of boilers or pressure vessels within thirty days  
15 after such action.

16 (d) Insurance companies and authorized inspection  
17 agencies shall immediately notify the ~~division~~ department of  
18 defective boilers. If a special inspector employed by an insurance  
19 company, upon the first inspection of new risk, finds that the  
20 boiler or any of the appurtenances are in such condition that  
21 the inspector's company refuses insurance, the company shall  
22 immediately submit a report of the defects to the state boiler  
23 inspector.

24 (2) The inspection required by the act shall not be ~~made~~  
25 required if (a) an annual inspection is made under a city ordinance  
26 which meets the standards set forth in the act, (b) a certificate  
27 of inspection of the boiler is filed with the commissioner with

1 a certificate fee, and (c) the inspector for the city making  
2 such inspection is required by such ordinance to either hold a  
3 commission from the National Board of Boiler and Pressure Vessel  
4 Inspectors commensurate with the type of inspections performed by  
5 the inspector for the city or acquire the commission within twelve  
6 months after appointment.

7 (3) The commissioner may, by rule and regulation, provide  
8 for the issuance of a special inspector commission to an inspector  
9 in the employ of a company using or operating an unfired pressure  
10 vessel subject to the act for the limited purpose of inspecting  
11 unfired pressure vessels used or operated by such company.

12 (4) All inspections made by a special inspector shall be  
13 performed in accordance with the act, and a complete report of such  
14 inspection shall be filed with the ~~division~~ department in the time,  
15 manner, and form prescribed by the commissioner.

16 (5) The state boiler inspector may, at his or her  
17 discretion, inspect any boiler to which a special inspector  
18 commission applies.

19 (6) The commissioner may, for cause, suspend or revoke  
20 any special inspector commission.

21 (7) No authorized inspection agency shall perform  
22 inspections of boilers in the State of Nebraska unless  
23 the authorized inspection agency has insurance coverage for  
24 professional errors and omissions and comprehensive and general  
25 liability under a policy or policies written by an insurance  
26 company authorized to do business in this state in effect at the  
27 time of such inspection. Such insurance policy or policies shall

1 be in an amount not less than the minimum amount per occurrence  
2 as established by the commissioner. Such minimum amount shall  
3 be established with due regard to the protection of the general  
4 public and the availability of insurance coverage, but such minimum  
5 insurance coverage shall not be less than one million dollars per  
6 occurrence for professional errors and omissions and one million  
7 dollars for comprehensive and general liability.

8           Sec. 16. Section 48-736, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           48-736 Any person, persons, corporations, and the  
11 directors, managers, superintendents, and officers of such  
12 corporations violating the Boiler Inspection Act shall be guilty of  
13 a Class V III misdemeanor.

14           Sec. 17. Section 48-1001, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           48-1001 (1) Sections 48-1001 to 48-1010 shall be known  
17 and may be cited as the Age Discrimination in Employment Act.

18           ~~(1)~~ (2) (a) The Legislature hereby finds that the practice  
19 of discriminating in employment against properly qualified persons  
20 because of their age is contrary to American principles of liberty  
21 and equality of opportunity, is incompatible with the Constitution,  
22 deprives the state of the fullest utilization of its capacities for  
23 production, and endangers the general welfare.

24           ~~(2)~~ (b) Hiring bias against workers ~~over~~ over forty years or  
25 more of age deprives the state of its most important resource  
26 of experienced employees, adds to the number of persons receiving  
27 public assistance, and deprives older people of the dignity and

1 status of self-support.

2 ~~(3)~~ (c) The right to employment otherwise lawful without  
3 discrimination because of age, where the reasonable demands of  
4 the position do not require such an age distinction, is hereby  
5 recognized as and declared to be a right of all the people of the  
6 state which shall be protected as provided in ~~sections 48-1001 to~~  
7 ~~48-1009.~~ the act.

8 ~~(4)~~ (d) It is hereby declared to be the policy of the  
9 state to protect the right recognized and declared in ~~subsection~~  
10 ~~(3)~~ subdivision (2)(c) of this section and to eliminate all such  
11 discrimination to the fullest extent permitted. ~~Sections 48-1001 to~~  
12 ~~48-1009~~ The Age Discrimination in Employment Act shall be construed  
13 to effectuate such policy.

14 Sec. 18. Section 48-1002, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 48-1002 For purposes of the Age Discrimination in  
17 Employment Act: As used in sections 48-1001 to 48-1010, unless the  
18 context otherwise requires:

19 (1) Person shall ~~include~~ includes one or more  
20 individuals, partnerships, limited liability companies,  
21 associations, labor organizations, corporations, business  
22 trusts, legal representatives, or any organized group of persons;

23 (2) Employer shall ~~mean~~ means any person having in his  
24 or her employ ~~twenty-five~~ twenty or more ~~individuals~~ employees  
25 for each working day in each of twenty or more calendar weeks  
26 in the current or preceding calendar year and includes the State  
27 of Nebraska, governmental agencies, and political subdivisions,

1 regardless of the number of employees, any person acting for or in  
2 the interest of an employer, directly or indirectly, and any party  
3 whose business is financed in whole or in part under the Nebraska  
4 Investment Finance Authority Act, but such term ~~shall~~ does not  
5 include (a) the United States, ~~or~~ (b) a corporation wholly owned by  
6 the government of the United States, or (c) an Indian tribe;

7 (3) Labor organization ~~shall mean~~ means any organization  
8 of employees which exists for the purpose, in whole or in part,  
9 of collective bargaining or of dealing with employers concerning  
10 grievances, terms, or conditions of employment, or for other mutual  
11 aid or protection in connection with employment;

12 (4) Employee ~~shall mean~~ means an individual employed by  
13 any employer; and

14 (5) Employment agency ~~shall mean~~ means any person  
15 regularly undertaking with or without compensation to procure  
16 employees for an employer or to procure for employees opportunities  
17 to work for an employer and includes an agent of such a person, but  
18 ~~shall~~ does not include an agency of the United States, except that  
19 such term ~~shall~~ does include the United States Employment Service  
20 and the system of state and local employment services receiving  
21 federal assistance.

22 Sec. 19. Section 48-1003, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 48-1003 (1) The prohibitions of ~~sections 48-1001 to~~  
25 ~~48-1009~~ the Age Discrimination in Employment Act shall be limited  
26 to the employment of individuals who are ~~at least~~ at least forty years or  
27 more of age, but less than seventy years of age.

1           (2) Nothing contained in ~~sections 48-1001 to 48-1009~~ the  
2 act shall be construed as making it unlawful for an employer,  
3 employment agency, or labor organization (a) to take action  
4 otherwise prohibited under the ~~provisions of sections 48-1001~~  
5 ~~to 48-1009~~ act when age is a bona fide occupational qualification  
6 reasonably necessary to the normal operation of the particular  
7 business, or when the differentiation is based on reasonable  
8 factors other than age, such as physical conditions; or (b) to  
9 discharge or otherwise discipline an employee for good cause.

10           Sec. 20. Section 48-1004, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           48-1004 (1) It shall be an unlawful employment practice  
13 for an employer:

14           (a) To refuse to hire, to discharge, or otherwise  
15 to discriminate against any individual with respect to ~~his~~  
16 the employee's terms, conditions, or privileges of employment,  
17 otherwise lawful, because of such individual's age, when the  
18 reasonable demands of the position do not require such an age  
19 distinction; or

20           (b) To willfully utilize in the hiring or recruitment of  
21 individuals for employment otherwise lawful, any employment agency,  
22 placement service, training school or center, labor organization,  
23 or any other source which so discriminates against ~~such~~ individuals  
24 because of their age.

25           (2) It shall be an unlawful employment practice for any  
26 labor organization to so discriminate against any individual or  
27 to limit, segregate, or classify its membership in any way which

1 would deprive or tend to deprive ~~such~~ an individual of otherwise  
2 lawful employment opportunities, or would limit such employment  
3 opportunities or otherwise adversely affect his or her status as  
4 an employee ~~or as an applicant for employment,~~ or would affect  
5 adversely his or her wages, hours, or employment.

6 (3) It shall be an unlawful employment practice for an  
7 employment agency to fail or refuse to refer for employment, or  
8 otherwise to discriminate against any individual because of such  
9 individual's age, or to classify or refer for employment any  
10 individual on the basis of his or her age.

11 ~~(3)~~ (4) It shall be an unlawful employment practice  
12 for any employer, employment agency, or labor organization to  
13 discharge, expel, or otherwise discriminate against any person,  
14 because he or she opposed any unlawful employment practice  
15 specified in ~~sections 48-1001 to 48-1009~~ the Age Discrimination  
16 in Employment Act or has filed a charge or suit, testified,  
17 participated, or assisted in any proceeding under the ~~provisions of~~  
18 ~~sections 48-1001 to 48-1009.~~ act.

19 ~~(4)~~ It shall be an unlawful employment practice for an  
20 employment agency to fail or refuse to refer for employment, or  
21 otherwise to discriminate against any individual because of such  
22 individual's age, or to classify or refer for employment any  
23 individual on the basis of his or her age.

24 Sec. 21. Section 48-1005, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 48-1005 Any person who violates any provision of sections  
27 48-1001 to 48-1009 or who forcibly resists, opposes, impedes,

1 intimidates, or interferes with such commission or any of its duly  
2 authorized representatives while engaged in its, ~~or his,~~ or her  
3 duties under sections 48-1001 to 48-1009 shall be guilty of a Class  
4 III misdemeanor. No person shall be imprisoned under this section  
5 except for a second or subsequent conviction.

6           Sec. 22. Section 48-1007, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           48-1007   ~~Sections 48-1001 to 48-1009~~   The Age  
9 Discrimination in Employment Act shall be administered by  
10 the Equal Opportunity Commission as established by section 48-1116.  
11 The commission shall have the power (1) to make delegations,  
12 to appoint such agents and employees and to pay for technical  
13 assistance, including legal assistance, on a fee-for-service basis,  
14 as it deems necessary to assist it in the performance of its  
15 functions under ~~sections 48-1001 to 48-1009;~~ the act; (2) to  
16 cooperate with other federal, state, and local agencies, and to  
17 cooperate with and furnish technical assistance to employers, labor  
18 organizations, and employment agencies to aid in effectuating the  
19 purposes of ~~sections 48-1001 to 48-1009;~~ the act; (3) to make  
20 investigations, to issue or cause to be served interrogatories,  
21 and to require keeping of records necessary or appropriate for  
22 the administration of ~~sections 48-1001 to 48-1009;~~ the act; and  
23 (4) to bring civil action in its name in any court of competent  
24 jurisdiction against any person deemed to be violating ~~any of~~  
25 ~~the provisions of sections 48-1001 to 48-1009~~ the act to compel  
26 compliance with the ~~provisions of sections 48-1001 to 48-1009~~ act  
27 or to enjoin any such person from continuing any practice that is

1 deemed to be in violation of ~~sections 48-1001 to 48-1009.~~ the act.  
2 The commission may seek judicial enforcement through the office of  
3 the Attorney General to require the answering of interrogatories  
4 and to gain access to evidence or records relevant to the charge  
5 under investigation.

6 Sec. 23. Section 48-1008, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 48-1008 (1) Any person aggrieved by a suspected violation  
9 of the provisions of sections 48-1001 to 48-1009 Age Discrimination  
10 in Employment Act shall file with the Equal Opportunity Commission  
11 a formal complaint in such manner and form prescribed by the  
12 commission. The commission shall make an investigation and may  
13 initiate an action to enforce the rights of such employee under  
14 the provisions of sections 48-1001 to 48-1009. the act. If the  
15 commission does not initiate an action within ~~thirty~~ sixty days  
16 after receipt of a complaint, the person aggrieved may bring a  
17 civil action in any court of competent jurisdiction for such legal  
18 or equitable relief as will effectuate the purposes of ~~sections~~  
19 ~~48-1001 to 48-1009.~~ the act. Filing of an action by either the  
20 commission or the person aggrieved shall be a bar to the filing of  
21 the action by the other.

22 (2) A written charge alleging violation of the Age  
23 Discrimination in Employment Act shall be filed within three  
24 hundred days after the occurrence of the alleged unlawful  
25 employment practice, and notice of the charge, including a  
26 statement of the date, place, and circumstances of the alleged  
27 unlawful employment practice, shall be served upon the person

1 against whom such charge is made within ten days thereafter.

2 (3) A respondent shall file with the commission a  
3 written response to the written charge of violation within  
4 thirty days after service upon the respondent. Failure to file  
5 a written response within thirty days, except for good cause  
6 shown, shall result in a mandatory reasonable cause finding against  
7 the respondent by the commission. Failure by any complainant to  
8 cooperate with the commission, its investigators, or staff, except  
9 for good cause shown, shall result in dismissal of the complaint by  
10 the commission.

11 (4) In connection with any investigation of a charge  
12 filed under this section, the commission or its authorized agents  
13 may, at any time after a charge is filed, issue or cause to be  
14 served interrogatories and shall have at all reasonable times  
15 access to, for the purposes of examination, and the right to  
16 copy any evidence or records of any person being investigated or  
17 proceeded against that relates to unlawful employment practices  
18 covered by the act and are relevant to the charge under  
19 investigation. The commission may seek preparation of and judicial  
20 enforcement of any legal process or interrogatories through the  
21 office of the Attorney General.

22 Sec. 24. Section 48-1009, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 48-1009 In any action brought to enforce the provisions  
25 of sections 48-1001 to 48-1009, Age Discrimination in Employment  
26 Act, the court shall have jurisdiction to grant such legal  
27 or equitable relief as the court ~~may deem~~ deems appropriate

1 to effectuate the purposes of ~~sections 48-1001 to 48-1009~~, the  
2 act, including judgments compelling employment, reinstatement, or  
3 promotion, or enforcing liability for amounts deemed to be unpaid  
4 minimum wages or unpaid overtime compensation.

5 Sec. 25. Section 48-1010, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 48-1010 The state, governmental agencies, and political  
8 subdivisions may be sued upon claims arising under the ~~Act~~  
9 ~~Prohibiting Unjust Discrimination in Employment Because of Age~~  
10 Age Discrimination in Employment Act in the same manner as provided  
11 by such act for suits against other employers.

12 Sec. 26. The Mechanical Safety Inspection Fund is  
13 created. All fees collected by the Department of Labor pursuant to  
14 the Nebraska Amusement Ride Act and the Conveyance Safety Act shall  
15 be remitted to the State Treasurer for credit to the Mechanical  
16 Safety Inspection Fund. Fees so collected shall not lapse into the  
17 General Fund. Fees so collected shall be used for the sole purpose  
18 of administering the provisions of the Nebraska Amusement Ride Act  
19 and the Conveyance Safety Act. Any money in the Mechanical Safety  
20 Inspection Fund available for investment shall be invested by the  
21 state investment officer pursuant to the Nebraska Capital Expansion  
22 Act and the Nebraska State Funds Investment Act. All funds existing  
23 in the Elevator Inspection Fund and the Nebraska Amusement Ride  
24 Fund on the operative date of this section shall be transferred to  
25 the Mechanical Safety Inspection Fund.

26 Sec. 27. Section 48-1809, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1           48-1809 The commissioner shall establish by rules and  
2 regulations a schedule of permit fees not to exceed fifty dollars  
3 for each amusement ride. Such permit fees shall be established with  
4 due regard for the costs of administering the Nebraska Amusement  
5 Ride Act and shall be remitted to the State Treasurer for credit to  
6 the Mechanical Safety Inspection Fund.

7           Sec. 28. Section 48-2501, Revised Statutes Cumulative  
8 Supplement, 2006, is amended to read:

9           48-2501 Sections 48-2501 to 48-2533 and section 29 of  
10 this act shall be known and may be cited as the Conveyance Safety  
11 Act.

12           Sec. 29. Section 48-418, Revised Statutes Cumulative  
13 Supplement, 2006, is amended to read:

14           ~~48-418~~ The Commissioner of Labor shall ~~on or before the~~  
15 ~~first day of July 1965,~~ appoint a state elevator inspector, subject  
16 to the approval of the Governor, who shall work under the direct  
17 supervision of the commissioner. The state elevator inspector  
18 serving on the operative date of this act shall continue to  
19 serve unless removed by the commissioner. The person so appointed  
20 shall be qualified by (a) not less than five years' experience  
21 in the installation, maintenance, and repair of elevators as  
22 determined by the commissioner, (b) certification as a qualified  
23 elevator inspector by an association accredited by the American  
24 Society of Mechanical Engineers, or (c) not less than five years'  
25 journeyman experience in elevator installation, maintenance, and  
26 inspection as determined by the Commissioner of Labor and shall  
27 be familiar with the ~~inspection process provided by the Nebraska~~

1 ~~Elevator Code provided under section 48-418.12 and the inspection~~  
2 process and rules and regulations adopted and promulgated under the  
3 Conveyance Safety Act. The commissioner, subject to the approval  
4 of the Governor, may appoint deputy inspectors possessing the  
5 same qualifications as the state elevator inspector. A qualified  
6 individual may apply for the position of inspector or deputy  
7 inspector and such application shall include the applicant's social  
8 security number, but such social security number shall not be a  
9 public record.

10           Sec. 30. Section 48-2503, Revised Statutes Cumulative  
11 Supplement, 2006, is amended to read:

12           48-2503 (1) The Conveyance Advisory Committee is created.  
13 One member shall be the state elevator inspector appointed pursuant  
14 to section ~~48-418. 29~~ of this act. One member shall be the State  
15 Fire Marshal or his or her designee. The Governor shall appoint the  
16 remaining members of the committee as follows: One representative  
17 from a major elevator manufacturing company; one representative  
18 from an elevator servicing company; one representative who is a  
19 building manager; one representative who is an elevator mechanic;  
20 and one representative of the general public from each county that  
21 has a population of more than one hundred thousand inhabitants. The  
22 committee shall be appointed within ninety days after January 1,  
23 2008.

24           (2) The members of the committee appointed by the  
25 Governor shall serve for terms of three years, except that of  
26 the initial members appointed, two shall serve for terms of one  
27 year and three shall serve for terms of two years. The state

1 elevator inspector and the State Fire Marshal or his or her  
2 designee shall serve continuously. The appointed members shall be  
3 reimbursed for their actual and necessary expenses for service  
4 on the committee as provided in sections 81-1174 to 81-1177. The  
5 members of the committee shall elect a chairperson who shall be the  
6 deciding vote in the event of a tie vote.

7 (3) The committee shall meet and organize within thirty  
8 days after the appointment of the members. The committee shall meet  
9 quarterly at a time and place to be fixed by the committee for the  
10 consideration of code regulations and for the transaction of such  
11 other business as properly comes before it. Special meetings may be  
12 called by the chairperson or at the request of two or more members  
13 of the committee. Any appointed committee member absent from three  
14 consecutive meetings shall be dismissed.

15 Sec. 31. Section 48-2506, Revised Statutes Cumulative  
16 Supplement, 2006, is amended to read:

17 ~~48-2506 (1) The Conveyance Inspection Fund is created.~~  
18 ~~The commissioner shall use the fund for the administration of the~~  
19 ~~Conveyance Safety Act. Fees collected in the administration of the~~  
20 ~~act shall be remitted to the State Treasurer for credit to the fund~~  
21 ~~and shall not lapse into the General Fund. Any money in the fund~~  
22 ~~available for investment shall be invested by the state investment~~  
23 ~~officer pursuant to the Nebraska Capital Expansion Act and the~~  
24 ~~Nebraska State Funds Investment Act.~~

25 ~~(2) (1)~~ The commissioner shall, after a public hearing  
26 conducted by the commissioner or his or her designee, establish a  
27 reasonable schedule of fees for licenses, permits, certificates,

1 and inspections authorized under the Conveyance Safety Act. The  
2 commissioner shall establish the fees at a level necessary  
3 to meet the costs of administering the act. Inspection fee  
4 schedules relating to the inspection of conveyances adopted by  
5 the commissioner prior to the operative date of this section shall  
6 continue to be effective until they are amended or repealed by the  
7 commissioner.

8 (2) The commissioner shall administer the Conveyance  
9 Safety Act. It is the intent of the Legislature that, beginning  
10 in fiscal year 2008-09, the funding for the administration of the  
11 act shall be entirely from cash funds remitted to the Conveyance  
12 Inspection Fund. Mechanical Safety Inspection Fund that are fees  
13 collected in the administration of the act.

14 Sec. 32. Section 48-2507, Revised Statutes Cumulative  
15 Supplement, 2006, is amended to read:

16 48-2507 (1) The Conveyance Safety Act applies to the  
17 ~~design~~, construction, operation, inspection, testing, maintenance,  
18 alteration, and repair of conveyances. Conveyances include the  
19 following equipment, associated parts, and hoistways which are not  
20 exempted under section 48-2508:

21 (a) Hoisting and lowering mechanisms equipped with a car  
22 which moves between two or more landings. This equipment includes  
23 elevators;

24 (b) Power driven stairways and walkways for carrying  
25 persons between landings. This equipment includes:

26 (i) Escalators; and

27 (ii) Moving sidewalks; and

1 (c) Hoisting and lowering mechanisms equipped with a car,  
2 which serves two or more landings and is restricted to the carrying  
3 of material by its limited size or limited access to the car. This  
4 equipment includes:

5 (i) Dumbwaiters;

6 (ii) Material lifts and dumbwaiters with automatic  
7 transfer devices; and

8 (iii) Conveyors and related equipment within the scope of  
9 American Society of Mechanical Engineers B20.1.

10 (2) The act applies to the ~~design~~ construction,  
11 operation, inspection, maintenance, alteration, and repair of  
12 automatic guided transit vehicles on guideways with an exclusive  
13 right-of-way. This equipment includes automated people movers.

14 (3) The act applies to conveyances in private residences  
15 located in counties that have a population of more than one hundred  
16 thousand inhabitants at the time of installation. Such ~~and such~~  
17 conveyances are subject to inspection at installation, but and are  
18 not subject to periodic inspections.

19 Sec. 33. Section 48-2508, Revised Statutes Cumulative  
20 Supplement, 2006, is amended to read:

21 48-2508 The Conveyance Safety Act does not apply to:

22 (1) Conveyances under the jurisdiction and subject to  
23 inspection by the United States Government;

24 (2) Conveyances used exclusively for agricultural  
25 purposes;

26 (3) Personnel hoists within the scope of American  
27 National Standards Institute A10.4;

1                   (4) Material hoists within the scope of American National  
2 Standards Institute A10.5;

3                   (5) Manlifts within the scope of American Society of  
4 Mechanical Engineers A90.1;

5                   (6) Mobile scaffolds, towers, and platforms within the  
6 scope of American National Standards Institute A92;

7                   (7) Powered platforms and equipment for exterior and  
8 interior maintenance within the scope of American National  
9 Standards Institute 120.1;

10                  (8) Cranes, derricks, hoists, hooks, jacks, and slings  
11 within the scope of American Society of Mechanical Engineers B30;

12                  (9) Industrial trucks within the scope of American  
13 Society of Mechanical Engineers B56;

14                  (10) Portable equipment, except for portable escalators  
15 which are covered by American National Standards Institute A17.1;

16                  (11) Tiering or piling machines used to move materials to  
17 and from storage located and operating entirely within one story;

18                  (12) Equipment for feeding or positioning materials at  
19 machine tools, printing presses, and similar equipment;

20                  (13) Skip or furnace hoists;

21                  (14) Wharf ramps;

22                  (15) Railroad car lifts or dumpers;

23                  (16) Line jacks, false cars, shafters, moving platforms,  
24 and similar equipment used for installing a conveyance by an  
25 elevator contractor;

26                  (17) Manlifts, hoists, or conveyances used in grain  
27 elevators or feed mills;

- 1                   (18) Dock levelators; ~~and~~  
2                   (19) Stairway chair lifts and platform lifts; and -  
3                   (20) Conveyances in residences located in counties that  
4 have a population of one hundred thousand or less inhabitants.

5                   Sec. 34. Section 48-2512, Revised Statutes Cumulative  
6 Supplement, 2006, is amended to read:

7                   48-2512 (1) No person shall wire, alter, replace, remove,  
8 or dismantle an existing conveyance contained within a building  
9 or structure located in a county that has a population of more  
10 than one hundred thousand inhabitants unless such person is a  
11 licensed elevator mechanic or he or she is working under the  
12 direct supervision of a person who is a licensed elevator mechanic.  
13 Neither a licensed elevator mechanic nor a licensed elevator  
14 contractor is required to perform nonmechanical maintenance of  
15 a conveyance. Neither a licensed elevator contractor nor a  
16 licensed elevator mechanic is required for removing or dismantling  
17 conveyances which are destroyed as a result of a complete  
18 demolition of a secured building.

19                   (2) It shall be the responsibility of licensed  
20 elevator mechanics and licensed elevator contractors to ensure  
21 that installation and service of a conveyance is performed in  
22 compliance with applicable fire and safety codes. It shall be the  
23 responsibility of the owner of the conveyance to ensure that the  
24 conveyance is maintained in compliance with applicable fire and  
25 safety codes.

26                   (3) All new conveyance installations shall be performed  
27 by a licensed elevator mechanic under the control of a licensed

1 elevator contractor or by a licensed elevator contractor.  
2 Subsequent to installation, a licensed elevator contractor shall  
3 certify compliance with the Conveyance Safety Act.

4 Sec. 35. Sections 12, 13, 14, 15, 16, 35, 36, and 41  
5 of this act become operative on their effective date. Sections  
6 26, 27, 28, 29, 30, 31, 32, 33, 34, 37, and 39 of this act  
7 become operative on January 1, 2008. The other sections of this act  
8 become operative three calendar months after adjournment of this  
9 legislative session.

10 Sec. 36. Original sections 48-720, 48-722, 48-730,  
11 48-731, and 48-736, Reissue Revised Statutes of Nebraska, are  
12 repealed.

13 Sec. 37. Original section 48-1809, Reissue Revised  
14 Statutes of Nebraska, and sections 48-418, 48-2501, 48-2503,  
15 48-2506, 48-2507, 48-2508, and 48-2512, Revised Statutes Cumulative  
16 Supplement, 2006, are repealed.

17 Sec. 38. Original sections 20-113, 48-606, 48-612,  
18 48-663.01, 48-1001, 48-1002, 48-1003, 48-1004, 48-1005, 48-1007,  
19 48-1008, 48-1009, and 48-1010, Reissue Revised Statutes of  
20 Nebraska, and sections 48-601, 48-602, 48-624, 48-649, 48-652, and  
21 48-664, Revised Statutes Cumulative Supplement, 2006, are repealed.

22 Sec. 39. The following sections are outright repealed:  
23 Sections 48-418.01, 48-418.02, 48-418.03, 48-418.04, 48-418.05,  
24 48-418.06, 48-418.07, 48-418.08, 48-418.10, 48-418.11, 48-418.12,  
25 48-418.14, and 48-1810, Reissue Revised Statutes of Nebraska,  
26 and sections 48-418.04, 48-418.09, and 48-2505, Revised Statutes  
27 Cumulative Supplement, 2006.

1                   Sec. 40. The following sections are outright repealed:  
2   Section 48-1006, Reissue Revised Statutes of Nebraska, and section  
3   48-649.01, Revised Statutes Cumulative Supplement, 2006.

4                   Sec. 41. Since an emergency exists, this act takes effect  
5   when passed and approved according to law.