

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 971**

Introduced by Harms, 48; Carlson, 38; Lambert, 2; Lathrop, 12; McCoy, 39; Mello, 5; Pahls, 31; Schilz, 47; at the request of the Governor.

Read first time January 12, 2012

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to state government; to amend sections 25-1558,  
2 48-121.02, 48-1,118, 48-214, 48-222, 48-229, 48-301,  
3 48-302, 48-302.04, 48-303, 48-304, 48-307, 48-309,  
4 48-310, 48-310.01, 48-310.02, 48-311, 48-312, 48-401,  
5 48-402, 48-403, 48-404, 48-405, 48-412, 48-413, 48-414,  
6 48-415, 48-416, 48-421, 48-425, 48-427, 48-428, 48-431,  
7 48-440, 48-443, 48-444, 48-445, 48-446, 48-501.01,  
8 48-503, 48-504, 48-505, 48-507, 48-511, 48-513, 48-514,  
9 48-515, 48-516, 48-518, 48-519, 48-524, 48-602,  
10 48-603.01, 48-605, 48-606, 48-606.01, 48-607, 48-608,  
11 48-609, 48-611, 48-612, 48-612.01, 48-613, 48-614,  
12 48-616, 48-617, 48-618, 48-619, 48-621, 48-622.02,  
13 48-622.03, 48-623, 48-626, 48-627, 48-628, 48-628.01,  
14 48-628.02, 48-628.03, 48-628.05, 48-629, 48-629.01,  
15 48-630, 48-632, 48-633, 48-634, 48-635, 48-636, 48-637,  
16 48-638, 48-641, 48-642, 48-643, 48-646, 48-647, 48-648,

1 48-648.01, 48-649, 48-650, 48-651, 48-652, 48-654,  
2 48-654.01, 48-655, 48-656, 48-657, 48-658, 48-660,  
3 48-660.01, 48-661, 48-662, 48-663.01, 48-665, 48-665.01,  
4 48-667, 48-668, 48-668.01, 48-668.02, 48-668.03, 48-720,  
5 48-721, 48-722, 48-723, 48-724, 48-726, 48-727, 48-728,  
6 48-729, 48-730, 48-731, 48-733, 48-735.01, 48-737,  
7 48-738, 48-743, 48-1202, 48-1203.01, 48-1205, 48-1206,  
8 48-1618, 48-1619, 48-1625, 48-1626, 48-1627, 48-1702,  
9 48-1705, 48-1706, 48-1710, 48-1802, 48-1803, 48-1804,  
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12 48-2106, 48-2107, 48-2108, 48-2110, 48-2111, 48-2112,  
13 48-2113, 48-2114, 48-2117, 48-2208, 48-2210, 48-2213,  
14 48-2214, 48-2502, 48-2504, 48-2506, 48-2509, 48-2511,  
15 48-2512.01, 48-2514, 48-2516, 48-2518, 48-2520, 48-2521,  
16 48-2522, 48-2525, 48-2526, 48-2527, 48-2528, 48-2529,  
17 48-2530, 48-2702, 48-2902, 48-2907, 48-2908, 48-2910,  
18 49-506, 55-161, 55-161.01, 60-368, 60-488, 68-1711,  
19 68-1732, 74-915, 74-917, 77-373.01, 77-3,116, 77-27,188,  
20 77-27,197, 77-27,198, 77-27,199, 77-27,201, 77-27,202,  
21 77-27,203, 77-27,205, 77-27,206, 77-27,207, 77-27,208,  
22 77-27,209, 77-3902, 77-3903, 77-3904, 77-3905, 77-3906,  
23 77-3907, 77-3908, 77-5403, 77-5521, 77-5707.01, 77-5712,  
24 77-5903, 81-101, 81-102, 81-401, 81-402, 81-403, 81-405,  
25 81-8,220, 81-1202, 81-1204, 81-1204.01, 81-1206, 81-1208,

1 81-1209, 81-1210, 81-1356, and 85-1539, Reissue Revised  
2 Statutes of Nebraska, sections 23-120, 42-917, 43-1723,  
3 43-1726, 77-378, 77-2711, 77-27,119, 81-1201.04, 81-1203,  
4 and 85-1008, Revised Statutes Cumulative Supplement,  
5 2010, and sections 37-917, 43-2,108.05, 48-604,  
6 48-622.01, 48-631, 49-617, 81-1205, 84-1301, and 84-1307,  
7 Revised Statutes Supplement, 2011; to merge the  
8 Department of Labor into the Department of Economic  
9 Development; to merge the office and position of  
10 Commissioner of Labor into the office and position of  
11 Director of Economic Development; to provide powers and  
12 duties; to change the membership of boards; to provide  
13 for transition of personnel, property, and powers and  
14 duties; to eliminate obsolete and terminated provisions;  
15 to harmonize provisions; to provide an operative date; to  
16 repeal the original sections; to outright repeal sections  
17 81-1201.02, 81-1201.03, 81-12,117, 81-12,118, 81-12,119,  
18 81-12,120, 81-12,121, 81-12,122, 81-12,123, 81-12,124,  
19 90-225, 90-526, 90-532, 90-533, and 90-534, Reissue  
20 Revised Statutes of Nebraska, and section 81-1212,  
21 Revised Statutes Cumulative Supplement, 2010; and to  
22 declare an emergency.

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

1           Section 1. Section 23-120, Revised Statutes Cumulative  
2 Supplement, 2010, is amended to read:

3           23-120 (1) The county board shall acquire, purchase,  
4 construct, renovate, remodel, furnish, equip, add to, improve, or  
5 provide a suitable courthouse, jail, and other county buildings and a  
6 site or sites therefor and for such purposes borrow money and issue  
7 the bonds of the county to pay for the same. Agreements entered into  
8 under section 25-412.03 shall be deemed to be in compliance with this  
9 section. The board shall keep such buildings in repair and provide  
10 suitable rooms and offices for the accommodation of the several  
11 courts of record, Nebraska Workers' Compensation Court or any judge  
12 thereof, ~~Commissioner of Labor~~ Director of Economic Development for  
13 the conduct and operation of the state free employment service,  
14 county board, county clerk, county treasurer, county sheriff, clerk  
15 of the district court, county surveyor, county agricultural agent,  
16 and county attorney if the county attorney holds his or her office at  
17 the county seat and shall provide suitable furniture and equipment  
18 therefor. All such courts which desire such accommodation shall be  
19 suitably housed in the courthouse.

20           (2) No levy exceeding (a) two million dollars in counties  
21 having in excess of two hundred fifty thousand inhabitants, (b) one  
22 million dollars in counties having in excess of one hundred thousand  
23 inhabitants and not in excess of two hundred fifty thousand  
24 inhabitants, (c) three hundred thousand dollars in counties having in  
25 excess of thirty thousand inhabitants and not in excess of one

1 hundred thousand inhabitants, or (d) one hundred fifty thousand  
2 dollars in all other counties shall be made within a one-year period  
3 for any of the purposes specified in subsection (1) of this section  
4 without first submitting the proposition to a vote of the people of  
5 the county at a general election or a special election ordered by the  
6 board for that purpose and obtaining the approval of a majority of  
7 the legal voters thereon.

8 (3)(a) The county board of any county in this state may,  
9 when requested so to do by petition signed by at least a majority of  
10 the legal voters in the county based on the average vote of the two  
11 preceding general elections, make an annual levy of not to exceed  
12 seventeen and five-tenths cents on each one hundred dollars upon the  
13 taxable value of all the taxable property in the county for any of  
14 the purposes specified in subsection (1) of this section.

15 (b) If a county on the day it first initiates a project  
16 for any of the purposes specified in subsection (1) of this section  
17 had no bonded indebtedness payable from its general fund levy, the  
18 county board may make an annual levy of not to exceed five and two-  
19 tenths cents on each one hundred dollars upon the taxable value of  
20 all the taxable property of the county for a project or projects for  
21 any of the purposes specified in subsection (1) of this section  
22 without the filing of a petition described in subdivision (3)(a) of  
23 this section. The county board shall designate the particular project  
24 for which such levy shall be expended, the period of years, which  
25 shall not exceed twenty, for which the tax will be levied for such

1 project, and the number of cents of the levy for each year thereof.  
2 The county board may designate more than one project and levy a tax  
3 pursuant to this section for each such project, concurrently or  
4 consecutively, as the case may be, if the aggregate levy in each year  
5 and the duration of each levy will not exceed the limitations  
6 specified in this subsection. Each levy for a project which is  
7 authorized by this subdivision may be imposed for such duration  
8 specified by the county board notwithstanding the contemporaneous  
9 existence or subsequent imposition of any other levy or levies for  
10 another project or projects imposed pursuant to this subdivision and  
11 notwithstanding the subsequent issuance by the county of bonded  
12 indebtedness payable from its general fund levy.

13           Sec. 2. Section 25-1558, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           25-1558 (1) Except as provided in subsection (2) of this  
16 section, the maximum part of the aggregate disposable earnings of an  
17 individual for any workweek which is subject to garnishment shall not  
18 exceed the lesser of the following amounts:

19           (a) Twenty-five percent of his or her disposable earnings  
20 for that week;

21           (b) The amount by which his or her disposable earnings  
22 for that week exceed thirty times the federal minimum hourly wage  
23 prescribed by 29 U.S.C. 206(a)(1) in effect at the time earnings are  
24 payable; or

25           (c) Fifteen percent of his or her disposable earnings for

1 that week, if the individual is a head of a family.

2 (2) The restrictions of subsection (1) of this section  
3 shall not apply in the case of:

4 (a) Any order of any court for the support of any  
5 persons;

6 (b) Any order of any court of bankruptcy under Chapter  
7 XIII of the Bankruptcy Act; or

8 (c) Any debt due for any state or federal tax.

9 (3) No court shall make, execute, or enforce any order or  
10 process in violation of this section. The exemptions allowed in this  
11 section shall be granted to any person so entitled without any  
12 further proceedings.

13 (4) For the purposes of this section:

14 (a) Earnings ~~shall mean~~ means compensation paid or  
15 payable by an employer to an employee for personal services, whether  
16 denominated as wages, salary, commission, bonus, or otherwise, and  
17 includes periodic payments pursuant to a pension or retirement  
18 program;

19 (b) Disposable earnings ~~shall mean~~ means that part of the  
20 earnings of any individual remaining after the deduction from those  
21 earnings of any amounts required by law to be withheld;

22 (c) Garnishment ~~shall mean~~ means any legal or equitable  
23 procedure through which the earnings of any individual are required  
24 to be withheld for payment of any debt; and

25 (d) Head of a family ~~shall mean~~ means an individual who

1 actually supports and maintains one or more individuals who are  
2 closely connected with him or her by blood relationship, relationship  
3 by marriage, by adoption, or by guardianship, and whose right to  
4 exercise family control and provide for the dependent individuals is  
5 based upon some moral or legal obligation.

6 (5) Every assignment, sale, transfer, pledge, or mortgage  
7 of the wages or salary of an individual which is exempted by this  
8 section, to the extent of the exemption provided by this section,  
9 shall be void and unenforceable by any process of law.

10 (6) No employer shall discharge any employee by reason of  
11 the fact that his or her earnings have been subjected to garnishment  
12 for any one indebtedness.

13 (7) In the case of earnings for any pay period other than  
14 a week, the ~~Commissioner of Labor~~ Director of Economic Development  
15 shall by regulation prescribe a multiple of the federal minimum  
16 hourly wage equivalent in effect to that set forth in this section.

17 Sec. 3. Section 37-917, Revised Statutes Supplement,  
18 2011, is amended to read:

19 37-917 (1) The Nebraska Youth Conservation Program is  
20 created. The purpose of the program is to employ Nebraska's at-risk  
21 youth on projects which contribute to conserving or developing  
22 natural resources and enhancing and maintaining environmentally  
23 important land and water under the jurisdiction of the commission.  
24 The program shall combine academic, environmental, and job skills  
25 training with personal growth opportunities for the participants. The

1 commission may administer and maintain the program, directly or by  
2 means of contractual arrangement with an experienced service provider  
3 or the Department of ~~Labor~~ Economic Development.

4 (2) Participants shall be at-risk youth who are at least  
5 sixteen years of age and not older than twenty-one years of age,  
6 unemployed, and residents of Nebraska. Special effort shall be made  
7 to select applicants residing in rural and urban high-poverty areas,  
8 as determined by the most recent federal census data.

9 (3) Participants shall be paid not less than the minimum  
10 wage described in section 48-1203. Participation in the program shall  
11 be for a period of six weeks for each participant. Participants and  
12 program supervisory personnel may be provided meals during the six-  
13 week work period. Protective clothing items shall be provided to  
14 participants and supervisory personnel as work conditions warrant.

15 (4) Participants in the Nebraska Youth Conservation  
16 Program may be considered temporary employees. This subsection does  
17 not apply to crew chiefs and other administrative and supervisory  
18 personnel of the program, all of whom may be employees of the  
19 commission or employees of an entity hired by or under contract with  
20 the commission or the Department of ~~Labor~~ Economic Development to  
21 administer the program. The program shall not result in displacement  
22 of current employees or cause a reduction in current employees' hours  
23 or wages and shall be in compliance with applicable federal and state  
24 labor and education laws.

25 (5) The commission may coordinate with federal, state,

1 and local programs that provide job training and placement services  
2 and education opportunities for participants after completing the  
3 program.

4           Sec. 4. Section 42-917, Revised Statutes Cumulative  
5 Supplement, 2010, is amended to read:

6           42-917 The delivery of all services provided for under  
7 the Protection from Domestic Abuse Act shall be done in cooperation  
8 with existing public, private, state, and local programs whenever  
9 possible to avoid duplication of services. Special effort shall be  
10 taken to coordinate programs with the Department of ~~Labor~~, Economic  
11 Development, the State Department of Education, the Department of  
12 Health and Human Services, and other appropriate agencies, community  
13 service agencies, and private sources.

14           Sec. 5. Section 43-2,108.05, Revised Statutes Supplement,  
15 2011, is amended to read:

16           43-2,108.05 (1) If the court orders the record of a  
17 juvenile sealed pursuant to section 43-2,108.04, the court shall:

18           (a) Order that all records, including any information or  
19 other data concerning any proceedings relating to the offense,  
20 including the arrest, taking into custody, petition, complaint,  
21 indictment, information, trial, hearing, adjudication, correctional  
22 supervision, dismissal, or other disposition or sentence, be deemed  
23 never to have occurred;

24           (b) Send notice of the order to seal the record (i) to  
25 the Nebraska Commission on Law Enforcement and Criminal Justice, (ii)

1 if the record includes impoundment or prohibition to obtain a license  
2 or permit pursuant to section 43-287, to the Department of Motor  
3 Vehicles, (iii) if the juvenile whose record has been ordered sealed  
4 was a ward of the state at the time the proceeding was initiated or  
5 if the Department of Health and Human Services was a party in the  
6 proceeding, to such department, and (iv) to law enforcement agencies,  
7 county attorneys, and city attorneys referenced in the court record;

8 (c) Order all notified under subdivision (1)(b) of this  
9 section to seal all records pertaining to the offense;

10 (d) If the case was transferred from district court to  
11 juvenile court or was transferred under section 43-282, send notice  
12 of the order to seal the record to the transferring court; and

13 (e) Explain to the juvenile what sealing the record means  
14 verbally if the juvenile is present in the court at the time the  
15 court issues the sealing order or by written notice sent by regular  
16 mail to the juvenile's last-known address if the juvenile is not  
17 present in the court at the time the court issues the sealing order.

18 (2) The effect of having a record sealed under section  
19 43-2,108.04 is that thereafter no person is allowed to release any  
20 information concerning such record, except as provided by this  
21 section. After a record is sealed, the person whose record was sealed  
22 can respond to any public inquiry as if the offense resulting in such  
23 record never occurred. A government agency and any other public  
24 office or agency shall reply to any public inquiry that no  
25 information exists regarding a sealed record. Except as provided in

1 subsection (3) of this section, an order to seal the record applies  
2 to every government agency and any other public office or agency that  
3 has a record relating to the offense, regardless of whether it  
4 receives notice of the hearing on the sealing of the record or a copy  
5 of the order. Upon the written request of a person whose record has  
6 been sealed and the presentation of a copy of such order, a  
7 government agency or any other public office or agency shall seal all  
8 records pertaining to the offense.

9 (3) A sealed record is accessible to law enforcement  
10 officers, county attorneys, and city attorneys in the investigation,  
11 prosecution, and sentencing of crimes, to the sentencing judge in the  
12 sentencing of criminal defendants, and to any attorney representing  
13 the subject of the sealed record. Inspection of records that have  
14 been ordered sealed under section 43-2,108.04 may be made by the  
15 following persons or for the following purposes:

16 (a) By the court or by any person allowed to inspect such  
17 records by an order of the court for good cause shown;

18 (b) By the court, city attorney, or county attorney for  
19 purposes of collection of any remaining parental support or  
20 obligation balances under section 43-290;

21 (c) By the Nebraska Probation System for purposes of  
22 juvenile intake services, for presentence and other probation  
23 investigations, and for the direct supervision of persons placed on  
24 probation and by the Department of Correctional Services, the Office  
25 of Juvenile Services, a juvenile assessment center, a criminal

1 detention facility, or a juvenile detention facility, for an  
2 individual committed to it, placed with it, or under its care;

3 (d) By the Department of Health and Human Services for  
4 purposes of juvenile intake services, the preparation of case plans  
5 and reports, the preparation of evaluations, compliance with federal  
6 reporting requirements, or the supervision and protection of persons  
7 placed with the department or for licensing or certification purposes  
8 under sections 71-1901 to 71-1906.01 or the Child Care Licensing Act;

9 (e) Upon application, by the person who is the subject of  
10 the sealed record and by persons authorized by the person who is the  
11 subject of the sealed record who are named in that application;

12 (f) At the request of a party in a civil action that is  
13 based on a case that has a sealed record, as needed for the civil  
14 action. The party also may copy the sealed record as needed for the  
15 civil action. The sealed record shall be used solely in the civil  
16 action and is otherwise confidential and subject to this section;

17 (g) By persons engaged in bona fide research, with the  
18 permission of the court, only if the research results in no  
19 disclosure of the person's identity and protects the confidentiality  
20 of the sealed record; or

21 (h) By a law enforcement agency if a person whose record  
22 has been sealed applies for employment with the law enforcement  
23 agency.

24 (4) Nothing in this section prohibits the Department of  
25 Health and Human Services from releasing information from sealed

1 records in the performance of its duties with respect to the  
2 supervision and protection of persons served by the department.

3 (5) In any application for employment, bonding, license,  
4 education, or other right or privilege, any appearance as a witness,  
5 or any other public inquiry, a person cannot be questioned with  
6 respect to any offense for which the record is sealed. If an inquiry  
7 is made in violation of this subsection, the person may respond as if  
8 the offense never occurred. Applications for employment shall contain  
9 specific language that states that the applicant is not obligated to  
10 disclose a sealed record. Employers shall not ask if an applicant has  
11 had a record sealed. The Department of ~~Labor~~Economic Development  
12 shall develop a link on the department's web site to inform employers  
13 that employers cannot ask if an applicant had a record sealed and  
14 that an application for employment shall contain specific language  
15 that states that the applicant is not obligated to disclose a sealed  
16 record.

17 (6) Any person who violates this section may be held in  
18 contempt of court.

19 Sec. 6. Section 43-1723, Revised Statutes Cumulative  
20 Supplement, 2010, is amended to read:

21 43-1723 Except as otherwise provided in this section, the  
22 county attorney, the authorized attorney, or the department shall  
23 notify the obligor's employer or other payor, by first-class mail or  
24 by electronic means, within the time determined by the department  
25 which shall comply with the requirements of Title IV-D of the federal

1 Social Security Act, as amended. The notice shall specify the basis  
2 for the assignment of income and shall direct:

3 (1) That the employer or other payor shall withhold from  
4 the obligor's disposable income the amount stated by the county  
5 attorney, the authorized attorney, or the department for the purpose  
6 of reducing and satisfying the obligor's (a) previous arrearage in  
7 child, spousal, or medical support payments arising from the  
8 obligor's failure to fully comply with a support order previously  
9 entered, (b) ongoing obligation for support payments as they become  
10 due, and (c) then any monetary judgment;

11 (2) That the employer or other payor shall implement  
12 income withholding no later than the first pay period that begins  
13 following the date on the notice;

14 (3) That the employer or other payor shall pay to the  
15 obligor, on his or her regularly scheduled payday, such income then  
16 due which is not stated to be withheld pursuant to section 43-1722 or  
17 any court order;

18 (4) That the employer or other payor may assess an  
19 additional administrative fee from the obligor's disposable income  
20 not to exceed two dollars and fifty cents in any calendar month as  
21 compensation for the employer's or other payor's reasonable cost  
22 incurred in complying with the notice;

23 (5) That the employer or other payor shall remit, within  
24 seven days after the date the obligor is paid and in the manner  
25 specified in the notice, the income withheld, less the deduction

1 allowed as an administrative expense by subdivision (4) of this  
2 section, to the State Disbursement Unit as designated in the notice  
3 and shall notify the unit of the date such income was withheld;

4 (6) That the employer or other payor shall notify the  
5 county attorney, the authorized attorney, or the department in  
6 writing of the termination of the employment or income of the  
7 obligor, the last-known address of the obligor, and the name and  
8 address of the obligor's new employer or other payor, if known, and  
9 shall provide such written notification within thirty days after the  
10 termination of employment or income;

11 (7) That income withholding is binding on the employer or  
12 other payor until further notice by the county attorney, the  
13 authorized attorney, or the department;

14 (8) That the employer or other payor may combine amounts  
15 required to be withheld from the income of two or more obligors in a  
16 single payment to the unit as designated in an income withholding  
17 notice if the portion of the single payment which is attributable to  
18 each individual obligor is separately identified;

19 (9) That an employer or other payor who fails to withhold  
20 and remit income of an obligor after receiving proper notice or who  
21 discriminates, demotes, disciplines, or terminates an employee or  
22 payee after receiving an income withholding notice shall be subject  
23 to the penalties prescribed in sections 43-1724 and 43-1725; and

24 (10) That if the employer or other payor receives more  
25 than one notice to withhold income of a single obligor and the amount

1 of income available to be withheld pursuant to the limits specified  
2 in section 43-1722 is insufficient to satisfy the total support  
3 amount stated in the notices, the income available shall first be  
4 applied to current support. If the total amount of income available  
5 to be withheld is insufficient to satisfy the total amount of current  
6 support stated by the notices, the employer or other payor shall  
7 withhold for each notice the proportion that the amount of the  
8 current support stated in such notice bears to the total amount of  
9 current support stated in all notices received for the obligor. Any  
10 remaining income available to be withheld after current support is  
11 satisfied for all notices shall be applied to arrearages. If  
12 arrearages are stated in more than one notice, the employer or other  
13 payor shall withhold for each notice the proportion that the amount  
14 of the arrearage stated in such notice bears to the total amount of  
15 arrearage stated in all notices received for the obligor. Any income  
16 available to be withheld after the obligor's support obligation is  
17 current shall be applied to any monetary judgment. If a monetary  
18 judgment is stated in more than one notice, the employer or other  
19 payor shall withhold for each notice the proportion that the amount  
20 of the monetary judgments stated in such notice bears to the total  
21 amount of monetary judgments stated in all notices received for the  
22 obligor.

23 Compliance with the order by the employer or other payor  
24 shall operate as a discharge of the employer's or other payor's  
25 liability to the obligor as to the portion of the obligor's income

1 withheld. The county attorney, the authorized attorney, or the  
2 department need not notify the ~~Commissioner of Labor~~ Director of  
3 Economic Development as a payor if the ~~commissioner~~ director is  
4 withholding for child support from the obligor under section 48-647  
5 for the same support order.

6 Sec. 7. Section 43-1726, Revised Statutes Cumulative  
7 Supplement, 2010, is amended to read:

8 43-1726 When an obligor ceases employment with or is no  
9 longer entitled to income from an employer or other payor, the notice  
10 to withhold income shall not cease to operate against the obligor and  
11 income withholding shall continue to apply to any subsequent  
12 employment or income of the obligor. The notice to withhold income  
13 shall terminate with respect to the employer or other payor without  
14 any court action or action by the county attorney, the authorized  
15 attorney, or the department thirty days after the obligor ceases  
16 employment with or is no longer entitled to income from such employer  
17 or other payor, except that a notice to withhold income shall not  
18 terminate with respect to unemployment compensation benefits being  
19 withheld by the ~~Commissioner of Labor~~ Director of Economic  
20 Development pursuant to section 48-647. The employer or other payor  
21 shall return a copy of the notice to withhold income to the county  
22 attorney, the authorized attorney, or the department, indicate that  
23 the employment or obligation to pay income has ceased, and cooperate  
24 in providing any known forwarding information. The county attorney,  
25 the authorized attorney, or the department shall notify the clerk of

1 the appropriate district court that such employment or obligation to  
2 pay income has ceased. A notice to withhold income shall also  
3 terminate when the child, spousal, or medical support obligation  
4 terminates, all past-due support has been paid, and any monetary  
5 judgments have been paid, in which case the county attorney, the  
6 authorized attorney, or the department shall notify the employer or  
7 other payor to cease withholding income.

8           Sec. 8. Section 48-121.02, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           48-121.02 For purposes of section 48-121.01, the state  
11 average weekly wage shall be determined by the administrator of the  
12 Nebraska Workers' Compensation Court as follows: On or before October  
13 1 of each year, the total insured wages reported to the Department of  
14 ~~Labor~~ Economic Development for the preceding calendar year, excluding  
15 federal employees, shall be divided by the average monthly number of  
16 employees insured under the Employment Security Law. Such average  
17 monthly number of employees shall be determined by dividing the total  
18 number of employees insured under the Employment Security Law  
19 reported for such calendar year by twelve. The state average annual  
20 wage thus obtained shall be divided by fifty-two, and the state  
21 average weekly wage thus determined shall be rounded to the nearest  
22 whole cent. The state average weekly wage as so determined shall be  
23 applicable for the calendar year commencing January 1 following the  
24 October 1 determination.

25           Sec. 9. Section 48-1,118, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           48-1,118 ~~On January 1, 1997, the~~ The Governor shall or  
3 the Legislature, by resolution, may, every odd-numbered year, direct  
4 the Director of Insurance and the ~~Commissioner of Labor~~ Director of  
5 Economic Development to conduct and complete a cost-benefit analysis  
6 and a review of the effectiveness of the changes made by Laws 1993,  
7 LB 757, to control or reduce the cost of workers' compensation  
8 premiums. Information for the study may be elicited from interested  
9 persons and from the Nebraska Workers' Compensation Court. The  
10 ~~director and the commissioner~~ Director of Insurance and the Director  
11 of Economic Development shall submit a report, which may include  
12 recommendations for further legislation, to the chairperson of the  
13 Business and Labor Committee of the Legislature, the Clerk of the  
14 Legislature, and the Governor by October 1, ~~1997.~~ of such year. The  
15 Business and Labor Committee of the Legislature shall hold a public  
16 hearing on the study and shall submit a report to the Legislature by  
17 December 1, ~~1997.~~ ~~The Governor or the Legislature, by resolution, may~~  
18 ~~require a similar study in 1999 and every two years thereafter.~~ of  
19 such year.

20           Sec. 10. Section 48-214, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           48-214 It is hereby declared to be the policy of this  
23 state that no representative agency of labor, in collective  
24 bargaining with employers concerning grievances, labor disputes,  
25 wages, rates of pay, hours of employment, or other conditions of

1 work, shall, in such collective bargaining, discriminate against any  
2 person because of his or her race or color. The Department of ~~Labor~~  
3 Economic Development shall be and hereby is charged with the duty of  
4 enforcement of this policy in conformity with Article I of the  
5 Constitution of Nebraska and section 1 of the Fourteenth Amendment to  
6 the Constitution of the United States of America.

7           Sec. 11. Section 48-222, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           48-222 Any employer who violates the provisions of  
10 section 48-221 shall be guilty of a Class V misdemeanor. Each  
11 violation shall constitute a separate offense. It shall be the duty  
12 of the ~~Commissioner of Labor~~ Director of Economic Development to  
13 enforce the provisions of sections 48-220 to 48-223.

14           Sec. 12. Section 48-229, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           48-229 It shall be the duty of the ~~Commissioner of Labor~~  
17 Director of Economic Development to enforce the provisions of  
18 sections 48-225 to 48-231. The ~~commissioner~~ director shall act on  
19 preference claims as follows:

20           (1) When the employing agency and the claimant are in  
21 disagreement or when there is doubt as to any preference claim, the  
22 ~~commissioner~~ director shall adjudicate the claim based on information  
23 given in the claim, the documents supporting the claim, and  
24 information which may be received from the armed forces of the United  
25 States, the United States Department of Veterans Affairs, or the

1 National Archives and Records Administration;

2 (2) The ~~commissioner~~director shall allow a tentative  
3 five-percent preference, pending receipt of additional information,  
4 to any person who claims either a five-percent or a ten-percent  
5 preference but who furnishes insufficient information to establish  
6 entitlement thereto at the time of examination; and

7 (3) The ~~commissioner~~director shall decide appeals from  
8 preference determinations made by any employing agency.

9 Sec. 13. Section 48-301, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 48-301 For purposes of sections 48-302 to 48-313:

12 (1) Employment means (a) service for wages or (b) being  
13 under a contract of hire, written or oral, express or implied.  
14 Employment, other than detasseling, does not include any employment  
15 for which the employer is not liable for payment of the combined tax  
16 or payment in lieu of contributions under section 48-648, 48-649, or  
17 48-660.01; ~~and~~

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

21 (3) Department means the Department of Economic  
22 Development; and

23 (4) Director means the Director of Economic Development.

24 Sec. 14. Section 48-302, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1                   48-302 No child under sixteen years of age shall be  
2 employed or permitted or suffered to work in any employment as  
3 defined in section 48-301 within this state unless the person or  
4 corporation employing the child procures and keeps on file,  
5 accessible to the attendance officers and to the ~~Department of Labor~~  
6 department and its assistants and employees, an employment  
7 certificate as prescribed in section 48-304 and keeps two complete  
8 lists of all such children employed in the building, one on file and  
9 one conspicuously posted near the principal entrance of the building  
10 in which such children are employed. Upon the termination of the  
11 employment of a child so registered whose certificate is so filed,  
12 such certificate shall be transmitted by the employer to the person  
13 authorizing the certificate pursuant to section 48-303 and shall be  
14 turned over to the child named upon demand. Any attendance officer or  
15 the ~~Department of Labor~~ department or its assistants and employees  
16 may demand that any employer in whose place of business a child  
17 apparently under the age of sixteen years is employed or permitted or  
18 suffered to work, and whose employment certificate is not then filed  
19 as required by this section, either furnish within ten days  
20 satisfactory evidence that such child is in fact over sixteen years  
21 of age or cease to employ or permit or suffer such child to work in  
22 such place of business. The same evidence of the age of such child  
23 may be required from such employer as is required on the issuance of  
24 an employment certificate as provided in section 48-304, and the  
25 employer furnishing such evidence shall not be required to furnish

1 any further evidence of the age of the child. In case such employer  
2 fails to produce and deliver to the attendance officer or the  
3 ~~Commissioner of Labor~~ director within ten days after demand such  
4 evidence of the age of any child as may be required under the  
5 provisions of section 48-304 and continues to employ such child or  
6 permit or suffer such child to work in such place of business, proof  
7 of the giving of such notice and of such failure to produce and file  
8 such evidence shall be prima facie evidence in any prosecution  
9 brought for a violation of this section that such child is under  
10 sixteen years of age and is unlawfully employed.

11 Sec. 15. Section 48-302.04, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 48-302.04 (1) An employer who employs a child under  
14 sixteen years of age in detasseling shall provide at least two  
15 supervisors who are eighteen years of age or older at each location  
16 where detasseling is being performed by a child under sixteen years  
17 of age. The supervisors shall be capable of assisting with issues of  
18 health, safety, and wages, including bonuses and incentive payments.

19 (2) An employer who employs a child under sixteen years  
20 of age in detasseling shall provide the parents of such child with an  
21 information sheet defining the terms of employment, including, but  
22 not limited to, the availability of water and sanitary facilities on  
23 the job and wage, bonus, and incentive payment information. The  
24 information sheet shall set forth the name, address, and telephone  
25 number of the Division of Safety and Labor Standards of the

1 ~~Department of Labor~~ department for purposes of filing complaints  
2 concerning nonpayment of wages.

3           Sec. 16. Section 48-303, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           48-303 Except as otherwise provided in this section, an  
6 employment certificate shall be approved only by the superintendent  
7 of the primary high school district in which the child resides or by  
8 a person authorized by him or her in writing or, when there is no  
9 superintendent, by a person authorized by the school district  
10 officers, except that no school district officer or other person  
11 authorized by this section may approve such certificate for any child  
12 then in or about to enter his or her own employment or the employment  
13 of a firm or corporation of which he or she is a member, officer, or  
14 employee or in whose business he or she is interested. If a child who  
15 resides in an adjoining state seeks to work in Nebraska, the  
16 ~~Department of Labor~~ department may approve the employment  
17 certificate. The officer or person approving such certificate may  
18 administer the oath provided for therein or in any investigation or  
19 examination necessary for the approval thereof. No fee shall be  
20 charged for approving any such certificate or for administering any  
21 oath or rendering any services related thereto. The school board or  
22 board of education of each school district approving the employment  
23 certificate, or the department if the department has approved the  
24 employment certificate, shall establish and maintain proper records  
25 where copies of all such certificates and all documents connected

1 therewith shall be filed and preserved and shall provide the  
2 necessary clerical services for carrying out sections 48-302 to  
3 48-313. The person who issued the employment certificate shall report  
4 to the department any complaint concerning the conditions of  
5 employment of a child for whom a certificate is in force. Upon  
6 receipt of the report, the department shall make such investigation  
7 as it deems advisable to protect an individual child or to promote  
8 the youth-work program.

9           Sec. 17. Section 48-304, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           48-304 The person authorized to issue an employment  
12 certificate under section 48-303 shall not issue such certificate  
13 until he or she has received, examined, approved, and filed the  
14 following papers duly executed: (1) The school record of the child,  
15 properly filled out and signed as provided in section 48-306, showing  
16 the child has completed the work of the sixth grade of the public  
17 schools, or its equivalent, or is regularly attending night school in  
18 compliance with section 48-308; and (2) a passport or duly attested  
19 transcript of the certificate of birth or baptism or other religious  
20 or official record showing the date and place of birth of such child.  
21 A duly attested transcript of the birth certificate filed according  
22 to law with a registrar of vital statistics, or other officer charged  
23 with the duty of recording births, shall be conclusive evidence of  
24 the age of such child. The affidavit of the parent, guardian, or  
25 custodian of a child shall be required only in case none of such

1 documents can be produced and filed, showing the place and date of  
2 birth of such child, which affidavit must be taken before the officer  
3 issuing the employment certificate. Such employment certificate shall  
4 not be issued until such child has personally appeared before and  
5 been examined by the officer issuing the certificate and until such  
6 officer, after making such examination, signs and files in his or her  
7 office a statement that the child can read and legibly write simple  
8 sentences in the English language and that, in his or her opinion,  
9 the child has reached the normal development of a child of such  
10 child's age, and the child is in sound health and is physically able  
11 to perform the work which such child intends to do. In doubtful cases  
12 such physical fitness shall be determined by a physician provided by  
13 the ~~Department of Labor.~~ department. In addition to the requirements  
14 of this section, if the child is under fourteen years of age, the  
15 employment certificate shall be issued only for employment in  
16 connection with an employment program supervised and sponsored by the  
17 school or school district such child attends. Whenever the person  
18 authorized to issue the employment certificate is in doubt about the  
19 age of a child, he or she may require the party or parties making  
20 application for the certificate to appear before the judge of the  
21 juvenile court or the county judge where the question of the age of  
22 the child shall be determined and the judgment of the court shall be  
23 final and binding upon the person issuing the certificate. Notice of  
24 the hearing before the court shall be given to some one of the  
25 persons authorized to demand inspection of employment certificates.

1 Every employment certificate shall be signed in the presence of the  
2 officer issuing the certificate by the child in whose name it is  
3 issued.

4 Sec. 18. Section 48-307, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 48-307 The superintendent of public schools in all cities  
7 and towns having a population of more than one thousand according to  
8 the last official census and the presiding officer of all other  
9 school boards shall furnish a duplicate copy of all certificates  
10 issued under sections 48-302 to 48-313 to the ~~Department of Labor.~~  
11 department. The duplicate certificates in the form set forth in  
12 section 48-309 shall be filed with the ~~Department of Labor department~~  
13 at the time of the issuance of the original certificate.

14 Sec. 19. Section 48-309, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 48-309 The age and schooling certificate provided for  
17 herein shall be made out upon blank forms prescribed and furnished in  
18 triplicate by the ~~Department of Labor.~~ department.

19 Sec. 20. Section 48-310, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 48-310 (1) No person under sixteen years of age shall be  
22 employed or permitted to work in any employment as defined in section  
23 48-301 more than forty-eight hours in any one week, nor more than  
24 eight hours in any one day, nor before the hour of 6 in the morning,  
25 nor after the hour of 8 in the evening if the child is under the age

1 of fourteen, nor after the hour of 10 in the evening if such child is  
2 between the ages of fourteen and sixteen. The person issuing the work  
3 certificate may limit or extend the stated hour in individual cases  
4 by endorsement on the certificate, except a child shall only be  
5 permitted to work after the hour of 10 p.m. if there is no school  
6 scheduled for the following day and, if he or she is between fourteen  
7 and sixteen years of age, he or she has consented to such extension  
8 by signing his or her name on the endorsement extension, and his or  
9 her employer has obtained a special permit from the ~~Department of~~  
10 ~~Labor. department.~~ The Department of Labor department may issue a  
11 special permit to allow employment of such child beyond 10 p.m. upon  
12 being satisfied, after inspection of the working conditions, of the  
13 safety, healthfulness, and general welfare to the child of the  
14 business premises. The special permit may be issued for periods not  
15 to exceed ninety days and may be renewed only after reinspection. The  
16 fee for each permit or renewal shall be established by rule and  
17 regulation of the ~~Commissioner of Labor, director,~~ and all money so  
18 collected by the ~~commissioner director~~ shall be remitted to the State  
19 Treasurer who shall credit the funds to the General Fund. Every  
20 employer shall post in a conspicuous place in every room where such  
21 children are employed a printed notice stating the hours required of  
22 them each day, the hours of commencing and stopping work, and the  
23 time allowed for meals. The printed form of such notice shall be  
24 furnished by the ~~Department of Labor. department.~~

25 (2) Except as provided in subsections (3) and (4) of this

1 section, no person under sixteen years of age shall be employed or  
2 permitted to work as a door-to-door solicitor.

3 (3) A person under sixteen years of age engaged in the  
4 delivery or distribution of newspapers or shopping news may be  
5 employed or permitted to work as a door-to-door solicitor of existing  
6 customers of such newspapers or shopping news.

7 (4) A person under sixteen years of age is permitted to  
8 work as a door-to-door solicitor if he or she is working on behalf of  
9 his or her own individual entrepreneurial endeavor.

10 Sec. 21. Section 48-310.01, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 48-310.01 When the ~~Department of Labor~~ department finds  
13 it to be in the best interests of the child, the ~~Department of Labor~~  
14 department may issue a special permit waiving any requirement or  
15 restriction imposed on employment of a child pursuant to sections  
16 48-302 to 48-313 for any child employed as a performer in the  
17 performing arts subject to such conditions as the ~~Department of Labor~~  
18 department deems necessary. For purposes of this section, performing  
19 arts means musical and theatrical presentations and productions,  
20 including motion picture, theatre, radio, and television productions.  
21 Before any such waiver is issued, the written consent of a parent or  
22 a person standing in loco parentis to the child is required. The  
23 ~~Department of Labor~~ department may charge a fee established by rule  
24 and regulation of the ~~Commissioner of Labor~~ director for each special  
25 permit issued pursuant to this section.

1           Sec. 22. Section 48-310.02, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           48-310.02 The fees established by the ~~Commissioner of~~  
4 ~~Labor director~~ pursuant to sections 48-310 and 48-310.01 shall be  
5 established with due regard for the costs of administering sections  
6 48-310 and 48-310.01. The fees shall not exceed the amount necessary  
7 to meet the costs of administering sections 48-310 and 48-310.01.

8           Sec. 23. Section 48-311, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           48-311 Whoever employs a child under sixteen years of age  
11 and whoever, having under his or her control a child under such age,  
12 causes or permits such child to be employed in violation of sections  
13 48-302 to 48-313 is guilty of a Class II misdemeanor. Whoever  
14 continues to employ any child in violation of any of such sections,  
15 after being notified by an attendance officer or by the ~~Department of~~  
16 ~~Labor department~~ or by its assistants or employees, is, for every day  
17 thereafter that such employment continues, guilty of a Class II  
18 misdemeanor.

19           The failure of an employer of child labor to produce,  
20 upon request of a person authorized to demand the same, any  
21 employment certificate or list required by such sections shall be  
22 prima facie evidence of the illegal employment of any child whose  
23 employment certificate is not produced or whose name is not listed.  
24 Any corporation or employer retaining employment certificates in  
25 violation of such sections is guilty of a Class II misdemeanor.

1           Every person authorized or required to sign any  
2 certificate or statement prescribed by such sections who knowingly  
3 certifies or makes oath to any material false statement therein or  
4 who violates any of the provisions of such sections is guilty of a  
5 Class II misdemeanor.

6           Every person who refuses admittance to any person  
7 authorized to visit or inspect any premises or place of business  
8 under the provisions of such sections and to produce all certificates  
9 and lists he or she may have when demanded, after such person shall  
10 have announced his or her name and the office he or she holds and the  
11 purpose of his or her visit, or otherwise obstructs such persons in  
12 the performance of their duties prescribed by such sections is guilty  
13 of a Class II misdemeanor.

14           Sec. 24. Section 48-312, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           48-312 The presence of a child under sixteen years of  
17 age, apparently at work, in a place of employment as defined in  
18 section 48-301 is prima facie evidence of his or her employment  
19 there. Attendance officers shall visit the places of employment to  
20 ascertain whether any children are employed contrary to the  
21 provisions of sections 48-302 to 48-313, and the attendance officers  
22 shall report any cases of illegal employment to the ~~Department of~~  
23 ~~Labor~~ department and to the county attorney.

24           Sec. 25. Section 48-401, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1           48-401 ~~Every factory, mill, workshop, mercantile or~~  
2 ~~mechanical establishment or other building, where one or more persons~~  
3 ~~are employed, shall be provided within reasonable access, with a~~  
4 ~~sufficient number of water closets, earth closets or privies for the~~  
5 ~~reasonable use of the persons employed therein, and wherever male and~~  
6 ~~female persons are employed as aforesaid together, water closets,~~  
7 ~~earth closets or privies separate and apart, shall be provided for~~  
8 ~~the use of each sex, and plainly so designated, and no person shall~~  
9 ~~be allowed to use such closet or privy assigned to the other sex.~~  
10 ~~Such closet shall be properly enclosed and ventilated and at all~~  
11 ~~times kept in a clean and sanitary condition. When the number~~  
12 ~~employed is more than twenty of either sex, there shall be provided~~  
13 ~~an additional closet for each sex up to the number of forty and above~~  
14 ~~that number in the same ratio. The Department of Labor or any person~~  
15 ~~authorized by the department may require such changes in the placing~~  
16 ~~of such closets as the department may deem necessary and may require~~  
17 ~~other changes which may serve the best interest of morals and~~  
18 ~~sanitation.~~

19           (1) For purposes of sections 48-401 to 48-424:

20           (a) Department means the Department of Economic  
21 Development; and

22           (b) Director means the Director of Economic Development.

23           (2) Every factory, mill, workshop, mercantile or  
24 mechanical establishment, or other building in which one or more  
25 persons are employed shall provide reasonable access to and a

1 sufficient number of restroom facilities for the use of such  
2 employees. If both males and females are employed at such  
3 establishment, restroom facilities shall be provided for the use of  
4 each sex and plainly designated as such, and no person shall be  
5 allowed to use a restroom facility assigned to the other sex. The  
6 restroom facility shall be properly enclosed and ventilated and at  
7 all times kept in a clean and sanitary condition. If the number of  
8 employees is more than twenty but no more than forty of either sex,  
9 there shall be an additional restroom facility for each sex, and if  
10 the number of employees exceeds forty of each sex, the number of  
11 restroom facilities shall increase by the same ratio. The department  
12 or any person authorized by the department may require any changes in  
13 the placing of such restroom facilities as the department deems  
14 necessary and may require other changes which serve the best  
15 interests of morals and sanitation.

16           Sec. 26. Section 48-402, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           48-402 In ~~factories, mills, workshops, mercantile or~~  
19 ~~mechanical establishments, or other places where any factory, mill,~~  
20 workshop, mercantile or mechanical establishment, or other building  
21 in which the labor performed by the operator is of such a character  
22 that it becomes necessary to change the clothing, wholly or in part,  
23 before leaving the building at the close of the day's work, separate  
24 dressing rooms shall be provided for females whenever so required by  
25 the Department of Labor. ~~department.~~ It shall be the duty of every

1 occupant, whether owner or lessee of any such premises used as  
2 specified by sections 48-401 to 48-424, to make all the changes and  
3 additions thereto. ~~In case~~ If such changes are made upon the order of  
4 the department to the lessee of the premises, the lessee may at any  
5 time within thirty days after the completion thereof, bring an action  
6 against any person, corporation, partnership, or limited liability  
7 company having an interest in such premises and may recover ~~such a~~  
8 proportion of the expenses ~~of~~ for making such changes and additions  
9 as the court adjudges should justly and equitably be borne by such  
10 defendant.

11           Sec. 27. Section 48-403, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           48-403 ~~If in any of the aforesaid places~~ factory, mill,  
14 workshop, mercantile or mechanical establishment, or other building  
15 any process is carried on by which dust or fumes are caused, which  
16 may be inhaled by the persons employed therein, or if the air ~~shall~~  
17 ~~become~~ becomes exhausted or impure, there shall be provided a fan or  
18 other such mechanical device as will substantially carry away all  
19 such dust or fumes or other impurities, subject to the approval of  
20 the ~~Department of Labor.~~ department.

21           Sec. 28. Section 48-404, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           48-404 ~~All of the aforesaid places~~ factories, mills,  
24 workshops, mercantile or mechanical establishments, or other  
25 buildings shall be kept clean and free from effluvia arising from any

1 drain, ~~privy-restroom facility,~~ or nuisance, and shall be ventilated  
2 and kept in a sanitary condition. The ~~Department of Labor~~ department  
3 or any person authorized by the department may require such changes  
4 or additions to be made in any of ~~the aforesaid~~ such places as will  
5 promote the best measures of sanitation.

6 Sec. 29. Section 48-405, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 48-405 All persons, companies, or corporations operating  
9 any factory or workshop where grinding wheels, ~~or~~ grinding machines,  
10 emery wheels, or emery belts of any description are used, whether  
11 solid emery, ~~leather covered,~~ leather-covered, felt, canvas, linen,  
12 paper, cotton, or wheels or belts rolled or coated with emery or  
13 carborundum or cotton wheels used as buffs, shall, when deemed  
14 necessary by the ~~Department of Labor,~~ department, provide such wheels  
15 or belts with blowers or similar apparatus, which shall be placed  
16 over, beside, or under such wheels or belts in such manner as to  
17 protect the person or persons using ~~the same~~ such wheels or belts  
18 from particles of dust produced and caused thereby, and to carry away  
19 the dust arising from or thrown off by such wheels or belts while in  
20 operation, directly to the outside of the building or to some  
21 receptacle placed so as to receive and confine such dust. Grinding ~~+~~  
22 ~~Provided,~~ grinding machines upon which water is used at the point of  
23 grinding contact and other wheels used for tool grinding shall be  
24 exempt from ~~the provisions of~~ this section.

25 Sec. 30. Section 48-412, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           48-412 All safety appliances prescribed by sections  
3 48-401 to 48-424 shall be subject to the approval of the ~~Commissioner~~  
4 ~~of Labor.~~ director. The ~~commissioner~~ director is directed and  
5 empowered to formulate, adopt, publish, and enforce such safety  
6 codes, orders, rules, and standards as he or she deems necessary, in  
7 order that all employments and places of employment shall be, in all  
8 respects, so constructed, equipped, arranged, operated, and  
9 maintained as to provide reasonable and adequate protection to the  
10 lives, health, and safety of all persons employed therein and  
11 frequenting ~~the same,~~ such places of employment, as the nature of the  
12 employment will reasonably permit. Such codes as may be adopted shall  
13 be subject to modification, amendment, or repeal at any time, in the  
14 discretion of the ~~commissioner.~~ director.

15           Sec. 31. Section 48-413, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17           48-413 (1) The ~~Commissioner of Labor~~ director shall, from  
18 time to time, create advisory committees composed of employers,  
19 employees, and such other persons as the ~~commissioner~~ director may  
20 designate, to advise him or her in formulating, adopting, amending,  
21 or repealing such codes, orders, rules, and standards. Before any  
22 code is adopted, amended, or repealed, there shall be a public  
23 hearing ~~thereon,~~ and notice of ~~which~~ such hearing shall be given ~~such~~  
24 ~~publicity~~ as the ~~commissioner~~ director deems necessary. The  
25 ~~commissioner~~ director may make or cause to be made such

1 investigations and surveys as will assist in the formulation and  
2 modification of such codes, orders, rules, and standards.

3 (2) A safety code may be adopted as a regulation by the  
4 ~~Commissioner of Labor~~ director and shall thereafter be known as the  
5 Nebraska Safety Code for Building Construction. A copy of this code,  
6 if so adopted, shall be kept on file in the office of the  
7 ~~Commissioner of Labor~~ director. Any amendment or change thereafter  
8 made in such code shall become effective in this state only after  
9 public notice and hearing thereon as provided in the Administrative  
10 Procedure Act.

11 Sec. 32. Section 48-414, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 48-414 It shall be the duty of the ~~Commissioner of Labor~~  
14 director to make or cause to be made periodic inspections of all  
15 places of employment for the purpose of enforcing the provisions of  
16 such safety codes as have been adopted, and any inspector or employee  
17 of the ~~commissioner~~ director may order the discontinuance of the use  
18 or operation of any machine or device, or the discontinuance of work  
19 at any location, which does not conform to the provisions of the code  
20 or codes pertaining thereto. The ~~commissioner~~ director shall adopt a  
21 suitable label to be attached to any such machine or device stating  
22 that the use or operation of such machine or device is dangerous and  
23 has been ordered discontinued. The ~~commissioner~~ director shall adopt  
24 a similar label or sign to be posted at any location where work has  
25 been ordered discontinued. Such label shall not be removed except

1 upon authority from the ~~commissioner.~~director. Any employer or  
2 employee who uses or operates, or causes to be used or operated, any  
3 machine or device so labeled, or who continues work at any location  
4 where work has been ordered discontinued, shall be guilty of a Class  
5 II misdemeanor. Railroad companies engaged in interstate or foreign  
6 commerce are not ~~within the provisions of~~ subject to sections 48-412  
7 to 48-416. Public power and irrigation districts, under Chapter 70,  
8 article 6, are subject to ~~the provisions of~~ Chapter 48, article 4.

9           Sec. 33. Section 48-415, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           48-415 Any person in interest, or his or her duly  
12 authorized agent, may file a petition with the ~~Commissioner of Labor~~  
13 director for a review of the validity or reasonableness of any code,  
14 order, rule, or standard made under ~~the provisions of~~ section 48-412.  
15 The ~~commissioner~~director shall, as soon as practicable thereafter,  
16 hold a hearing to determine the issues raised, and shall give ample  
17 notice of the time and place of such hearing to the petitioner, and  
18 to such other interested persons as the ~~commissioner~~director may  
19 determine.

20           Sec. 34. Section 48-416, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           48-416 Any person in interest who is dissatisfied with  
23 the decision of the ~~Commissioner of Labor~~ director may appeal the  
24 decision, and ~~the decision~~ such appeal shall be in accordance with  
25 the Administrative Procedure Act.

1           Sec. 35. Section 48-421, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           48-421 Every person operating a plant where machinery is  
4 used, shall report in writing to the ~~Department of Labor~~ department  
5 all fatal accidents within forty-eight hours after their occurrence,  
6 and all other accidents within two weeks after their occurrence. Such  
7 report shall state fully the cause of the accidents, the nature and  
8 extent of the injuries, and the probable loss of time which will  
9 result therefrom.

10           Sec. 36. Section 48-425, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           48-425 (1) For purposes of sections 48-425 to 48-435,  
13 department means the Department of Economic Development.

14           (2) All scaffolds, hoists, cranes, stays, ladders,  
15 supports, or other mechanical contrivances used in the erection,  
16 repairing, alteration, removal, or painting of any house, building,  
17 bridge, viaduct, or other structure, shall be erected and constructed  
18 in a safe, suitable, and proper manner. Scaffolding or staging, swung  
19 or suspended from an overhead support and more than twenty feet from  
20 the ground floor, shall have, where practicable, a safety rail  
21 properly bolted, secured, and braced, rising at least thirty-four  
22 inches above the floor or main portion of such scaffolding or  
23 staging, and extending along the entire length of the outside and  
24 ends thereof and properly attached thereto. Such ~~, and such~~  
25 scaffolding and staging shall be so fastened as to prevent the ~~same~~

1 scaffolding and staging from swaying from the building or structure.

2           Sec. 37. Section 48-427, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           48-427 The owner of every house, building<sub>l</sub> or structure,  
5 except a private barn or a private house, shall affix and display  
6 conspicuously on each floor of such building during construction<sub>r</sub> a  
7 placard, stating the load per square foot of floor surface which may,  
8 with safety, be applied to the particular floor during construction.  
9 If the strength of different parts of any floor varies, then there  
10 shall be placards for each varying part of such floor. It shall be  
11 unlawful to load any such floors, or any part thereof, to a greater  
12 extent than the load indicated on the placard, and all such placards  
13 shall be verified and approved by the ~~Department of Labor,~~ department  
14 or other proper authority in the city or village charged with the  
15 enforcement of building laws.

16           Sec. 38. Section 48-428, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           48-428 Whenever it shall come to the notice of the  
19 ~~Department of Labor~~ department or the local authority in any city or  
20 village of this state<sub>r</sub> charged with the duty of enforcing the  
21 building laws<sub>r</sub> that the scaffolding or the slings, hangers, blocks,  
22 pulleys, stays, braces, ladders, irons<sub>l</sub> or ropes of any swinging or  
23 stationary scaffolding, platform<sub>l</sub> or other similar device<sub>r</sub> used in  
24 the construction, alteration, removing, repairing, cleaning<sub>l</sub> or  
25 painting of buildings, bridges<sub>l</sub> or viaducts within this state are

1 unsafe, or liable to prove dangerous to the life or limb of any  
2 person, the department, or such local authority or authorities, shall  
3 immediately cause an inspection to be made of such scaffolding,  
4 platform, or device, or the slings, hammocks, blocks, pulleys, stays,  
5 braces, ladders, iron, or other parts connected therewith. If, after  
6 examination, such scaffolding, platform, or device, or any of such  
7 parts, is found to be dangerous to the life or limb of any person,  
8 the department or such local authority shall at once notify the  
9 person responsible for its erection or maintenance of such fact and  
10 warn him or her against the use, maintenance, or operation thereof,  
11 ~~and~~ prohibit the use thereof, and require the ~~same~~ scaffold,  
12 platform, or other such device or part thereof to be altered and  
13 reconstructed so as to avoid such danger. Such notice may be served  
14 personally upon the person responsible for its erection or  
15 maintenance or by conspicuously affixing it to the scaffold,  
16 platform, or other such device, or the part thereof declared to be  
17 unsafe. After such notice has been so served or affixed the person  
18 responsible therefor shall cease using and immediately remove such  
19 scaffolding, platform, or other device or part thereof, and alter or  
20 strengthen it in such manner as to render it safe. The department, or  
21 such local authority, whose duty it is to examine or test any  
22 scaffolding, platform, or other similar device, or part thereof,  
23 required to be erected and maintained by this section, shall have  
24 free access at all reasonable hours to any building or structure or  
25 premises containing such scaffolding, platform, or other similar

1 device, or parts thereof, or where they may be in use. All swinging  
2 and stationary scaffolding, platforms, or other devices shall be so  
3 constructed as to bear four times the maximum weight required to be  
4 dependent thereon, or placed thereon when in use, and such swing,  
5 scaffolding, platform, or other device shall not be so overloaded or  
6 crowded as to render ~~the same~~ it unsafe or dangerous.

7           Sec. 39. Section 48-431, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           48-431 If elevating machines or hoisting apparatus are  
10 used within a building in the course of construction for the purpose  
11 of lifting materials to be used in such construction, the contractors  
12 or owners shall cause the shafts or openings in each floor to be  
13 enclosed or fenced in on all sides by a substantial barrier or  
14 railing at least eight feet in height. Any hoisting machines or  
15 engines used in such building construction shall, where practicable,  
16 be set up or placed on the ground, and where it is necessary in the  
17 construction of such building to place such hoisting machine or  
18 engine on some floor above the ground floor, such machine or engine  
19 must be properly secured and supported with a foundation capable of  
20 safely sustaining twice the weight of such machine or engine. If a  
21 building in course of construction is five stories or more in height,  
22 no material needed for such construction shall be hoisted or lifted  
23 over public streets or alleys unless such street or alley shall be  
24 barricaded from use by the public. The chief officer in any city or  
25 village charged with the enforcement of local building laws and

1 ordinances, shall cooperate with the ~~Department of Labor~~ department  
2 in enforcing ~~the provisions of~~ sections 48-425 to 48-435.

3           Sec. 40. Section 48-440, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           48-440 Before any operations are to be performed within  
6 ten feet of any overhead high voltage conductors, or whenever any  
7 equipment in transit as described in subsection (2) of section 48-438  
8 can come within four feet of any overhead high voltage conductors,  
9 the person or persons responsible for the work to be done or moving  
10 of the equipment shall be responsible for compliance with sections  
11 48-436 to 48-442. Such person or persons shall notify the operator of  
12 the overhead high voltage conductors and the ~~Commissioner of Labor,~~  
13 Director of Economic Development, on forms prescribed by the  
14 ~~commissioner,~~ director, not less than forty-eight hours before  
15 proceeding with such work, of the time, place, duration, and nature  
16 of the work to be performed, and the method of guarding against  
17 accidental contact; which shall be one of the methods provided in  
18 section 48-438 as may be agreed upon with such operator.

19           Sec. 41. Section 48-443, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           48-443 (1)(a) ~~Not later than January 1, 1994, every~~ Every  
22 public and private employer subject to the Nebraska Workers'  
23 Compensation Act shall establish a safety committee. Such committee  
24 shall adopt and maintain an effective written injury prevention  
25 program.

1           (b) A client of a professional employer organization is  
2 not relieved of its obligation to establish a safety committee based  
3 on its workers being co-employees of the professional employer  
4 organization. A professional employer agreement shall not allocate  
5 the client's responsibility to establish a safety committee to the  
6 professional employer organization. For purposes of this subdivision,  
7 the terms client, professional employer organization, and  
8 professional employer agreement shall have the same meaning as in  
9 section 48-2702. This subdivision becomes operative on January 1,  
10 2012.

11           (2)(a) For employers subject to collective-bargaining  
12 agreements, the establishment of the safety committee shall be  
13 accomplished through the collective-bargaining process.

14           (b) For employers not subject to collective-bargaining  
15 agreements, the safety committee shall be composed of an equal number  
16 of members representing employees and the employer. Employee members  
17 shall not be selected by the employer but shall be selected pursuant  
18 to procedures prescribed in rules and regulations adopted and  
19 promulgated by the ~~Commissioner of Labor~~. Director of Economic  
20 Development.

21           (c) The cost of maintaining and operating the safety  
22 committee shall be minimal to the employer.

23           (3) An employer shall compensate employee members of the  
24 safety committee at their regular hourly wage plus their regular  
25 benefits while the employees are attending committee meetings or

1 otherwise engaged in committee duties.

2 (4) An employee shall not be discharged or discriminated  
3 against by his or her employer because he or she makes any oral or  
4 written complaint to the safety committee or any governmental agency  
5 having regulatory responsibility for occupational safety and health,  
6 and any employee so discharged or discriminated against shall be  
7 reinstated and shall receive reimbursement for lost wages and work  
8 benefits caused by the employer's action.

9 Sec. 42. Section 48-444, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 48-444 If the ~~Commissioner of Labor~~ Director of Economic  
12 Development finds, after notice and hearing, that an employer has  
13 failed to establish a safety committee pursuant to section 48-443  
14 within fifteen days after notification by the ~~Commissioner of Labor~~  
15 director of the obligation to do so, the ~~Commissioner of Labor~~  
16 director may order payment of a civil penalty of not more than one  
17 thousand dollars for each violation. Each day of continued violation  
18 shall constitute a separate violation.

19 Sec. 43. Section 48-445, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 48-445 The ~~Commissioner of Labor~~ Director of Economic  
22 Development shall adopt and promulgate rules and regulations to carry  
23 out sections 48-443 and 48-444.

24 Sec. 44. Section 48-446, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1                   48-446 (1) There is hereby created the Workplace Safety  
2 Consultation Program. It is the intent of the Legislature that such  
3 program help provide employees in Nebraska with safe and healthful  
4 workplaces.

5                   (2) Under the Workplace Safety Consultation Program, the  
6 Department of ~~Labor~~Economic Development may conduct workplace  
7 inspections and consultations to determine whether employers are  
8 complying with standards issued by the federal Occupational Safety  
9 and Health Administration or the federal Mine Safety and Health  
10 Administration for safe and healthful workplaces. Workplace  
11 inspections and safety consultations shall be performed by employees  
12 of the ~~Department of Labor~~department who are knowledgeable and  
13 experienced in the occupational safety and health field and who are  
14 trained in the federal standards and in the recognition of safety and  
15 health hazards. The ~~Department of Labor~~department may employ  
16 qualified persons as may be necessary to carry out this section.

17                   (3) All employers shall be subject to occupational safety  
18 and health inspections covering their Nebraska operations. Employers  
19 shall be selected by the ~~Commissioner of Labor~~Director of Economic  
20 Development for inspection on the basis of factors intended to  
21 identify the likelihood of workplace injuries and to achieve the most  
22 efficient utilization of safety personnel of the ~~Department of Labor~~  
23 department. Such factors shall include:

24                   (a) The amount of premium paid by the employer for  
25 workers' compensation insurance;

1 (b) The experience modification produced by the  
2 experience rating system referenced in section 44-7524;

3 (c) Whether the employer is covered by workers'  
4 compensation insurance under section 44-3,158;

5 (d) The relative hazard of the employer's type of  
6 business as evidenced by insurance rates or loss costs filed with the  
7 Director of Insurance for the insurance rating classification or  
8 classifications applicable to the employer;

9 (e) The nature, type, or frequency of accidents for the  
10 employer as may be reported to the Department of Insurance, the  
11 Nebraska Workers' Compensation Court, or the Department of ~~Labor~~;  
12 Economic Development;

13 (f) Workplace hazards as may be reported to the  
14 Department of Insurance, the Nebraska Workers' Compensation Court, or  
15 the Department of ~~Labor~~; Economic Development;

16 (g) Previous safety and health history;

17 (h) Possible employee exposure to toxic substances;

18 (i) Requests by employers for the Department of ~~Labor~~  
19 Economic Development to inspect their workplaces or otherwise provide  
20 consulting services on a basis by which the employer will reimburse  
21 the ~~Department of Labor~~; department; and

22 (j) All other relevant factors.

23 (4) Hazards identified by an inspection shall be  
24 eliminated within a reasonable time as specified by the ~~Commissioner~~  
25 ~~of Labor~~. Director of Economic Development.

1           (5) An employer who refuses to eliminate workplace  
2 hazards in compliance with an inspection shall be referred to the  
3 federal Occupational Safety and Health Administration or the federal  
4 Mine Safety and Health Administration for enforcement.

5           (6) At the discretion of the ~~Commissioner of Labor,~~  
6 director, inspection of an employer may be repeated to ensure  
7 compliance by the employer, with the expenses incurred by the  
8 Department of ~~Labor~~ Economic Development to be paid by the employer.

9           (7) The ~~Commissioner of Labor~~ director shall adopt and  
10 promulgate rules and regulations establishing a schedule of fees for  
11 consultations and inspections. Such fees shall be established with  
12 due regard for the costs of administering the Workplace Safety  
13 Consultation Program. The cost of consultations and inspections shall  
14 be borne by each employer for which these services are rendered.

15           (8) There is hereby created the Workplace Safety  
16 Consultation Program Cash Fund. All fees collected pursuant to the  
17 Workplace Safety Consultation Program shall be remitted to the State  
18 Treasurer for credit to the fund and shall be used for the sole  
19 purpose of administering the program. Any money in the fund available  
20 for investment shall be invested by the state investment officer  
21 pursuant to the Nebraska Capital Expansion Act and the Nebraska State  
22 Funds Investment Act.

23           (9) Each employer provided a consultation or inspection  
24 by the ~~Department of Labor~~ department shall retain up-to-date records  
25 for each place of employment as recommended by the inspection or

1 consultation. The employer shall make such records available to the  
2 ~~Department of Labor~~ department upon request to ensure continued  
3 progress of the employer's efforts to comply with the federal  
4 Occupational Safety and Health Administration or the federal Mine  
5 Safety and Health Administration standards.

6 (10) Any person who knowingly operates or causes to be  
7 operated a business in violation of recommendations to correct  
8 serious or imminent hazards as identified by the Workplace Safety  
9 Consultation Program shall be referred to the federal Occupational  
10 Safety and Health Administration or the federal Mine Safety and  
11 Health Administration.

12 (11) The Attorney General, acting on behalf of the  
13 ~~Commissioner of Labor, Director of Economic Development,~~ or the  
14 county attorney in a county in which a business is located or  
15 operated may apply to the district court for an order against any  
16 employer in violation of this section.

17 (12) The Workplace Safety Consultation Program shall not  
18 be construed to alter the duty of care or the liability of an owner  
19 or a business for injuries or death of any person or damage to any  
20 property. The state and its officers and employees shall not be  
21 construed to assume liability arising out of an accident involving a  
22 business by reason of administration of the Workplace Safety  
23 Consultation Program.

24 (13) Inspectors employed by the ~~Department of Labor~~  
25 department may inspect any place of employment with or without notice

1 during normal hours of operation. Such inspectors may suspend the  
2 operation of equipment determined to constitute an imminent danger  
3 situation. Operation of such equipment shall not resume until the  
4 hazardous or unsafe condition is corrected to the satisfaction of the  
5 inspector.

6 (14) No person with a reasonable cause to believe the  
7 truth of the information shall be subject to civil liability for  
8 libel, slander, or any other relevant tort cause of action by virtue  
9 of providing information without malice on workplace hazards or the  
10 nature, type, or frequency of accidents to the Department of  
11 Insurance, the Nebraska Workers' Compensation Court, or the  
12 ~~Department of Labor.~~ department.

13 (15) Safety and health inspectors employed by the  
14 ~~Department of Labor~~ department shall have the right and power to  
15 enter any premise, building, or structure, public or private, for the  
16 purpose of inspecting any work area or equipment. A refusal by the  
17 employer of entry by a safety and health inspector employed by the  
18 ~~Department of Labor~~ department shall be a violation of this  
19 subsection. If the ~~Commissioner of Labor~~ director finds, after notice  
20 and hearing, that an employer has violated this subsection, he or she  
21 may order payment of a civil penalty of not more than one thousand  
22 dollars for each violation. Each day of continued violation shall  
23 constitute a separate violation.

24 (16) The ~~Commissioner of Labor~~ director shall adopt and  
25 promulgate rules and regulations to carry out this section.

1                   Sec. 45. Section 48-501.01, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   48-501.01 For purposes of sections 48-501.01 to ~~48-513,~~  
4 ~~48-515, 48-516, and 48-518~~ to 48-524, unless the context otherwise  
5 requires:

6                   (1) Person ~~shall mean~~ means natural persons,  
7 corporations, trusts, unincorporated associations, partnerships, and  
8 limited liability companies;

9                   (2) Private employment agency ~~shall mean~~ means a person  
10 who for hire or with a view to profit shall undertake to secure  
11 employment for individuals where a fee or other valuable  
12 consideration is exacted or attempted to be collected directly from  
13 the employee; ~~and~~

14                   (3) ~~The term fee shall mean~~ Fee means any money or other  
15 valuable consideration paid or promised to be paid by an employee for  
16 services rendered or to be rendered by a private employment agency;  
17 and -

18                   (4) Director means the Director of Economic Development.

19                   Sec. 46. Section 48-503, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21                   48-503 No person, firm, or corporation in this state  
22 shall open, operate, or maintain a private employment agency for hire  
23 or for help without first obtaining a license for the ~~same~~ agency  
24 from the ~~Commissioner of Labor, director,~~ and the license fee shall  
25 be one hundred fifty dollars per annum payable in advance on May 1 of

1 each year, and each license shall expire on April 30 of each year.  
2 When application is made by a firm or corporation, it must be  
3 verified by each member who will benefit from such license. The  
4 ~~Commissioner of Labor~~ director may require evidence of the moral  
5 character of all applicants and make such investigation of the  
6 applicants as he or she deems necessary. If the applicant is an  
7 individual, the application shall include the applicant's social  
8 security number. No license shall be issued to any person or persons  
9 except those of good moral character. No license shall be issued to  
10 any person or persons if anyone financially interested in or who has  
11 managerial control of the proposed private employment agency has been  
12 convicted of a felony. Such licenses shall permit the private  
13 employment agency to maintain one office under such license and to  
14 conduct business only at that location. Every license shall contain a  
15 designation of the city, street, and number of the building in which  
16 the licensed parties conduct such private employment agency. In case  
17 of removal to another location during the period covered by such  
18 license, the ~~commissioner~~ director shall be notified thirty days  
19 prior to the change of location and the license corrected  
20 accordingly. No such license shall be transferable.

21           Sec. 47. Section 48-504, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           48-504 The ~~Commissioner of Labor~~ director shall require  
24 with each application for a license a surety bond in the penal sum of  
25 ten thousand dollars. Such bond shall be approved by the ~~commissioner~~

1 director and conditioned that the obligor will not violate any of the  
2 duties, terms, conditions, provisions, or requirements of sections  
3 48-503 to 48-524. The ~~commissioner~~ director is authorized to cause an  
4 action or actions to be brought on such bond in the name of the state  
5 for any violation of any of its conditions. The ~~commissioner~~ director  
6 may approve actions on the bond by private parties. He or she may  
7 revoke upon a full hearing any license whenever in his or her  
8 judgment the party licensed shall have violated any of the provisions  
9 of ~~said~~ such sections. In the prosecution of any inquiry, the  
10 ~~commissioner~~ director is hereby empowered to administer oaths,  
11 subpoena witnesses, take depositions, and compel the attendance of  
12 witnesses, and the production of books, accounts, papers, records,  
13 documents, and testimony.

14           Sec. 48. Section 48-505, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           48-505 In case of the refusal of any person to comply  
17 with the order of the ~~Commissioner of Labor~~ director or a subpoena  
18 issued by him or her, ~~or~~ the refusal of any witness to testify to any  
19 matter regarding which he or she may be lawfully interrogated, or the  
20 refusal to permit any inspection as aforesaid, the ~~commissioner~~  
21 director may cancel the license held by such person, firm, or  
22 corporation refusing to comply with the order of the ~~commissioner~~.  
23 director. The orders of the ~~commissioner~~ director shall be in accord  
24 with ~~the provisions of~~ sections 48-503 to 48-524. When such license  
25 shall be canceled, it shall not be reissued to such person, firm, or

1 corporation for a period of one year or less from the date of  
2 cancellation.

3           Sec. 49. Section 48-507, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           48-507 It shall be the duty of every private employment  
6 agency to keep a register in which shall be entered the name and sex  
7 of every person for whom employment is secured and the amount of fee  
8 charged. Such private employment agency shall also enter into a  
9 register the name and address of every person for whom help or  
10 servants are secured. Every private employment agency shall also keep  
11 a register or booklet in which shall be entered a copy of all  
12 advertisements used by it, with the name of the company to which each  
13 advertisement refers. Such registers shall at all reasonable hours be  
14 open to the inspection and examination of the ~~Commissioner of Labor~~  
15 director or his or her agent.

16           Sec. 50. Section 48-511, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           48-511 Any private employment agency, or agent thereof,  
19 who shall be guilty of dividing fees with any superintendent,  
20 manager, foreman, or other employees of any person, company,  
21 corporation, or association, for whom employees are furnished shall  
22 be guilty of a Class III misdemeanor. Upon conviction, his or her  
23 license shall be revoked at once by the ~~Commissioner of Labor.~~  
24 director.

25           Sec. 51. Section 48-513, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           48-513 It shall be the duty of the ~~Commissioner of Labor~~  
3 director to enforce sections 48-503 to 48-514. When informed of any  
4 violation thereof, it shall be his or her duty to investigate the  
5 ~~same, such violation,~~ as hereinbefore provided, and he or she may  
6 institute criminal proceedings for enforcement of its penalties  
7 before any court of competent jurisdiction. Any person convicted of a  
8 violation of ~~the provisions of said such~~ sections, not otherwise  
9 provided for, shall be guilty of a Class III misdemeanor. For a  
10 conviction of a second offense, his or her license shall be revoked.  
11 Any person or persons who ~~shall~~ knowingly send any female help or  
12 servant to any place of bad repute, house of ill fame, or assignation  
13 house, or to any house or place of amusement kept for immoral  
14 purposes, shall be guilty of a Class III misdemeanor and no license  
15 to operate a private employment agency shall be issued to such party  
16 and any such existing license shall be permanently canceled.

17           Sec. 52. Section 48-514, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           48-514 All money paid to the ~~Commissioner of Labor~~  
20 director or license fees under section 48-503, shall be paid over by  
21 him or her to the State Treasurer.

22           Sec. 53. Section 48-515, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           48-515 No foreign labor agent, labor bureau, or labor  
25 agency or other person or corporation domiciled in any other state or

1 territory of the United States shall enter this state and attempt to  
2 hire, entice, or solicit or take from this state any common or  
3 agricultural workers, singly or in groups, for any purpose without  
4 first applying to the ~~Commissioner of Labor~~ director for a license as  
5 a private employment agency.

6 Sec. 54. Section 48-516, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 48-516 Any labor agent hiring, enticing, or soliciting  
9 common or agricultural workers in this state for employment beyond  
10 this state, shall make monthly reports to the ~~commissioner~~ director  
11 on the first day of each month covering the preceding month correctly  
12 showing the name and address of every representative, subagent,  
13 contractor, recruiter, or solicitor engaged in any part of the work  
14 of that agency connected with the hiring, enticing, or soliciting of  
15 common or agricultural workers in this state to be employed beyond  
16 the limits of this state, and correctly showing:

17 (1) The name, age, sex, and address of each person  
18 solicited to be employed beyond the limits of this state;

19 (2) The name and address of the employer of every such  
20 person;

21 (3) The place where every such person is to be employed;

22 (4) The kind of work every such person is employed to do;

23 (5) The term of employment of every such person;

24 (6) The wages to be paid to every such person for his  
25 work; and

1           (7) Whether or not transportation is to be furnished,  
2 arranged for, or paid for any such common laborer or agricultural  
3 worker either leaving or returning to this state.

4           The ~~commissioner~~director shall cancel the license of  
5 every agent or private employment agency ~~who or which~~that fails to  
6 make and file such reports on or before the tenth day of each month  
7 for the preceding month in accordance with the cancellation  
8 provisions provided in section 48-505.

9           Sec. 55. Section 48-518, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           48-518 A registration fee not to exceed five dollars may  
12 be charged by such private employment agency when such agency shall  
13 be of actual expense in advertising such individual applicant, or in  
14 looking up the reference of such applicant. In all such cases, a  
15 complete record shall be kept of all such references, which record  
16 shall, during all business hours, be open for the inspection of the  
17 ~~Commissioner of Labor~~director or any inspector appointed by the  
18 ~~commissioner~~director to make such inspections, and upon demand shall  
19 be subject to the inspection and examination by the applicant. For  
20 such registration fee a receipt shall be given to the applicant for  
21 employment or help, giving the name of such applicant, the date of  
22 payment, and the character of the position or help applied for, and  
23 the receipt shall have printed or stamped on the front thereof, in  
24 the English language, the name of the ~~Commissioner of Labor~~director  
25 and his or her address. Such registration fee shall be returned to

1 the applicant on demand, after thirty days and within sixty days from  
2 the date of receipt, less the amount that has been actually expended  
3 by such private employment agency for the applicant, and an itemized  
4 account of such expenditures shall be presented to the applicant on  
5 request at the time of returning the unused portion of such  
6 registration fee if no position or help has been furnished by the  
7 private employment agency to and accepted by the applicant.

8           Sec. 56. Section 48-519, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           48-519 No private employment agency shall, as a condition  
11 to registering or obtaining employment for such applicant, require  
12 such applicant to subscribe to any publication or exact any fee,  
13 compensation, or reward other than the registration fee and a further  
14 service fee, based on a schedule of fees, which shall be prominently  
15 posted in the agency's place of business and filed with the  
16 ~~Commissioner of Labor.~~ director. A copy of all private employment  
17 agency contracts shall also be filed with the ~~commissioner.~~ director.  
18 Private employment agencies shall furnish each applicant with a copy  
19 of such applicant's contract. Each private employment agency shall  
20 display at all times in a prominent place a printed card with a  
21 minimum height of twenty inches and a width of fourteen inches with  
22 each letter to be a minimum of one-fourth inch in height, which shall  
23 state the maximum service fee charge against the first month's salary  
24 and where the applicant may contact the ~~Commissioner of Labor~~  
25 director or his or her agent. The service fee shall be payable at

1 such time as may be agreed upon in writing, but not before the  
2 applicant has accepted employment.

3           Sec. 57. Section 48-524, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           48-524 (1) ~~The Commissioner of Labor~~ director shall  
6 determine through whose fault the employment did not continue for  
7 purposes of section 48-523.

8           (2) Upon a finding by the ~~Commissioner of Labor~~ director  
9 or by any court of competent jurisdiction that a private employment  
10 agency has violated any of the provisions of sections 48-501.01 to  
11 48-513, 48-515, 48-516, 48-518 to 48-524, 48-1002, 48-1004, 48-1007,  
12 and 48-1008 or has engaged in any unfair or deceptive practice in  
13 procuring employment for an applicant, such private employment agency  
14 shall be ordered to refund to the applicant all fees paid by the  
15 applicant, and any contract entered into with the private employment  
16 agency by the applicant shall be null and void.

17           Sec. 58. Section 48-602, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           48-602 For purposes of the Employment Security Law,  
20 unless the context otherwise requires:

21           (1) Base period means the first four of the last five  
22 completed calendar quarters immediately preceding the first day of an  
23 individual's benefit year, except that for benefit years beginning on  
24 or after July 1, 2011, if the individual is not monetarily eligible  
25 for unemployment benefits as determined pursuant to subdivision (5)

1 of section 48-627 based upon wages paid during the first four of the  
2 five most recently completed calendar quarters, the department shall  
3 make a redetermination of monetary eligibility based upon an  
4 alternative base period which consists of the last four completed  
5 calendar quarters immediately preceding the first day of the  
6 claimant's benefit year;

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

9 (3) Benefit year, with respect to any individual, means  
10 the one-year period beginning with the first day of the first week  
11 with respect to which the individual first files a valid claim for  
12 benefits, and thereafter the one-year period beginning with the first  
13 day of the first week with respect to which the individual next files  
14 a valid claim for benefits after the termination of his or her last  
15 preceding benefit year. Any claim for benefits made in accordance  
16 with section 48-629 shall be deemed to be a valid claim for the  
17 purpose of this subdivision if the individual has been paid the wages  
18 for insured work required under section 48-627. For the purposes of  
19 this subdivision a week with respect to which an individual files a  
20 valid claim shall be deemed to be in, within, or during that benefit  
21 year which includes the greater part of such week;

22 (4) Calendar quarter means the period of three  
23 consecutive calendar months ending on March 31, June 30, September  
24 30, or December 31, or the equivalent thereof as the ~~Commissioner of~~  
25 ~~Labor~~ director may by rule and regulation prescribe;

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

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

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

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

11           ~~(9)~~ (8) Contribution rate means the percentage of the  
12 combined tax rate used to determine the contribution portion of the  
13 combined tax;

14           ~~(10)~~ (9) Contributions means that portion of the combined  
15 tax based upon the contribution rate portion of the combined tax rate  
16 which is deposited in the state Unemployment Compensation Fund as  
17 required by sections 48-648 and 48-649;

18           ~~(11)~~ (10) Department means the Department of ~~Labor;~~  
19 Economic Development;

20           (11) Director means the Director of Economic Development;

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

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

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

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

22                   (16) Insured work means employment for employers;

23                   (17) Leave of absence means any absence from work: (a)  
24 Mutually and voluntarily agreed to by the employer and the employee;  
25 (b) mutually and voluntarily agreed to between the employer and the

1 employee's bargaining agent; or (c) to which the employee is entitled  
2 to as a matter of state or federal law;

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

8 (19) Payments in lieu of contributions means the money  
9 payments to the Unemployment Compensation Fund required by sections  
10 48-649, 48-652, 48-660.01, and 48-661;

11 (20) Professional employer agreement means a written  
12 professional employer services contract whereby:

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

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

19 (c) Employer responsibilities for worksite employees,  
20 including those of hiring, firing, and disciplining, are shared  
21 between the professional employer organization and the client by  
22 contract. The term professional employer agreement shall not include  
23 a contract between a parent corporation, company, or other entity and  
24 a wholly owned subsidiary;

25 (21) Professional employer organization means any

1 individual, partnership, limited liability company, corporation, or  
2 other legally recognized entity that enters into a professional  
3 employer agreement with a client or clients for a majority of a  
4 client's workforce at a client worksite. The term professional  
5 employer organization does not include an insurer as defined in  
6 section 44-103 or a temporary help firm;

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

11 (23) State unemployment insurance tax means that portion  
12 of the combined tax which is based upon the state unemployment  
13 insurance tax rate portion of the combined tax rate and which is  
14 deposited in the State Unemployment Insurance Trust Fund as required  
15 by sections 48-648 and 48-649;

16 (24) State unemployment insurance tax rate means the  
17 percentage of the combined tax rate used to determine the state  
18 unemployment insurance tax portion of the combined tax;

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

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

1 assignments and projects;

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

14 (28) Unemployment Trust Fund means the trust fund in the  
15 Treasury of the United States of America established under section  
16 904 of the federal Social Security Act, 42 U.S.C. 1104, as such  
17 section existed on March 2, 2001, which receives credit from the  
18 state Unemployment Compensation Fund;

19 (29) Wages, except with respect to services performed in  
20 employment as provided in subdivisions (4)(c) and (d) of section  
21 48-604, means all remuneration for personal services, including  
22 commissions and bonuses, remuneration for personal services paid  
23 under a contract of hire, and the cash value of all remunerations in  
24 any medium other than cash. The reasonable cash value of remuneration  
25 in any medium other than cash shall be estimated and determined in

1 accordance with rules and regulations prescribed by the ~~commissioner.~~  
2 director. After December 31, 1985, wages includes tips which are  
3 received while performing services which constitute employment and  
4 which are included in a written statement furnished to the employer  
5 pursuant to section 6053(a) of the Internal Revenue Code as defined  
6 in section 49-801.01.

7           With respect to services performed in employment in  
8 agricultural labor as is provided in subdivision (4)(c) of section  
9 48-604, wages means cash remuneration and the cash value of  
10 commodities not intended for personal consumption by the worker and  
11 his or her immediate family for such services. With respect to  
12 services performed in employment in domestic service as is provided  
13 in subdivision (4)(d) of section 48-604, wages means cash  
14 remuneration for such services.

15           The term wages does not include:

16           (a) The amount of any payment, including any amount paid  
17 by an employer for insurance or annuities or into a fund to provide  
18 for such payment, made to, or on behalf of, an individual in  
19 employment or any of his or her dependents under a plan or system  
20 established by an employer which makes provision for such individuals  
21 generally or for a class or classes of such individuals, including  
22 any amount paid by an employer for insurance or annuities or into a  
23 fund to provide for any such payment, on account of (i) sickness or  
24 accident disability, except, in the case of payments made to an  
25 employee or any of his or her dependents, this subdivision (i) shall

1 exclude from wages only payments which are received under a workers'  
2 compensation law, (ii) medical and hospitalization expenses in  
3 connection with sickness or accident disability, or (iii) death;

4 (b) The payment by an employer, without deduction from  
5 the remuneration of the employee, of the tax imposed upon an employee  
6 under section 3101 of the Internal Revenue Code as defined in section  
7 49-801.01;

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

14 (d) Any payment made to, or on behalf of, an individual  
15 or his or her beneficiary (i) from or to a trust described in section  
16 401(a) of the Internal Revenue Code as defined in section 49-801.01  
17 which is exempt from tax under section 501(a) of the Internal Revenue  
18 Code as defined in section 49-801.01 at the time of such payment  
19 unless such payment is made to an employee of the trust as  
20 remuneration for services rendered as such employee and not as a  
21 beneficiary of the trust or (ii) under or to an annuity plan which,  
22 at the time of such payment, meets the requirements of section 401 of  
23 the Internal Revenue Code as defined in section 49-801.01;

24 (e) Any payment made to, or on behalf of, an employee or  
25 his or her beneficiary (i) under a simplified employee pension as

1 defined by the ~~commissioner, director,~~ (ii) under or to an annuity  
2 contract as defined by the ~~commissioner, director,~~ other than a  
3 payment for the purchase of such contract which is made by reason of  
4 a salary reduction agreement, whether evidenced by a written  
5 instrument or otherwise, (iii) under or to an exempt governmental  
6 deferred compensation plan as defined by the ~~commissioner, director,~~  
7 (iv) to supplement pension benefits under a plan or trust, as defined  
8 by the ~~commissioner, director,~~ to take into account some portion or  
9 all of the increase in the cost of living since retirement, but only  
10 if such supplemental payments are under a plan which is treated as a  
11 welfare plan, or (v) under a cafeteria benefits plan;

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

15 (g) Benefits paid under a supplemental unemployment  
16 benefit plan which satisfies the eight points set forth in Internal  
17 Revenue Service Revenue Ruling 56-249 as the ruling existed on March  
18 2, 2001, and is in compliance with the standards set forth in  
19 Internal Revenue Service Revenue Rulings 58-128 and 60-330 as the  
20 rulings existed on March 2, 2001; and

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

25 (30) Week means such period of seven consecutive days as

1 the ~~commissioner~~ director may by rule and regulation prescribe;

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

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

10 (33)(a) Until January 1, 2012, worksite employee means a  
11 person receiving wages or benefits from a professional employer  
12 organization pursuant to the terms of a professional employer  
13 agreement for work performed at a client's worksite.

14 (b) On and after January 1, 2012, worksite employee has  
15 the same meaning as the term covered employee in section 48-2702.

16 Sec. 59. Section 48-603.01, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 48-603.01 (1) For purposes of the Employment Security  
19 Law, unless the context otherwise requires, the term employer ~~shall~~  
20 ~~include~~ includes any Indian tribe for which services in employment as  
21 provided in subdivision (4)(a) of section 48-604 are performed.

22 (2) The term employment ~~shall include~~ includes service  
23 performed in the employ of an Indian tribe, as defined in 26 U.S.C.  
24 3306(u), as such section existed on March 2, 2001, if such service is  
25 excluded from employment as defined in the Federal Unemployment Tax

1 Act solely by reason of 26 U.S.C. 3306(c)(7), as such section existed  
2 on March 2, 2001, and is not otherwise excluded from employment under  
3 the Employment Security Law. For purposes of this section, the  
4 exclusions from employment in subdivisions (6)(f) and (6)(g) of  
5 section 48-604 shall be applicable to services performed in the  
6 employment of an Indian tribe.

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

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

21 (b) Indian tribes electing to make payments in lieu of  
22 contributions shall make such election in the same manner and under  
23 the same conditions as provided in subdivision (7) of section 48-649  
24 pertaining to state and local governments subject to the Employment  
25 Security Law. Indian tribes shall determine if reimbursement for

1 benefits paid will be elected by the tribe as a whole, by individual  
2 tribal units, or by combinations of individual tribal units.

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

8 (d) At the discretion of the ~~commissioner~~, director, any  
9 Indian tribe or tribal unit that elects to become liable for payments  
10 in lieu of contributions shall be required within thirty days after  
11 the effective date of its election to:

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

14 (ii) Deposit with the ~~commissioner~~ director money or  
15 securities on the same basis as other employers with the same  
16 election option.

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

24 (ii) Any Indian tribe that loses the option to make  
25 payments in lieu of contributions due to late payment or nonpayment,

1 as described in subdivision (5)(a)(i) of this section, shall have  
2 such option reinstated if, after a period of one year, all combined  
3 taxes have been paid timely and no combined tax, payments in lieu of  
4 contributions for benefits paid, penalties, or interest remain  
5 outstanding.

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

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

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

21 (a) Will cause the Indian tribe to be liable for taxes  
22 under the Federal Unemployment Tax Act, as the act existed on March  
23 2, 2001;

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

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

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

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

14           Sec. 60. Section 48-604, Revised Statutes Supplement,  
15 2011, is amended to read:

16           48-604 As used in the Employment Security Law, unless the  
17 context otherwise requires, employment ~~shall mean:~~ means:

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

21           (2) The term employment ~~shall include~~ includes an  
22 individual's entire service, performed within or both within and  
23 without this state if (a) the service is localized in this state, (b)  
24 the service is not localized in any state but some of the service is  
25 performed in this state and the base of operations or, if there is no

1 base of operations, then the place from which such service is  
2 directed or controlled is in this state or the base of operations or  
3 place from which such service is directed or controlled is not in any  
4 state in which some part of the service is performed but the  
5 individual's residence is in this state, (c) the service shall be  
6 deemed to be localized within a state if (i) the service is performed  
7 entirely within such state or (ii) the service is performed both  
8 within and without such state, but the service performed without such  
9 state is incidental to the individual's service within the state, for  
10 example, is temporary or transitory in nature or consists of isolated  
11 transactions;

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

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

23 (b) Services of an individual wherever performed within  
24 the United States or Canada if (i) such service is not covered under  
25 the employment compensation law of any other state or Canada and (ii)

1 the place from which the service is directed or controlled is in this  
2 state;

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

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

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

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

22 (ii) American employer, for the purposes of this  
23 subdivision, ~~shall mean:~~ means: (A) An individual who is a resident  
24 of the United States; (B) a partnership if two-thirds or more of the  
25 partners are residents of the United States; (C) a trust if all the

1 trustees are residents of the United States; or (D) a corporation or  
2 limited liability company organized under the laws of the United  
3 States or of any state.

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

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

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

1 regardless of whether they were employed at the same moment of time;

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

12 (ii) For purposes of this subdivision:

13 (A) Any individual who is a member of a crew furnished by  
14 a crew leader to perform services in agricultural labor for any other  
15 person shall be treated as an employee of such crew leader if such  
16 crew leader holds a valid certificate of registration under the  
17 Migrant and Seasonal Agricultural Worker Protection Act, as amended,  
18 29 U.S.C. 1801 et seq.; substantially all the members of such crew  
19 operate or maintain tractors, mechanized harvesting or cropdusting  
20 equipment, or any other mechanized equipment, which is provided by  
21 such crew leader; and such individual is not an employee of such  
22 other person within the meaning of any other provisions of this  
23 section;

24 (B) In case any individual who is furnished by a crew  
25 leader to perform service in agricultural labor for any other person

1 and who is not treated as an employee of such crew leader under  
2 subdivision (A) of this subdivision, such other person and not the  
3 crew leader shall be treated as the employer of such individual and  
4 such other person shall be treated as having paid cash remuneration  
5 to such individual in an amount equal to the amount of cash  
6 remuneration paid to such individual by the crew leader, either on  
7 his or her own behalf or on behalf of such other person, for the  
8 service in agricultural labor performed for such other person; and

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

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

23 (5) Services performed by an individual for wages,  
24 including wages received under a contract of hire, shall be deemed to  
25 be employment unless it is shown to the satisfaction of the

1 ~~commissioner~~director that (a) such individual has been and will  
2 continue to be free from control or direction over the performance of  
3 such services, both under his or her contract of service and in fact,  
4 (b) such service is either outside the usual course of the business  
5 for which such service is performed or such service is performed  
6 outside of all the places of business of the enterprise for which  
7 such service is performed, and (c) such individual is customarily  
8 engaged in an independently established trade, occupation,  
9 profession, or business. The provisions of this subdivision are not  
10 intended to be a codification of the common law and shall be  
11 considered complete as written;

12 (6) The term employment ~~shall~~does not include:

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

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

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

1           (iii) In connection with the production or harvesting of  
2 any commodity defined as an agricultural commodity in section 15(g)  
3 of the federal Agricultural Marketing Act, as amended, 12 U.S.C.  
4 1141j, in connection with the operation or maintenance of ditches,  
5 canals, reservoirs, or waterways, not owned or operated for profit,  
6 used exclusively for supplying and storing water for farming  
7 purposes;

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

25           (v) On a farm operated for profit if such service is not

1 in the course of the employer's trade or business.

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

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

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

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

1 mother;

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

20 (f) Service performed in the employ of this state or any  
21 political subdivision thereof or any instrumentality of any one or  
22 more of the foregoing if such services are performed by an individual  
23 in the exercise of his or her duties: (i) As an elected official;  
24 (ii) as a member of the legislative body or a member of the judiciary  
25 of a state or political subdivision thereof; (iii) as a member of the

1 Army National Guard or Air National Guard; (iv) as an employee  
2 serving on a temporary basis in case of fire, storm, snow,  
3 earthquake, flood, or similar emergency; (v) in a position which,  
4 under or pursuant to the state law, is designated a major nontenured  
5 policymaking or advisory position, or a policymaking or advisory  
6 position, the performance of the duties of which ordinarily does not  
7 require more than eight hours per week; or (vi) as an election  
8 official or election worker if the amount of remuneration received by  
9 the individual during the calendar year for services as an election  
10 official or election worker is less than one thousand dollars;

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

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

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

22 (iii) In a facility conducted for the purpose of carrying  
23 out a program of rehabilitation for an individual whose earning  
24 capacity is impaired by age or physical or mental deficiency or  
25 injury, or providing remunerative work for the individuals who

1 because of their impaired physical or mental capacity cannot be  
2 readily absorbed in the competitive labor market, by an individual  
3 receiving such rehabilitation or remunerative work;

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

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

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

13 (i) Service performed in any calendar quarter in the  
14 employ of any organization exempt from income tax under section  
15 501(a) of the Internal Revenue Code as defined in section 49-801.01,  
16 other than an organization described in section 401(a) of the  
17 Internal Revenue Code as defined in section 49-801.01, or under  
18 section 521 thereof, if the remuneration for such service is less  
19 than fifty dollars;

20 (j) Service performed in the employ of a school, college,  
21 or university, if such service is performed (i) by a student who is  
22 enrolled, regularly attending classes at, and working for such  
23 school, college, or university pursuant to a financial assistance  
24 arrangement with such school, college, or university or (ii) by the  
25 spouse of such student, if such spouse is advised, at the time such

1 spouse commences to perform such service, that (A) the employment of  
2 such spouse to perform such service is provided under a program to  
3 provide financial assistance to such student by such school, college,  
4 or university and (B) such employment will not be covered by any  
5 program of unemployment insurance;

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

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

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

21 (n) Service performed by an individual in the sale,  
22 delivery, or distribution of newspapers or magazines under a written  
23 contract in which (i) the individual acknowledges that the individual  
24 performing the service and the service are not covered and (ii) the  
25 newspapers and magazines are sold by him or her at a fixed price with

1 his or her compensation being based on the retention of the excess of  
2 such price over the amount at which the newspapers or magazines are  
3 charged to him or her, whether or not he or she is guaranteed a  
4 minimum amount of compensation for such service, or is entitled to be  
5 credited with the unsold newspapers or magazines turned back;

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

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

19 (q) Service performed for a motor carrier, as defined in  
20 49 U.S.C. 13102 or section 75-302, as amended, by a lessor leasing  
21 one or more motor vehicles driven by the lessor or one or more  
22 drivers provided by the lessor under a lease, with the motor carrier  
23 as lessee, executed pursuant to 49 C.F.R. part 376, Title 291,  
24 Chapter 3, as amended, of the rules and regulations of the Public  
25 Service Commission, or the rules and regulations of the Division of

1 Motor Carrier Services. This shall not preclude the determination of  
2 an employment relationship between the lessor and any personnel  
3 provided by the lessor in the conduct of the service performed for  
4 the lessee;

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

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

14 (t) Service performed by a direct seller if:

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

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

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

25 (C) Engaged in the trade or business of the delivering or

1 distribution of newspapers or shopping news, including any services  
2 directly related to such trade or business;

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

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

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

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

23 (7) If the services performed during one-half or more of  
24 any pay period by an individual for the person employing him or her  
25 constitute employment, all the services of such individual for such

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

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

21 Sec. 61. Section 48-605, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 48-605 The ~~commissioner~~, director, for his or her  
24 services with respect to the administration of the Employment  
25 Security Law, shall receive the sum fixed by the Governor, payable

1 monthly, to be paid from the Employment Security Administration Fund  
2 in addition to the salary of the ~~commissioner~~ director as set out in  
3 section 81-103.

4           Sec. 62. Section 48-606, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           48-606 (1) It shall be the duty of the ~~Commissioner of~~  
7 ~~Labor~~ director to administer the Employment Security Law. He or she  
8 shall have the power and authority to employ such persons, make such  
9 expenditures, require such reports, make such investigations, and  
10 take such other action as he or she deems necessary or suitable to  
11 that end if the same are consistent with the Employment Security Law.  
12 The ~~commissioner~~ director shall determine his or her own organization  
13 and methods of procedure in accordance with such law and shall have  
14 an official seal which shall be judicially noticed. Not later than  
15 the thirty-first day of December of each year, the ~~commissioner~~  
16 director shall submit to the Governor a report covering the  
17 administration and operation of such law during the preceding fiscal  
18 year and shall make such recommendations for amendments to such law  
19 as he or she deems proper. Such report shall include a balance sheet  
20 of the money in the fund in which there shall be provided, if  
21 possible, a reserve against the liability in future years to pay  
22 benefits in excess of the then current contributions, which reserve  
23 shall be set up by the ~~commissioner~~ director in accordance with  
24 accepted actuarial principles on the basis of statistics of  
25 employment, business activity, and other relevant factors for the

1 longest possible period. Whenever the ~~commissioner~~director believes  
2 that a change in contribution or benefit rates will become necessary  
3 to protect the solvency of the fund, he or she shall promptly inform  
4 the Governor and the Clerk of the Legislature thereof and make  
5 recommendations with respect thereto. Each member of the Legislature  
6 shall receive a copy of such information by making a request for it  
7 to the ~~commissioner~~. director.

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

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

22 Sec. 63. Section 48-606.01, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 48-606.01 The ~~commissioner~~, director, with the written  
25 consent of the Department of Administrative Services, is authorized

1 and empowered to use any funds available under either subdivision (1)  
2 (a) or (1)(b) of section 48-621, for the purpose of acquiring  
3 suitable office space within the corporate limits of the state  
4 capital city for the administration of the Employment Security Law by  
5 purchase, contract, or in any other manner including the right to use  
6 such funds or any part thereof to assist in financing the  
7 construction of any building erected by the State of Nebraska or any  
8 of its agencies wherein available space will be provided for the  
9 department under lease or contract between the ~~commissioner~~director  
10 and the State of Nebraska or such other agency whereby the department  
11 will continue to occupy such space rent free after the cost of  
12 financing such building has been liquidated. The ~~commissioner~~,  
13 director, upon approval by the Department of Administrative Services,  
14 is authorized and empowered to use any such funds to acquire suitable  
15 office space for local employment offices anywhere in the State of  
16 Nebraska.

17           Sec. 64. Section 48-607, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           48-607 The ~~commissioner~~director shall adopt and  
20 promulgate rules and regulations necessary to carry out the  
21 Employment Security Law pursuant to the Administrative Procedure Act.  
22 This section shall not be construed to invalidate any rules or  
23 regulations in effect on September 6, 1985.

24           Sec. 65. Section 48-608, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1                   48-608 The ~~Commissioner of Labor~~ director shall furnish  
2 eight copies of the text of the Employment Security Law and his or  
3 her rules and regulations to the Nebraska Publications Clearinghouse.

4                   Sec. 66. Section 48-609, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6                   48-609 Subject to other provisions of the Employment  
7 Security Law, the ~~Commissioner of Labor~~ director is authorized to  
8 appoint, fix the compensation of, and prescribe the duties and powers  
9 of such officers, accountants, attorneys, experts, and other persons  
10 as may be necessary in the performance of his or her duties under  
11 such law. The ~~commissioner~~ director may delegate to any such person  
12 such power and authority as he or she deems reasonable and proper for  
13 the effective administration of such law. Employees handling money or  
14 signing warrants under such law shall be bonded or insured as  
15 required by section 11-201. The ~~commissioner~~ director may pay the  
16 share of the premium from the Employment Security Administration  
17 Fund. The ~~commissioner~~ director shall classify positions under such  
18 law and shall establish salary schedules and minimum personnel  
19 standards for the positions so classified. He or she shall provide  
20 for the holding of examinations to determine the qualifications of  
21 applicants for the positions so classified, and except for temporary  
22 appointments of not to exceed six months in duration, such personnel  
23 shall be appointed on the basis of efficiency and fitness as  
24 determined in such examinations. The ~~commissioner~~ director shall  
25 adopt, promulgate, and enforce fair and reasonable rules and

1 regulations for appointments, promotions, and demotions based upon  
2 ratings of efficiency and fitness and for terminations for cause.

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

17           Sec. 67. Section 48-611, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           48-611 The ~~Commissioner of Labor,~~director, with the  
20 advice and aid of advisory councils, shall take all appropriate steps  
21 to reduce and prevent unemployment; to encourage and assist in the  
22 adoption of practical methods of vocational training, retraining, and  
23 vocational guidance; to investigate, recommend, advise, and assist in  
24 the establishment and operation, by municipalities, counties, school  
25 districts, and the state, of reserves for public works to be used in

1 times of business depression and unemployment; to promote the  
2 reemployment of unemployed workers throughout the state in every  
3 other way that may be feasible; and to these ends to carry on and  
4 publish the results of investigations and research studies.

5           Sec. 68. Section 48-612, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           48-612 (1) Each employer, whether or not subject to the  
8 Employment Security Law, shall keep true and accurate work records  
9 containing such information as the ~~Commissioner of Labor~~ director may  
10 prescribe. Such records shall be open to inspection and be subject to  
11 being copied by the ~~commissioner~~ director or his or her authorized  
12 representatives at any reasonable time and as often as may be  
13 necessary. The ~~commissioner~~ director and the appeal tribunal may  
14 require from any such employer any sworn or unsworn reports, with  
15 respect to persons employed by it, which he, she, or it deems  
16 necessary for the effective administration of such law. Except as  
17 otherwise provided in section 48-612.01, information thus obtained or  
18 obtained from any individual pursuant to the administration of such  
19 law shall be held confidential.

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

23           (3) All letters, reports, communications, or any other  
24 matters, either oral or written, from an employer or his or her  
25 workers to each other or to the ~~commissioner~~ director or any of his

1 or her agents, representatives, or employees which shall have been  
2 written or made in connection with the requirements and  
3 administration of the Employment Security Law, or the rules and  
4 regulations thereunder, shall be absolutely privileged and shall not  
5 be made the subject matter or basis for any suit for slander or libel  
6 in any court of this state, unless the same be false in fact and  
7 malicious in intent.

8           Sec. 69. Section 48-612.01, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           48-612.01 (1) Information obtained pursuant to subsection  
11 (1) of section 48-612 may be disclosed under the following  
12 circumstances:

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

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

23           (c) Appeal tribunal decisions rendered pursuant to the  
24 Employment Security Law and designated as precedential decisions by  
25 the ~~commissioner~~director on the coverage of employers, employment,

1 wages, and benefit eligibility may be published in printed or  
2 electronic format if all social security numbers have been removed  
3 and such disclosure is otherwise consistent with federal and state  
4 law;

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

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

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

24 (g) In response to a court order.

25 (2) Information about an individual or employer obtained

1 pursuant to subsection (1) of section 48-612 may be disclosed to:

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

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

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

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

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

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

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

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

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

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

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

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

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

23          (5) Any person who receives information under subsection  
24 (1) or (2) of this section and rediscloses such information for any  
25 purpose other than the purpose for which it was originally obtained

1 shall be guilty of a Class III misdemeanor.

2           Sec. 70. Section 48-613, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           48-613 In the discharge of the duties imposed by the  
5 Employment Security Law, the ~~Commissioner of Labor,~~ director, an  
6 appeal tribunal, and any duly authorized representative of any of  
7 them shall have power to administer oaths and affirmations, take  
8 depositions, certify to official acts, and issue subpoenas to compel  
9 the attendance of witnesses and the production of books, papers,  
10 correspondence, memoranda, and other records deemed necessary as  
11 evidence in connection with a disputed claim or the administration of  
12 such law.

13           Sec. 71. Section 48-614, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           48-614 The ~~Commissioner of Labor,~~ director, an appeal  
16 tribunal, or a duly authorized representative of the ~~commissioner~~  
17 director or an appeal tribunal may petition a court to enforce a  
18 subpoena issued by the ~~commissioner~~ director or an appeal tribunal in  
19 case of contumacy by any person, or refusal of any person to obey  
20 such a subpoena. Any court of this state which has subject matter  
21 jurisdiction and has venue jurisdiction of the place where the person  
22 guilty of contumacy or refusal to obey is found, resides, or  
23 transacts business has jurisdiction to issue such person an order  
24 requiring him or her to appear before the ~~commissioner,~~ director, the  
25 appeal tribunal, or a duly authorized representative and to produce

1 evidence or give testimony if so ordered touching the matter under  
2 investigation or in question. Any failure to obey such order of the  
3 court may be punished by the court as contempt. Any person who  
4 without just cause fails or refuses to attend and testify or to  
5 answer any lawful inquiry or to produce books, papers,  
6 correspondence, memoranda, and other records, if it is in his or her  
7 power so to do, in obedience to a subpoena of the ~~commissioner,~~  
8 director, an appeal tribunal, or a duly authorized representative  
9 shall be guilty of a Class III misdemeanor. Each day such violation  
10 continues shall be a separate offense.

11           Sec. 72. Section 48-616, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           48-616 In the administration of the Employment Security  
14 Law, the ~~Commissioner of Labor~~ director shall cooperate, to the  
15 fullest extent consistent with such law, with the Secretary of Labor  
16 of the United States and is authorized and directed to take such  
17 action, through the adoption of appropriate rules and regulations,  
18 administrative methods, and standards, as may be necessary to secure  
19 to this state and its citizens all advantages available under the  
20 Social Security Act, under sections 3303 and 3304 of the Federal  
21 Unemployment Tax Act, and under the Act of Congress entitled An act  
22 to provide for the establishment of a national employment system and  
23 for cooperation with states in the promotion of such system, and for  
24 other purposes, approved June 6, 1933, as amended. The ~~commissioner~~  
25 director shall comply with the regulations of the Secretary of Labor

1 relating to the receipt or expenditure by this state of money granted  
2 under any of such acts and shall make such reports, in such form and  
3 containing such information as the Secretary of Labor may from time  
4 to time require, and shall comply with such provisions as the  
5 Secretary of Labor may from time to time find necessary to assure the  
6 correctness and verification of such reports. Upon request therefor  
7 the ~~commissioner~~director shall furnish to any agency of the United  
8 States charged with the administration of public works or assistance  
9 through public employment the name, address, ordinary occupation, and  
10 employment status of each recipient of benefits and such recipient's  
11 rights to further benefits under the Employment Security Law. The  
12 ~~commissioner~~director may afford reasonable cooperation with every  
13 agency of the United States charged with the administration of any  
14 unemployment insurance law.

15           Sec. 73. Section 48-617, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17           48-617 There is hereby established as a special fund,  
18 separate and apart from all public money or funds of this state, an  
19 Unemployment Compensation Fund, which fund shall be administered by  
20 the ~~Commissioner of Labor~~director exclusively for the purposes of  
21 the Employment Security Law. This fund shall consist of (1) all  
22 contributions and payments in lieu of contributions collected under  
23 such law together with any interest thereon collected pursuant to  
24 sections 48-655 to 48-660.01, except as provided in subdivision (1)  
25 (b) of section 48-621, (2) interest earned upon any money in the

1 fund, (3) any property or securities acquired through the use of  
2 money belonging to the fund, (4) all earnings of such property or  
3 securities, (5) all money credited to this state's account in the  
4 Unemployment Trust Fund pursuant to section 903 of the federal Social  
5 Security Act, as amended, and (6) all other money received for the  
6 fund from any other source. Any money in the Unemployment  
7 Compensation Fund available for investment shall be invested by the  
8 state investment officer pursuant to the Nebraska Capital Expansion  
9 Act and the Nebraska State Funds Investment Act.

10           Sec. 74. Section 48-618, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           48-618 The ~~Commissioner of Labor~~ director shall designate  
13 a treasurer and custodian of the fund, who shall be selected in  
14 accordance with section 48-609, and who shall administer such fund in  
15 accordance with the directions of the ~~commissioner~~ director and shall  
16 issue his or her warrants upon it in accordance with such rules and  
17 regulations as the ~~commissioner~~ director shall prescribe. He or she  
18 shall maintain within the fund three separate accounts: (1) A  
19 clearing account, (2) an Unemployment Trust Fund account, and (3) a  
20 benefit account. All money payable to the fund, upon receipt thereof  
21 by the ~~commissioner~~ director, shall be forwarded to the treasurer  
22 who shall immediately deposit the same in the clearing account.  
23 Transfers of interest on delinquent contributions pursuant to  
24 subdivision (1)(b) of section 48-621 and refunds payable pursuant to  
25 section 48-660 may be paid from the clearing account upon warrants

1 issued by the treasurer of the Unemployment Compensation Fund under  
2 the direction of the ~~commissioner.~~ director. After clearance thereof,  
3 all other money in the clearing account shall be immediately  
4 deposited with the Secretary of the Treasury of the United States of  
5 America to the credit of the account of this state in the  
6 Unemployment Trust Fund, established and maintained pursuant to  
7 section 904 of the Social Security Act, any provisions of law in this  
8 state relating to the deposit, administration, release, or  
9 disbursement of money in the possession or custody of this state to  
10 the contrary notwithstanding. The benefit account shall consist of  
11 all money requisitioned from this state's account in the Unemployment  
12 Trust Fund. Except as herein otherwise provided, money in the  
13 clearing and benefit accounts may be deposited by the treasurer under  
14 the direction of the ~~commissioner~~ director in any bank or public  
15 depository in which general funds of the state may be deposited, but  
16 no public deposit insurance charge or premium shall be paid out of  
17 the fund. The treasurer shall be bonded or insured as required by  
18 section 11-201.

19           Sec. 75. Section 48-619, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           48-619 Money shall be requisitioned from this state's  
22 account in the Unemployment Trust Fund solely for the payment of  
23 benefits in accordance with lawful rules and regulations prescribed  
24 by the ~~Commissioner of Labor,~~ director, except that subject to the  
25 limitations therein contained, money credited to this fund pursuant

1 to section 903 of the federal Social Security Act, as amended, may  
2 upon an appropriation duly made by the Legislature, be used for the  
3 administration of the Employment Security Law and shall for such  
4 purposes and to the extent required be transferred to the Employment  
5 Security Administration Fund established in subdivision (1)(a) of  
6 section 48-621. The ~~commissioner~~director shall from time to time  
7 requisition from the Unemployment Trust Fund such amounts, not  
8 exceeding the amounts standing to this state's account therein, as he  
9 or she deems necessary for the payment of benefits for a reasonable  
10 future period. Upon receipt thereof the treasurer shall deposit such  
11 money in the benefit account and shall issue his or her warrants as  
12 aforesaid and as provided by law for the payment of benefits solely  
13 from such benefit account. Expenditures of such money in the benefit  
14 account and refunds from the clearing account shall not be subject to  
15 any provisions of law requiring specific appropriations. Any balance  
16 of money requisitioned from the Unemployment Trust Fund, which  
17 remains unclaimed or unpaid in the benefit account after the  
18 expiration of the period for which such sums were requisitioned,  
19 shall either be deducted from estimates for, and may be utilized for  
20 the payment of, benefits during succeeding periods or, in the  
21 discretion of the ~~commissioner~~director, shall be redeposited with  
22 the Secretary of the Treasury of the United States of America, to the  
23 credit of this state's account in the Unemployment Trust Fund, as  
24 provided in section 48-618. As used in this section, the term warrant  
25 shall include a signature negotiable instrument, electronic funds

1 transfer system, telephonic funds transfer system, electric funds  
2 transfer system, funds transfers as provided for in article 4A,  
3 Uniform Commercial Code, mechanical funds transfer system, or other  
4 funds transfer system established by the treasurer. The warrant, when  
5 it is a dual signature negotiable instrument, shall affect the  
6 state's cash balance in the bank when redeemed by the treasurer, not  
7 when cashed by a financial institution.

8           Sec. 76. Section 48-621, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           48-621 (1) The administrative fund shall consist of the  
11 Employment Security Administration Fund and the Employment Security  
12 Special Contingent Fund. Each fund shall be maintained as a separate  
13 and distinct account in all respects, as follows:

14           (a) There is hereby created in the state treasury a  
15 special fund to be known as the Employment Security Administration  
16 Fund. All money credited to this fund is hereby appropriated and made  
17 available to the ~~Commissioner of Labor. director.~~ All money in this  
18 fund shall be expended solely for the purposes and in the amounts  
19 found necessary as defined by the specific federal programs, state  
20 statutes, and contract obligations for the proper and efficient  
21 administration of all programs of the ~~Department of Labor.~~  
22 department. The fund shall consist of all money appropriated by this  
23 state and all money received from the United States of America or any  
24 agency thereof, including the United States Department of Labor and  
25 the United States Railroad Retirement Board, or from any other source

1 for such purpose. Money received from any agency of the United States  
2 or any other state as compensation for services or facilities  
3 supplied to such agency, any amounts received pursuant to any surety  
4 bond or insurance policy for losses sustained by the Employment  
5 Security Administration Fund or by reason of damage to equipment or  
6 supplies purchased from money in such fund, and any proceeds realized  
7 from the sale or disposition of any equipment or supplies which may  
8 no longer be necessary for the proper administration of such programs  
9 shall also be credited to this fund. All money in this fund shall be  
10 deposited, administered, and disbursed in the same manner and under  
11 the same conditions and requirements as is provided by law for other  
12 special funds in the state treasury. Any balances in this fund,  
13 except balances of money therein appropriated from the General Fund  
14 of this state, shall not lapse at any time but shall be continuously  
15 available to the ~~commissioner~~director for expenditure consistent  
16 with the Employment Security Law. Any money in the Employment  
17 Security Administration Fund available for investment shall be  
18 invested by the state investment officer pursuant to the Nebraska  
19 Capital Expansion Act and the Nebraska State Funds Investment Act;  
20 and

21 (b) There is hereby created in the state treasury a  
22 special fund to be known as the Employment Security Special  
23 Contingent Fund. Any money in the Employment Security Special  
24 Contingent Fund available for investment shall be invested by the  
25 state investment officer pursuant to the Nebraska Capital Expansion

1 Act and the Nebraska State Funds Investment Act. All money collected  
2 under section 48-655 as interest on delinquent contributions, less  
3 refunds, shall be credited to this fund from the clearing account of  
4 the Unemployment Compensation Fund at the end of each calendar  
5 quarter. Such money shall not be expended or available for  
6 expenditure in any manner which would permit its substitution for or  
7 a corresponding reduction in federal funds which would in the absence  
8 of such money be available to finance expenditures for the  
9 administration of the unemployment insurance law, but nothing in this  
10 section shall prevent the money from being used as a revolving fund  
11 to cover expenditures necessary and proper under the law for which  
12 federal funds have been duly requested but not yet received, subject  
13 to the charging of such expenditures against such federal funds when  
14 received. The money in this fund may be used by the ~~Commissioner of~~  
15 ~~Labor~~ director only as follows:

16 (i) To replace within a reasonable time any money  
17 received by this state pursuant to section 302 of the federal Social  
18 Security Act, as amended, and required to be paid under section  
19 48-622;

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

1                   (iii) To be transferred to the Nebraska Community College  
2 Aid Cash Fund; and

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

4                   (2)(a) Money credited to the account of this state in the  
5 Unemployment Trust Fund by the United States Secretary of the  
6 Treasury pursuant to section 903 of the Social Security Act may not  
7 be requisitioned from this state's account or used except for the  
8 payment of benefits and for the payment of expenses incurred for the  
9 administration of the Employment Security Law and public employment  
10 offices. Such money may be requisitioned pursuant to section 48-619  
11 for the payment of benefits. Such money may also be requisitioned and  
12 used for the payment of expenses incurred for the administration of  
13 the Employment Security Law and public employment offices but only  
14 pursuant to a specific appropriation by the Legislature and only if  
15 the expenses are incurred and the money is requisitioned after the  
16 date of enactment of an appropriation law which specifies the  
17 purposes for which such money is appropriated and the amounts  
18 appropriated therefor. Such appropriation is subject to the following  
19 conditions:

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

23                   (ii) The amount which may be obligated is limited to an  
24 amount which does not exceed the amount by which the aggregate of the  
25 amounts transferred to the account of this state pursuant to section

1 903 of the Social Security Act exceeds the aggregate of the amounts  
2 used by this state pursuant to the Employment Security Law and  
3 charged against the amounts transferred to the account of this state.

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

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

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

22 (e) Notwithstanding subdivision (2)(a) of this section,  
23 money credited with respect to federal fiscal years 1999, 2000, and  
24 2001 shall be used solely for the administration of the unemployment  
25 compensation program and are not subject to appropriation by the

1 Legislature.

2           (3) There is hereby appropriated out of the funds made  
3 available to this state in federal fiscal year 2002 under section  
4 903(d) of the federal Social Security Act, as amended, the sum of  
5 \$6,800,484, or so much thereof as may be necessary, to be used, under  
6 the direction of the Department of ~~Labor~~, Economic Development, for  
7 the administration of the Employment Security Law and public  
8 employment offices. The expenditure or other disposition of money  
9 appropriated under this subsection shall be accounted for in  
10 accordance with standards established by the United States Secretary  
11 of Labor. Reed Act distributions appropriated pursuant to this  
12 subsection may be amortized with federal grant funds provided  
13 pursuant to Title III of the federal Social Security Act and the  
14 federal Wagner-Peyser Act for the purpose of administering the state  
15 unemployment compensation and employment service programs to the  
16 extent allowed under such acts and the regulations adopted pursuant  
17 thereto. Except as specifically provided in this subsection, all  
18 provisions of subsection (2) of this section, except subdivision (2)  
19 (a)(i) of this section, shall apply to this appropriation. The  
20 ~~commissioner~~ director shall submit an annual report to the Governor,  
21 the Speaker of the Legislature, and the chairpersons of the  
22 Appropriations Committee and the Business and Labor Committee of the  
23 Legislature describing expenditures made pursuant to this subsection.

24           Sec. 77. Section 48-622.01, Revised Statutes Supplement,  
25 2011, is amended to read:

1                   48-622.01 (1) There is hereby created in the state  
2 treasury a special fund to be known as the State Unemployment  
3 Insurance Trust Fund. All state unemployment insurance tax collected  
4 under sections 48-648 to 48-661, less refunds, shall be paid into the  
5 fund. Such money shall be held in trust for payment of unemployment  
6 insurance benefits. Any money in the fund available for investment  
7 shall be invested by the state investment officer pursuant to the  
8 Nebraska Capital Expansion Act and the Nebraska State Funds  
9 Investment Act, except that interest earned on money in the fund  
10 shall be credited to the Nebraska Training and Support Trust Fund at  
11 the end of each calendar quarter.

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

21                   (3) If and when the state unemployment insurance tax  
22 ceases to exist as determined by the Governor, all money then in the  
23 State Unemployment Insurance Trust Fund less accrued interest shall  
24 be immediately transferred to the credit of the state's account in  
25 the Unemployment Trust Fund, provisions of law in this state relating

1 to the deposit, administration, release, or disbursement of money in  
2 the possession or custody of this state to the contrary  
3 notwithstanding. The determination to eliminate the state  
4 unemployment insurance tax shall be based on the solvency of the  
5 state's account in the Unemployment Trust Fund and the need for  
6 training of Nebraska workers. Accrued interest in the State  
7 Unemployment Insurance Trust Fund shall be credited to the Nebraska  
8 Training and Support Trust Fund.

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

20 Sec. 78. Section 48-622.02, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 48-622.02 (1) There is hereby created in the state  
23 treasury a special fund to be known as the Nebraska Training and  
24 Support Trust Fund. Any money in the fund available for investment  
25 shall be invested by the state investment officer pursuant to the

1 Nebraska Capital Expansion Act and the Nebraska State Funds  
2 Investment Act. All money deposited or paid into the fund is hereby  
3 appropriated and made available to the ~~commissioner.~~director. No  
4 expenditures shall be made from the fund without the written  
5 authorization of the Governor upon the recommendation of the  
6 ~~commissioner.~~director. Any interest earned on money in the State  
7 Unemployment Insurance Trust Fund shall be credited to the Nebraska  
8 Training and Support Trust Fund.

9           (2) Money in the Nebraska Training and Support Trust Fund  
10 shall be used for (a) administrative costs of establishing,  
11 assessing, collecting, and maintaining state unemployment insurance  
12 tax liability and payments, (b) administrative costs of creating,  
13 maintaining, and dissolving the State Unemployment Insurance Trust  
14 Fund and the Nebraska Training and Support Trust Fund, (c) support of  
15 public and private job training programs designed to train, retrain,  
16 or upgrade work skills of existing Nebraska workers, (d) recruitment  
17 of workers to Nebraska, (e) training new employees of expanding  
18 Nebraska businesses, (f) the costs of creating a common web portal  
19 for the attraction of businesses and workers to Nebraska, and (g)  
20 payment of unemployment insurance benefits if solvency of the state's  
21 account in the Unemployment Trust Fund and of the State Unemployment  
22 Insurance Trust Fund so require.

23           (3) There is hereby created within the Nebraska Training  
24 and Support Trust Fund a separate account to be known as the  
25 Administrative Costs Reserve Account. Money shall be allocated from

1 the Nebraska Training and Support Trust Fund to the Administrative  
2 Costs Reserve Account in amounts sufficient to pay the anticipated  
3 administrative costs identified in subdivisions (2)(a) through (g) of  
4 this section. The administrative costs determined to be applicable to  
5 creation and operation of the State Unemployment Insurance Trust Fund  
6 and the Nebraska Training and Support Trust Fund shall be paid out of  
7 the Administrative Costs Reserve Account.

8 Sec. 79. Section 48-622.03, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 48-622.03 (1) There is hereby created as of January 1,  
11 1996, the Nebraska Worker Training Board consisting of ~~seven~~six  
12 members appointed and serving for terms determined by the Governor as  
13 follows:

14 (a) A representative of employers in Nebraska;

15 (b) A representative of employees in Nebraska;

16 (c) A representative of the public;

17 ~~(d) The Commissioner of Labor or a designee;~~

18 ~~(e)~~(d) The Director of Economic Development or a  
19 designee;

20 ~~(f)~~(e) The Commissioner of Education or a designee; and

21 ~~(g)~~(f) The chairperson of the governing board of the  
22 Nebraska Community College Association or a designee.

23 (2) Beginning July 1, 1996, and annually thereafter, the  
24 Governor shall appoint a chairperson for the board. The chairperson  
25 shall be either the representative of the employers, the

1 representative of the employees, or the representative of the public.

2 (3) Beginning July 1, 1996, and annually thereafter the  
3 board shall prepare an annual program plan for the upcoming fiscal  
4 year containing guidelines for the program financed by the Nebraska  
5 Training and Support Trust Fund. The guidelines shall include, but  
6 not be limited to, guidelines for certifying training providers,  
7 criteria for evaluating requests for the use of money under section  
8 48-622.02, and guidelines for requiring employers to provide matching  
9 funds. The guidelines shall give priority to training that  
10 contributes to the expansion of the Nebraska workforce and increasing  
11 the pool of highly skilled workers in Nebraska.

12 (4) Beginning September 1, 1997, and annually thereafter,  
13 the board shall provide a report to the Governor covering the  
14 activities of the program financed by the Nebraska Training and  
15 Support Trust Fund for the previous fiscal year. The report shall  
16 contain an assessment of the effectiveness of the program and its  
17 administration.

18 Sec. 80. Section 48-623, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 48-623 All benefits provided in the Employment Security  
21 Law shall be payable from the Unemployment Compensation Fund. All  
22 benefits shall be paid through employment offices in accordance with  
23 such rules and regulations as the ~~Commissioner of Labor~~ director may  
24 prescribe.

25 Sec. 81. Section 48-626, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           48-626 Any otherwise eligible individual shall be  
3 entitled during any benefit year to a total amount of benefits equal  
4 to whichever is the lesser of (1) twenty-six times his or her benefit  
5 amount or (2) one-third of his or her wages in the employment of each  
6 employer per calendar quarter of his or her base period; except that  
7 when any individual has been separated from his or her employment  
8 with a base period employer under the circumstances under which he or  
9 she was or could have been determined disqualified under subdivision  
10 (1) or (2) of section 48-628, the total benefit amount based on the  
11 employment from which he or she was so separated shall be reduced by  
12 an amount equal to the number of weeks for which he or she is or  
13 would have been disqualified had he or she filed a claim immediately  
14 after the separation, multiplied by his or her weekly benefit amount,  
15 but not more than one reduction may be made for each separation. In  
16 no event shall the benefit amount based on employment for any  
17 employer be reduced to less than one benefit week when the individual  
18 was or could have been determined disqualified under subdivision (1)  
19 of section 48-628. For purposes of sections 48-623 to 48-626, wages  
20 shall be counted as wages for insured work for benefit purposes with  
21 respect to any benefit year only if such benefit year begins  
22 subsequent to the date on which the employer by whom such wages were  
23 paid has satisfied the conditions of section 48-603 or subsection (3)  
24 of section 48-661 with respect to becoming an employer. In order to  
25 determine the benefits due under this section and sections 48-624 and

1 48-625, each employer shall make reports, in conformity with  
2 reasonable rules and regulations adopted by the ~~commissioner,~~  
3 director, of the wages of any claimant. If any such employer shall  
4 fail to make such report within the time prescribed, the ~~commissioner~~  
5 director may accept the statement of such claimant as to his or her  
6 wages, and any benefit payments based on such statement of earnings,  
7 in the absence of fraud or collusion, will be final as to amount.

8           Sec. 82. Section 48-627, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           48-627 An unemployed individual shall be eligible to  
11 receive benefits with respect to any week, only if the ~~Commissioner~~  
12 of Labor director finds:

13           (1) He or she has registered for work at, and thereafter  
14 continued to report at, an employment office in accordance with such  
15 rules and regulations as the ~~commissioner~~director may prescribe,  
16 except that the ~~commissioner~~director may, by rule and regulation,  
17 waive or alter either or both of the requirements of this subdivision  
18 as to individuals attached to regular jobs and as to such other types  
19 of cases or situations, with respect to which he or she finds that  
20 compliance with such requirements, would be oppressive, or would be  
21 inconsistent with the purposes of the Employment Security Law, except  
22 that no such rule or regulation shall conflict with section 48-623;

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

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

1 No individual, who is otherwise eligible, shall be deemed ineligible,  
2 or unavailable for work, because he or she is on vacation without pay  
3 during such week, if such vacation is not the result of his or her  
4 own action as distinguished from any collective action by a  
5 collective-bargaining agent or other action beyond his or her  
6 individual control, and regardless of whether he or she has not been  
7 notified of the vacation at the time of his or her hiring. An  
8 individual who is otherwise eligible shall not be deemed unavailable  
9 for work or failing to engage in an active work search solely because  
10 such individual is seeking part-time work if the majority of the  
11 weeks of work in an individual's base period include part-time work.  
12 For purposes of this subdivision, seeking only part-time work ~~shall~~  
13 ~~mean~~ means seeking less than full-time work having comparable hours  
14 to the individual's part-time work in the base period, except that  
15 the individual must be available for work at least twenty hours per  
16 week. Receipt of a non-service-connected total disability pension by  
17 a veteran at the age of sixty-five or more shall not of itself bar  
18 the veteran from benefits as not able to work. An otherwise eligible  
19 individual while engaged in a training course approved for him or her  
20 by the ~~commissioner~~ director shall be considered available for work  
21 for the purposes of this section. An inmate in a penal or custodial  
22 institution shall be considered unavailable for work for purposes of  
23 this section;

24 (4) He or she has been unemployed for a waiting period of  
25 one week. No week shall be counted as a week of unemployment for the

1 purpose of this subdivision (a) unless it occurs within the benefit  
2 year, which includes the week with respect to which he or she claims  
3 payment of benefits, (b) if benefits have been paid with respect  
4 thereto, or (c) unless the individual was eligible for benefits with  
5 respect thereto, as provided in sections 48-627 and 48-628, except  
6 for the requirements of this subdivision and of subdivision (6) of  
7 section 48-628;

8 (5)(a) For any benefit year beginning on or after January  
9 1, 2006, he or she has, within his or her base period, been paid a  
10 total sum of wages for employment by employers equal to not less than  
11 two thousand five hundred dollars, of which sum at least eight  
12 hundred dollars has been paid in each of two quarters in his or her  
13 base period, and subsequent to filing the claim which establishes the  
14 previous benefit year, the individual has earned wages in insured  
15 work of at least six times his or her weekly benefit amount for the  
16 previous benefit year.

17 (b) For any benefit year beginning on or after July 1,  
18 2011, he or she has (i) within his or her base period, been paid a  
19 total sum of wages for employment by employers equal to not less than  
20 three thousand seven hundred seventy dollars, of which sum at least  
21 one thousand eight hundred fifty dollars has been paid in one quarter  
22 in his or her base period and eight hundred dollars has been paid in  
23 a second quarter of his or her base period, and (ii) subsequent to  
24 filing the claim which establishes the previous benefit year, earned  
25 wages in insured work of at least six times his or her weekly benefit

1 amount for the previous benefit year. Commencing January 1, 2012, and  
2 each January 1 thereafter, the amount which an individual is required  
3 to earn within his or her base period shall be adjusted annually. The  
4 adjusted amount shall be equal to the then current amount adjusted by  
5 the cumulative percentage change in the Consumer Price Index for All  
6 Urban Consumers published by the Federal Bureau of Labor Statistics  
7 for the one-year period ending on the previous September 30.

8 (c) For the purposes of this subdivision (5), (i) for the  
9 determination of monetary eligibility, wages paid within a base  
10 period shall not include wages from any calendar quarter previously  
11 used to establish a valid claim for benefits, (ii) wages shall be  
12 counted as wages for insured work for benefit purposes with respect  
13 to any benefit year only if such benefit year begins subsequent to  
14 the date on which the employer, by whom such wages were paid, has  
15 satisfied the conditions of section 48-603 or subsection (3) of  
16 section 48-661, with respect to becoming an employer, and (iii) with  
17 respect to weeks of unemployment beginning on or after January 1,  
18 1978, wages for insured work for benefit purposes with respect to any  
19 benefit year ~~shall include~~ includes wages paid for services as  
20 defined by subdivision (4)(a), (b), (c), or (d) of section 48-604 to  
21 the extent that such services were not services in employment under  
22 subdivision (4)(a) of section 48-604 or section 48-661 immediately  
23 prior to September 2, 1977, even though the employer by whom such  
24 wages were paid had not satisfied the conditions of subdivision (8),  
25 (9), (10), or (11) of section 48-603 with respect to becoming an

1 employer at the time such wages were paid except to the extent that  
2 assistance under Title II of the federal Emergency Jobs and  
3 Unemployment Assistance Act of 1974 was paid on the basis of such  
4 services; and

5 (6) He or she is participating in reemployment services  
6 at no cost to such individual as directed by the ~~commissioner,~~  
7 director, such as job search assistance services, if the individual  
8 has been determined to be likely to exhaust regular benefits and to  
9 need reemployment services pursuant to a profiling system established  
10 by rule and regulation of the ~~commissioner~~director which is in  
11 compliance with section 303(j)(1) of the federal Social Security Act,  
12 unless the ~~commissioner~~director determines that: (a) The individual  
13 has completed such services; or (b) there is justifiable cause for  
14 the claimant's failure to participate in such services.

15 Sec. 83. Section 48-628, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 48-628 An individual shall be disqualified for benefits:

18 (1)(a) For the week in which he or she has left work  
19 voluntarily without good cause, if so found by the ~~commissioner,~~  
20 director, and for the thirteen weeks which immediately follow such  
21 week. A temporary employee of a temporary help firm has left work  
22 voluntarily without good cause if the temporary employee does not  
23 contact the temporary help firm for reassignment upon completion of  
24 an assignment and the temporary employee has been advised by the  
25 temporary help firm of his or her obligation to contact the temporary

1 help firm upon completion of assignments and has been advised by the  
2 temporary help firm that the temporary employee may be denied  
3 benefits for failure to do so; or

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

11 (2) For the week in which he or she has been discharged  
12 for misconduct connected with his or her work, if so found by the  
13 ~~commissioner, director,~~ and for the fourteen weeks which immediately  
14 follow such week. If the ~~commissioner-director~~ finds that such  
15 individual's misconduct was gross, flagrant, and willful, or was  
16 unlawful, the ~~commissioner-director~~ shall totally disqualify such  
17 individual from receiving benefits with respect to wage credits  
18 earned prior to discharge for such misconduct. In addition to the  
19 fourteen-week benefit disqualification assessed under this  
20 subdivision, the ~~commissioner-director~~ shall cancel all wage credits  
21 earned as a result of employment with the discharging employer if the  
22 ~~commissioner-director~~ finds that the individual was discharged for  
23 misconduct in connection with the work which was not gross, flagrant,  
24 and willful or unlawful but which included being under the influence  
25 of any intoxicating beverage or being under the influence of any

1 controlled substance listed in section 28-405 not prescribed by a  
2 physician licensed to practice medicine or surgery when the  
3 individual is so under the influence on the worksite or while engaged  
4 in work for the employer;

5 (3)(a) For any week of unemployment in which he or she  
6 has failed, without good cause, to apply for available, suitable work  
7 when so directed by the employment office or the ~~commissioner,~~  
8 director, to accept suitable work offered him or her, or to return to  
9 his or her customary self-employment, if any, and the ~~commissioner~~  
10 director so finds, and for the twelve weeks which immediately follow  
11 such week, and his or her total benefit amount to which he or she is  
12 then entitled shall be reduced by an amount equal to the number of  
13 weeks for which he or she has been disqualified by the ~~commissioner.~~  
14 director.

15 (b) In determining whether or not any work is suitable  
16 for an individual, the ~~commissioner~~director shall consider the  
17 degree of risk involved to the individual's health, safety, and  
18 morals, his or her physical fitness and prior training, his or her  
19 experience and prior earnings, his or her length of unemployment and  
20 prospects for securing local work in his or her customary occupation,  
21 and the distance of the available work from his or her residence.

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

1 conditions: (i) If the position offered is vacant due directly to a  
2 strike, lockout, or other labor dispute; (ii) if the wages, hours, or  
3 other conditions of the work offered are substantially less favorable  
4 to the individual than those prevailing for similar work in the  
5 locality; or (iii) if, as a condition of being employed, the  
6 individual would be required to join a company union or to resign  
7 from or refrain from joining any bona fide labor organization.

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

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

24 (4) For any week with respect to which the ~~commissioner~~  
25 director finds that his or her total unemployment is due to a

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

16 (5) For any week with respect to which he or she is  
17 receiving or has received remuneration in the form of (a) wages in  
18 lieu of notice, or a dismissal or separation allowance, (b)  
19 compensation for temporary disability under the workers' compensation  
20 law of any state or under a similar law of the United States, (c)  
21 retirement or retired pay, pension, annuity, or other similar  
22 periodic payment under a plan maintained or contributed to by a base  
23 period or chargeable employer, or (d) a gratuity or bonus from an  
24 employer, paid after termination of employment, on account of prior  
25 length of service, or disability not compensated under the workers'

1 compensation law. Such payments made in lump sums shall be prorated  
2 in an amount which is reasonably attributable to such week. If the  
3 prorated remuneration is less than the benefits which would otherwise  
4 be due, he or she shall be entitled to receive for such week, if  
5 otherwise eligible, benefits reduced by the amount of such  
6 remuneration. The prorated remuneration shall be considered wages for  
7 the quarter to which it is attributable. Military service-connected  
8 disability compensation payable under 38 U.S.C. chapter 11 and  
9 primary insurance benefits payable under Title II of the Social  
10 Security Act, as amended, or similar payments under any act of  
11 Congress shall not be deemed to be disqualifying or deductible from  
12 the benefit amount. No deduction shall be made for the part of any  
13 retirement pension which represents return of payments made by the  
14 individual. In the case of a transfer by an individual or his or her  
15 employer of an amount from one retirement plan to a second qualified  
16 retirement plan under the Internal Revenue Code, the amount  
17 transferred shall not be deemed to be received by the claimant until  
18 actually paid from the second retirement plan to the claimant. No  
19 deduction shall be made for any benefit received under a supplemental  
20 unemployment benefit plan described in subdivision (29)(g) of section  
21 48-602;

22 (6) For any week with respect to which or a part of which  
23 he or she has received or is seeking unemployment benefits under an  
24 unemployment compensation law of any other state or of the United  
25 States, except that if the appropriate agency of such other state or

1 of the United States finally determines that he or she is not  
2 entitled to such unemployment benefits, this disqualification shall  
3 not apply;

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

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

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

24 (b) In any other capacity for an educational institution,  
25 if such week commences during a period between two successive

1 academic years or terms, if such individual performs such services in  
2 the first of such academic years or terms, and if there is a  
3 reasonable assurance that such individual will perform such services  
4 in the second of such academic years or terms, except that if  
5 benefits are denied to any individual for any week under subdivision  
6 (8)(b) of this section and such individual was not offered an  
7 opportunity to perform such services for the educational institution  
8 for the second of such academic years or terms, such individual shall  
9 be entitled to a retroactive payment of the benefits for each week  
10 for which the individual filed a timely claim for benefits and for  
11 which benefits were denied solely by reason of subdivision (8)(b) of  
12 this section;

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

20 (d) In any capacity described in subdivision (8)(a) or  
21 (b) of this section in an educational institution while in the employ  
22 of an educational service agency, and such individual shall be  
23 disqualified as specified in subdivisions (8)(a), (b), and (c) of  
24 this section. As used in this subdivision, educational service agency  
25 ~~shall mean~~ means a governmental agency or governmental entity which

1 is established and operated exclusively for the purpose of providing  
2 services to one or more educational institutions; and

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

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

19 (10) For any week of unemployment benefits if the  
20 services upon which such benefits are based are performed by an alien  
21 unless such alien is an individual who was lawfully admitted for  
22 permanent residence at the time such services were performed, was  
23 lawfully present for purposes of performing such services, or was  
24 permanently residing in the United States under color of law at the  
25 time such services were performed, including an alien who was

1 lawfully present in the United States as a result of the application  
2 of section 212(d)(5) of the Immigration and Nationality Act, 8 U.S.C.  
3 1182(d)(5). Any data or information required of individuals applying  
4 for benefits to determine whether benefits are not payable to them  
5 because of their alien status shall be uniformly required from all  
6 applicants for benefits. In the case of an individual whose  
7 application for benefits would otherwise be approved, no  
8 determination that benefits to such individual are not payable  
9 because of his or her alien status shall be made except upon a  
10 preponderance of the evidence;

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

1 the individual's average weekly wage as determined for purposes of  
2 such act;

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

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

13 Sec. 84. Section 48-628.01, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 48-628.01 Good cause for voluntarily leaving employment  
16 shall include, but not be limited to, the following reasons:

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

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

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

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

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

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

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

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

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

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

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

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

14           (10) Equity and good conscience demand a finding of good  
15 cause.

16           Sec. 85. Section 48-628.02, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           48-628.02 (1) As used in the Employment Security Law,  
19 unless the context otherwise requires:

20           (a) Extended benefit period means a period which begins  
21 with the third week after a week for which there is a state "on"  
22 indicator and ends with either of the following weeks, whichever  
23 occurs later: (i) The third week after the first week for which there  
24 is a state "off" indicator or (ii) the thirteenth consecutive week of  
25 such period, except that no extended benefit period may begin by

1 reason of a state "on" indicator before the fourteenth week following  
2 the end of a prior extended benefit period which was in effect with  
3 respect to this state;

4 (b) Extended benefits means benefits, including benefits  
5 payable to federal civilian employees and to ex-servicemen or ex-  
6 servicewomen pursuant to 5 U.S.C. chapter 85, payable to an  
7 individual for weeks of unemployment in his or her eligibility  
8 period;

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

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

25 (i)(A) Has received, prior to such week, all of the

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

17 (ii) Has no right to unemployment benefits or allowances,  
18 as the case may be, under the Railroad Unemployment Insurance Act,  
19 the Trade Expansion Act of 1962, the Automotive Products Trade Act of  
20 1965, and such other federal laws as are specified in regulations  
21 issued by the United States Secretary of Labor; and

22 (iii) Has not received and is not seeking unemployment  
23 benefits under the unemployment compensation law of Canada, but if he  
24 or she is seeking such benefits and the appropriate agency finally  
25 determines that he or she is not entitled to benefits under such law

1 he or she is considered an exhaustee;

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

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

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

24 (h) State "on" indicator means a week that the  
25 ~~commissioner~~director determines that for the period consisting of

1 such week and the immediately preceding twelve weeks, the rate of  
2 insured unemployment, not seasonally adjusted, under the Employment  
3 Security Law: (i) Equaled or exceeded one hundred twenty percent of  
4 the average of such rates for the corresponding thirteen-week period  
5 ending in each of the preceding two calendar years and equaled or  
6 exceeded five percent or (ii) equaled or exceeded six percent.

7 (2) Except when the result would be inconsistent with the  
8 other provisions of this section, as provided in the rules and  
9 regulations of the ~~commissioner, director,~~ the provisions of the  
10 Employment Security Law which apply to claims for or payment of  
11 regular benefits shall apply to claims for and payment of extended  
12 benefits. An individual shall be eligible to receive extended  
13 benefits with respect to any week of unemployment in his or her  
14 eligibility period only if the ~~commissioner director~~ finds that with  
15 respect to such week: (a) Such individual is an exhaustee; (b) such  
16 individual has satisfied the requirements of the Employment Security  
17 Law for the receipt of regular benefits that are applicable to  
18 individuals claiming extended benefits, including not being subject  
19 to a disqualification for the receipt of benefits; (c) sections  
20 48-628.03 and 48-628.04 do not apply; and (d) such individual has  
21 been paid wages for insured work during the individual's base period  
22 equal to at least one and one-half times the wages paid in that  
23 calendar quarter of the individual's base period in which such wages  
24 were highest.

25 (3) The weekly extended benefit amount payable to an

1 individual for a week of total unemployment in his or her eligibility  
2 period shall be an amount equal to the weekly benefit amount payable  
3 to him or her during his or her applicable benefit year. The total  
4 extended benefit amount payable to any eligible individual with  
5 respect to his or her applicable benefit year shall be the least of  
6 the following amounts: Fifty percent of the total amount of regular  
7 benefits which were payable to him or her under the Employment  
8 Security Law in his or her applicable benefit year; or thirteen times  
9 his or her weekly benefit amount which was payable to him or her  
10 under the Employment Security Law for a week of total unemployment in  
11 the applicable benefit year.

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

22 (5) Notwithstanding any other provision of the Employment  
23 Security Law, during an extended benefit period, the Governor may  
24 provide for the payment of emergency unemployment compensation  
25 pursuant to Public Law 110-252, as amended, or any substantially

1 similar federal unemployment compensation paid entirely from federal  
2 funds to individuals prior to the payment of extended benefits  
3 pursuant to sections 48-628.02 to 48-628.04.

4 Sec. 86. Section 48-628.03, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 48-628.03 (1) An individual shall be ineligible for  
7 payment of extended benefits for any week of unemployment in his or  
8 her eligibility period if the ~~commissioner~~director finds that during  
9 such period (a) he or she failed to accept any offer of suitable work  
10 or failed to apply for any suitable work to which he or she was  
11 referred by the ~~commissioner~~director or (b) he or she failed to  
12 actively engage in seeking work as prescribed under subsection (5) of  
13 this section.

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

21 (3) For purposes of this section, the term suitable work  
22 shall mean, with respect to any individual, any work which is within  
23 such individual's capabilities and for which the gross average weekly  
24 remuneration payable for the work exceeds the sum of the individual's  
25 average weekly benefit amount payable to him or her during his or her

1 applicable benefit year, plus the amount, if any, of supplemental  
2 unemployment compensation benefits as defined in section 501(c)(17)  
3 (D) of the Internal Revenue Code payable to such individual for such  
4 week. Such work must also pay wages equal to the higher of the  
5 federal minimum wage or the applicable state or local minimum wage.  
6 No individual shall be denied extended benefits for failure to accept  
7 an offer or referral to any job which meets the definition of  
8 suitability contained in this subsection if (a) the position was not  
9 offered to such individual in writing or was not listed with the  
10 employment service, (b) such failure could not result in a denial of  
11 benefits under the definition of suitable work for regular benefit  
12 claimants in subdivision (3) of section 48-628, to the extent that  
13 the criteria of suitability in that section are not inconsistent with  
14 the provisions of this subsection, or (c) the individual furnishes  
15 satisfactory evidence to the ~~commissioner~~director that his or her  
16 prospects for obtaining work in his or her customary occupation  
17 within a reasonably short period are good. If such evidence is deemed  
18 satisfactory for this purpose, the determination of whether any work  
19 is suitable with respect to such individual shall be made in  
20 accordance with the definition of suitable work in subdivision (3) of  
21 section 48-628 without regard to the definition specified by this  
22 subsection.

23 (4) Notwithstanding the provisions of subsection (3) of  
24 this section to the contrary, no work shall be deemed to be suitable  
25 work for an individual which does not accord with the labor standard

1 provisions set forth under subdivision (3)(c) of section 48-628, nor  
2 shall an individual be denied benefits if such benefits would be  
3 deniable by reason of the provision set forth in subdivision (3)(d)  
4 of section 48-628.

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

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

15 (7) An individual shall not be eligible to receive  
16 extended benefits with respect to any week of unemployment in his or  
17 her eligibility period if such individual has been disqualified for  
18 benefits under subdivision (1), (2), or (3) of section 48-628 unless  
19 such individual has earned wages for services performed in subsequent  
20 employment in an amount not less than four hundred dollars.

21 Sec. 87. Section 48-628.05, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 48-628.05 (1) In addition to any other unemployment  
24 benefits to which an individual is entitled under the Employment  
25 Security Law, an individual who has exhausted all regular

1 unemployment benefits for which he or she has been determined  
2 eligible shall continue to be eligible for up to twenty-six  
3 additional weeks of unemployment benefits if such individual:

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

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

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

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

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

24 (2) The amount of unemployment benefits payable to an  
25 individual for a week of unemployment under this section shall be

1 equal to the amount of unemployment benefits which he or she has been  
2 determined eligible for under section 48-624 less any deductions or  
3 offsets authorized under the Employment Security Law.

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

12 (4) No benefits shall be payable under this section until  
13 the individual has exhausted all (a) regular unemployment benefits,  
14 (b) extended benefits as defined in subdivision (1)(b) of section  
15 48-628.02, and (c) unemployment benefits paid entirely from federal  
16 funds to which he or she is entitled, including, but not limited to,  
17 trade readjustment assistance, emergency unemployment compensation,  
18 or other similar federally funded unemployment benefits.

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

24 Sec. 88. Section 48-629, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1           48-629 Claims for benefits shall be made in accordance  
2 with such rules and regulations as the ~~commissioner~~director may  
3 prescribe. Each employer shall post and maintain printed statements  
4 of such rules and regulations in places readily accessible to  
5 individuals in his or her service and shall make available to each  
6 such individual at the time he or she becomes unemployed, a printed  
7 statement of such rules and regulations. Such printed statements  
8 shall be supplied by the ~~commissioner~~director to each employer  
9 without cost to the employer.

10           Sec. 89. Section 48-629.01, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           48-629.01 (1) An individual filing a new claim for  
13 unemployment compensation shall, at the time of the filing of such  
14 claim, be advised that:

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

17           (b) Requirements exist pertaining to estimated tax  
18 payments;

19           (c) The individual may elect to have federal income tax  
20 withheld from the individual's payment of unemployment compensation  
21 at the amount specified in the Internal Revenue Code; and

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

24           (2) Amounts deducted and withheld from unemployment  
25 compensation shall remain in the Unemployment Compensation Fund until

1 transferred to the federal Internal Revenue Service as a payment of  
2 income tax.

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

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

12 Sec. 90. Section 48-630, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 48-630 A determination upon a claim filed pursuant to  
15 section 48-629 shall be made promptly by a representative designated  
16 by the ~~commissioner~~director, hereinafter referred to as a deputy,  
17 and shall include a statement as to whether and in what amount the  
18 claimant is entitled to benefits for the week with respect to which  
19 the determination is made and, in the event of a denial, shall state  
20 the reasons therefor. A determination with respect to the first week  
21 of a benefit year shall also include a statement as to whether the  
22 claimant has been paid the wages required under subdivision (5) of  
23 section 48-627, and, if so, the first day of the benefit year, his or  
24 her weekly benefit amount, and the maximum total amount of benefits  
25 payable to him or her with respect to such benefit year. Any benefits

1 to which a claimant has been found eligible shall not be withheld  
2 because of the filing of an appeal under section 48-634, and such  
3 benefits shall be paid until the appeal tribunal has rendered its  
4 decision modifying or reversing the determination allowing such  
5 benefits if the claimant is otherwise eligible. Any benefits received  
6 by any person to which, under a redetermination or decision pursuant  
7 to sections 48-630 to 48-640, he or she has been found not entitled  
8 shall be treated as excessive payments in accordance with the  
9 provisions of section 48-665. Whenever any claim involves the  
10 application of the provisions of subdivision (4) of section 48-628,  
11 the deputy shall promptly transmit his or her full findings of fact,  
12 with respect to that subdivision, to the ~~commissioner~~, director, who,  
13 on the basis of the evidence submitted and such additional evidence  
14 as he or she may require, shall affirm, modify, or set aside such  
15 findings of fact and transmit to the deputy a decision upon the issue  
16 involved under the subdivision, which shall be deemed to be the  
17 decision of the deputy. All claims arising out of the same alleged  
18 labor dispute may be considered at the same time. The parties shall  
19 be promptly notified of the determination, together with the reasons  
20 therefor, and such determination shall be deemed to be the final  
21 decision on the claim, unless an appeal is filed with the appeal  
22 tribunal in the manner prescribed in section 48-634.

23 Sec. 91. Section 48-631, Revised Statutes Supplement,  
24 2011, is amended to read:

25 48-631 The deputy may reconsider a determination whenever

1 he or she finds that an error in computation or identity has occurred  
2 in connection therewith, or that wages of the claimant pertinent to  
3 such determination, but not considered in connection therewith, have  
4 been newly discovered, or that benefits have been allowed or denied  
5 or the amount of benefits fixed on the basis of misrepresentations of  
6 fact, but no such redetermination shall be made after two years from  
7 the date of the original determination. Notice of any such  
8 redetermination shall be promptly given to the parties entitled to  
9 notice of the original determination, in the manner prescribed in  
10 section 48-630 with respect to notice of an original determination.  
11 If the amount of benefits is increased or decreased upon such  
12 redetermination, an appeal therefrom solely with respect to the  
13 matters involved in such increase or decrease may be filed in the  
14 manner and subject to the limitations provided in section 48-634.  
15 Subject to the same limitations and for the same reasons, the  
16 ~~Commissioner of Labor~~ director may reconsider the determination, in  
17 any case in which the final decision has been rendered by an appeal  
18 tribunal or a court, and may apply to the tribunal or court which  
19 rendered such final decision to issue a revised decision. In the  
20 event that an appeal involving an original determination is pending  
21 as of the date a redetermination thereof is issued, such appeal,  
22 unless withdrawn, shall be treated as an appeal from such  
23 redetermination.

24           Sec. 92. Section 48-632, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1           48-632 Notice of a determination upon a claim shall be  
2 promptly given to the claimant by delivery thereof or by mailing such  
3 notice to his or her last-known address. In addition, notice of any  
4 determination, together with the reasons therefor, shall be promptly  
5 given in the same manner to any employer by whom the claimant was  
6 employed on or after the first day of his or her base period, and who  
7 has indicated prior to the determination, in such manner as required  
8 by rule and regulation of the ~~commissioner~~, director, that such  
9 individual may be ineligible or disqualified under any provision of  
10 the Employment Security Law.

11           Sec. 93. Section 48-633, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           48-633 (1) To hear and decide disputed claims, the  
14 ~~commissioner~~ director shall appoint one or more impartial appeal  
15 tribunals consisting in each case of an administrative law judge, who  
16 shall be an attorney selected in accordance with section 48-609.

17           (2) Whenever the ~~commissioner~~ director finds that the  
18 hearing of an appeal will be unreasonably delayed by the  
19 unavailability of an administrative law judge appointed in accordance  
20 with subsection (1) of this section, he or she may appoint a special  
21 administrative law judge to conduct the hearing. Such special  
22 administrative law judge may be appointed without regard to the  
23 qualifications set forth in subsection (1) of this section and shall  
24 have all the powers and perform all the duties of an administrative  
25 law judge appointed in accordance with subsection (1) of this

1 section.

2 (3) Recognizing that a clear separation of functions and  
3 the protection of fair and impartial hearings are fundamental to the  
4 integrity of the adjudicative process, administrative oversight of  
5 the appeal tribunal and its administrative law judges shall be the  
6 responsibility of the ~~commissioner~~director. The ~~commissioner~~  
7 director shall provide the appeal tribunals with proper facilities  
8 and assistants for the execution of their functions. Notwithstanding  
9 any delegation of administrative oversight, the ~~commissioner~~director  
10 shall maintain the appeal tribunal and its staff as an identifiable  
11 unit within the division or office to which it is assigned, under the  
12 supervision of a chief administrative law judge. In determining  
13 eligibility of a claimant for unemployment benefits, an appeal  
14 tribunal shall not be bound by department policy or interpretations  
15 that are not part of a duly adopted regulation or that have not been  
16 approved by a court of competent jurisdiction. No administrative law  
17 judge shall be subject to discipline, poor evaluation, or loss of pay  
18 or pay increase for failure to follow a department policy or  
19 interpretation on unemployment benefit eligibility that has not been  
20 adopted as a regulation or approved by a court of competent  
21 jurisdiction. An attorney employed by the ~~commissioner~~director shall  
22 not appear before an appeal tribunal in any appeal hearing presided  
23 over by an administrative law judge for whom he or she is the  
24 immediate supervisor.

25 Sec. 94. Section 48-634, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           48-634 The claimant or any other party entitled to notice  
3 of a determination as provided in section 48-632, may file an appeal  
4 from such determination with an appeal tribunal. Notice of appeal  
5 must be in writing or in accordance with rules and regulations  
6 adopted and promulgated by the ~~commissioner~~director and must be  
7 delivered and received within twenty days after the date of mailing  
8 of the notice of determination to his or her last-known address or,  
9 if such notice is not mailed, after the date of delivery of such  
10 notice of determination. For good cause shown, the tribunal may also  
11 take jurisdiction over appeals filed outside the prescribed appeal  
12 period. Unless the appeal is withdrawn, the appeal tribunal, after  
13 affording the parties reasonable opportunities for a fair hearing,  
14 shall make findings and conclusions and on the basis thereof affirm,  
15 modify, or reverse such determination. If an appeal involves a  
16 question as to whether services were performed by the claimant in  
17 employment or for an employer, the tribunal shall give special notice  
18 of such issue and of the pendency of the appeal to the employer and  
19 to the ~~commissioner~~director, both of whom shall be parties to the  
20 proceeding and be afforded a reasonable opportunity to adduce  
21 evidence bearing on such question. The parties shall be promptly  
22 notified of the tribunal's decision and shall be furnished with a  
23 copy of the decision and the findings and conclusions in support of  
24 the decision.

25           Sec. 95. Section 48-635, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           48-635 The manner in which disputed claims shall be  
3 presented and the conduct of hearings and appeals shall be in  
4 accordance with rules and regulations prescribed by the ~~commissioner~~  
5 director for determining the rights of the parties, whether or not  
6 such rules and regulations conform to common-law or statutory rules  
7 of evidence and other technical rules of procedure. A full and  
8 complete record shall be kept of all proceedings in connection with  
9 the disputed claims. All testimony at any hearing upon a disputed  
10 claim shall be recorded, but need not be transcribed unless the  
11 disputed claim is further appealed.

12           Sec. 96. Section 48-636, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           48-636 Except insofar as reconsideration of any  
15 determination is had under sections 48-630 to 48-632, any right,  
16 fact, or matter in issue, directly passed upon or necessarily  
17 involved in a determination or redetermination which has become  
18 final, or in a decision on appeal which has become final, shall be  
19 conclusive for all the purposes of the Employment Security Law as  
20 between the ~~Commissioner of Labor,~~ director, the claimant, and all  
21 employers who had notice of such determination, redetermination, or  
22 decision. Subject to appeal proceedings and judicial review as  
23 provided in sections 48-633 to 48-644, any determination,  
24 redetermination, or decision as to rights to benefits shall be  
25 conclusive for all the purposes of such law and shall not be subject

1 to collateral attack by any employer.

2           Sec. 97. Section 48-637, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           48-637 The final decisions of an appeal tribunal, and the  
5 principles of law declared by it in arriving at such decisions,  
6 unless expressly or impliedly overruled by a later decision of the  
7 tribunal or by a court of competent jurisdiction, shall be binding  
8 upon the ~~commissioner~~director and any deputy in subsequent  
9 proceedings which involve similar questions of law. ~~If, ; Provided,~~  
10 ~~that if~~ in connection with any subsequent proceeding, the  
11 ~~commissioner~~director or a deputy has serious doubt as to the  
12 correctness of any principle so declared, he or she may certify his  
13 or her findings of fact in such case, together with the question of  
14 law involved to the appeal tribunal, which, after giving notice and  
15 reasonable opportunity for hearing upon the law to all parties to  
16 such proceedings, shall thereupon certify to the ~~commissioner~~,  
17 director, such deputy, and such parties its answer to the question  
18 submitted. If the question thus certified to the appeal tribunal  
19 arises in connection with a claim for benefits, the tribunal in its  
20 discretion may remove to itself the entire proceedings on such claim,  
21 and, after proceeding in accordance with the requirements of sections  
22 48-633 to ~~48-643~~48-644 with respect to proceedings before an appeal  
23 tribunal, shall render its decision upon the entire claim.

24           Sec. 98. Section 48-638, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1           48-638 Any party to the proceedings before the appeal  
2 tribunal may appeal the tribunal's decision by filing a petition (1)  
3 in the district court of the county in which the individual claiming  
4 benefits claims to have been last employed or in which such claimant  
5 resides, (2) in any district court of this state upon which the  
6 parties may agree, or (3) if neither subdivision (1) or (2) of this  
7 section applies, then in the district court of Lancaster County. If  
8 the ~~commissioner~~director is not the petitioning party, he or she  
9 shall be a party defendant in every appeal. Such appeal shall  
10 otherwise be governed by the Administrative Procedure Act.

11           Sec. 99. Section 48-641, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           48-641 No bond shall be required as a condition of  
14 initiating a proceeding for judicial review or entering an appeal  
15 from the decision of the court upon such review. Costs which would be  
16 otherwise taxed to a claimant shall be taxed in such courts to the  
17 ~~commissioner~~director regardless of the result of any such action  
18 unless justice and equity otherwise require. Notwithstanding any  
19 general statute to the contrary, no filing fee shall be charged by an  
20 appeal tribunal or by the clerk of any court for any service required  
21 by sections 48-634 to 48-640.

22           Sec. 100. Section 48-642, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           48-642 The ~~commissioner~~director shall be a party  
25 entitled to notice in any proceeding involving a claim for benefits

1 before an appeal tribunal. In any proceeding for judicial review  
2 pursuant to sections 48-638 to 48-640, ~~the commissioner~~ director may  
3 be represented by any qualified attorney employed and designated by  
4 ~~him~~ the director for that purpose, or, at the ~~commissioner's~~  
5 director's request, by the Attorney General.

6 Sec. 101. Section 48-643, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 48-643 Witnesses subpoenaed pursuant to sections 48-629  
9 to 48-644 shall be allowed fees at a rate fixed by the ~~commissioner~~  
10 director and not exceeding the amount allowed for witness fees in  
11 district court. Such fees shall be deemed a part of the expense of  
12 administering the Employment Security Law.

13 Sec. 102. Section 48-646, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 48-646 No individual claiming benefits shall be charged  
16 fees of any kind in any proceeding under the Employment Security Law  
17 except as provided herein. Any individual claiming benefits in any  
18 proceeding before the ~~commissioner~~ director or an appeal tribunal or  
19 his, her, or its representative may be represented by counsel, any  
20 other duly authorized agent, or a person of his or her choice. Any  
21 individual claiming benefits in any proceeding before a court may be  
22 represented by counsel. Such counsel may charge a reasonable fee for  
23 such services.

24 Sec. 103. Section 48-647, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1           48-647 (1) Any assignment, pledge, or encumbrance of any  
2 right to benefits which are or may become due or payable under  
3 sections 48-623 to 48-626 shall be void except as set forth in this  
4 section. Such rights to benefits shall be exempt from levy,  
5 execution, attachment, or any other remedy whatsoever provided for  
6 the collection of debt. Benefits received by any individual, so long  
7 as they are not mingled with other funds of the recipient, shall be  
8 exempt from any remedy whatsoever for the collection of all debts  
9 except debts incurred for necessities furnished to such individual or  
10 his or her spouse or dependents during the time when such individual  
11 was unemployed. Any waiver of any exemption provided for in this  
12 section shall be void. Any assignment, pledge, or encumbrance of any  
13 right or claim to contributions or to any money credited to any  
14 employer's reserve account in the Unemployment Compensation Fund  
15 shall be void, and the same shall be exempt from levy, execution,  
16 attachment, or any other remedy whatsoever provided for the  
17 collection of debt, and any waiver of any exemption provided for in  
18 this section shall be void.

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

1 Services that the individual has been determined to be eligible for  
2 unemployment compensation.

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

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

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

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

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

22 (d) Any amount deducted and withheld under subdivision  
23 (b) or (g) of this subsection shall for all purposes be treated as if  
24 it were paid to the individual as unemployment compensation and paid  
25 by such individual to the Department of Health and Human Services in

1 satisfaction of his or her child support obligations.

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

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

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

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

21 (ii) Unless the county attorney, the authorized attorney,  
22 or the Department of Health and Human Services has sent a notice on  
23 the same support order under section 43-1720, upon the notification  
24 required by subdivision (2)(g)(i) of this section, the Department of  
25 Health and Human Services shall send notice to any such individual

1 who owes child support obligations and who is subject to income  
2 withholding pursuant to subdivision (2)(a), (2)(b)(ii), or (2)(b)  
3 (iii) of section 43-1718.01. The notice shall be sent by certified  
4 mail to the last-known address of the individual and shall state the  
5 same information as required under section 43-1720;

6 (iii)(A) If the support obligation is not based on a  
7 foreign support order entered pursuant to section 43-1729 and the  
8 individual requests a hearing, the Department of Health and Human  
9 Services shall hold a hearing within fifteen days of the date of  
10 receipt of the request. The hearing shall be in accordance with the  
11 Administrative Procedure Act. The assignment shall be held in  
12 abeyance pending the outcome of the hearing. The department shall  
13 notify the individual and the ~~commissioner~~director of its decision  
14 within fifteen days of the date the hearing is held; and

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

19 (iv)(A) If no hearing is requested by the individual  
20 under this subsection or pursuant to a notice sent under section  
21 43-1720, (B) if after a hearing under this subsection or section  
22 43-1721 the Department of Health and Human Services determines that  
23 the assignment should go into effect, (C) in cases in which the court  
24 has ordered income withholding for child support pursuant to  
25 subsection (1) of section 43-1718.01, or (D) in cases in which the

1 court has ordered income withholding for child support pursuant to  
2 section 43-1718.02 and the case subsequently becomes one in which  
3 child support collection services are being provided under Title IV-D  
4 of the federal Social Security Act, as amended, the Department of  
5 Health and Human Services shall certify to the ~~commissioner~~director  
6 the amount to be withheld for child support obligations from the  
7 individual's unemployment compensation. Such amount shall not in any  
8 case exceed the maximum amount permitted to be withheld under section  
9 303(b) of the federal Consumer Credit Protection Act, 15 U.S.C.  
10 1673(b)(2)(A) and (B), and the amount withheld to satisfy an  
11 arrearage of child support when added to the amount withheld to pay  
12 current support shall not exceed such maximum amount;

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

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

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

22 (h) For purposes of this subsection, the term child  
23 support obligations ~~shall include~~includes only obligations which are  
24 being enforced pursuant to a plan described in section 454 of the  
25 federal Social Security Act which has been approved by the Secretary

1 of Health and Human Services under Part D of Title IV of the federal  
2 Social Security Act.

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

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

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

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

20 (3)(a) An individual filing a new claim for unemployment  
21 compensation shall, at the time of filing such claim, disclose  
22 whether or not he or she owes an uncollected overissuance, as defined  
23 in 7 U.S.C. 2022(c)(1) as such section existed on January 1, 2009, of  
24 Supplemental Nutrition Assistance Program benefits, if not otherwise  
25 known or disclosed to the state Supplemental Nutrition Assistance

1 Program agency. The ~~commissioner~~director shall notify the state  
2 Supplemental Nutrition Assistance Program agency enforcing such  
3 obligation of any individual disclosing that he or she owes an  
4 uncollected overissuance whom the ~~commissioner~~director determines is  
5 eligible for unemployment compensation.

6 (b) The ~~commissioner~~director shall deduct and withhold  
7 from any unemployment compensation payable to an individual who owes  
8 an uncollected overissuance (i) the amount specified by the  
9 individual to the ~~commissioner~~director to be deducted and withheld  
10 under this subsection, (ii) the amount, if any, determined pursuant  
11 to an agreement submitted to the state Supplemental Nutrition  
12 Assistance Program agency under 7 U.S.C. 2022(c)(3)(A) as such  
13 section existed on January 1, 2009, or (iii) any amount otherwise  
14 required to be deducted and withheld from unemployment compensation  
15 pursuant to 7 U.S.C. 2022(c)(3)(B) as such section existed on January  
16 1, 2009.

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

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

1           (e) For purposes of this subsection, unemployment  
2 compensation means any compensation payable under the Employment  
3 Security Law, including amounts payable by the ~~commissioner~~director  
4 pursuant to an agreement under any federal law providing for  
5 compensation, assistance, or allowances with respect to unemployment.

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

12           Sec. 104. Section 48-648, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           48-648 (1) Combined tax shall accrue and become payable  
15 by each employer not otherwise entitled to make payments in lieu of  
16 contributions for each calendar year in which he or she is subject to  
17 the Employment Security Law, with respect to wages for employment.  
18 Such combined tax shall become due and be paid by each employer to  
19 the ~~commissioner~~director for the State Unemployment Insurance Trust  
20 Fund and the Unemployment Trust Fund in such manner and at such times  
21 as the ~~commissioner~~director may, by rule and regulation, prescribe  
22 and shall not be deducted, in whole or in part, from the wages of  
23 individuals in such employer's employ. For all tax years beginning  
24 before January 1, 2010, the ~~commissioner~~director may require that  
25 any employer whose annual payroll for either of the two preceding

1 calendar years has equaled or exceeded five hundred thousand dollars  
2 to file combined tax returns and pay combined taxes owed by an  
3 electronic method approved by the ~~commissioner, director,~~ except when  
4 the employer establishes to the satisfaction of the ~~commissioner~~  
5 director that filing the combined tax return or payment of the tax by  
6 an electronic method would work a hardship on the employer. For all  
7 tax years beginning on or after January 1, 2010, the ~~commissioner~~  
8 director may require any employer whose annual payroll for either of  
9 the two preceding calendar years has equaled or exceeded one hundred  
10 thousand dollars to file combined tax returns and pay combined taxes  
11 owed by an electronic method approved by the ~~commissioner, director,~~  
12 except when the employer establishes to the satisfaction of the  
13 ~~commissioner~~ director that filing the combined tax return or payment  
14 of the tax by an electronic method would work a hardship on the  
15 employer. In the payment of any combined tax, a fractional part of a  
16 cent shall be disregarded unless it amounts to one-half cent or more,  
17 in which case it shall be increased to one cent. If the combined tax  
18 due for any reporting period is less than five dollars, the employer  
19 need not remit the combined tax.

20 (2) If two or more related corporations or limited  
21 liability companies concurrently employ the same individual and  
22 compensate such individual through a common paymaster which is one of  
23 such corporations or limited liability companies, each such  
24 corporation or limited liability company shall be considered to have  
25 paid as remuneration to such individual only the amounts actually

1 disbursed by it to such individual and shall not be considered to  
2 have paid as remuneration to such individual amounts actually  
3 disbursed to such individual by another of such corporations or  
4 limited liability companies. An employee of a wholly owned subsidiary  
5 shall be considered to be concurrently employed by the parent  
6 corporation, company, or other entity and the wholly owned subsidiary  
7 whether or not both companies separately provide remuneration.

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

16 Sec. 105. Section 48-648.01, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 48-648.01 The ~~Commissioner of Labor~~ director may require  
19 by rule and regulation that each employer subject to the Employment  
20 Security Law shall submit to the ~~commissioner~~ director quarterly wage  
21 reports on such forms and in such manner as the ~~commissioner~~ director  
22 may prescribe. For all tax years beginning before January 1, 2010,  
23 the ~~commissioner~~ director may require that any employer whose annual  
24 payroll for either of the two preceding calendar years has equaled or  
25 exceeded five hundred thousand dollars to file wage reports by an

1 electronic method approved by the ~~commissioner,~~ director, except when  
2 the employer establishes to the satisfaction of the ~~commissioner~~  
3 director that filing by an electronic method would work a hardship on  
4 the employer. For all tax years beginning on or after January 1,  
5 2010, the ~~commissioner~~ director may require any employer whose annual  
6 payroll for either of the two preceding calendar years has equaled or  
7 exceeded one hundred thousand dollars to file wage reports by an  
8 electronic method approved by the ~~commissioner,~~ director, except when  
9 the employer establishes to the satisfaction of the ~~commissioner~~  
10 director that filing by an electronic method would work a hardship on  
11 the employer. The quarterly wage reports shall be used by the  
12 ~~commissioner~~ director to make monetary determinations of claims for  
13 benefits.

14           Sec. 106. Section 48-649, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

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

22           (1) The ~~commissioner~~ director shall, by December 1 of  
23 each calendar year, and based upon information available through the  
24 department, determine the state unemployment insurance tax rate for  
25 the following year. The state unemployment insurance tax rate shall

1 be zero percent if:

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

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

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

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

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

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

1 means the rate from which all reduced rates are calculated;

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

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

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

15           For purposes of this subdivision (4)(a), employers  
16 engaged in the construction industry means all employers primarily  
17 engaged in business activities classified as sector 23 business  
18 activities under the North American Industry 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 paid wages for  
23 employment during each of the two four-calendar-quarter periods  
24 ending on September 30 of any year, but has paid wages for employment  
25 in any two four-calendar-quarter periods, regardless of whether such

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

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

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

10 (d) Beginning with rate calculations for calendar year  
11 2006 and each year thereafter, the combined tax rate for employers  
12 who meet the requirements of subdivision (4)(a) of this section shall  
13 be calculated according to subdivisions (4)(e), (4)(f), and (4)(g) of  
14 this section and shall be based upon the employer's experience rating  
15 record and determined from the employer's reserve ratio, which is the  
16 percent obtained by dividing the amount by which, if any, the  
17 employer's contributions credited from the time the employer first or  
18 most recently became an employer, whichever date is later, and up to  
19 and including September 30 of the year the rate computation is made,  
20 plus any part of the employer's contributions due for that year paid  
21 on or before October 31 of such year, exceed the employer's benefits  
22 charged during the same period, by the employer's average annual  
23 taxable payroll for the sixteen-consecutive-calendar-quarter period  
24 ending September 30 of the year in which the rate computation is  
25 made. For an employer with less than sixteen consecutive calendar

1 quarters of contribution experience, the employer's average taxable  
2 payroll shall be determined based upon the four-calendar-quarter  
3 periods for which contributions are payable.

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

7	Category	Experience Factor
8	1	0.00
9	2	0.25
10	3	0.40
11	4	0.45
12	5	0.50
13	6	0.60
14	7	0.65
15	8	0.70
16	9	0.80
17	10	0.90
18	11	0.95
19	12	1.00
20	13	1.05
21	14	1.10
22	15	1.20

1	16	1.35
2	17	1.55
3	18	1.80
4	19	2.15
5	20	2.60

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

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

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

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

22 (f) The state's reserve ratio shall be calculated by  
23 dividing the amount available to pay benefits in the Unemployment  
24 Trust Fund and the State Unemployment Insurance Trust Fund as of

1 September 30, 2005, and each September 30 thereafter, less any  
 2 outstanding obligations and amounts appropriated therefrom by the  
 3 state's total wages from the four calendar quarters ending on such  
 4 September 30. For purposes of this section, total wages means all  
 5 remuneration paid by an employer in employment. The state's reserve  
 6 ratio shall be applied to the table in this subdivision to determine  
 7 the yield factor for the upcoming rate year.

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

22                   Once the yield factor for the upcoming rate year has been  
 23 determined, it is multiplied by the amount of unemployment benefits

1 paid from combined tax during the four calendar quarters ending  
2 September 30 of the preceding year. The resulting figure is the  
3 planned yield for the rate year. The planned yield is divided by the  
4 total taxable wages for the four calendar quarters ending September  
5 30 of the previous year and carried to four decimal places to create  
6 the average combined tax rate for the rate year.

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

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

21 (5) Any employer may at any time make voluntary  
22 contributions up to the amount necessary to qualify for one rate  
23 category reduction, additional to the required contributions, to the  
24 fund to be credited to his or her account. Voluntary contributions  
25 received after March 10, 2005, for rate year 2005 or January 10 for

1 rate year 2006 and thereafter shall not be used in rate calculations  
2 for the same calendar year;

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

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

1 January 1, 2010, the ~~commissioner~~director may require any employer  
2 whose annual payroll for either of the two preceding calendar years  
3 has equaled or exceeded one hundred thousand dollars to pay the  
4 reimbursement by an electronic method approved by the ~~commissioner~~,  
5 director, except when the employer establishes to the satisfaction of  
6 the ~~commissioner~~director that payment of the reimbursement by an  
7 electronic method would work a hardship on the employer.

8 (b) After December 31, 1977, the state or any of its  
9 political subdivisions and any instrumentality of one or more of the  
10 foregoing or any other governmental entity for which services in  
11 employment as is provided by subdivision (4)(a) of section 48-604 are  
12 performed shall be required to pay contributions and after December  
13 31, 1996, combined tax on wages paid for services rendered in its or  
14 their employment on the same basis as any other employer who is  
15 liable for the payment of combined tax under the Employment Security  
16 Law, unless the state or any political subdivision thereof and any  
17 instrumentality of one or more of the foregoing or any other  
18 governmental entity for which such services are performed files with  
19 the ~~commissioner~~director its written election not later than January  
20 31, 1978, or if such employer becomes subject to this section after  
21 January 1, 1978, not later than thirty days after such subjectivity  
22 begins, to become liable to make payments in lieu of contributions in  
23 an amount equal to the full amount of regular benefits plus one-half  
24 of the amount of extended benefits paid during each calendar quarter  
25 that is attributable to service in employment of such electing

1 employer prior to December 31, 1978, and in an amount equal to the  
2 full amount of regular benefits plus the full amount of extended  
3 benefits paid during each calendar quarter that is attributable to  
4 service in employment of such electing employer after January 1,  
5 1979. Eligible employers electing to make payments in lieu of  
6 contributions shall not be liable for state unemployment insurance  
7 tax payments. The ~~commissioner,~~director, after the end of each  
8 calendar quarter, shall notify any such employer that has so elected  
9 of the amount of benefits for which it is liable to pay pursuant to  
10 its election that have been paid that are attributable to service in  
11 its employment and the employer so notified shall reimburse the fund  
12 within thirty days after receipt of such notice.

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

1           Sec. 107. Section 48-650, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           48-650 The ~~commissioner~~director shall determine the rate  
4 of combined tax applicable to each employer pursuant to section  
5 48-649 and may determine, at any time during the year, whether  
6 services performed by an individual were employment or for an  
7 employer. Any such determination shall become conclusive and binding  
8 upon the employer unless, within thirty days after the prompt mailing  
9 of notice thereof to his or her last-known address or in the absence  
10 of mailing within thirty days after the delivery of such notice, the  
11 employer files an appeal with an appeal tribunal. No employer shall  
12 have standing, in any proceeding involving his or her combined tax  
13 rate or combined tax liability, to contest the chargeability to his  
14 or her account of any benefits paid in accordance with a  
15 determination, redetermination, or decision pursuant to sections  
16 48-629 to 48-644 except upon the ground that the services on the  
17 basis of which such benefits were found to be chargeable did not  
18 constitute services performed in employment for him or her and only  
19 in the event that he or she was not a party to such determination,  
20 redetermination, or decision or to any other proceedings under the  
21 Employment Security Law in which the character of such services was  
22 determined. A full and complete record shall be kept of all  
23 proceedings in connection with such hearing. All testimony at any  
24 such hearing shall be recorded but need not be transcribed unless  
25 there is a further appeal. The employer shall be promptly notified of

1 the appeal tribunal's decision which shall become final unless the  
2 employer or the ~~commissioner~~director appeals within thirty days  
3 after the date of service of the decision of the appeal tribunal. The  
4 appeal shall otherwise be governed by the Administrative Procedure  
5 Act.

6 Sec. 108. Section 48-651, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 48-651 The ~~commissioner~~director may provide by rule and  
9 regulation for periodic notification to employers of benefits paid  
10 and chargeable to their accounts or of the status of such accounts,  
11 and for notification to all base period employers of any individual  
12 of the establishment of such individual's benefit year, and any such  
13 notification, in the absence of an application for redetermination  
14 filed in such manner and within such period as the ~~commissioner~~  
15 director may prescribe, shall become conclusive and binding upon the  
16 employer for all purposes. Such redeterminations, made after notice  
17 and opportunity for hearing, and the ~~commissioner's~~director's  
18 findings of fact in connection therewith may be introduced in any  
19 subsequent administrative or judicial proceedings involving the  
20 determination of the combined tax rate of any employer for any  
21 calendar year.

22 Sec. 109. Section 48-652, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 48-652 (1)(a) A separate experience account shall be  
25 established for each employer who is liable for payment of

1 contributions. Whenever and wherever in the Employment Security Law  
2 the terms reserve account or experience account are used, unless the  
3 context clearly indicates otherwise, such terms shall be deemed  
4 interchangeable and synonymous and reference to either of such  
5 accounts shall refer to and also include the other.

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

23 (2) All contributions paid by an employer shall be  
24 credited to the experience account of such employer. State  
25 unemployment insurance tax payments shall not be credited to the

1 experience account of each employer. Partial payments of combined tax  
2 shall be credited so that at least eighty percent of the combined tax  
3 payment excluding interest and penalty is credited first to  
4 contributions due. In addition to contributions credited to the  
5 experience account, each employer's account shall be credited as of  
6 June 30 of each calendar year with interest at a rate determined by  
7 the ~~commissioner~~director based on the average annual interest rate  
8 paid by the Secretary of the Treasury of the United States of America  
9 upon the state's account in the Unemployment Trust Fund for the  
10 preceding calendar year multiplied by the balance in his or her  
11 experience account at the beginning of such calendar year. If the  
12 total credits as of such date to all employers' experience accounts  
13 are equal to or greater than ninety percent of the total amount in  
14 the Unemployment Compensation Fund, no interest shall be credited for  
15 that year to any employer's account. Contributions with respect to  
16 prior years which are received on or before January 31 of any year  
17 shall be considered as having been paid at the beginning of the  
18 calendar year. All voluntary contributions which are received on or  
19 before January 10 of any year shall be considered as having been paid  
20 at the beginning of the calendar year.

21 (3)(a) Each experience account shall be charged only for  
22 benefits based upon wages paid by such employer. No benefits shall be  
23 charged to the experience account of any employer if (i) such  
24 benefits were paid on the basis of a period of employment from which  
25 the claimant (A) left work voluntarily without good cause, (B) left

1 work voluntarily due to a nonwork-connected illness or injury, (C)  
2 left work voluntarily with good cause to escape abuse as defined in  
3 section 42-903 between household members as provided in subdivision  
4 (1) of section 48-628.01, (D) left work from which he or she was  
5 discharged for misconduct connected with his or her work, (E) left  
6 work voluntarily and is entitled to unemployment benefits without  
7 disqualification in accordance with subdivision (3) or (5) of section  
8 48-628.01, or (F) was involuntarily separated from employment and  
9 such benefits were paid pursuant to section 48-628.05, and (ii) the  
10 employer has filed timely notice of the facts on which such exemption  
11 is claimed in accordance with rules and regulations prescribed by the  
12 ~~commissioner.~~ director. No benefits shall be charged to the  
13 experience account of any employer if such benefits were paid on the  
14 basis of wages paid in the base period that are wages for insured  
15 work solely by reason of subdivision (5)(c)(iii) of section 48-627.  
16 No benefits shall be charged to the experience account of any  
17 employer if such benefits were paid during a week when the individual  
18 was participating in training approved under section 236(a)(1) of the  
19 federal Trade Act of 1974, 19 U.S.C. 2296(a)(1).

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

24 (c) Benefits paid to an eligible individual shall be  
25 charged against the account of his or her most recent employers

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

23 (4)(a) An employer's experience account shall be deemed  
24 to be terminated one calendar year after such employer has ceased to  
25 be subject to the Employment Security Law, except that if the

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

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

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

25 (6) A contributory or reimbursable employer shall be

1 relieved of charges if the employer was previously charged for wages  
2 and the same wages are being used a second time to establish a new  
3 claim as a result of the October 1, 1988, change in the base period.

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

12 Sec. 110. Section 48-654, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 48-654 Subject to section 48-654.01, any employer that  
15 acquires the organization, trade, or business, or substantially all  
16 the assets thereof, of another employer shall immediately notify the  
17 ~~commissioner~~ director thereof, and prior to September 6, 1985, shall,  
18 and on and after September 6, 1985, may, pursuant to rules and  
19 regulations prescribed by the ~~commissioner~~, director, assume the  
20 position of such employer with respect to the resources and  
21 liabilities of such employer's experience account as if no change  
22 with respect to such employer's experience account has occurred. The  
23 ~~commissioner~~ director may provide by rule and regulation for partial  
24 transfers of experience accounts, except that such partial transfers  
25 of accounts shall be construed to allow computation and fixing of

1 contribution rates only on and after January 1, 1953, where an  
2 employer has transferred at any time subsequent to or on January 1,  
3 1950, a definable and segregable portion of his or her payroll and  
4 business to a transferee-employer. For an acquisition which occurs  
5 during either of the first two calendar quarters of a calendar year  
6 or during the fourth quarter of the preceding calendar year, a new  
7 rate of contributions, payable by the transferee-employer with  
8 respect to wages paid by him or her after midnight of the last day of  
9 the calendar quarter in which such acquisition occurs and prior to  
10 midnight of the following September 30, shall be computed in  
11 accordance with this section. For the purpose of computing such new  
12 rate of contributions, the computation date with respect to any such  
13 acquisition shall be September 30 of the preceding calendar year and  
14 the term payroll ~~shall mean~~ means the total amount of wages by which  
15 contributions to the transferee's account and to the transferor's  
16 account were measured for four calendar quarters ending September 30  
17 preceding the computation date.

18           Sec. 111. Section 48-654.01, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           48-654.01 (1) For purposes of this section:

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

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

1 entity;

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

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

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

9 (a) If an employer transfers its trade or business, or a  
10 portion thereof, to another employer and, at the time of the  
11 transfer, there is substantially common ownership, management, or  
12 control of the two employers, then the employer's experience account  
13 attributable to the transferred trade or business shall be  
14 transferred to the employer to whom such business is transferred. The  
15 rates of both employers shall be recalculated in accordance with  
16 section 48-654. The transfer of some or all of an employer's  
17 workforce to another employer shall be considered a transfer of trade  
18 or business when, as the result of such transfer, the transferring  
19 employer no longer performs trade or business with respect to the  
20 transferred workforce and such trade or business is performed by the  
21 employer to whom the workforce is transferred. If, following a  
22 transfer of experience under this subdivision, the ~~commissioner~~  
23 director determines that a substantial purpose of the transfer of  
24 trade or business was to obtain a lower combined tax rate, then the  
25 experience rating accounts of the employers involved shall be

1 combined into a single account and a single rate assigned to such  
2 account; or

3 (b) Whenever a person is not an employer at the time it  
4 acquires the trade or business of an employer, the employer's  
5 experience account of the acquired business shall not be transferred  
6 to such person if the ~~commissioner~~director finds that the business  
7 was acquired solely or primarily for the purpose of obtaining a lower  
8 combined tax rate. Instead, such person shall be assigned the new  
9 employer combined tax rate under section 48-649. In determining  
10 whether the business was acquired solely or primarily for the purpose  
11 of obtaining a lower combined tax rate, the ~~commissioner~~director  
12 shall use objective factors which may include the cost of acquiring  
13 the business, whether the person continued the business enterprise of  
14 the acquired business, how long such business enterprise was  
15 continued, or whether a substantial number of new employees were  
16 hired for performance of duties unrelated to the business activity  
17 conducted prior to the acquisition.

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

21 (i) The person is an employer, such employer shall be  
22 assigned the highest combined tax rate assignable under section  
23 48-649 for the rate year during which the violation or attempted  
24 violation occurred and for the three rate years immediately following  
25 such rate year. However, if the person's business is already at the

1 highest combined tax rate or if the amount of increase in the  
2 combined tax rate would be less than two percent, then a penalty  
3 combined tax rate of two percent of taxable wages shall be imposed  
4 for the rate year during which the violation or attempted violation  
5 occurred and for the three rate years immediately following such  
6 year; or

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

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

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

15 Sec. 112. Section 48-655, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 48-655 (1) Combined taxes or payments in lieu of  
18 contributions unpaid on the date on which they are due and payable,  
19 as prescribed by the ~~commissioner~~director, shall bear interest at  
20 the rate of one and one-half percent per month from such date until  
21 payment, plus accrued interest, is received by the ~~commissioner~~,  
22 director, except that no interest shall be charged subsequent to the  
23 date of the erroneous payment of an amount equal to the amount of the  
24 delayed payment into the unemployment trust fund of another state or  
25 to the federal government. Interest collected pursuant to this

1 section shall be paid in accordance with subdivision (1)(b) of  
2 section 48-621. If, after due notice, any employer defaults in any  
3 payment of combined taxes or payments in lieu of contributions or  
4 interest thereon, the amount due may be collected (a) by civil action  
5 in the name of the ~~commissioner~~ director and the employer adjudged in  
6 default shall pay the costs of such action or (b) by setoff against  
7 any state income tax refund due the employer pursuant to sections  
8 77-27,197 to 77-27,209. Civil actions brought under this section to  
9 collect combined taxes or interest thereon or payments in lieu of  
10 contributions or interest thereon from an employer shall be heard by  
11 the court at the earliest possible date and shall be entitled to  
12 preference upon the calendar of the court over all other civil  
13 actions except petitions for judicial review under section 48-638.

14 (2) The ~~commissioner~~ director may by rule and regulation  
15 provide for the offset from a person's personal federal income tax  
16 refund of contributions, penalties, and interest due and payable for  
17 which the ~~commissioner~~ director has determined the person to be  
18 liable due to fraud and which remain uncollected for not more than  
19 ten years. Such rules and regulations shall comply with Public Law  
20 110-328 (2008) and United States Treasury regulations and guidelines  
21 adopted pursuant thereto. The ~~commissioner~~ director shall notify the  
22 debtor, by certified mail return receipt requested, that the  
23 ~~commissioner~~ director plans to recover the debt through offset  
24 against any federal income tax refund, and the debtor shall be given  
25 sixty days to present evidence that all or part of the liability is

1 either not legally enforceable or not due to fraud. The ~~commissioner~~  
2 director shall review any evidence presented and determine that the  
3 debt is legally enforceable and due to fraud before proceeding  
4 further with the offset. The amount recovered, less any  
5 administrative fees charged by the United States Treasury, shall be  
6 credited to the debt owed. Any determination rendered under this  
7 subsection that the person's federal income tax refund is not subject  
8 to offset does not require the ~~commissioner~~director to amend the  
9 ~~commissioner's~~director's initial determination that formed the basis  
10 for the proposed offset.

11           Sec. 113. Section 48-656, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           48-656 (1) If any employer fails to file a report or  
14 return required by the ~~commissioner~~director for the determination of  
15 combined taxes, the ~~commissioner~~director may make such reports or  
16 returns or cause them to be made and determine the combined taxes  
17 payable, on the basis of such information as he or she may be able to  
18 obtain, and shall collect the combined taxes as determined together  
19 with any interest thereon due under section 48-655. The ~~commissioner~~  
20 director shall immediately notify the employer of the assessment, in  
21 writing, by registered or certified mail, in the usual course, and  
22 such assessment shall be final unless the employer protests such  
23 assessment within fifteen days after the mailing of the notice. If  
24 the employer protests such assessment, the employer shall have an  
25 opportunity to be heard by an appeal tribunal upon written request

1 therefor. After the hearing the appeal tribunal shall immediately  
2 notify the employer in writing of its decision, and the assessment,  
3 if any, shall be final upon issuance of such notice.

4 (2) If any employer files a report or return required by  
5 the ~~commissioner~~ director for the determination of combined taxes but  
6 fails to pay all or some part of the combined taxes actually due for  
7 the reported period, the ~~commissioner~~ director may determine the  
8 combined taxes actually payable on the basis of such information as  
9 he or she may be able to obtain and shall collect the combined taxes  
10 as determined together with any interest due under section 48-655.  
11 The ~~commissioner~~ director shall immediately notify the employer of  
12 the assessment, in writing by registered or certified mail in the  
13 usual course, and such assessment shall be final unless the employer  
14 protests such assessment within fifteen days after the mailing of the  
15 notice. If the employer protests such assessment, the employer shall  
16 have an opportunity to be heard by an appeal tribunal upon a written  
17 request therefor. After the hearing, the appeal tribunal shall  
18 immediately notify the employer in writing of its decision and the  
19 assessment, if any, shall be final upon issuance of such notice.

20 (3) Beginning with the first calendar quarter of 1990,  
21 any employer or any officer or agent of an employer who fails to file  
22 a required quarterly combined tax report and wage schedule by the  
23 tenth day of the second month following the end of the calendar  
24 quarter shall pay a penalty to the ~~commissioner~~ director of one-tenth  
25 of one percent of the total wages paid during the quarter, except

1 that the penalty shall not be less than twenty-five nor more than two  
2 hundred dollars. For good cause shown, the ~~commissioner~~director may  
3 waive the penalty in accordance with rules and regulations adopted  
4 and promulgated by the ~~commissioner~~director. The ~~commissioner~~  
5 director shall remit any penalty collected to the State Treasurer who  
6 shall credit it to the pool account of the Employment Security  
7 Special Contingent Fund.

8 Sec. 114. Section 48-657, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 48-657 (1)(a) If any employer defaults in any payment of  
11 combined tax or interest, the ~~commissioner~~director may make in any  
12 manner feasible and cause to be filed as a secured transaction as  
13 provided in article 9, Uniform Commercial Code, and in the real  
14 estate mortgage records of any county in which such employer is  
15 engaged in business or owns real or personal property, a statement,  
16 under oath, showing the amount of combined tax and interest in  
17 default, which statement, when filed for record, shall operate as a  
18 lien and mortgage on all of the real and personal property of the  
19 employer, subject only to the liens of prior record, and the property  
20 of such employer shall be subject to seizure and sale for the payment  
21 of such combined taxes and interest. Such lien on personal property  
22 may be enforced or dissolved in the manner provided by article 9,  
23 Uniform Commercial Code, and such liens on real estate may be  
24 enforced or dissolved in the manner provided by Chapter 25, article  
25 21, in the enforcing and dissolving of real estate mortgages. This

1 subdivision shall only apply to liens filed prior to May 1, 1999.

2 (b) A lien for unpaid combined taxes filed or recorded  
3 pursuant to subdivision (a) of this subsection shall lapse at the  
4 earlier of its expiration date or the fifth anniversary of the filing  
5 or recording date, unless the ~~commissioner~~director files a notice of  
6 continuation in the place of the original filing or recording and  
7 with the appropriate filing officer in the manner provided for in the  
8 Uniform State Tax Lien Registration and Enforcement Act before such  
9 lien lapses. A notice of continuation shall include all of the  
10 information required by the act, the date of the filing or recording  
11 of the original lien, and a statement that the original lien is to be  
12 continued for ten years. Thereafter, such lien shall be enforced and  
13 notices of continuation filed in accordance with the act.

14 (c) On and after May 1, 1999, if any employer defaults in  
15 any payment of combined tax or interest, the ~~commissioner~~director  
16 may file a lien against such employer in accordance with the Uniform  
17 State Tax Lien Registration and Enforcement Act. Such liens shall set  
18 forth the amount of combined tax and interest in default and shall be  
19 continued and enforced as provided in the Uniform State Tax Lien  
20 Registration and Enforcement Act.

21 (2) It shall be the duty of the State of Nebraska, or any  
22 department or agency thereof, county boards, the contracting board of  
23 all cities, villages, and school districts, all public boards  
24 empowered by law to enter into a contract by public bidding for the  
25 erecting and finishing or the repairing of any public building,

1 bridge, highway, or other public structure or improvement, and any  
2 officer or officers so empowered by law to enter into such contract  
3 to provide in such contract that the person, persons, firm, or  
4 corporation to whom the contract is awarded will pay to the  
5 Unemployment Compensation Fund of the State of Nebraska and the State  
6 Unemployment Insurance Trust Fund unemployment combined tax and  
7 interest due under the Employment Security Law on wages paid to  
8 individuals employed in the performance of such contract.

9 (3) No contract referred to in subsection (2) of this  
10 section shall be entered into by the State of Nebraska, a department  
11 or agency thereof, an officer or officers, or a board referred to in  
12 such subsection unless the contract contains the proviso mentioned in  
13 such subsection.

14 (4) Before final payment may be made on the final three  
15 percent of any such contract awarded on or after June 1, 1957, the  
16 State of Nebraska, department or agency thereof, officer or officers,  
17 or board awarding the contract must have received from the contractor  
18 a written clearance from the ~~commissioner~~director certifying that  
19 all payments then due of combined tax or interest which may have  
20 arisen under such contract have been made by the contractor or his or  
21 her subcontractor to the Unemployment Compensation Fund.

22 (5) The final three percent of any such contract referred  
23 to in subsection (4) of this section may be paid if the contractor  
24 has supplied a bond with a satisfactory surety company guaranteeing  
25 full payment to the Unemployment Compensation Fund and the State

1 Unemployment Insurance Trust Fund of all combined tax and interest  
2 due under the Employment Security Law.

3           Sec. 115. Section 48-658, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           48-658 Any person, group of individuals, partnership,  
6 limited liability company, corporation, or employer which acquires  
7 the organization, trade, or business or substantially all the assets  
8 thereof of an employer shall notify the ~~commissioner~~director thereof  
9 in writing by registered or certified mail not later than five days  
10 prior to the acquisition. Unless such notice is given such  
11 acquisition shall be void as against the ~~commissioner~~director if, at  
12 the time of the acquisition, any combined tax is due and unpaid by  
13 the previous employer. The ~~commissioner~~director shall have the right  
14 to proceed against such person, group of individuals, partnership,  
15 limited liability company, corporation, or employer and the assets so  
16 acquired.

17           Sec. 116. Section 48-660, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           48-660 If more than the correct amounts of combined tax  
20 or interest are collected, then, under rules and regulations made  
21 under section 48-607, proper adjustments with respect thereto shall  
22 be made, without interest, in connection with subsequent combined  
23 tax. If such adjustment cannot be made within a reasonable time, the  
24 ~~commissioner~~director shall refund the excess from the appropriate  
25 fund. Applications for adjustments or refunds shall be made within

1 four years after the date of such overcollection.

2           Sec. 117. Section 48-660.01, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           48-660.01 (1) Benefits paid to employees of nonprofit  
5 organizations shall be financed in accordance with this section. For  
6 the purpose of this section, a nonprofit organization is an  
7 organization, or group of organizations, described in subdivision (9)  
8 of section 48-603.

9           (2)(a) Any nonprofit organization which is, or becomes,  
10 subject to the Employment Security Law on or after January 1, 1972,  
11 shall pay contributions under sections 48-648 to 48-661 and after  
12 December 31, 1995, shall pay combined tax under such sections unless  
13 it elects, in accordance with this subdivision, to pay to the  
14 ~~commissioner~~ director for the unemployment fund an amount, equal to  
15 the amount of regular benefits and of one-half of the extended  
16 benefits paid, that is attributable to service in the employ of such  
17 nonprofit organization, to individuals for weeks of unemployment  
18 which begin during the effective period of such election.

19           (b) Any nonprofit organization which is, or becomes,  
20 subject to the Employment Security Law on January 1, 1972, may elect  
21 to become liable for payments in lieu of contributions for a period  
22 of not less than one taxable year beginning with January 1, 1972, if  
23 it files with the ~~commissioner~~ director a written notice of its  
24 election within the thirty-day period immediately following such date  
25 or within a like period immediately following the date of enactment

1 of this subdivision, whichever occurs later. Any eligible employer  
2 electing to become liable for payments in lieu of contributions shall  
3 not be liable for state unemployment insurance tax.

4 (c) Any nonprofit organization which becomes subject to  
5 the Employment Security Law after January 1, 1972, may elect to  
6 become liable for payments in lieu of contributions for a period of  
7 not less than twelve months beginning with the date on which such  
8 subjectivity begins by filing a written notice of its election with  
9 the ~~commissioner~~director not later than thirty days immediately  
10 following the date of the determination of such subjectivity.

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

17 (e) Any nonprofit organization which has been paying  
18 contributions or combined tax under the Employment Security Law for a  
19 period subsequent to January 1, 1972, may change to a reimbursable  
20 basis by filing with the ~~commissioner~~director not later than thirty  
21 days prior to the beginning of any taxable year a written notice of  
22 election to become liable for payments in lieu of contributions. Such  
23 election shall not be terminable by the organization for that and the  
24 next year.

25 (f) The ~~commissioner~~director may for good cause extend

1 the period within which a notice of election, or a notice of  
2 termination, must be filed and may permit an election to be  
3 retroactive but not any earlier than with respect to benefits paid  
4 after December 31, 1969.

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

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

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

23 (b) Payment of any bill rendered under subdivision (a) of  
24 this subsection shall be made not later than thirty days after such  
25 bill was mailed to the last-known address of the nonprofit

1 organization or was otherwise delivered to it unless there has been  
2 an application for review and redetermination in accordance with  
3 subdivision (d) of this subsection;

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

8 (d) The amount due specified in any bill from the  
9 ~~commissioner~~ director shall be conclusive on the organization unless,  
10 not later than thirty days after the bill was mailed to its last-  
11 known address or otherwise delivered to it, the organization files an  
12 application for redetermination by the ~~commissioner~~ director setting  
13 forth the grounds for such application. The ~~commissioner~~ director  
14 shall promptly review and reconsider the amount due specified in the  
15 bill and shall thereafter issue a redetermination in any case in  
16 which such application for redetermination has been filed. Any such  
17 redetermination shall be conclusive on the organization unless the  
18 organization appeals the redetermination, and the appeal shall be in  
19 accordance with the Administrative Procedure Act; and

20 (e) Past-due payments of amounts in lieu of contributions  
21 shall be subject to the same interest that, pursuant to section  
22 48-655, applies to past-due contributions, and the ~~commissioner~~  
23 director may file a lien against such nonprofit organization in  
24 accordance with the Uniform State Tax Lien Registration and  
25 Enforcement Act. Such liens shall set forth the amount of payments in

1 lieu of contributions and interest in default and shall be enforced  
2 as provided in the Uniform State Tax Lien Registration and  
3 Enforcement Act.

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

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

19 Sec. 118. Section 48-661, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 48-661 (1) Except as otherwise provided in subsections  
22 (2) and (3) of this section, any employer not otherwise subject to  
23 the Employment Security Law, who is or becomes an employer subject to  
24 such law within any calendar year, shall be subject to such law  
25 during the whole of such calendar year.

1                   (2) Except as otherwise provided in subsection (3) of  
2 this section, an employer, other than an employer subject by reason  
3 of subdivision (4)(a) of section 48-604, shall cease to be an  
4 employer subject to the Employment Security Law only as of January 1  
5 of any calendar year, if he or she files with the ~~commissioner,~~  
6 director, on or before January 31 of such year, a written application  
7 for termination of coverage, and the ~~commissioner~~director finds: (a)  
8 That there were no twenty different days, each day being in a  
9 different calendar week, within the preceding calendar year within  
10 which such employer employed one or more individuals in employment  
11 subject to such law and there was no calendar quarter within the  
12 preceding calendar year in which such employer paid wages for  
13 employment in the total sum of fifteen hundred dollars or more; (b)  
14 if the employer is subject by reason of subdivision (9) of section  
15 48-603 there were no twenty different days, each being in a different  
16 calendar week, within the preceding calendar year within which such  
17 employer employed four or more individuals in employment subject to  
18 that section; (c) if the employer is subject by reason of subdivision  
19 (10) of section 48-603 there were no twenty different days, each  
20 being in a different calendar week, within the preceding calendar  
21 year within which such employer employed ten or more individuals in  
22 employment subject to that section and there was no calendar quarter  
23 within the preceding calendar year in which such employer paid  
24 remuneration in cash for employment subject to that section in the  
25 total sum of twenty thousand dollars or more; or (d) if the employer

1 is subject by reason of subdivision (11) of section 48-603 there was  
2 no calendar quarter within the preceding calendar year in which such  
3 employer paid cash remuneration in the total sum of one thousand  
4 dollars or more for services in employment subject to that section.  
5 The ~~commissioner~~ director may on his or her motion terminate the  
6 coverage of any employer who has not made such written request, but  
7 is otherwise eligible to terminate. Any employer whose entire  
8 experience account has been transferred to another employer under  
9 section 48-654 may request termination as of the date of such  
10 transfer if such request is made within thirty days after the  
11 determination is made allowing the transfer.

12 (3) An employer not otherwise subject to the Employment  
13 Security Law, who files with the ~~commissioner~~ director his or her  
14 written election to become an employer subject thereto for not less  
15 than two calendar years, shall, with the written approval of such  
16 election by the ~~commissioner~~, director, become an employer subject  
17 thereto to the same extent as all other employers, as of the date  
18 stated in such approval, and shall cease to be subject thereto as of  
19 January 1 of any calendar year subsequent to such two calendar years,  
20 only if on or before January 31 of such year, he or she has filed  
21 with the ~~commissioner~~ director a written notice to that effect. Any  
22 employer of any person in this state for whom services that do not  
23 constitute employment as defined in section 48-604 are performed, may  
24 file with the ~~commissioner~~ director a written election that all such  
25 services performed by individuals in his or her employ in one or more

1 distinct establishments or places of business shall be deemed to  
2 constitute employment for all the purposes of the Employment Security  
3 Law for not less than two calendar years. Upon the written approval  
4 of such election by the ~~commissioner, director,~~ such services shall  
5 be deemed to constitute employment subject to such law from and after  
6 the date stated in such approval. Such services shall cease to be  
7 deemed employment subject hereto as of January 1 of any calendar year  
8 subsequent to such two calendar years, only if on or before January  
9 31 of such year such employer has filed with the ~~commissioner~~  
10 director a written notice to that effect.

11           Sec. 119. Section 48-662, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           48-662 The state employment service is hereby established  
14 in the ~~Department of Labor, State of Nebraska.~~ department. The  
15 ~~commissioner of such department, director,~~ in the conduct of such  
16 service, shall establish and maintain free public employment offices  
17 in such number and in such places as may be necessary for the proper  
18 administration of the Employment Security Law and for the purpose of  
19 performing such functions as are within the purview of the Act of  
20 Congress entitled An act to provide for the establishment of a  
21 national employment system and for cooperation with the states in the  
22 promotion of such system, and for other purposes, approved June 6,  
23 1933, (48 Stat. 113; 29 U.S.C. 49 (c)), as amended, herein referred  
24 to as the Wagner-Peyser Act. The provisions of the Act of Congress  
25 are hereby accepted by this state and the ~~Department of Labor~~

1 department is hereby designated and constituted the agency of this  
2 state for the purposes of such act. All money received by this state  
3 under the Act of Congress shall be paid into the Employment Security  
4 Administration Fund and shall be expended solely for the maintenance  
5 of the state system of public employment offices. There shall also be  
6 credited to the Employment Security Administration Fund for the same  
7 purpose, any sums appropriated by the Legislature from the General  
8 Fund of the state for the purposes of maintaining public employment  
9 offices or of matching funds granted under the Wagner-Peyser Act. For  
10 the purpose of establishing and maintaining free public employment  
11 offices and promoting the use of their facilities, the ~~commissioner~~  
12 director is authorized to enter into agreements with the federal  
13 Railroad Retirement Board, any other agency of the United States or  
14 of this or any other state charged with the administration of any law  
15 whose purposes are reasonably related to the purposes of ~~such~~  
16 ~~sections, the Employment Security Law,~~ any political subdivision of  
17 this state, or any private nonprofit organization and as a part of  
18 such agreements may accept money, services, or quarters as a  
19 contribution to the maintenance of the state system of public  
20 employment offices or as reimbursement for services performed. All  
21 money received for such purposes shall be paid into the Employment  
22 Security Administration Fund.

23           Sec. 120. Section 48-663.01, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           48-663.01 (1) Notwithstanding any other provision of this

1 section, or of section 48-627 or 48-663, an individual who willfully  
2 fails to disclose amounts earned during any week with respect to  
3 which benefits are claimed by him or her, or who willfully fails to  
4 disclose or has falsified as to any fact which would have  
5 disqualified him or her or rendered him or her ineligible for  
6 benefits during such week, shall forfeit all or part of his or her  
7 benefit rights, as determined by a deputy, with respect to uncharged  
8 wage credits accrued prior to the date of such failure or to the date  
9 of such falsifications. An appeal may be taken from any such  
10 determination in the manner provided in section 48-634.

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

1 of the levy.

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

7 Sec. 121. Section 48-665, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 48-665 (1) Any person who has received any sum as  
10 benefits under the Employment Security Law to which he or she was not  
11 entitled shall be liable to repay such sum to the ~~commissioner~~  
12 director for the fund. Any such erroneous benefit payments shall be  
13 collectible (a) without interest by civil action in the name of the  
14 ~~commissioner, director,~~ (b) by offset against any future benefits  
15 payable to the claimant with respect to the benefit year current at  
16 the time of such receipt or any benefit year which may commence  
17 within three years after the end of such current benefit year, except  
18 that no such recoupment by the withholding of future benefits shall  
19 be had if such sum was received by such person without fault on his  
20 or her part and such recoupment would defeat the purpose of the  
21 Employment Security Law or would be against equity and good  
22 conscience, or (c) by setoff against any state income tax refund due  
23 the claimant pursuant to sections 77-27,197 to 77-27,209.

24 (2) The ~~commissioner~~ director may by rule and regulation  
25 provide for the offset from a person's personal federal income tax

1 refund of any person who has received any sum as benefits under the  
2 Employment Security Law to which he or she was not entitled as a  
3 result of fraud and which remain uncollected for not more than ten  
4 years. Such rules and regulations shall comply with Public Law  
5 110-328 (2008) and United States Treasury regulations and guidelines  
6 adopted pursuant thereto. The ~~commissioner~~director shall notify the  
7 debtor that the ~~commissioner~~director plans to recover the debt  
8 through offset against any federal income tax refund, and the debtor  
9 shall be given sixty days to present evidence that all or part of the  
10 liability is either not legally enforceable or not due to fraud. The  
11 ~~commissioner~~director shall review any evidence presented and  
12 determine that the debt is legally enforceable and due to fraud  
13 before proceeding further with the offset. The amount recovered, less  
14 any administrative fees charged by the United States Treasury, shall  
15 be credited to the debt owed. Any determination rendered under this  
16 subsection that the person's federal income tax refund is not subject  
17 to offset does not require the ~~commissioner~~director to amend the  
18 ~~commissioner's~~director's initial determination that formed the basis  
19 for the proposed offset.

20           Sec. 122. Section 48-665.01, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           48-665.01 Any person who has received any sum as benefits  
23 to which he or she was not entitled from any agency which administers  
24 an employment security law of another state or foreign government and  
25 who has been found liable to repay benefits received under such law

1 may be required to repay to the ~~commissioner~~director for such state  
2 or foreign government the amount found due. Such amount, without  
3 interest, may be collected (1) by civil action in the name of the  
4 ~~commissioner~~director acting as agent for such agency, (2) by offset  
5 against any future benefits payable to the claimant under the  
6 Employment Security Law for any benefit year which may commence  
7 within three years after the claimant was notified such amount was  
8 due, except that no such recoupment by the withholding of future  
9 benefits shall be had if such sum was received by such person without  
10 fault on his or her part and such recoupment would defeat the purpose  
11 of the Employment Security Law or would be against equity and good  
12 conscience, or (3) by setoff against any state income tax refund due  
13 the claimant pursuant to sections 77-27,197 to 77-27,209.

14           Sec. 123. Section 48-667, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           48-667 (1) In any civil action to enforce the Employment  
17 Security Law, the ~~commissioner~~director and the state may be  
18 represented by any qualified attorney who is employed by the  
19 ~~commissioner~~director and is designated by him or her for this  
20 purpose or at the ~~commissioner's~~director's request by the Attorney  
21 General.

22           (2) All criminal actions for violation of any provision  
23 of the Employment Security Law or of any rules or regulations issued  
24 pursuant thereto shall be prosecuted by the county attorney of any  
25 county in which the violation, or a part thereof, occurred.

1                   Sec. 124. Section 48-668, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   48-668 (1) The ~~commissioner~~director is hereby authorized  
4 to enter into arrangements with the appropriate and duly authorized  
5 agencies of other states or the federal government, or both, whereby:

6                   (a) Services performed by an individual for a single  
7 employer for which services are customarily performed by such  
8 individual in more than one state shall be deemed to be services  
9 performed entirely within any one of the states in which (i) any part  
10 of such individual's service is performed, (ii) such individual has  
11 his or her residence, or (iii) the employer maintains a place of  
12 business, if there is in effect, as to such services, an election by  
13 an employer with the acquiescence of such individual, approved by the  
14 agency charged with the administration of such state's unemployment  
15 compensation law, pursuant to which services performed by such  
16 individual for such employer are deemed to be performed entirely  
17 within such state;

18                   (b) Service performed by not more than three individuals,  
19 on any portion of a day but not necessarily simultaneously, for a  
20 single employer which customarily operates in more than one state  
21 shall be deemed to be service performed entirely within the state in  
22 which such employer maintains the headquarters of his or her business  
23 if there is in effect, as to such service, an approved election by an  
24 employer with the affirmative consent of each such individual,  
25 pursuant to which service performed by such individual for such

1 employer is deemed to be performed entirely within such state;

2 (c) Potential rights to benefits under the Employment  
3 Security Law may constitute the basis for payment of benefits by  
4 another state or the federal government and potential rights to  
5 benefits accumulated under the law of another state or the federal  
6 government may constitute the basis for the payment of benefits by  
7 this state. Such benefits shall be paid under the Employment Security  
8 Law or under the law of such state or the federal government or under  
9 such combination of the provisions of both laws, as may be agreed  
10 upon as being fair and reasonable to all affected interests. No such  
11 arrangement shall be entered into unless it contains provisions for  
12 reimbursement to the fund for such benefits as are paid on the basis  
13 of wages and service subject to the law of another state or the  
14 federal government, and provision for reimbursement from the fund for  
15 such benefits as are paid by another state or the federal government  
16 on the basis of wages and service subject to the Employment Security  
17 Law. Reimbursements paid from the fund pursuant to this section shall  
18 be deemed to be benefits for the purposes of the Employment Security  
19 Law; and

20 (d) Wages, upon the basis of which an individual may  
21 become entitled to benefits under an employment security law of  
22 another state or of the federal government, shall be deemed to be  
23 wages for insured work for the purpose of determining his or her  
24 benefits under the Employment Security Law; and wages for insured  
25 work, on the basis of which an individual may become entitled to

1 benefits under the Employment Security Law, shall be deemed to be  
2 wages on the basis of which unemployment insurance is payable under  
3 such law of another state or of the federal government. No such  
4 arrangement shall be entered into unless it contains provisions for  
5 reimbursement to the fund for such of the benefits paid under the  
6 Employment Security Law upon the basis of such wages and provision  
7 for reimbursement from the fund for such benefits paid under such  
8 other law upon the basis of wages for insured work, as the  
9 ~~commissioner~~director finds will be fair and reasonable to all  
10 affected interests. Reimbursement paid from the fund pursuant to this  
11 section shall be deemed to be benefits for the purposes of the  
12 Employment Security Law.

13 (2) Notwithstanding any other provisions of this section,  
14 the ~~commissioner~~director shall participate in any arrangements for  
15 the payment of benefits on the basis of combining an individual's  
16 wages and employment covered under the Employment Security Law with  
17 his or her wages and employment covered under the unemployment  
18 compensation laws of other states which are approved by the United  
19 States Secretary of Labor in consultation with the state unemployment  
20 compensation agencies as reasonably calculated to assure the prompt  
21 and full payment of benefits in such situations and which include  
22 provisions for (a) applying the base period of a single state law to  
23 a claim involving the combining of an individual's wages and  
24 employment covered under two or more state unemployment compensation  
25 laws and (b) avoiding the duplicate use of wages and employment by

1 reason of such combining. However, no benefits paid pursuant to an  
2 agreement to combine wages entered into under this subsection shall  
3 be charged against any employer's experience account if the  
4 employer's experience account, under the same or similar  
5 circumstances, would not be charged under the Employment Security  
6 Law. Benefits received by a claimant pursuant to an agreement entered  
7 into under this subsection to which he or she is not entitled shall  
8 be credited to an employer's experience account or reimbursement  
9 account in the same manner as claims paid based solely upon the laws  
10 of this state.

11           Sec. 125. Section 48-668.01, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           48-668.01 If after entering into an arrangement provided  
14 by sections 48-668 to 48-668.03 the ~~commissioner~~director finds that  
15 the employment security law of any state or of the federal government  
16 participating in such arrangement has been changed in a material  
17 respect, the ~~commissioner~~director shall make a new finding as to  
18 whether such arrangement shall be continued with such state or with  
19 the federal government.

20           Sec. 126. Section 48-668.02, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           48-668.02 Reimbursements paid from the fund pursuant to  
23 subdivisions (1)(c) and (1)(d) of section 48-668 shall be deemed to  
24 be benefits for the purposes of the Employment Security Law. The  
25 ~~commissioner~~director is authorized to make to other state or federal

1 agencies and to receive from such other state or federal agencies  
2 reimbursements from or to the fund in accordance with arrangements  
3 entered into pursuant to section 48-668.

4           Sec. 127. Section 48-668.03, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           48-668.03 To the extent permissible under the laws and  
7 Constitution of the United States, the ~~commissioner~~director is  
8 authorized to enter into or cooperate in arrangements whereby  
9 facilities and services provided under the Employment Security Law  
10 and facilities and services provided under the unemployment  
11 compensation law of any foreign government may be utilized for the  
12 taking of claims and the payment of benefits under the unemployment  
13 insurance law of this state or under a similar law of such  
14 government.

15           Sec. 128. Section 48-720, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17           48-720 As used in the Boiler Inspection Act, unless the  
18 context otherwise requires:

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

24           (2) Board means the Boiler Safety Code Advisory Board;

25           (3) Boiler means a closed vessel in which water or other

1 liquid is heated, steam or vapor is generated, steam or vapor is  
2 superheated, or any combination thereof, under pressure or vacuum,  
3 for internal or external use to itself, by the direct application of  
4 heat and an unfired pressure vessel in which the pressure is obtained  
5 from an external source or by the application of heat from an  
6 indirect or direct source. Boiler includes a fired unit for heating  
7 or vaporizing liquids other than water only when such unit is  
8 separate from processing systems and complete within itself;

9 ~~(4) Commissioner means the Commissioner of Labor; and~~

10 ~~(5) (4) Department means the Department of Labor.~~

11 Economic Development; and

12 (5) Director means the Director of Economic Development.

13 Sec. 129. Section 48-721, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 48-721 The ~~commissioner~~ director shall appoint a state  
16 boiler inspector who shall work under the direct supervision of the  
17 ~~commissioner~~ director or his or her designee and devote his or her  
18 full time to the duties of the office. The person so appointed shall  
19 (1) be a practical boilermaker, technical engineer, operating  
20 engineer, or boiler inspector and hold a commission from the National  
21 Board of Boiler and Pressure Vessel Inspectors with an "A"  
22 endorsement. The state boiler inspector shall also either hold a "B"  
23 endorsement to his or her commission or acquire a "B" endorsement  
24 within eighteen months of appointment, (2) be qualified by not less  
25 than ten years' experience in the construction, installation, repair,

1 inspection, or operation of boilers, steam generators, and  
2 superheaters, (3) have a knowledge of their operation and use for the  
3 generating of steam for power, heating, or other purposes, and (4)  
4 neither directly nor indirectly be interested in the manufacture,  
5 ownership, or agency of the same. The ~~commissioner~~director may  
6 appoint deputy inspectors as necessary to carry out the Boiler  
7 Inspection Act. Deputy inspectors shall hold a commission from the  
8 National Board of Boiler and Pressure Vessel Inspectors or acquire  
9 the same within twelve months of appointment. Such deputy inspectors  
10 shall otherwise be subject to and governed by the same rules and  
11 regulations applicable to and governing the acts and conduct of the  
12 state boiler inspector. Before entering upon his or her duties under  
13 the Boiler Inspection Act, the state boiler inspector and each deputy  
14 inspector shall be bonded or insured as required by section 11-201.

15           Sec. 130. Section 48-722, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17           48-722 (1) Except as provided in subsections (3) and (4)  
18 of this section, the state boiler inspector shall inspect or cause to  
19 be inspected at least once every twelve months all boilers required  
20 to be inspected by the Boiler Inspection Act to determine whether the  
21 boilers are in a safe and satisfactory condition and properly  
22 constructed and maintained for the purpose for which the boiler is  
23 used, except that (a) hobby boilers, steam farm traction engines,  
24 portable and stationary show engines, and portable and stationary  
25 show boilers, which are not otherwise exempted from the act pursuant

1 to section 48-726, shall be subject to inspection at least once every  
2 twenty-four months and (b) the ~~commissioner~~director may, by rule and  
3 regulation, establish inspection periods for pressure vessels of more  
4 than twelve months, but not to exceed the inspection period  
5 recommended in the National Board Inspection Code or the American  
6 Petroleum Institute Pressure Vessel Inspection Code API-510 for  
7 pressure vessels being used for similar purposes. In order to ensure  
8 that inspections are performed in a timely manner, the department may  
9 contract with an authorized inspection agency to perform any  
10 inspection authorized under the Boiler Inspection Act. If the  
11 department contracts with an authorized inspection agency to perform  
12 inspections, such contract shall be in writing and shall contain an  
13 indemnification clause wherein the authorized inspection agency  
14 agrees to indemnify and defend the department for loss occasioned by  
15 negligent or tortious acts committed by special inspectors employed  
16 by such authorized inspection agency when performing inspections on  
17 behalf of the department.

18 (2) No boilers required to be inspected by the act shall  
19 be operated without valid and current certification pursuant to rules  
20 and regulations adopted and promulgated by the ~~commissioner~~director  
21 in accordance with the requirements of the Administrative Procedure  
22 Act. The owner of any boiler installed after September 2, 1973, shall  
23 file a manufacturer's data report covering the construction of such  
24 boiler with the state boiler inspector. Such reports shall be used to  
25 assist the state boiler inspector in the certification of boilers. No

1 boiler required to be inspected by the Boiler Inspection Act shall be  
2 operated at any type of public gathering or show without first being  
3 inspected and certified as to its safety by the state boiler  
4 inspector or a special inspector commissioned pursuant to section  
5 48-731. Antique engines with boilers may be brought into the state  
6 from other states without inspection, but inspection as provided in  
7 this section shall be made and the boiler certified as safe before  
8 being operated.

9           (3) The ~~commissioner~~director may, by rule and  
10 regulation, waive the inspection of unfired pressure vessels  
11 registered with the State of Nebraska if the ~~commissioner~~director  
12 finds that the owner or user of the unfired pressure vessel follows a  
13 safety inspection and repair program that is based upon nationally  
14 recognized standards.

15           (4) A boiler that is used as a water heater to supply  
16 potable hot water and that is not otherwise exempt from inspection  
17 under the act pursuant to section 48-726 shall be subject to  
18 inspection at least once every twenty-four months in accordance with  
19 a schedule of inspection established by the ~~commissioner~~director by  
20 rule and regulation.

21           Sec. 131. Section 48-723, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           48-723 The ~~commissioner~~director and the boiler  
24 inspectors shall have the right and power to enter any building or  
25 structure, public or private, for the purpose of inspecting any

1   boilers required to be inspected by the Boiler Inspection Act or  
2   gathering information relating to such boilers.

3               Sec. 132. Section 48-724, Reissue Revised Statutes of  
4   Nebraska, is amended to read:

5               48-724 (1) Upon making an inspection of any boilers  
6   required to be inspected by the Boiler Inspection Act and upon  
7   receipt of the inspection fee and certificate fee or registration  
8   fee, the boiler inspector shall give to the owner or user of the  
9   boilers a certificate of inspection or certificate of registration  
10   upon forms prescribed by the ~~commissioner~~director. The certificate  
11   shall be posted in a place near the location of such boiler.

12              (2) The ~~commissioner~~director shall establish the amount  
13   of the inspection fee, certificate fee, and registration fee by rule  
14   or regulation at the level necessary to meet the costs of  
15   administering the act.

16              Sec. 133. Section 48-726, Reissue Revised Statutes of  
17   Nebraska, is amended to read:

18              48-726 The Boiler Inspection Act shall not apply to:

19              (1) Boilers of railway locomotives subject to federal  
20   inspection;

21              (2) Boilers operated and regularly inspected by railway  
22   companies operating in interstate commerce;

23              (3) Boilers under the jurisdiction and subject to regular  
24   periodic inspection by the United States Government;

25              (4) Boilers used exclusively for agricultural purposes;

1           (5) Steam heating boilers in single-family residences and  
2 apartment houses with four or less units using a pressure of less  
3 than fifteen pounds per square inch and having a safety valve set at  
4 not higher than fifteen pounds pressure per square inch;

5           (6) Heating boilers using water in single-family  
6 residences and apartment houses with four or less units using a  
7 pressure of less than thirty pounds per square inch and having a  
8 safety valve set at not higher than thirty pounds pressure per square  
9 inch;

10           (7) Fire engine boilers brought into the state for  
11 temporary use in times of emergency;

12           (8) Boilers of a miniature model locomotive or boat or  
13 tractor or stationary engine constructed and maintained as a hobby  
14 and not for commercial use and having a diameter of less than ten  
15 inches inside diameter and a grate area not in excess of one and one-  
16 half square feet and that are properly equipped with a safety valve;

17           (9) Hot water supply boilers if none of the following  
18 limitations is exceeded: (a) Two hundred thousand British thermal  
19 units of input; (b) one hundred twenty gallons of nominal capacity;  
20 or (c) two hundred ten degrees Fahrenheit output;

21           (10) Unfired pressure vessels not exceeding (a) five  
22 cubic feet in volume or (b) a pressure of two hundred fifty pounds  
23 per square inch;

24           (11) Unfired pressure vessels owned and maintained by a  
25 district or corporation organized under the provisions of Chapter 70,

1 article 6; and

2 (12) Unfired pressure vessels (a) not exceeding a maximum  
3 allowable working pressure of five hundred pounds per square inch,  
4 (b) that contain carbon dioxide, helium, oxygen, nitrogen, argon,  
5 hydrofluorocarbon refrigerant, or any other nonflammable gas  
6 determined by the ~~commissioner~~director not to be a risk to the  
7 public, (c) that are manufactured and repaired in accordance with  
8 applicable American Society of Mechanical Engineers standards, and  
9 (d) that are installed in accordance with the manufacturer's  
10 specifications.

11 Sec. 134. Section 48-727, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 48-727 The ~~commissioner~~director may adopt and promulgate  
14 rules and regulations for the purpose of effectuating the Boiler  
15 Inspection Act, including rules and regulations for the methods of  
16 testing equipment, the construction and installation of new boilers,  
17 and a schedule of inspection and certificate fees for boilers  
18 required to be inspected by the act. Such rules and regulations may  
19 incorporate by reference any portion of (1) the Boiler and Pressure  
20 Vessel Code of the American Society of Mechanical Engineers, as  
21 amended, (2) the National Board Inspection Code for Boilers and  
22 Pressure Vessels, as amended, (3) the American Society of Mechanical  
23 Engineers Code for Controls and Safety Devices for Automatically  
24 Fired Boilers, as amended, concerning controls and safety devices for  
25 automatically fired boilers, (4) the American Petroleum Institute

1 Pressure Vessel Inspection Code API-510, and (5) the National Fire  
2 Protection Association, series 85, code for controls and safety  
3 devices, including codes referenced in such code. A copy of all rules  
4 and regulations adopted and promulgated under the Boiler Inspection  
5 Act, including copies of all codes incorporated by reference, shall  
6 be kept on file in the office of the ~~commissioner~~director and shall  
7 be known as the Boiler Safety Code.

8           Sec. 135. Section 48-728, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           48-728 The state boiler inspector shall investigate and  
11 report to the ~~commissioner~~director the cause of any boiler explosion  
12 that may occur in the state, the loss of life, the injuries  
13 sustained, the estimated loss of property, if any, and such other  
14 data as may be of benefit in preventing other similar explosions.

15           Sec. 136. Section 48-729, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17           48-729 The state boiler inspector shall keep in the  
18 office of the ~~commissioner~~director a complete and accurate record of  
19 the name of the owner or user of any boiler required to be inspected  
20 by the Boiler Inspection Act and a full description of the equipment  
21 including the type, dimensions, age, condition, amount of pressure  
22 allowed, and date when last inspected.

23           Sec. 137. Section 48-730, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           48-730 Before any boiler required to be inspected by the

1 Boiler Inspection Act is installed, a ten days' written notice of  
2 intention to install the boiler shall be given to the ~~commissioner,~~  
3 director, except that the ~~commissioner~~director may, upon application  
4 and good cause shown, waive the ten-day prior notice requirement. The  
5 notice shall designate the proposed place of installation, the type  
6 and capacity of the boiler, the use to be made of the boiler, the  
7 name of the company which manufactured the boiler, and whether the  
8 boiler is new or used. A boiler moved from one location to another  
9 shall be reinspected prior to being placed back into use.

10           Sec. 138. Section 48-731, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           48-731 (1)(a) The ~~commissioner~~director may issue a  
13 special inspector commission to an inspector in the employ of a  
14 company if the inspector has previously passed the examination  
15 prescribed by the National Board of Boiler and Pressure Vessel  
16 Inspectors and the company is an insurance company authorized to  
17 insure boilers in this state against loss from explosion or is an  
18 authorized inspection agency.

19           (b) Each special inspector employed by an insurance  
20 company or authorized inspection agency who has been issued a special  
21 inspector commission under this section shall submit to the state  
22 boiler inspector complete data of each boiler required to be  
23 inspected by the Boiler Inspection Act which is insured or inspected  
24 by such insurance company or authorized inspection agency on forms  
25 approved by the ~~commissioner.~~ director.

1           (c) Insurance companies shall notify the department of  
2 new, canceled, or suspended risks relating to insured boilers.  
3 Insurance companies shall notify the department of all boilers which  
4 the company insures, or any boiler for which insurance has been  
5 canceled, not renewed, or suspended within thirty days after such  
6 action. Authorized inspection agencies shall notify the department of  
7 any new or canceled agreements relating to the inspection of boilers  
8 or pressure vessels within thirty days after such action.

9           (d) Insurance companies and authorized inspection  
10 agencies shall immediately notify the department of defective  
11 boilers. If a special inspector employed by an insurance company,  
12 upon the first inspection of new risk, finds that the boiler or any  
13 of the appurtenances are in such condition that the inspector's  
14 company refuses insurance, the company shall immediately submit a  
15 report of the defects to the state boiler inspector.

16           (2) The inspection required by the act shall not be  
17 required if (a) an annual inspection is made under a city ordinance  
18 which meets the standards set forth in the act, (b) a certificate of  
19 inspection of the boiler is filed with the ~~commissioner~~director with  
20 a certificate fee, and (c) the inspector for the city making such  
21 inspection is required by such ordinance to either hold a commission  
22 from the National Board of Boiler and Pressure Vessel Inspectors  
23 commensurate with the type of inspections performed by the inspector  
24 for the city or acquire the commission within twelve months after  
25 appointment.

1           (3) The ~~commissioner~~director may, by rule and  
2 regulation, provide for the issuance of a special inspector  
3 commission to an inspector in the employ of a company using or  
4 operating an unfired pressure vessel subject to the act for the  
5 limited purpose of inspecting unfired pressure vessels used or  
6 operated by such company.

7           (4) All inspections made by a special inspector shall be  
8 performed in accordance with the act, and a complete report of such  
9 inspection shall be filed with the department in the time, manner,  
10 and form prescribed by the ~~commissioner~~director.

11           (5) The state boiler inspector may, at his or her  
12 discretion, inspect any boiler to which a special inspector  
13 commission applies.

14           (6) The ~~commissioner~~director may, for cause, suspend or  
15 revoke any special inspector commission.

16           (7) No authorized inspection agency shall perform  
17 inspections of boilers in the State of Nebraska unless the authorized  
18 inspection agency has insurance coverage for professional errors and  
19 omissions and comprehensive and general liability under a policy or  
20 policies written by an insurance company authorized to do business in  
21 this state in effect at the time of such inspection. Such insurance  
22 policy or policies shall be in an amount not less than the minimum  
23 amount as established by the ~~commissioner~~director. Such minimum  
24 amount shall be established with due regard to the protection of the  
25 general public and the availability of insurance coverage, but such

1 minimum insurance coverage shall not be less than one million dollars  
2 for professional errors and omissions and one million dollars for  
3 comprehensive and general liability.

4 Sec. 139. Section 48-733, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 48-733 The owner or user of a boiler required to be  
7 inspected under the Boiler Inspection Act or inspected by request of  
8 the boiler owner shall pay a fee for such inspection or inspections  
9 in accordance with the rules and regulations adopted and promulgated  
10 by the ~~commissioner~~. director. Any boiler required to be inspected by  
11 the act may be inspected by the state boiler inspector if the owner  
12 or his or her agent makes written request to the state boiler  
13 inspector. Fees will be imposed as required for services in support  
14 of the act in accordance with rules and regulations adopted and  
15 promulgated by the ~~commissioner~~. director.

16 Sec. 140. Section 48-735.01, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 48-735.01 The Boiler Inspection Cash Fund is created. The  
19 ~~commissioner~~ director shall use the fund for the administration of  
20 the boiler inspection program pursuant to the Boiler Inspection Act.  
21 The fund shall consist of money appropriated to it by the Legislature  
22 and fees collected in the administration of the act. Fees so  
23 collected shall be remitted to the State Treasurer with an itemized  
24 statement showing the source of collection. The State Treasurer shall  
25 credit the fees to the fund and the money in the fund shall not lapse

1 into the General Fund. Any money in the Boiler Inspection Cash Fund  
2 available for investment shall be invested by the state investment  
3 officer pursuant to the Nebraska Capital Expansion Act and the  
4 Nebraska State Funds Investment Act.

5           Sec. 141. Section 48-737, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           48-737 In addition to any and all other remedies, if any  
8 owner, user, or person in charge of any boiler required to be  
9 inspected by the Boiler Inspection Act continues to use the same  
10 after receiving a notice of defect as provided by the act, without  
11 first correcting the defects or making replacements, the ~~commissioner~~  
12 director may apply to the district court or any judge thereof by  
13 petition in equity, in an action brought in the name of the state,  
14 for a writ of injunction to restrain the use of the alleged defective  
15 boiler or if the continued operation of the boiler poses serious risk  
16 or harm to the general public, the state boiler inspector may take  
17 those actions required to immediately shut down and cause to be  
18 inoperable any boiler required to be inspected by the act.

19           Sec. 142. Section 48-738, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           48-738 The ~~commissioner~~director shall notify the owner  
22 or user of the equipment in writing of the time and place of hearing  
23 of the petition, as fixed by the court or judge, and serve the notice  
24 on the defendant at least five days prior to the hearing in the same  
25 manner as original notices are served. The general provisions

1 relating to civil practice and procedure, insofar as the same may be  
2 applicable, shall govern such proceedings except as otherwise  
3 provided in the Boiler Inspection Act. In the event the defendant  
4 does not appear or plead to such action, default shall be entered  
5 against the defendant. The action shall be tried in equity, and the  
6 court or judge shall make such order or decree as the evidence  
7 warrants.

8           Sec. 143. Section 48-743, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           48-743 The board shall hold hearings and advise the  
11 ~~commissioner~~ director on rules and regulations for methods of testing  
12 equipment and construction and installation of new boilers required  
13 to be inspected by the Boiler Inspection Act and for inspection and  
14 certificate fees for such boilers.

15           Sec. 144. Section 48-1202, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17           48-1202 For purposes of the Wage and Hour Act, unless the  
18 context otherwise requires:

19           (1) Director means the Director of Economic Development;

20           ~~(1)~~ (2) Employ shall include to permit to work;

21           ~~(2)~~ (3) Employer shall include any individual,  
22 partnership, limited liability company, association, corporation,  
23 business trust, legal representative, or organized group of persons  
24 employing four or more employees at any one time except for seasonal  
25 employment of not more than twenty weeks in any calendar year, acting

1 directly or indirectly in the interest of an employer in relation to  
2 an employee, but shall not include the United States, the state, or  
3 any political subdivision thereof;

4 ~~(3)~~(4) Employee shall include any individual employed by  
5 any employer but shall not include:

6 (a) Any individual employed in agriculture;

7 (b) Any individual employed as a baby-sitter in or about  
8 a private home;

9 (c) Any individual employed in a bona fide executive,  
10 administrative, or professional capacity or as a superintendent or  
11 supervisor;

12 (d) Any individual employed by the United States or by  
13 the state or any political subdivision thereof;

14 (e) Any individual engaged in the activities of an  
15 educational, charitable, religious, or nonprofit organization when  
16 the employer-employee relationship does not in fact exist or when the  
17 services rendered to such organization are on a voluntary basis;

18 (f) Apprentices and learners otherwise provided by law;

19 (g) Veterans in training under supervision of the United  
20 States Department of Veterans Affairs;

21 (h) A child in the employment of his or her parent or a  
22 parent in the employment of his or her child; or

23 (i) Any person who, directly or indirectly, is receiving  
24 any form of federal, state, county, or local aid or welfare and who  
25 is physically or mentally disabled and employed in a program of

1 rehabilitation, who shall receive a wage at a level consistent with  
2 his or her health, efficiency, and general well-being;

3 ~~(4)~~—(5) Occupational classification shall mean a  
4 classification established by the Dictionary of Occupational Titles  
5 prepared by the United States Department of Labor; and

6 ~~(5)~~—(6) Wages shall mean all remuneration for personal  
7 services, including commissions and bonuses and the cash value of all  
8 remunerations in any medium other than cash.

9 Sec. 145. Section 48-1203.01, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 48-1203.01 An employer may pay a new employee who is  
12 younger than twenty years of age and is not a seasonal or migrant  
13 worker a training wage of at least seventy-five percent of the  
14 federal minimum wage for ninety days from the date the new employee  
15 was hired. An employer may pay such new employee the training wage  
16 rate for an additional ninety-day period while the new employee is  
17 participating in on-the-job training which (1) requires technical,  
18 personal, or other skills which are necessary for his or her  
19 employment and (2) is approved by the ~~Commissioner of Labor.~~  
20 director. No more than one-fourth of the total hours paid by the  
21 employer shall be at the training wage rate.

22 An employer shall not pay the training wage rate if the  
23 hours of any other employee are reduced or if any other employee is  
24 laid off and the hours or position to be filled by the new employee  
25 is substantially similar to the hours or position of such other

1 employee. An employer shall not dismiss or reduce the hours of any  
2 employee with the intention of replacing such employee or his or her  
3 hours with a new employee receiving the training wage rate.

4 Sec. 146. Section 48-1205, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 48-1205 Every employer subject to ~~the provisions of~~  
7 ~~sections 48-1201 to 48-1209~~ the Wage and Hour Act shall keep a  
8 summary of ~~sections 48-1201 to 48-1209, the act,~~ furnished by the  
9 ~~Commissioner of Labor~~ director without charge, posted in a  
10 conspicuous place on or about the premises wherein any person subject  
11 to ~~the provisions of sections 48-1201 to 48-1209~~ the act is employed.

12 Sec. 147. Section 48-1206, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 48-1206 (1) The ~~Commissioner of Labor~~ director shall have  
15 the authority to subpoena records and witnesses related to the  
16 enforcement of section 48-1203 and this section. The ~~commissioner~~  
17 director or his or her agent may inspect all related records and  
18 gather testimony on any matter relative to the enforcement of the  
19 Wage and Hour Act.

20 (2) Any employer who violates any of the provisions of  
21 section 48-1203 shall be guilty of a Class IV misdemeanor.

22 (3) It shall be the duty of the county attorney for the  
23 county in which any violation of the Wage and Hour Act occurs to  
24 prosecute the same in the district court in the county where the  
25 offense occurred.

1           (4) Any employer who violates any provision of section  
2 48-1203 shall be liable to the employees affected in the amount of  
3 their unpaid minimum wages, as the case may be.

4           (5) Action to recover unpaid minimum wages as provided in  
5 subsection (4) of this section may be maintained in any court of  
6 competent jurisdiction by any one or more employees for and in behalf  
7 of himself, herself, or themselves and other employees similarly  
8 situated, or such employee or employees may designate an agent or  
9 representative to maintain such action for and in behalf of all  
10 employees similarly situated. The court in which any action is  
11 brought under this subsection shall, in addition to any judgment  
12 awarded to the plaintiff or plaintiffs, allow costs of the action and  
13 reasonable attorney's fees to be paid by the defendant. In any  
14 proceedings brought pursuant to this subsection, the employee shall  
15 not be required to pay any filing fee or other court costs  
16 necessarily incurred in such proceedings.

17           Sec. 148. Section 48-1618, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           48-1618 For purposes of the Nebraska Workforce Investment  
20 Act, unless the context otherwise requires:

21           (1) Chief elected official means the chief elected  
22 executive officer of a unit of general local government in a local  
23 area, and in a case in which a local area includes more than one unit  
24 of general local government, the individuals designated under the  
25 local area plan or the agreement described in section 117(c)(1)(B) of

1 the federal Workforce Investment Act, 29 U.S.C. 2832(c)(1)(B);

2 ~~(2) Commissioner means the Commissioner of Labor;~~

3 ~~(3)-(2) Core services means services described in section~~  
4 134(d)(2) of the federal Workforce Investment Act, 29 U.S.C. 2864(d)  
5 (2), available to individuals who are adults or dislocated workers  
6 through the one-stop delivery system;

7 (3) Director means the Director of Economic Development;

8 (4) Federal Workforce Investment Act means the Workforce  
9 Investment Act of 1998, 29 U.S.C. 2801 et seq., as the act existed on  
10 March 2, 2001;

11 (5) Intensive services means services described in  
12 section 134(d)(3) of the federal Workforce Investment Act, 29 U.S.C.  
13 2864(d)(3), available to adults and dislocated workers respectively  
14 through the one-stop delivery system who are unemployed and are  
15 unable to obtain employment through core services and who have been  
16 determined by a one-stop operator to be in need of more intensive  
17 services in order to obtain employment or who are employed but who  
18 are determined by a one-stop operator to be in need of such intensive  
19 services in order to obtain or retain employment that allows for  
20 self-sufficiency;

21 (6) Local area means a local area designated by the  
22 Governor and described in the state plan pursuant to section 116 of  
23 the federal Workforce Investment Act, 29 U.S.C. 2831;

24 (7) Local board means a local workforce investment board  
25 established pursuant to section 48-1620;

1                   (8) One-stop career center means a physical location that  
2 provides access to all one-stop services and partners, is certified  
3 by the local area, and includes an onsite resource area that meets  
4 the minimum criteria as established by the local area plan;

5                   (9) One-stop partner means an entity described in section  
6 121(b)(1) of the federal Workforce Investment Act, 29 U.S.C. 2841(b)  
7 (1), that is participating with the approval of the local board and  
8 chief elected official, in the operation of a one-stop delivery  
9 system;

10                   (10) State board means the Nebraska Workforce Investment  
11 Board established pursuant to section 48-1623; and

12                   (11) Youth council means a council established under  
13 section 117(h) of the federal Workforce Investment Act, 29 U.S.C.  
14 2832(h).

15                   Sec. 149. Section 48-1619, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17                   48-1619 (1) At least one comprehensive one-stop career  
18 center shall be established in each local area of the state. State  
19 agencies providing services at a comprehensive one-stop career center  
20 include the ~~Department of Labor,~~ Department of Health and Human  
21 Services, Department of Economic Development, State Department of  
22 Education, and community colleges in the area where the one-stop  
23 career center is located. The following minimum level of programs and  
24 activities shall be available at a comprehensive one-stop career  
25 center:

1           (a) Adult, youth, and dislocated workers employment and  
2 training programs provided under Title I of the federal Workforce  
3 Investment Act;

4           (b) Programs authorized under the Wagner-Peyser Act, 29  
5 U.S.C. 49 et seq., as the act existed on March 2, 2001;

6           (c) Adult education and literacy activities authorized  
7 under Title II of the federal Workforce Investment Act;

8           (d) Programs authorized under Title I of the  
9 Rehabilitation Act of 1973, 29 U.S.C. 720 et seq., as the act existed  
10 on March 2, 2001;

11           (e) Welfare to work programs authorized under section  
12 403(a)(5) of the Social Security Act, 42 U.S.C. 603(a)(5), as the  
13 section existed on March 2, 2001;

14           (f) Older American community service programs authorized  
15 under Title V of the Older Americans Act of 1965, 42 U.S.C. 3056 et  
16 seq., as the act existed on March 2, 2001;

17           (g) Postsecondary education activities authorized under  
18 the Carl D. Perkins Vocational and Applied Technology Education Act,  
19 20 U.S.C. 2301 et seq., as the act existed on March 2, 2001.  
20 Preference shall be given to the applications of one-stop career  
21 centers which have submitted and obtained approval of a business plan  
22 to the local board;

23           (h) Trade adjustment assistance for workers authorized  
24 under Title II of the Trade Act of 1974, 19 U.S.C. 2271 et seq., as  
25 the act existed on March 2, 2001;

1           (i) Job counseling and training and placement services  
2 for veterans authorized under Chapter 41 of Title 38 of the United  
3 States Code, as such chapter existed on March 2, 2001;

4           (j) Employment and training activities carried out under  
5 the Community Services Block Grant Act, 42 U.S.C. 9901 et seq., as  
6 the act existed on March 2, 2001;

7           (k) Employment and training activities carried out by the  
8 federal Department of Housing and Urban Development; and

9           (1) Unemployment benefit and reemployment services  
10 authorized under the Employment Security Law.

11           (2) In addition to the mandatory programs in subsection  
12 (1) of this section, a local board is encouraged to include  
13 participation by the Department of Correctional Services, youth  
14 programs authorized under section 129 of the federal Workforce  
15 Investment Act, 29 U.S.C. 2854, the Nebraska Workers' Compensation  
16 Court, public and private postsecondary educational institutions, and  
17 secondary education activities authorized under the Carl D. Perkins  
18 Vocational and Applied Technology Education Act, 20 U.S.C. 2301 et  
19 seq., as the act existed on March 2, 2001.

20           (3) A local board may establish one or more affiliate  
21 career centers which offer one or more of the program services  
22 described in subsection (1) of this section and can provide a direct  
23 link to the comprehensive one-stop career center through technology.

24           (4) Comprehensive one-stop career centers shall utilize a  
25 common intake and common application system for persons applying for

1 services or training offered at the one-stop career center.

2 Sec. 150. Section 48-1625, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 48-1625 (1) The state board shall submit to the Governor  
5 recommendations for changes in the state plan submitted to the United  
6 States Secretary of Labor outlining the five-year strategy for the  
7 statewide workforce investment system for the State of Nebraska in  
8 accordance with section 112 of the federal Workforce Investment Act,  
9 29 U.S.C. 2822.

10 (2) The state board shall submit to the chairperson and  
11 members of the Business and Labor Committee of the Legislature, the  
12 chairperson of each of the standing committees of the Legislature,  
13 the Speaker of the Legislature, the Clerk of the Legislature, the  
14 Department of Health and Human Services, ~~the Department of Economic~~  
15 ~~Development~~, the State Department of Education, and the Department of  
16 ~~Labor~~ Economic Development a copy of any recommendations for  
17 modification of the state plan and the annual report of the state  
18 board. The annual report of the state board shall include information  
19 on the number of individuals served, the state's average cost per  
20 individual receiving training or placement services, short-term and  
21 long-term performance measures of job placements, and training and  
22 skill levels of training participants. In order to promote better  
23 accountability, such reports shall contain measures of accomplishment  
24 of the performance measures set forth at 20 C.F.R. 666.100, as the  
25 regulation existed on March 2, 2001, and shall use consistent units

1 of measure in order to provide comparability both within a single  
2 annual report and between different annual reports.

3 Sec. 151. Section 48-1626, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 48-1626 The ~~commissioner~~ director is designated as the  
6 Governor's Workforce Investment Act liaison and may:

7 (1) Monitor and review for the Governor organizations and  
8 agencies engaged in and facilities used for the administration or  
9 delivery of job training programs under Title I of the federal  
10 Workforce Investment Act; and

11 (2) Provide staff support and adopt such methods of  
12 administration as are necessary for the proper and efficient  
13 operation of the duties and functions provided in the federal  
14 Workforce Investment Act.

15 Sec. 152. Section 48-1627, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 48-1627 (1) Except as otherwise provided in this section,  
18 or the federal Workforce Investment Act and the regulations adopted  
19 pursuant thereto, appeals brought pursuant to sections 116(a),  
20 122(g), and 136(h)(2)(B) of the federal Workforce Investment Act, 29  
21 U.S.C. 2831(a), 29 U.S.C. 2842(g), and 29 U.S.C. 2871(h)(2)(B), shall  
22 be conducted in accordance with the Administrative Procedure Act. The  
23 ~~commissioner~~ director may conduct hearings on behalf of the Governor  
24 and make findings and recommendations to the Governor on the merits  
25 of the appeal.

1                   (2) In the case of an appeal by an entity which was not  
2 granted designation as a local area, the state board shall review the  
3 findings and recommendations of the ~~commissioner~~director and advise  
4 the Governor as to whether the appeal should be granted or denied.

5                   Sec. 153. Section 48-1702, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7                   48-1702 For purposes of the Farm Labor Contractors Act,  
8 unless the context otherwise requires:

9                   (1) Department means the Department of ~~Labor~~ Economic  
10 Development;

11                   (2) Director means the Director of Economic Development;

12                   ~~(2)~~(3) Farm labor contractor means any individual,  
13 partnership, limited liability company, corporation, or cooperative  
14 association, other than an agricultural employer, an agricultural  
15 association, or an employee of an agricultural employer or  
16 agricultural association, who for any money or other valuable  
17 consideration paid or promised to be paid performs any farm labor  
18 contracting activity;

19                   ~~(3)~~(4) Farm labor contracting activity means recruiting,  
20 soliciting, hiring, employing, furnishing, or transporting any  
21 migrant or seasonal agricultural worker;

22                   ~~(4)~~(5) Non-English-speaking worker has the same meaning  
23 as non-English-speaking employee in section 48-2208; and

24                   ~~(5)~~(6) Worker means a person who is employed or  
25 recruited by or who subcontracts with a farm labor contractor.

1                   Sec. 154. Section 48-1705, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   48-1705 (1) Each applicant shall submit with the  
4 application and shall continually maintain proof of financial  
5 responsibility to ensure the prompt payment of wages of employees and  
6 other obligations that may arise under the Farm Labor Contractors  
7 Act. The proof shall be in the form of a corporate surety bond of a  
8 company licensed to do business in the State of Nebraska, a cash  
9 deposit, or a deposit the equivalent of cash. The department shall  
10 determine the amount of surety required, except that such amount  
11 shall not be less than five thousand dollars. In lieu of such surety,  
12 the farm labor contractor may establish a savings account at a  
13 financial institution in Nebraska in the name of the ~~Commissioner of~~  
14 ~~Labor~~ director as trustee for the employees of the farm labor  
15 contractor, and others as their interest may appear, and deliver the  
16 evidence of the account and the ability to withdraw funds to the  
17 department under terms approved by the department. No farm labor  
18 contractor license shall be issued to any applicant who has an  
19 unsatisfied final judgment of a court or decision of an  
20 administrative agency which would be covered by the bond or deposit  
21 required by the act against himself or herself. All corporate surety  
22 bonds filed under this section shall be executed to cover liability  
23 for a period of one year, during which the bond cannot be canceled or  
24 otherwise terminated.

25                   (2) The surety company or the department shall make

1 prompt and periodic payments on the farm labor contractor's liability  
2 to the extent of the total sum of the bond or deposit. Payments shall  
3 be made in the following manner:

4 (a) Payment shall be made based upon priority of wage  
5 claims over advances made by the grower or producer of agricultural  
6 commodities;

7 (b) Payment in full of all sums due to each person who  
8 presents adequate proof of a claim; and

9 (c) If there are insufficient funds to pay in full, the  
10 person next entitled to payment shall be paid in part.

11 (3) All claims against the bond or deposit shall be  
12 unenforceable unless request for payment of a judgment or other form  
13 of adequate proof of liability or a notice of the claim has been sent  
14 by certified mail to the surety or the department within six months  
15 from the end of the year for which the bond or deposit has been made.

16 (4) If the department has not received notice of the  
17 claim within six months after a farm labor contractor is no longer  
18 required to provide and maintain a surety bond or deposit, the  
19 department shall terminate and surrender any bond or any deposit  
20 under control of the department to the person who is entitled thereto  
21 upon receiving appropriate proof of such entitlement.

22 (5) The surety bond or deposit shall be payable to the  
23 ~~Commissioner of Labor~~ director and shall be conditioned upon:

24 (a) Payment in full of all sums due on wage claims of  
25 employees; and

1                   (b) Payment by the farm labor contractor of all sums due  
2 to the grower or producer of agricultural commodities for advances  
3 made to or on behalf of the farm labor contractor.

4                   Sec. 155. Section 48-1706, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6                   48-1706 Each application shall be accompanied by a fee.  
7 ~~The Commissioner of Labor~~ director shall establish the amount of the  
8 fee, which shall not exceed seven hundred fifty dollars, by rule and  
9 regulation. The fee shall be established with due regard for the  
10 costs of administering the Farm Labor Contractors Act. All fees so  
11 collected shall be deposited in the Farm Labor Contractors Fund.

12                   Sec. 156. Section 48-1710, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14                   48-1710 (1) The department shall conduct an investigation  
15 of each applicant's character, competence, and reliability and any  
16 other matters relating to the applicant's operations as a farm labor  
17 contractor.

18                   (2) The department shall issue a license within fifteen  
19 days of receipt of the application if the department determines that  
20 the applicant is of satisfactory character, competence, and  
21 reliability.

22                   (3) Any person may protest the issuance of a license to  
23 any applicant at any time by filing with the department a written  
24 statement detailing such person's reasons for protesting.

25                   (4) The licensing year shall run from April 1 to the

1 following March 31 and each license shall expire on March 31  
2 following the date of its issuance unless sooner revoked by the  
3 department.

4 (5) A license shall be renewed annually upon payment in  
5 advance of the required fee, except that the ~~Commissioner of Labor~~  
6 director may require any person seeking renewal to file a new  
7 application and may conduct a new investigation of the applicant's  
8 character, competence, and reliability and any other matters relating  
9 to the applicant's operations as a farm labor contractor.

10 (6) On its own initiative or upon receipt of a complaint  
11 or notice that a farm labor contractor is in violation of the Farm  
12 Labor Contractors Act, the department shall conduct an investigation  
13 of such contractor.

14 Sec. 157. Section 48-1802, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 48-1802 For purposes of the Nebraska Amusement Ride Act,  
17 unless the context otherwise requires:

18 (1) Amusement ride ~~shall mean~~ means any mechanical device  
19 that carries or conveys passengers along, around, or over a fixed or  
20 restricted route or course or within a defined area for the purpose  
21 of giving its passengers amusement, pleasure, or excitement, but such  
22 term ~~shall~~ does not include (a) any single-passenger coin-operated  
23 ride that is manually, mechanically, or electrically operated and  
24 customarily placed in a public location and that does not normally  
25 require the supervision or services of an operator or (b)

1 nonmechanized playground equipment, including, but not limited to,  
2 swings, seesaws, stationary spring-mounted animal features, rider-  
3 propelled merry-go-rounds, climbers, slides, trampolines, and  
4 physical fitness devices. Bungee jumping is specifically designated  
5 as an amusement ride for purposes of the act and ~~shall mean~~ means the  
6 sport, activity, or other practice of jumping, diving, stepping out,  
7 dropping, or otherwise being released into the air while attached to  
8 a bungee cord, whereby the cord stretches, stops the fall, lengthens,  
9 and shortens allowing the person to bounce up and down, and is  
10 intended to finally bring the person to a stop at a point above a  
11 surface or the ground;

12 (2) Bungee cord ~~shall mean~~ means a cord made of rubber,  
13 latex, or other elastic-type material, whether natural or synthetic;

14 (3) ~~Commissioner shall mean the Commissioner of Labor~~  
15 Director means the Director of Economic Development or his or her  
16 designee;

17 (4) Operator ~~shall mean~~ means a person actually engaged  
18 in or directly controlling the operations of an amusement ride;

19 (5) Owner ~~shall mean~~ means a person who owns, leases,  
20 controls, or manages the operations of an amusement ride and ~~may~~  
21 ~~include~~ includes the state or any political subdivision of the state;

22 (6) Qualified inspector ~~shall mean~~ means any person who  
23 is (a) found by the ~~commissioner~~ director to possess the requisite  
24 training and experience to perform competently the inspections  
25 required by the Nebraska Amusement Ride Act and (b) certified by the

1 ~~commissioner~~director to perform inspections of amusement rides; and

2           (7) Reverse bungee jumping ~~shall mean~~means the sport,  
3 activity, or practice whereby a person is attached to a bungee cord,  
4 the bungee cord is stretched down so that such person is on a fixed  
5 catapult, launch, or release position, and such person is catapulted  
6 or otherwise launched or released into the air from such fixed  
7 position, while attached to a bungee cord, whereby the cord  
8 stretches, stops the fall, lengthens, and shortens allowing the  
9 person to bounce up and down, and is intended to finally bring the  
10 person to a stop at a point above a surface or the ground.

11           Sec. 158. Section 48-1803, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           48-1803 The ~~commissioner~~director shall adopt and  
14 promulgate rules and regulations (1) for the safe installation,  
15 repair, maintenance, use, operation, and inspection of amusement  
16 rides as the ~~commissioner~~director may find necessary for the  
17 protection of the general public and (2) necessary to carry out the  
18 ~~provisions of the~~ Nebraska Amusement Ride Act. Such rules and  
19 regulations shall be of a reasonable nature, based upon generally  
20 accepted engineering standards, formulas, and practices, and, insofar  
21 as practicable and consistent with the Nebraska Amusement Ride Act,  
22 uniform with rules and regulations of other states. Whenever such  
23 standards are available in suitable form they may be incorporated by  
24 reference by the ~~commissioner~~director. The ~~commissioner~~director  
25 shall administer and enforce the Nebraska Amusement Ride Act and all

1 rules and regulations adopted and promulgated pursuant to such act.  
2 The ~~commissioner~~director shall coordinate all regulatory and  
3 investigative activities with the appropriate state agencies.

4           Sec. 159. Section 48-1804, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           48-1804 Except for purposes of testing and inspection, no  
7 amusement ride shall be operated without a valid permit for the  
8 operation issued by the ~~commissioner~~director to the owner of such  
9 amusement ride. The owner of an amusement ride shall apply for a  
10 permit under section 48-1805 to the ~~commissioner~~director on an  
11 application furnished by the ~~commissioner~~director and shall include  
12 such information as the ~~commissioner~~director may require. Every  
13 amusement ride shall be inspected before it is originally put into  
14 operation for public use and at least once every year after such ride  
15 is put into operation for public use.

16           Sec. 160. Section 48-1805, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           48-1805 (1) The ~~commissioner~~director shall issue a  
19 permit to operate an amusement ride to the owner of such amusement  
20 ride upon presentation by the owner of (a) an application for a  
21 permit, (b) a certificate of inspection by a qualified inspector, (c)  
22 proof of liability insurance as required in section 48-1806, and (d)  
23 the permit fee. Such permit shall be valid through December 31 of the  
24 year in which the inspection is performed.

25           (2) The ~~commissioner~~director may waive the requirement

1 of subdivision (1)(b) of this section if the owner of the amusement  
2 ride gives satisfactory proof to the ~~commissioner~~director that such  
3 amusement ride has passed an inspection conducted or required by a  
4 federal agency, any other state, or a governmental subdivision of  
5 this or of any other state which has standards for the inspection of  
6 such an amusement ride at least as stringent as those adopted and  
7 promulgated pursuant to the Nebraska Amusement Ride Act.

8           Sec. 161. Section 48-1806, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           48-1806 No amusement ride shall be operated unless at the  
11 time of operation the owner has an insurance policy in effect written  
12 by an insurance company authorized to do business in this state  
13 insuring the owner and operator against liability for injury to  
14 persons arising out of the operation of such amusement ride. Such  
15 insurance policy shall be in an amount not less than the minimum  
16 amount per occurrence as established by the ~~commissioner~~director.  
17 Such minimum amount shall be established with due regard to the  
18 protection of the general public and the availability of insurance  
19 coverage, but such minimum amount shall not be greater than one  
20 million dollars per occurrence. The ~~commissioner~~director may require  
21 a separate insurance policy from the owner of any equipment used in  
22 an amusement ride, subject to the minimums and limitations provided  
23 in this section.

24           Sec. 162. Section 48-1807, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1           48-1807 The ~~commissioner~~director may inspect any  
2 amusement ride without notice at any time while such amusement ride  
3 is operating in this state. The ~~commissioner~~director may temporarily  
4 suspend a permit to operate an amusement ride if it has been  
5 determined after inspection to be hazardous or unsafe. An amusement  
6 ride shall not be operated while the permit for its operation is  
7 suspended. Operation of such an amusement ride shall not resume until  
8 the hazardous or unsafe condition is corrected to the satisfaction of  
9 the ~~commissioner~~. director.

10           Sec. 163. Section 48-1808, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           48-1808 The owner of an amusement ride shall send a copy  
13 of any accident report required by his or her insurer to the  
14 ~~commissioner~~. director. The ~~commissioner~~director may provide for the  
15 suspension of the permit of operation for any amusement ride the  
16 breakdown or malfunction of which directly caused serious injury or  
17 death of any person. The ~~commissioner~~director may also require an  
18 inspection of any amusement ride, whose operation has resulted in any  
19 serious injury or death, before operation of such amusement ride may  
20 be resumed.

21           Sec. 164. Section 48-1809, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           48-1809 The ~~commissioner~~director shall establish by  
24 rules and regulations a schedule of permit fees not to exceed fifty  
25 dollars for each amusement ride. Such permit fees shall be

1 established with due regard for the costs of administering the  
2 Nebraska Amusement Ride Act and shall be remitted to the State  
3 Treasurer for credit to the Mechanical Safety Inspection Fund.

4           Sec. 165. Section 48-1811, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           48-1811 The ~~commissioner~~director may certify such  
7 qualified inspectors as may be necessary to carry out the Nebraska  
8 Amusement Ride Act.

9           Sec. 166. Section 48-1812, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           48-1812 (1) The ~~commissioner~~director may establish by  
12 rules and regulations a schedule of reasonable ~~inspections~~inspection  
13 fees for each amusement ride. The cost of obtaining the certificate  
14 of inspection from a qualified inspector shall be borne by the owner  
15 of the amusement ride.

16           (2) A separate schedule of fees shall be established for  
17 the inspection of bungee jumping operations, including the inspection  
18 of cranes used for bungee jumping. The fees shall be established  
19 taking into consideration the cost of such inspections.

20           Sec. 167. Section 48-1813, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           48-1813 Each owner shall retain at all times up-to-date  
23 maintenance and inspection records for each amusement ride as  
24 prescribed by the ~~commissioner~~director. The owner shall make such  
25 records available to the ~~commissioner~~director on request.

1           Sec. 168. Section 48-1814, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           48-1814 The ~~commissioner~~director may require the owner  
4 of an amusement ride to provide the ~~commissioner~~director with a  
5 tentative schedule of events at which the amusement ride will be  
6 operated within this state. The ~~commissioner~~director shall establish  
7 timetables and procedures for providing and updating such schedules.

8           Sec. 169. Section 48-1817, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           48-1817 The Attorney General, acting on behalf of the  
11 ~~commissioner~~director, or the county attorney in a county in which  
12 an amusement ride is located or operated may apply to the district  
13 court, pursuant to the rules of civil procedure, for an order  
14 enjoining operation of any amusement ride operated in violation of  
15 the Nebraska Amusement Ride Act.

16           Sec. 170. Section 48-1819, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           48-1819 The governing board of any city, county, or  
19 village may establish and enforce safety standards for amusement  
20 rides in addition to, but not in conflict with, the standards  
21 established by the ~~commissioner~~director pursuant to the Nebraska  
22 Amusement Ride Act.

23           Sec. 171. Section 48-2103, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           48-2103 For purposes of the Contractor Registration Act:

1                   ~~(1) Commissioner means the Commissioner of Labor;~~

2                   ~~(2)~~ (1) Construction means work on real property and  
3 annexations, including new work, additions, alterations,  
4 reconstruction, installations, and repairs performed at one or more  
5 different sites which may be dispersed geographically;

6                   ~~(3)~~ (2) Contractor means an individual, firm,  
7 partnership, limited liability company, corporation, or other  
8 association of persons engaged in the business of the construction,  
9 alteration, repairing, dismantling, or demolition of buildings,  
10 roads, bridges, viaducts, sewers, water and gas mains, streets,  
11 disposal plants, water filters, tanks and towers, airports, dams,  
12 levees and canals, water wells, pipelines, transmission and power  
13 lines, and every other type of structure, project, development, or  
14 improvement within the definition of real property and personal  
15 property, including such construction, repairing, or alteration of  
16 such property to be held either for sale or rental. Contractor also  
17 includes any subcontractor engaged in the business of such activities  
18 and any person who is providing or arranging for labor for such  
19 activities, either as an employee or as an independent contractor,  
20 for any contractor or person;

21                   ~~(4)~~ (3) Department means the Department of ~~Labor;~~  
22 Economic Development;

23                   (4) Director means the Director of Economic Development;

24                   (5) Nonresident contractor means a contractor who neither  
25 is domiciled in nor maintains a permanent place of business in this

1 state or who, being so domiciled or maintaining such permanent place  
2 of residence, spends in the aggregate less than six months of the  
3 year in this state; and

4 (6) Working days means Mondays through Fridays but does  
5 not include Saturdays, Sundays, or federal or state holidays. In  
6 computing fifteen working days, the day of receipt of any notice is  
7 not included and the last day of the fifteen working days is  
8 included.

9 Sec. 172. Section 48-2106, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 48-2106 (1) A contractor shall report to the ~~commissioner~~  
12 director any change in the information originally reported on or with  
13 the application under section 48-2105 within fifteen days of the  
14 change, except that the contractor shall notify the ~~commissioner~~  
15 director of changes in workers' compensation insurance coverage at  
16 least ten days prior to any change in coverage.

17 (2) After the time specified in subsection (1) of this  
18 section, the ~~commissioner, director,~~ with good cause shown, may  
19 determine that amendments may be made to correct an application.

20 (3) Amendments to applications shall not be permitted  
21 when a change occurs in the business classification such as a change  
22 from a sole proprietorship to a corporation.

23 Sec. 173. Section 48-2107, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 48-2107 (1) Each application or renewal under section

1 48-2105 shall be signed by the applicant and accompanied by a fee of  
2 forty dollars. The ~~commissioner~~director may adopt and promulgate  
3 rules and regulations to establish the criteria for acceptability of  
4 filing documents and making payments electronically. The criteria may  
5 include requirements for electronic signatures. The ~~commissioner~~  
6 director may refuse to accept any electronic filings or payments that  
7 do not meet the criteria established. The fee shall not be required  
8 when an amendment to an application is submitted. The ~~commissioner~~  
9 director shall remit the fees collected under this subsection to the  
10 State Treasurer for credit to the Contractor Registration Cash Fund.

11 (2) A contractor shall not be required to pay the fee  
12 under subsection (1) of this section if (a) the contractor is self-  
13 employed and does not pay more than three thousand dollars annually  
14 to employ other persons in the business and the application contains  
15 a statement made under oath or equivalent affirmation setting forth  
16 such information or (b) the contractor only engages in the  
17 construction of water wells or installation of septic systems. At any  
18 time that a contractor no longer qualifies for exemption from the  
19 fee, the fee shall be paid to the department. Any false statement  
20 made under subdivision (2)(a) of this section shall be a violation of  
21 section 28-915.01.

22 (3) The ~~commissioner~~director shall charge an additional  
23 fee of twenty-five dollars for the registration of each nonresident  
24 contractor and a fee of twenty-five dollars for the registration of  
25 each contract to which a nonresident contractor is a party if the

1 total contract price or compensation to be received is more than ten  
2 thousand dollars. The ~~commissioner~~director shall remit the fees  
3 collected under this subsection to the State Treasurer for credit to  
4 the General Fund.

5           Sec. 174. Section 48-2108, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           48-2108 Within thirty days of receipt of a completed  
8 application, the ~~commissioner~~director shall issue to the contractor  
9 a registration number. The registration number shall be a five-digit  
10 number followed by a two-digit number indicating the year of  
11 issuance.

12           Sec. 175. Section 48-2110, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           48-2110 The ~~commissioner~~director shall issue a notice of  
15 revocation of registration to a contractor when an investigation  
16 reveals that the contractor no longer meets the conditions of  
17 registration set out in section 48-2105 by failure to maintain  
18 compliance with the laws of this state relating to workers'  
19 compensation insurance coverage. If the ~~commissioner~~director  
20 receives a notice of cancellation of workers' compensation insurance  
21 coverage, the ~~commissioner~~director shall revoke the registration as  
22 of the time of cancellation unless the contractor provides a new  
23 certification of insurance prior to the cancellation date.

24           Sec. 176. Section 48-2111, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1           48-2111 The ~~commissioner~~director shall serve notice of  
2 revocation on the contractor by mailing such notice by certified mail  
3 or any other manner of delivery by which the United States Postal  
4 Service can verify delivery to the address of the contractor or the  
5 contractor's registered agent listed in the application. Upon a  
6 showing of compliance with the application requirements set out in  
7 section 48-2105, the ~~commissioner~~director may temporarily reinstate  
8 the registration pending a hearing on the revocation. A registration  
9 revoked under this section shall not be permanently reinstated. To  
10 receive a new registration number, the contractor shall reapply to  
11 the ~~commissioner~~director.

12           Sec. 177. Section 48-2112, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           48-2112 (1) The ~~commissioner~~director may make  
15 investigations he or she finds necessary or appropriate to determine  
16 if there is compliance with the Contractor Registration Act.  
17 Investigations shall take place at the times and places as the  
18 ~~commissioner~~director directs. For purposes of any investigation  
19 under this section, the ~~commissioner~~director may interview persons  
20 at the worksite, take photographs, and utilize other reasonable  
21 investigatory techniques. The conduct of the investigation shall be  
22 such as to preclude unreasonable disruption of the operations of the  
23 worksite. Investigations may be conducted, without prior notice, by  
24 correspondence, telephone conversations, or review of materials  
25 submitted to the department.

1           (2) For purposes of any investigation or proceeding under  
2 this section, the ~~commissioner~~director or any officer designated by  
3 him or her may administer oaths and affirmations, subpoena witnesses,  
4 compel their attendance, take evidence, and require the production of  
5 any books, papers, correspondence, memoranda, agreements, or other  
6 documents or records which the ~~commissioner~~director deems relevant  
7 or material to the inquiry.

8           (3) In case of contumacy by or refusal to obey a subpoena  
9 issued to any person, any court of competent jurisdiction, upon  
10 application by the ~~commissioner~~director, may issue to such person  
11 an order requiring him or her to appear before the ~~commissioner~~  
12 director or the officer designated by the ~~commissioner~~director and  
13 produce documentary evidence if so ordered or give evidence touching  
14 the matter under investigation or in question. Any failure to obey  
15 the order of the court may be punished by the court as a contempt.

16           Sec. 178. Section 48-2113, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           48-2113 Written complaints regarding the registration of  
19 a contractor made to the ~~commissioner~~director in which the  
20 complainant provides his or her name and address shall receive a  
21 written response as to the results of the investigation. A  
22 complainant's name and other identifying information shall not be  
23 released if the complaint was included as a part of another complaint  
24 when the complainant's identity would be protected under other  
25 statutes or rules and regulations.

1                   Sec. 179. Section 48-2114, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   48-2114 (1) The ~~commissioner~~director shall issue a  
4 citation to a contractor when an investigation reveals that the  
5 contractor has violated:

6                   (a) The requirement that the contractor be registered; or

7                   (b) The requirement that the contractor's registration  
8 information be substantially complete and accurate.

9                   (2) When a citation is issued, the ~~commissioner~~director  
10 shall notify the contractor of the proposed administrative penalty,  
11 if any, by certified mail or any other manner of delivery by which  
12 the United States Postal Service can verify delivery. The  
13 administrative penalty shall be not more than five hundred dollars in  
14 the case of a first violation and not more than five thousand dollars  
15 in the case of a second or subsequent violation.

16                   (3) The contractor shall have fifteen working days from  
17 the date of the citation or penalty to contest such citation or  
18 penalty. Notice of contest shall be sent to the ~~commissioner~~director  
19 who shall provide a hearing pursuant to the Administrative Procedure  
20 Act.

21                   ~~(4) If the contractor has never been registered under the~~  
22 ~~Contractor Registration Act, the contractor shall have sixty working~~  
23 ~~days from the date of the citation to register. No administrative~~  
24 ~~penalty shall be assessed if the contractor registers within such~~  
25 ~~sixty day period. This subsection shall remain in effect until March~~

1 1, 2009.

2           ~~(5)~~(4) In any civil action to enforce the Contractor  
3 Registration Act, the ~~commissioner~~director and the state may be  
4 represented by any qualified attorney who is employed by the  
5 ~~commissioner~~director and is designated by him or her for this  
6 purpose or at the ~~commissioner's~~director's request by the Attorney  
7 General.

8           Sec. 180. Section 48-2117, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           48-2117 (1) The Department of ~~Labor,~~Economic  
11 Development, in conjunction with the Department of Revenue, shall  
12 create a data base of contractors who are registered under the  
13 Contractor Registration Act and the Nebraska Revenue Act of 1967. The  
14 data base shall be accessible on the web site of the Department of  
15 ~~Labor.~~ Economic Development.

16           (2) Any contractor that fails to comply with the  
17 requirements of the Contractor Registration Act or Nebraska Revenue  
18 Act of 1967 shall be removed from the data base.

19           Sec. 181. Section 48-2208, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           48-2208 For purposes of the Non-English-Speaking Workers  
22 Protection Act, unless the context otherwise requires:

23           (1) Actively recruit means any affirmative act, as  
24 defined by the department, done by or on behalf of an employer for  
25 the purpose of recruitment or hiring of non-English-speaking

1 employees who reside more than five hundred miles from the place of  
2 employment;

3 ~~(2) Commissioner means the Commissioner of Labor;~~

4 ~~(3)-(2) Coordinator~~ means the meatpacking industry worker  
5 rights coordinator appointed pursuant to section 48-2213;

6 ~~(4)-(3) Department~~ means the Department of ~~Labor;~~  
7 Economic Development;

8 (4) Director means the Director of Economic Development;

9 (5) Employ means to permit to work;

10 (6) Employee means any individual employed by any  
11 employer but does not include:

12 (a) Any individual employed in agriculture; or

13 (b) Any individual employed as a child care provider in  
14 or for a private home;

15 (7) Employer means any individual, partnership, limited  
16 liability company, association, corporation, business trust, legal  
17 representative, or organized group of persons employing one hundred  
18 or more employees at any one time, except for seasonal employment of  
19 not more than twenty weeks in any calendar year, or person acting  
20 directly or indirectly in the interest of an employer in relation to  
21 an employee but does not include the United States, the state, or any  
22 political subdivision thereof;

23 (8) Meatpacking operation means a business in which  
24 slaughtering, butchering, meat canning, meat packing, meat  
25 manufacturing, poultry canning, poultry packing, poultry

1 manufacturing, pet food manufacturing, processing of meat packing  
2 products, or rendering is carried on;

3 (9) Meatpacking products includes livestock products and  
4 poultry products as such terms are defined in section 54-1902; and

5 (10) Non-English-speaking employee means an employee who  
6 does not speak, read, or understand English to the degree necessary  
7 for comprehension of the terms, conditions, and daily  
8 responsibilities of employment.

9 Sec. 182. Section 48-2210, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 48-2210 (1) An employer or a representative of an  
12 employer who actively recruits any non-English-speaking persons for  
13 employment in this state and whose ~~work force~~workforce is more than  
14 ten percent non-English-speaking employees who speak the same non-  
15 English language shall file with the ~~commissioner~~director a written  
16 statement signed by the employer and each such employee which  
17 provides relevant information regarding the position of employment,  
18 including:

19 (a) The minimum number of hours the employee can expect  
20 to work on a weekly basis;

21 (b) The hourly wages of the position of employment  
22 including the starting hourly wage;

23 (c) A description of the responsibilities and tasks of  
24 the position of employment;

25 (d) A description of the transportation and housing to be

1 provided, if any, including any costs to be charged for housing or  
2 transportation, the length of time such housing is to be provided,  
3 and whether or not such housing is in compliance with all applicable  
4 state and local housing standards; and

5 (e) Any occupational physical demands and hazards of the  
6 position of employment which are known to the employer.

7 The statement shall be written in English and in the  
8 identified language of the non-English-speaking employee, and the  
9 employer or the representative shall explain in detail the contents  
10 of the statement prior to obtaining the employee's signature. A copy  
11 of the statement shall be given to the employee.

12 It is a violation of this subsection if an employer or  
13 representative knowingly and willfully provides false or misleading  
14 information on the statement or regarding the contents of the  
15 statement.

16 (2) An employer shall provide transportation for a  
17 recruited employee, at no cost to the employee, to the location from  
18 which the employee was recruited if the employee:

19 (a) Resigns from employment within four weeks after the  
20 initial date of employment; and

21 (b) Requests transportation within not more than three  
22 days after the employee's last day of employment with the employer  
23 which recruited the employee.

24 Sec. 183. Section 48-2213, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1                   48-2213 (1) The position of meatpacking industry worker  
2 rights coordinator is established within the department. The  
3 coordinator shall be appointed by the Governor.

4                   (2) The duties of the coordinator shall be to inspect and  
5 review the practices and procedures of meat packing operations in the  
6 State of Nebraska as they relate to the provisions of the Governor's  
7 Nebraska Meatpacking Industry Workers Bill of Rights, which rights  
8 are outlined as follows:

9                   (a) The right to organize;

10                   (b) The right to a safe workplace;

11                   (c) The right to adequate facilities and the opportunity  
12 to use them;

13                   (d) The right to complete information;

14                   (e) The right to understand the information provided;

15                   (f) The right to existing state and federal benefits and  
16 rights;

17                   (g) The right to be free from discrimination;

18                   (h) The right to continuing training, including training  
19 of supervisors;

20                   (i) The right to compensation for work performed; and

21                   (j) The right to seek state help.

22                   (3) The coordinator and his or her designated  
23 representatives shall have access to all meatpacking operations in  
24 the State of Nebraska at any time meat packing products are being  
25 processed and industry workers are on the job.

1                   (4) Necessary office space, furniture, equipment, and  
2 supplies as well as necessary assistance for the coordinator shall be  
3 provided by the ~~commissioner~~. director.

4                   (5) Preference shall be given to applicants for the  
5 coordinator position who are fluent in the Spanish language.

6                   (6) The coordinator shall, on or before December 1 of  
7 each year, submit a report to the members of the Legislature and the  
8 Governor regarding any recommended actions the coordinator deems  
9 necessary or appropriate to provide for the fair treatment of workers  
10 in the meatpacking industry.

11                   Sec. 184. Section 48-2214, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13                   48-2214 The ~~commissioner~~director shall adopt and  
14 promulgate rules and regulations necessary to carry out the Non-  
15 English-Speaking Workers Protection Act. The ~~commissioner~~director or  
16 a representative of the ~~commissioner~~, director, including the  
17 coordinator, may:

18                   (1) Inspect employment records of an employer relating to  
19 the total number of employees, the total number of non-English-  
20 speaking employees, and the services provided to non-English-speaking  
21 employees; and

22                   (2) Interview an employer, any representative, any agent,  
23 or an employee of the employer during working hours or at other  
24 reasonable times.

25                   Sec. 185. Section 48-2502, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 48-2502 For purposes of the Conveyance Safety Act:

3 (1) Certificate of inspection means a document issued by  
4 the ~~commissioner~~director that indicates that the conveyance has had  
5 the required safety inspection and tests and that the required fees  
6 have been paid;

7 ~~(2) Commissioner means the Commissioner of Labor;~~

8 ~~(3)~~(2) Committee means the Conveyance Advisory  
9 Committee;

10 ~~(4)~~(3) Conveyance means any elevator, dumbwaiter,  
11 vertical reciprocating conveyor, escalator, moving sidewalk,  
12 automated people mover, and other equipment enumerated in section  
13 48-2507 and not exempted under section 48-2508;

14 (4) Director means the Director of Economic Development;

15 (5) Elevator contractor means any person who is engaged  
16 in the business of contracting services for erecting, constructing,  
17 installing, altering, servicing, testing, repairing, or maintaining  
18 conveyances;

19 (6) Elevator mechanic means any person who is engaged in  
20 erecting, constructing, installing, altering, servicing, repairing,  
21 testing, or maintaining conveyances; and

22 (7) Person means an individual, a partnership, a limited  
23 liability company, a corporation, and any other business firm or  
24 company and includes a director, an officer, a member, a manager, and  
25 a superintendent of such an entity.

1                   Sec. 186. Section 48-2504, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   48-2504 The committee:

4                   (1) May consult with engineering authorities and  
5 organizations concerned with standard safety codes;

6                   (2) Shall recommend to the ~~commissioner~~director rules  
7 and regulations governing the operation, maintenance, servicing,  
8 construction, alteration, installation, and inspection of  
9 conveyances;

10                  (3) Shall recommend to the ~~commissioner~~director  
11 qualifications for licensure as an elevator mechanic or elevator  
12 contractor and conditions for disciplinary actions, including  
13 suspension or revocation of a license;

14                  (4) Shall recommend to the ~~commissioner~~director rules  
15 and regulations for temporary and emergency elevator mechanic thirty-  
16 day licenses;

17                  (5) Shall recommend to the ~~commissioner~~director an  
18 enforcement program which will ensure compliance with the Conveyance  
19 Safety Act and the rules and regulations adopted and promulgated  
20 pursuant to the act. The enforcement program shall include the  
21 identification of property locations which are subject to the act,  
22 issuing notifications to violating property owners or operators,  
23 random onsite inspections and tests on existing installations, and  
24 assisting in development of public awareness programs; and

25                  (6) Shall make recommendations to the ~~commissioner~~

1 director regarding variances under section 48-2509, continuing  
2 education providers under section 48-2526, and license disciplinary  
3 actions under section 48-2528.

4           Sec. 187. Section 48-2506, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           48-2506 (1) The ~~commissioner~~director shall, after a  
7 public hearing conducted by the ~~commissioner~~director or his or her  
8 designee, establish a reasonable schedule of fees for licenses,  
9 permits, certificates, and inspections authorized under the  
10 Conveyance Safety Act. The ~~commissioner~~director shall establish the  
11 fees at a level necessary to meet the costs of administering the act.  
12 Inspection fee schedules relating to the inspection of conveyances  
13 adopted by the ~~commissioner~~director prior to January 1, 2008, shall  
14 continue to be effective until they are amended or repealed by the  
15 ~~commissioner~~. director.

16           (2) The ~~commissioner~~director shall administer the  
17 Conveyance Safety Act. It is the intent of the Legislature that,  
18 beginning in fiscal year 2008-09, the funding for the administration  
19 of the act shall be entirely from cash funds remitted to the  
20 Mechanical Safety Inspection Fund that are fees collected in the  
21 administration of the act.

22           Sec. 188. Section 48-2509, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           48-2509 (1) The ~~commissioner~~director shall adopt and  
25 promulgate rules and regulations which establish the regulations for

1 conveyances under the Conveyance Safety Act. The rules and  
2 regulations may include the Safety Code for Elevators and Escalators,  
3 American Society of Mechanical Engineers A17.1 except those parts  
4 exempted under section 48-2508; the standards for conveyors and  
5 related equipment, American Society of Mechanical Engineers B20.1;  
6 and the Automated People Mover Standards, American Society of Civil  
7 Engineers 21. The ~~commissioner~~director shall annually review to  
8 determine if the most current form of such standards should be  
9 adopted.

10 (2) The ~~commissioner~~director may grant a variance from  
11 the rules and regulations adopted in subsection (1) of this section  
12 in individual situations upon good cause shown if the safety of those  
13 riding or using the conveyance is not compromised by the variance.  
14 The ~~commissioner~~director shall adopt and promulgate rules and  
15 regulations for the procedure to obtain a variance. The committee  
16 shall make recommendations to the ~~commissioner~~director regarding  
17 each variance requested. The decision of the ~~commissioner~~director in  
18 granting or refusing to grant a variance may be appealed. The appeal  
19 shall be in accordance with the Administrative Procedure Act.

20 Sec. 189. Section 48-2511, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 48-2511 ~~On and after January 1, 2008:~~ Prior to any newly  
23 installed conveyance being used for the first time, the property  
24 owner or lessee shall obtain a certificate of inspection from the  
25 ~~commissioner~~director. A fee established under section 48-2506 shall

1 be paid for the certificate of inspection. A licensed elevator  
2 contractor shall complete and submit first-time registrations for new  
3 installations to the state elevator inspector for the inspector's  
4 approval. A certificate of inspection shall be clearly displayed in  
5 an elevator car and on or in each other conveyance.

6 Sec. 190. Section 48-2512.01, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 48-2512.01 (1) The ~~Commissioner of Labor~~ director shall  
9 appoint a state elevator inspector, subject to the approval of the  
10 Governor, who shall work under the direct supervision of the  
11 ~~commissioner.~~ director. The state elevator inspector serving on  
12 January 1, 2008, shall continue to serve unless removed by the  
13 ~~commissioner.~~ director.

14 (2) The person so appointed shall be qualified by (a) not  
15 less than five years' experience in the installation, maintenance,  
16 and repair of elevators as determined by the ~~commissioner,~~ director,  
17 (b) certification as a qualified elevator inspector by an association  
18 accredited by the American Society of Mechanical Engineers, or (c)  
19 not less than five years' journeyman experience in elevator  
20 installation, maintenance, and inspection as determined by the  
21 ~~Commissioner of Labor~~ director and shall be familiar with the  
22 inspection process and rules and regulations adopted and promulgated  
23 under the Conveyance Safety Act.

24 (3) The ~~commissioner,~~ director, subject to the approval  
25 of the Governor, may appoint deputy inspectors possessing the same

1 qualifications as the state elevator inspector. A qualified  
2 individual may apply for the position of inspector or deputy  
3 inspector. The application shall include the applicant's social  
4 security number, but such social security number shall not be a  
5 public record.

6 Sec. 191. Section 48-2514, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 48-2514 (1) No inspection shall be required under the  
9 Conveyance Safety Act when an owner or user of a conveyance obtains  
10 an inspection by a representative of a reputable insurance company  
11 licensed to do business in Nebraska, obtains a policy of insurance  
12 from such company upon the conveyance and files with the ~~commissioner~~  
13 director a certificate of inspection by such insurance company, files  
14 a statement that such conveyance is insured, and pays an  
15 administrative fee established pursuant to section 48-2506.

16 (2) No inspection shall be required under the act when  
17 there has been an annual inspection under a city ordinance which  
18 meets the standards of the act.

19 Sec. 192. Section 48-2516, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 48-2516 Upon a conveyance passing an inspection under  
22 section 48-2513, 48-2514, or 48-2515 and receipt of the inspection  
23 fee, the ~~commissioner~~director shall issue the owner or user of the  
24 conveyance a certificate of inspection, upon forms prescribed by the  
25 ~~commissioner~~. director.

1                   Sec. 193. Section 48-2518, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   48-2518 The ~~commissioner~~, director, the state elevator  
4 inspector, and the deputy inspectors shall have the right and power  
5 to enter any public building or structure for the purpose of  
6 inspecting any conveyance subject to the Conveyance Safety Act or  
7 gathering information with reference thereto.

8                   Sec. 194. Section 48-2520, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10                  48-2520 The owner of a conveyance shall notify the state  
11 elevator inspector of any accident causing personal injury or  
12 property damage in excess of one thousand dollars involving a  
13 conveyance on or before the close of business the next business day  
14 following the accident, and the conveyance involved shall not operate  
15 until the state elevator inspector has conducted an investigation of  
16 the accident and has approved the operation of the conveyance. The  
17 state elevator inspector shall investigate and report to the  
18 ~~commissioner~~ director the cause of any conveyance accident that may  
19 occur in the state, the loss of life, the injuries sustained, and  
20 such other data as may be of benefit in preventing other similar  
21 accidents.

22                  Sec. 195. Section 48-2521, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24                  48-2521 (1) Any person wishing to engage in the work of  
25 an elevator mechanic shall apply for and obtain an elevator mechanic

1 license from the ~~commissioner.~~ director. The application shall be on  
2 a form provided by the ~~commissioner.~~ director.

3 (2) Any person wishing to engage in the business of an  
4 elevator contractor shall apply for and obtain an elevator contractor  
5 license from the ~~commissioner.~~ director. The application shall be on  
6 a form provided by the ~~commissioner.~~ director.

7 (3) Each application shall contain:

8 (a) If an individual, the name, residence and business  
9 address, and social security number of the applicant;

10 (b) If a partnership, the name, residence and business  
11 address, and social security number of each partner;

12 (c) If a domestic corporation, the name and business  
13 address of the corporation and the name, residence address, and  
14 social security number of the principal officer of the corporation;  
15 and if a corporation other than a domestic corporation, the name and  
16 address of an agent located locally who is authorized to accept  
17 service of process and official notices;

18 (d) The number of years the applicant has engaged in the  
19 business of installing, inspecting, maintaining, or servicing  
20 conveyances;

21 (e) The approximate number of individuals to be employed  
22 by the applicant and, if applicable, satisfactory evidence that the  
23 employees are or will be covered by workers' compensation insurance;

24 (f) Satisfactory evidence that the applicant is or will  
25 be covered by general liability, personal injury, and property damage

1 insurance;

2 (g) Permission for the Department of ~~Labor~~Economic  
3 Development to access the criminal history record information of  
4 individuals, partners, or officers maintained by the Federal Bureau  
5 of Investigation through the Nebraska State Patrol;

6 (h) A description of all accidents causing personal  
7 injury or property damage in excess of one thousand dollars involving  
8 conveyances installed, inspected, maintained, or serviced by the  
9 applicant; and

10 (i) Such other information as the ~~commissioner~~director  
11 may by rule and regulation require.

12 (4) Social security numbers on applications shall not be  
13 made public or be considered a part of a public record.

14 Sec. 196. Section 48-2522, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 48-2522 The ~~commissioner~~director shall adopt and  
17 promulgate rules and regulations establishing standards for licensure  
18 of elevator mechanics. An applicant for an elevator mechanic license  
19 shall demonstrate the following qualifications before being granted  
20 an elevator mechanic license:

21 (1) Not less than three years' work experience in the  
22 conveyance industry, in construction, maintenance, and service or  
23 repair, as verified by current and previous employers;

24 (2) One of the following:

25 (a) Satisfactory completion of a written examination

1 administered by the committee on the most recent referenced codes and  
2 standards;

3 (b) Acceptable proof that the applicant has worked as a  
4 conveyance constructor, maintenance, or repair person. Such person  
5 shall have worked as an elevator mechanic without the direct and  
6 immediate supervision of a licensed elevator contractor and have  
7 passed a written examination approved by the ~~commissioner.~~ director.

8 This employment shall not be less than three years immediately prior  
9 to the effective date of the license;

10 (c) Certificates of completion and successfully passing  
11 an elevator mechanic examination of a nationally recognized training  
12 program for the conveyance industry as provided by the National  
13 Elevator Industry Educational Program or its equivalent; or

14 (d) Certificates of completion of an apprenticeship  
15 program for elevator mechanics, having standards substantially equal  
16 to those of the Conveyance Safety Act and registered with the Bureau  
17 of Apprenticeship and Training of the United States Department of  
18 Labor or a state apprenticeship council; and

19 (3) Any additional qualifications adopted and promulgated  
20 in rule and regulation by the ~~commissioner.~~ director.

21 Sec. 197. Section 48-2525, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 48-2525 Upon approval of an application for licensure as  
24 an elevator mechanic, the ~~commissioner~~ director may issue a license  
25 which shall be renewable biennially if the continuing education

1 requirements are met. The fee for licenses and for license renewal  
2 for elevator mechanic licenses and elevator contractor licenses shall  
3 be set by the ~~commissioner~~director under section 48-2506.

4           Sec. 198. Section 48-2526, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           48-2526 (1) The renewal of elevator mechanic licenses  
7 granted under the Conveyance Safety Act shall be conditioned upon the  
8 submission of a certificate of completion of a course designed to  
9 ensure the continuing education on new and existing rules and  
10 regulations adopted and promulgated by the ~~commissioner~~director.  
11 Such course shall consist of not less than eight hours of instruction  
12 that shall be attended and completed within one year immediately  
13 preceding any license renewal. The individual holding the elevator  
14 mechanic license shall pay the cost of such course.

15           (2) The courses shall be taught by instructors through  
16 continuing education providers that may include association seminars  
17 and labor training programs. The committee shall make recommendations  
18 to the ~~commissioner~~director about approval of continuing education  
19 providers.

20           (3) An elevator mechanic licensee who is unable to  
21 complete the continuing education course required under this section  
22 prior to the expiration of the license due to a temporary disability  
23 may apply for an extension from the state elevator inspector. The  
24 extension shall be on a form provided by the state elevator inspector  
25 which shall be signed by the applicant and accompanied by a certified

1 statement from a competent physician attesting to such temporary  
2 disability. Upon the termination of such temporary disability, the  
3 elevator mechanic licensee shall submit to the state elevator  
4 inspector a certified statement from the same physician, if  
5 practicable, attesting to the termination of such temporary  
6 disability. At such time an extension sticker, valid for ninety days,  
7 shall be issued to the licensed elevator mechanic and affixed to the  
8 license. Such extension shall be renewable for periods of ninety days  
9 upon a showing that the disability continues.

10 (4) Approved continuing education providers shall keep  
11 uniform records, for a period of ten years, of attendance of elevator  
12 mechanic licensees following a format approved by the state elevator  
13 inspector, and such records shall be available for inspection by the  
14 state elevator inspector upon request. Approved continuing education  
15 providers are responsible for the security of all attendance records  
16 and certificates of completion. Falsifying or knowingly allowing  
17 another to falsify such attendance records or certificates of  
18 completion shall constitute grounds for suspension or revocation of  
19 the approval required under this section.

20 Sec. 199. Section 48-2527, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 48-2527 (1) An elevator contractor shall submit to the  
23 ~~commissioner~~ director an insurance policy, or certified copy thereof,  
24 issued by an insurance company authorized to do business in the state  
25 to provide general liability coverage of at least one million dollars

1 for injury or death of any one person and one million dollars for  
2 injury or death of any number of persons in any one occurrence and to  
3 provide coverage of at least five hundred thousand dollars for  
4 property damage in any one occurrence and workers' compensation  
5 insurance coverage as required under the Nebraska Workers'  
6 Compensation Act.

7 (2) Such policies, or certified copies thereof, shall be  
8 delivered to the ~~commissioner~~director before or at the time of the  
9 issuance of a license. In the event of any material alteration or  
10 cancellation of any policy, at least ten days' notice thereof shall  
11 be given to the ~~commissioner~~director.

12 Sec. 200. Section 48-2528, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 48-2528 (1) An elevator contractor license issued under  
15 the Conveyance Safety Act may be revoked by the ~~commissioner~~director  
16 upon verification that the elevator contractor licensee lacks the  
17 insurance coverage required by section 48-2527.

18 (2) An elevator mechanic license or an elevator  
19 contractor license issued under the act may be suspended, revoked, or  
20 subject to a civil penalty not to exceed five thousand dollars by the  
21 ~~commissioner~~director, after notice and hearing, if the licensee:

22 (a) Makes a false statement as to material matter in the  
23 license application;

24 (b) Commits fraud, misrepresentation, or bribery in  
25 obtaining the license; or

1 (c) Violates any other provision of the act.

2 (3) No license shall be suspended, revoked, or subject to  
3 civil penalty until after a hearing is held before the committee and  
4 the ~~commissioner~~director or his or her designee. The hearing shall  
5 be held within sixty days after notice of the violation is received  
6 and all interested parties shall receive written notice of the  
7 hearing at least fifteen days prior to the hearing. Within fifteen  
8 days after the hearing, the committee shall make recommendations to  
9 the ~~commissioner~~director or his or her designee of appropriate  
10 penalties, if any, warranted under the circumstances of the case. The  
11 committee does not have the power to suspend or revoke licenses or  
12 impose civil penalties. Within thirty days after the hearing, the  
13 ~~commissioner~~director shall issue a decision which may include  
14 license suspension, license revocation, and civil penalties. The  
15 decision of the ~~commissioner~~director may be appealed. The appeal  
16 shall be in accordance with the Administrative Procedure Act.

17 Sec. 201. Section 48-2529, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 48-2529 The ~~commissioner~~director shall adopt and  
20 promulgate rules and regulations establishing standards and  
21 procedures for the issuance of temporary and emergency elevator  
22 mechanic thirty-day licenses and for the extension of such licenses  
23 for good cause shown.

24 Sec. 202. Section 48-2530, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1                   48-2530 (1) Any person may make a request for an  
2 investigation into an alleged violation of the Conveyance Safety Act  
3 by giving notice to the ~~commissioner~~director or state elevator  
4 inspector of such violation or danger.

5                   (2) Upon receipt of a request for an investigation, the  
6 ~~commissioner~~director or state elevator inspector shall perform a  
7 preliminary inquiry into the charges contained in the request for  
8 investigation. A request for an investigation may be made in person  
9 or by telephone call and shall set forth with reasonable  
10 particularity the grounds for the request for an investigation.  
11 During the preliminary inquiry, the name, address, and telephone  
12 number of the person making the request for an investigation shall be  
13 available only to the ~~commissioner~~director, state elevator  
14 inspector, or other person carrying out the preliminary inquiry on  
15 behalf of the ~~commissioner~~director or state elevator inspector. The  
16 ~~commissioner~~director or state elevator inspector shall keep a record  
17 of each request for an investigation received under this section for  
18 three years after such request is made.

19                   (3) If after the preliminary inquiry the ~~commissioner~~  
20 director or state elevator inspector determines that there are  
21 reasonable grounds to believe that such violation or danger exists  
22 and is likely to continue to exist such that the operation of the  
23 conveyance endangers the public, the ~~commissioner~~director or state  
24 elevator inspector shall cause a formal investigation to be made.  
25 During the formal investigation, a statement shall be taken from the

1 person who made the request for an investigation and the person's  
2 name, address, and telephone number shall be made available to any  
3 opposing parties upon request.

4 (4) If the ~~commissioner~~director or state elevator  
5 inspector determines that there are no reasonable grounds to believe  
6 that a violation or danger exists under either subsection (2) or (3)  
7 of this section, the ~~commissioner~~director shall notify the person  
8 requesting the investigation in writing of such determination.

9 Sec. 203. Section 48-2702, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 48-2702 For purposes of the Professional Employer  
12 Organization Registration Act:

13 (1) Client means any person who enters into a  
14 professional employer agreement with a professional employer  
15 organization;

16 (2) Co-employer means either a professional employer  
17 organization or a client;

18 (3) Co-employment relationship means a relationship which  
19 is intended to be an ongoing relationship rather than a temporary or  
20 project-specific one, wherein the rights, duties, and obligations of  
21 an employer which arise out of an employment relationship have been  
22 allocated between the client employer and a professional employer  
23 organization as co-employers pursuant to a professional employer  
24 agreement and the act. In such a co-employment relationship:

25 (a) The professional employer organization is entitled to

1 enforce only such employer rights and is subject to only those  
2 employer obligations specifically allocated to the professional  
3 employer organization by the professional employer agreement or the  
4 act;

5 (b) The client is entitled to enforce those rights and is  
6 obligated to provide and perform those employer obligations allocated  
7 to such client by the professional employer agreement or the act; and

8 (c) The client is entitled to enforce any right and is  
9 obligated to perform any obligation of an employer not specifically  
10 allocated to the professional employer organization by the  
11 professional employer agreement or the act;

12 (4) Covered employee means an individual having a co-  
13 employment relationship with a professional employer organization and  
14 a client who meets all of the following criteria: (a) The individual  
15 has received written notice of co-employment with the professional  
16 employer organization; and (b) the individual's co-employment  
17 relationship is pursuant to a professional employer agreement subject  
18 to the act. Individuals who are officers, directors, shareholders,  
19 partners, and managers of the client or who are members of a limited  
20 liability company if such company is the client are covered employees  
21 to the extent the professional employer organization and the client  
22 have expressly agreed in the professional employer agreement that  
23 such individuals are covered employees, if such individuals meet the  
24 criteria of this subdivision and act as operational managers or  
25 perform day-to-day operational services for the client;

1                   (5) Department means the Department of ~~Labor~~ Economic  
2 Development;

3                   (6) Direct-hire employee means an individual who is an  
4 employee of the professional employer organization within the meaning  
5 of the Nebraska Workers' Compensation Act and who is not an employee  
6 of a client and who is not a covered employee;

7                   (7) Master policy means a workers' compensation insurance  
8 policy issued to a professional employer organization that provides  
9 coverage for more than one client and may provide coverage to the  
10 professional employer organization with respect to its direct-hire  
11 employees or that provides coverage for one client in addition to the  
12 professional employer organization's direct-hire employees. Two or  
13 more clients insured under the same policy solely because they are  
14 under common ownership are considered a single client for purposes of  
15 this subdivision;

16                   (8) Multiple coordinated policy means a workers'  
17 compensation insurance policy that provides coverage for only a  
18 single client or group of clients under common ownership but with  
19 payment obligations and certain policy communications coordinated  
20 through the professional employer organization;

21                   (9) Person means any individual, partnership,  
22 corporation, limited liability company, association, or any other  
23 form of legally recognized entity;

24                   (10) Professional employer agreement means a written  
25 contract by and between a client and a professional employer

1 organization that provides:

2 (a) For the co-employment of covered employees;

3 (b) For the allocation of employer rights and obligations  
4 between the client and the professional employer organization with  
5 respect to covered employees; and

6 (c) That the professional employer organization and the  
7 client assume the responsibilities required by the Professional  
8 Employer Organization Registration Act;

9 (11)(a) Professional employer organization means any  
10 person engaged in the business of providing professional employer  
11 services. The applicability of the act to a person engaged in the  
12 business of providing professional employer services shall be  
13 unaffected by the person's use of the term staff leasing company,  
14 administrative employer, employee leasing company, or any name other  
15 than professional employer organization or PEO.

16 (b) The following are not professional employer  
17 organizations or professional employment services for purposes of the  
18 act:

19 (i) Arrangements wherein a person, whose principal  
20 business activity is not entering into professional employer  
21 arrangements and which does not hold itself out as a professional  
22 employer organization, shares employees with a commonly owned company  
23 within the meaning of sections 414(b) and (c) of the Internal Revenue  
24 Code;

25 (ii) Independent contractor arrangements by which a

1 person assumes responsibility for the product produced or service  
2 performed by such person or his or her agents and retains and  
3 exercises primary direction and control over the work performed by  
4 the individuals whose services are supplied under such arrangements;  
5 and

6 (iii) Providing temporary help services;

7 (12) Professional employer organization group means two  
8 or more professional employer organizations that are majority-owned  
9 or commonly controlled by the same entity, parent company, or  
10 controlling person;

11 (13) Professional employer services means the service of  
12 entering into co-employment relationships;

13 (14) Registrant means a professional employer  
14 organization registered under the act;

15 (15) Temporary help services means services consisting of  
16 a person:

17 (a) Recruiting and hiring its own employees;

18 (b) Finding other organizations that need the services of  
19 those employees;

20 (c) Assigning those employees (i) to perform work at or  
21 services for the other organizations to support or supplement the  
22 other organizations' workforces, (ii) to provide assistance in  
23 special work situations, including employee absences, skill  
24 shortages, or seasonal workloads, or (iii) to perform special  
25 assignments or projects; and

1 (d) Customarily attempting to reassign the employees to  
2 other organizations when they finish each assignment; and

3 (16) Working capital means current assets less current  
4 liabilities as defined by generally accepted accounting principles.

5 Sec. 204. Section 48-2902, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 48-2902 For purposes of the Employee Classification Act:

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

9 ~~(2)~~ (1) Construction has the same meaning as in section  
10 48-2103;

11 ~~(3)~~ (2) Contractor means an individual, partnership,  
12 limited liability company, corporation, or other business entity  
13 engaged in a delivery service or a construction contractor business,  
14 as contractor is defined in section 48-2103, and includes any  
15 subcontractor performing services for a contractor;

16 ~~(4)~~ (3) Delivery service means the transport and delivery  
17 of goods, products, supplies, or raw materials upon the highways of  
18 this state;

19 ~~(5)~~ (4) Department means the Department of ~~Labor;~~ and  
20 Economic Development;

21 (5) Director means the Director of Economic Development;  
22 and

23 (6) Performing services means the performance of  
24 construction labor or delivery services for remuneration.

25 Sec. 205. Section 48-2907, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           48-2907 In addition to any other fines or penalties  
3 provided by law, if the ~~commissioner~~director finds, after notice and  
4 hearing, that a contractor has violated the Employee Classification  
5 Act, the contractor shall be assessed, by the ~~commissioner~~director,  
6 a five-hundred-dollar fine per each misclassified individual for the  
7 first offense and a five-thousand-dollar fine per each misclassified  
8 individual for each second and subsequent offense.

9           Sec. 206. Section 48-2908, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           48-2908 Upon finding a contractor has violated the  
12 Employee Classification Act, the ~~commissioner~~director shall  
13 instigate proceedings pursuant to the Employment Security Law to  
14 collect any unpaid combined taxes plus interest. The ~~commissioner~~  
15 director shall share any violations with the Department of Revenue  
16 for analysis of violations of the Nebraska Revenue Act of 1967 and  
17 with the Nebraska Workers' Compensation Court. Upon receipt, the  
18 Department of Revenue shall promptly investigate and, if appropriate,  
19 proceed with the collection of any income tax not withheld plus  
20 interest and penalties. The ~~commissioner~~director, Department of  
21 Revenue, and Nebraska Workers' Compensation Court shall refer any  
22 violation reasonably believed to be a civil or criminal violation of  
23 the Employment Security Law, the Nebraska Revenue Act of 1967, the  
24 Nebraska Workers' Compensation Act, or another law to the appropriate  
25 prosecuting authority for appropriate action.

1                   Sec. 207. Section 48-2910, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   48-2910 Every contractor shall post in a conspicuous  
4 place at the job site or place of business in English and Spanish the  
5 following notice:

6                   (1) Every individual working for a contractor has the  
7 right to be properly classified by the contractor as an employee  
8 rather than an independent contractor if the individual does not meet  
9 the requirements of an independent contractor under the law known as  
10 the Employee Classification Act.

11                   (2) If you believe you or someone else has not been  
12 properly classified as an employee or an independent contractor under  
13 the Employee Classification Act, contact the Department of ~~Labor.~~  
14 Economic Development.

15                   Sec. 208. Section 49-506, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17                   49-506 (1) After the Secretary of State has made the  
18 distribution provided by section 49-503, he or she shall deliver  
19 additional copies of the session laws and the journal of the  
20 Legislature pursuant to this section in print or electronic format as  
21 he or she determines, upon recommendation by the Clerk of the  
22 Legislature and approval of the Executive Board of the Legislative  
23 Council.

24                   (2) One copy of the session laws shall be delivered to  
25 the Lieutenant Governor, the State Treasurer, the Auditor of Public

1 Accounts, the Reporter of the Supreme Court and Court of Appeals, the  
2 State Court Administrator, the State Fire Marshal, the Department of  
3 Administrative Services, the Department of Aeronautics, the  
4 Department of Agriculture, the Department of Banking and Finance, the  
5 Department of Economic Development, the State Department of  
6 Education, the Department of Environmental Quality, the Department of  
7 Insurance, ~~the Department of Labor,~~ the Department of Motor Vehicles,  
8 the Department of Revenue, the Department of Roads, the Department of  
9 Veterans' Affairs, the Department of Natural Resources, the Military  
10 Department, the Nebraska State Patrol, the Nebraska Commission on Law  
11 Enforcement and Criminal Justice, each of the Nebraska state  
12 colleges, the Game and Parks Commission, the Nebraska Library  
13 Commission, the Nebraska Liquor Control Commission, the Nebraska  
14 Accountability and Disclosure Commission, the Public Service  
15 Commission, the State Real Estate Commission, the Nebraska State  
16 Historical Society, the Public Employees Retirement Board, the Risk  
17 Manager, the Legislative Fiscal Analyst, the Public Counsel, the  
18 materiel division of the Department of Administrative Services, the  
19 State Records Administrator, the budget division of the Department of  
20 Administrative Services, the Tax Equalization and Review Commission,  
21 the inmate library at all state penal and correctional institutions,  
22 the Commission on Public Advocacy, and the Library of Congress; two  
23 copies to the Governor, the Secretary of State, the Nebraska Workers'  
24 Compensation Court, the Commission of Industrial Relations, and the  
25 Coordinating Commission for Postsecondary Education, one of which

1 shall be for use by the community colleges; three copies to the  
2 Department of Health and Human Services; four copies to the Nebraska  
3 Publications Clearinghouse; five copies to the Attorney General; nine  
4 copies to the Revisor of Statutes; sixteen copies to the Supreme  
5 Court and the Legislative Council; and thirty-five copies to the  
6 University of Nebraska College of Law.

7           (3) One copy of the journal of the Legislature shall be  
8 delivered to the Governor, the Lieutenant Governor, the State  
9 Treasurer, the Auditor of Public Accounts, the Reporter of the  
10 Supreme Court and Court of Appeals, the State Court Administrator,  
11 the Nebraska State Historical Society, the Legislative Fiscal  
12 Analyst, the Tax Equalization and Review Commission, the Commission  
13 on Public Advocacy, and the Library of Congress; two copies to the  
14 Secretary of State, the Commission of Industrial Relations, and the  
15 Nebraska Workers' Compensation Court; four copies to the Nebraska  
16 Publications Clearinghouse; five copies to the Attorney General and  
17 the Revisor of Statutes; eight copies to the Clerk of the  
18 Legislature; thirteen copies to the Supreme Court and the Legislative  
19 Council; and thirty-five copies to the University of Nebraska College  
20 of Law. The remaining copies shall be delivered to the State  
21 Librarian who shall use the same, so far as required for exchange  
22 purposes, in building up the State Library and in the manner  
23 specified in sections 49-507 to 49-509.

24           Sec. 209. Section 49-617, Revised Statutes Supplement,  
25 2011, is amended to read:

1                   49-617 The Revisor of Statutes shall cause the statutes  
2 to be printed. The printer shall deliver all completed copies to the  
3 Supreme Court. These copies shall be held and disposed of by the  
4 court as follows: Sixty copies to the State Library to exchange for  
5 statutes of other states; five copies to the State Library to keep  
6 for daily use; not to exceed twenty-five copies to the Legislative  
7 Council for bill drafting and related services to the Legislature and  
8 executive state officers; as many copies to the Attorney General as  
9 he or she has attorneys on his or her staff; as many copies to the  
10 Commission on Public Advocacy as it has attorneys on its staff; up to  
11 sixteen copies to the State Court Administrator; thirteen copies to  
12 the Tax Commissioner; eight copies to the Nebraska Publications  
13 Clearinghouse; six copies to the Public Service Commission; four  
14 copies to the Secretary of State; three copies to the Tax  
15 Equalization and Review Commission; four copies to the Clerk of the  
16 Legislature for use in his or her office and three copies to be  
17 maintained in the legislative chamber, one copy on each side of the  
18 chamber and one copy at the desk of the Clerk of the Legislature,  
19 under control of the sergeant at arms; three copies to the Department  
20 of Health and Human Services; two copies each to the Governor of the  
21 state, the Chief Justice and each judge of the Supreme Court, each  
22 judge of the Court of Appeals, the Clerk of the Supreme Court, the  
23 Reporter of the Supreme Court and Court of Appeals, the ~~Commissioner~~  
24 ~~of Labor,~~ the Auditor of Public Accounts, and the Revisor of  
25 Statutes; one copy each to the Secretary of State of the United

1 States, each Indian tribal court located in the State of Nebraska,  
2 the library of the Supreme Court of the United States, the Adjutant  
3 General, the Air National Guard, the Commissioner of Education, the  
4 State Treasurer, the Board of Educational Lands and Funds, the  
5 Director of Agriculture, the Director of Administrative Services, the  
6 Director of Aeronautics, the Director of Economic Development, the  
7 director of the Nebraska Public Employees Retirement Systems, the  
8 Director-State Engineer, the Director of Banking and Finance, the  
9 Director of Insurance, the Director of Motor Vehicles, the Director  
10 of Veterans' Affairs, the Director of Natural Resources, the Director  
11 of Correctional Services, the Nebraska Emergency Operating Center,  
12 each judge of the Nebraska Workers' Compensation Court, each  
13 commissioner of the Commission of Industrial Relations, the Nebraska  
14 Liquor Control Commission, the State Real Estate Commission, the  
15 secretary of the Game and Parks Commission, the Board of Pardons,  
16 each state institution under the Department of Health and Human  
17 Services, each state institution under the State Department of  
18 Education, the State Surveyor, the Nebraska State Patrol, the  
19 materiel division of the Department of Administrative Services, the  
20 personnel division of the Department of Administrative Services, the  
21 Nebraska Motor Vehicle Industry Licensing Board, the Board of  
22 Trustees of the Nebraska State Colleges, each of the Nebraska state  
23 colleges, each district judge of the State of Nebraska, each judge of  
24 the county court, each judge of a separate juvenile court, the  
25 Lieutenant Governor, each United States Senator from Nebraska, each

1 United States Representative from Nebraska, each clerk of the  
2 district court for the use of the district court, the clerk of the  
3 Nebraska Workers' Compensation Court, each clerk of the county court,  
4 each county attorney, each county public defender, each county law  
5 library, and the inmate library at all state penal and correctional  
6 institutions, and each member of the Legislature shall be entitled to  
7 two complete sets, and two complete sets of such volumes as are  
8 necessary to update previously issued volumes, but each member of the  
9 Legislature and each judge of any court referred to in this section  
10 shall be entitled, on request, to an additional complete set. Copies  
11 of the statutes distributed without charge, as listed in this  
12 section, shall be the property of the state or governmental  
13 subdivision of the state and not the personal property of the  
14 particular person receiving a copy. Distribution of statutes to the  
15 library of the College of Law of the University of Nebraska shall be  
16 as provided in sections 85-176 and 85-177.

17           Sec. 210. Section 55-161, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           55-161 (1) The parts of the federal Uniformed Services  
20 Employment and Reemployment Rights Act of 1994, 38 U.S.C. Chapter 43,  
21 listed in subdivisions (a) through (j) of this subsection or any  
22 other parts referred to by such parts, in existence and effective as  
23 of January 1, 2001, are adopted as Nebraska law. This section ~~shall~~  
24 ~~be is~~ applicable to all persons employed in the State of Nebraska and  
25 ~~shall include~~ includes all officers and permanent employees,

1 including teachers employed on a one-year contract basis and elected  
2 officials, of the state or of any of its agencies or political  
3 subdivisions. The Legislature hereby adopts:

4 (a) Section 4301(a) - Purposes;

5 (b) Section 4302 - Relation to other law and plans or  
6 agreements;

7 (c) Section 4303(2),(4),(7) through (13),(15), and (16)  
8 and those portions of subparagraph (3) not relating to employment in  
9 a foreign country - Definitions;

10 (d) Section 4304 - Character of service;

11 (e) Section 4311 - Discrimination against persons who  
12 serve in the uniformed services and acts of reprisal prohibited;

13 (f) Section 4312 - Reemployment rights of persons who  
14 serve in the uniformed services;

15 (g) Section 4313 with the exception of that portion of  
16 subparagraph (a) dealing with reemployment of federal employees -  
17 Reemployment positions;

18 (h) Section 4316 - Rights, benefits, and obligations of  
19 persons absent from employment for service in a uniformed service;

20 (i) Section 4317 - Health plans; and

21 (j) Section 4318 - Employee pension benefit plans.

22 (2) This section applies to all members performing duty  
23 in active service of the state.

24 (3) The proper appointing authority or employer may make  
25 a temporary appointment to fill any vacancy created by the absence of

1 an officer or employee pursuant to this section. Such officer or  
2 employee shall not be discharged from his or her former or new  
3 position without justifiable cause within one year after  
4 reinstatement.

5 (4) The ~~Commissioner of Labor~~ Director of Economic  
6 Development shall enforce this section.

7 (5) The Adjutant General shall perform duties assigned to  
8 the Secretary of Defense, Secretary of Veterans Affairs, or Secretary  
9 of Labor of the United States in the portions of 38 U.S.C. Chapter 43  
10 adopted under this section.

11 Sec. 211. Section 55-161.01, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 55-161.01 Any person who feels that his or her employment  
14 rights under the provisions of section 55-161 have been violated may  
15 file complaint with respect thereto with the ~~Commissioner of Labor.~~  
16 Director of Economic Development. Such complaint shall not be subject  
17 to formal requirements but shall be sufficient if it identifies the  
18 parties involved and the right or rights alleged to have been  
19 violated. The ~~commissioner-director~~ shall promptly investigate each  
20 such complaint and if he or she finds that the allegations thereof  
21 are true he or she shall issue his or her order to the offending  
22 party directing the granting to complainant of all his or her rights  
23 under section 55-161, including the granting of backpay from the date  
24 the violation occurred. If such order has not been complied with  
25 within ten days after its mailing, by registered or certified mail,

1 the ~~commissioner~~director may file suit in the district court for the  
2 county in which the alleged violation occurred for a writ of mandamus  
3 ordering the granting of the rights wrongfully denied together with  
4 backpay from the date the violation occurred. Such suit shall be  
5 determined by the court as expeditiously as practicable. The court  
6 shall enter such order as the evidence shows to be appropriate,  
7 including, in cases of flagrant violations of rights, the removal  
8 from office or employment of the person or persons responsible  
9 therefor when such removal is permitted by the Constitution of the  
10 State of Nebraska. In any such suit or in any appeal from the  
11 decision of the district court, the ~~commissioner~~director may employ  
12 private counsel with the written authorization required by  
13 subdivision (5) of section 84-205. A reasonable fee for such counsel  
14 shall be allowed by the court in any case in which a decision  
15 favorable to the ~~commissioner~~director is rendered.

16 Sec. 212. Section 60-368, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 60-368 Sections 60-367 and 60-3,112 shall be operative as  
19 to motor vehicles or trailers owned by a nonresident of this state  
20 only to the extent that under the laws of the foreign country, state,  
21 territory, or federal district of his or her residence, like  
22 exemptions and privileges are guaranteed to motor vehicles or  
23 trailers duly registered under the laws of and owned by residents of  
24 this state or to a motor vehicle or trailer duly licensed in the  
25 state of residence and operated by a nonresident agricultural worker,

1 certified by the Department of ~~Labor~~, Economic Development, as  
2 engaged in temporary agricultural employment in this state, for a  
3 period of not to exceed sixty days.

4           Sec. 213. Section 60-488, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           60-488 (1) A nonresident shall not be prevented from  
7 operating a motor vehicle upon the highways of this state during the  
8 period within which he or she may lawfully operate such motor vehicle  
9 in the state under the general motor vehicle laws of this state, but  
10 in no event shall such immunity extend beyond a period of thirty days  
11 continuous residence in the State of Nebraska.

12           (2) Subsection (1) of this section shall be subject to  
13 the following limitations:

14           (a) Such nonresident shall be duly licensed under the  
15 motor vehicle laws of the state of his or her residence or have  
16 complied with the laws of the state of his or her residence relating  
17 to the registration or licensing of motor vehicles and conformed to  
18 the laws of such state of residence in relation to the operators of  
19 motor vehicles;

20           (b) A nonresident who is serving in this state on active  
21 duty as a member of the United States Armed Forces, or the spouse of  
22 any such person or a dependent of such member of the armed forces,  
23 shall be exempt from the licensing requirements of this state if he  
24 or she is duly licensed under the laws of the state of his or her  
25 residence;

1           (c) A nonresident who is considered to be a full-time  
2 student in any institution of postsecondary education in this state  
3 shall be exempt from the licensing requirements of this state if such  
4 person is duly licensed under the laws of the state of his or her  
5 residence; and

6           (d) A nonresident certified by the Department of ~~Labor~~  
7 Economic Development as engaged in temporary agricultural employment  
8 in Nebraska for a period of not to exceed sixty days may be granted  
9 an additional thirty days' immunity if a similar immunity is granted  
10 by the state of his or her permanent residence to residents of  
11 Nebraska while temporarily employed in agricultural employment in  
12 such state.

13           Sec. 214. Section 68-1711, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           68-1711 State agencies, including the Department of  
16 Health and Human Services and the Department of ~~Labor~~, Economic  
17 Development, which assess training options, job readiness, adult  
18 basic skills, aptitudes, interests, workplace maturity, and career  
19 development of applicants for services shall utilize a common,  
20 comprehensive assessment tool.

21           Sec. 215. Section 68-1732, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           68-1732 It is the intent of the Legislature that the  
24 Department of Health and Human Services, the State Department of  
25 Education, ~~the Department of Labor~~, the Office of Probation

1 Administration, the Department of Correctional Services, and the  
2 Department of Economic Development will have integrated programs and  
3 policies when serving a common customer. Organizational mergers and  
4 operating agreements shall be developed within state government which  
5 bring together the state's community-based child-serving and family-  
6 serving resources in the areas of health care services, social  
7 services, mental health services, developmental disabilities  
8 services, juvenile justice, and education. Such actions shall  
9 eliminate the need for the public to understand the differing roles,  
10 responsibilities, and services of the agencies enumerated in this  
11 section and their affiliates.

12           Sec. 216. Section 74-915, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           74-915 The Department of ~~Labor~~ Economic Development is  
15 hereby authorized to promulgate and enforce reasonable rules and  
16 regulations after due notice and hearing for the safety, sanitation,  
17 shelter, and health of railroad maintenance-of-way employees, as far  
18 as shelter and drinking water for human consumption pertain to the  
19 railroad maintenance-of-way employees.

20           Sec. 217. Section 74-917, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           74-917 In the event of any dispute or disagreement  
23 between any employee and any employer as to the intent, meaning, and  
24 interpretation of any or all of the rules adopted in accordance with  
25 section 74-915, the Department of ~~Labor~~ Economic Development shall

1 give notice, to the parties interested, of a date for hearing  
2 thereon. After hearing the testimony of all parties, it shall enter  
3 an order in accordance therewith.

4           Sec. 218. Section 77-373.01, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           77-373.01 (1) The Department of ~~Labor~~Economic  
7 Development and the Department of Revenue shall use the codes under  
8 the North American Industry Classification System for the compilation  
9 and publication of statistics rather than codes under the Standard  
10 Industrial Classification System.

11           For the sole purpose of determining or updating the  
12 proper code under the appropriate industrial classification system,  
13 the Department of ~~Labor~~Economic Development and the Department of  
14 Revenue may disclose to the other department identification  
15 information about taxpayers conducting a business in this state. The  
16 information disclosed shall be strictly limited to the name, address,  
17 and federal employer identification number or numbers of the taxpayer  
18 and the code under the industrial classification system.

19           (2) Notwithstanding sections 77-2711 and 77-27,119 and  
20 for the sole purpose of administration of the Contractor Registration  
21 Act and the contractor data base provisions of section 48-2117, the  
22 Department of ~~Labor~~Economic Development and the Department of  
23 Revenue may disclose to the other department identification  
24 information about taxpayers conducting a business in this state. The  
25 information disclosed shall be limited to the name, address, and

1 federal employer identification number or numbers of the taxpayer.

2 (3) The disclosures allowed under this section may be  
3 made notwithstanding any other provision of law of this state  
4 regarding disclosure of information by either department. Any  
5 information received by either department under this section shall be  
6 considered confidential by the receiving department, and any employee  
7 who discloses such information other than as specifically allowed by  
8 this section or other laws of this state shall be subject to the  
9 penalties normally imposed on employees who improperly disclose  
10 information.

11 Sec. 219. Section 77-378, Revised Statutes Cumulative  
12 Supplement, 2010, is amended to read:

13 77-378 (1) The Department of Revenue and the Department  
14 of ~~Labor~~ Economic Development shall prepare, maintain, and publish a  
15 list of delinquent taxpayers who owe taxes or fees, including  
16 interest, penalties, and costs, in excess of twenty thousand dollars  
17 for which a notice of lien has been filed with the appropriate filing  
18 officer in accordance with the Uniform State Tax Lien Registration  
19 and Enforcement Act, except that no such list of delinquent taxpayers  
20 shall include any taxpayer that has not exhausted or waived all  
21 rights of appeal from a final balance of tax liability. The list may  
22 be posted on the web site of the Department of Revenue or the  
23 Department of ~~Labor~~ Economic Development. The list shall include the  
24 name and address of the delinquent taxpayer, the type of tax or fee  
25 due, and the amount of tax or fee due, including interest, penalties,

1 and costs.

2 (2) The Tax Commissioner and ~~Commissioner of Labor~~  
3 Director of Economic Development shall update the list of delinquent  
4 taxpayers on a quarterly basis. The list shall not include (a) the  
5 name or related information of any taxpayer who has entered into a  
6 payment agreement with the Tax Commissioner or ~~Commissioner of Labor~~  
7 director and who is in compliance with that agreement or (b) the name  
8 or related information of any person who is protected by a stay that  
9 is in effect under the federal bankruptcy law. The name of a taxpayer  
10 shall be removed from the list within fifteen days after the payment  
11 in full of the debt or within fifteen days after the taxpayer enters  
12 into a payment agreement with the Tax Commissioner or ~~Commissioner of~~  
13 ~~Labor.~~ director. A taxpayer may be placed back on the list if the  
14 taxpayer is more than fifteen days delinquent on a payment agreement.

15 (3) At least thirty days before the disclosure of the  
16 name of a delinquent taxpayer pursuant to subsection (1) of this  
17 section, the Tax Commissioner or ~~Commissioner of Labor~~ director shall  
18 mail a written notice to the delinquent taxpayer at the taxpayer's  
19 last-known address informing the taxpayer that the failure to cure  
20 the tax delinquency could result in the taxpayer's name being  
21 included in a list of delinquent taxpayers that is published by the  
22 Tax Commissioner or ~~Commissioner of Labor~~ director pursuant to this  
23 section.

24 Sec. 220. Section 77-3,116, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1                   77-3,116 (1) The Department of Revenue and the Department  
2 of ~~Labor~~ Economic Development shall cooperate and participate in the  
3 collection of data for the study. Other state agencies, including the  
4 University of Nebraska, shall assist in the study or the update as  
5 requested by the Department of Revenue and as any necessary funds are  
6 available. Any agency may contract with the Department of Revenue to  
7 provide such assistance. The Department of Revenue may also contract  
8 with an independent entity for the entity to conduct or assist in  
9 conducting such study or update. The department, other state agency,  
10 or independent entity preparing the material or study shall utilize  
11 and consider, along with other information, the results of any  
12 available study relating to the items listed in section 77-3,115 and  
13 conducted or contracted for by the Legislature in the year prior to  
14 April 16, 1992.

15                   ~~A preliminary report of the initial study's models and~~  
16 ~~initial findings shall be reported by the Department of Revenue to~~  
17 ~~the chairpersons of the Appropriations Committee and Revenue~~  
18 ~~Committee of the Legislature, the Clerk of the Legislature, and the~~  
19 ~~Governor by December 1, 1992. The initial study shall be completed~~  
20 ~~and the department shall report its findings to the same entities by~~  
21 ~~December 1, 1993. The study shall be updated and the update shall be~~  
22 ~~reported to the same entities~~ (2) The Department of Revenue shall  
23 update the study and the updates shall be reported to the  
24 chairpersons of the Appropriations Committee and Revenue Committee of  
25 the Legislature, the Clerk of the Legislature, and the Governor ~~(1)~~

1 (a) on December 1, 1994, and every four years thereafter or ~~(2)~~(b)  
2 more often if determined appropriate by the Tax Commissioner and if  
3 the data or economic circumstances reported in the previous report  
4 have changed to such a degree as to vary the conclusions in the  
5 previous report or update.

6 (3) Any models developed for the initial study or update  
7 shall be shared with the Legislative Fiscal Analyst. The Department  
8 of Revenue shall include in its budget request for every other  
9 biennium following the 1991-93 biennium sufficient appropriation  
10 authority to conduct or contract for the required update.

11 Sec. 221. Section 77-2711, Revised Statutes Cumulative  
12 Supplement, 2010, is amended to read:

13 77-2711 (1)(a) The Tax Commissioner shall enforce  
14 sections 77-2701.04 to 77-2713 and may prescribe, adopt, and enforce  
15 rules and regulations relating to the administration and enforcement  
16 of such sections.

17 (b) The Tax Commissioner may prescribe the extent to  
18 which any ruling or regulation shall be applied without retroactive  
19 effect.

20 (2) The Tax Commissioner may employ accountants,  
21 auditors, investigators, assistants, and clerks necessary for the  
22 efficient administration of the Nebraska Revenue Act of 1967 and may  
23 delegate authority to his or her representatives to conduct hearings,  
24 prescribe regulations, or perform any other duties imposed by such  
25 act.

1           (3)(a) Every seller, every retailer, and every person  
2 storing, using, or otherwise consuming in this state property  
3 purchased from a retailer shall keep such records, receipts,  
4 invoices, and other pertinent papers in such form as the Tax  
5 Commissioner may reasonably require.

6           (b) Every such seller, retailer, or person shall keep  
7 such records for not less than three years from the making of such  
8 records unless the Tax Commissioner in writing sooner authorized  
9 their destruction.

10           (4) The Tax Commissioner or any person authorized in  
11 writing by him or her may examine the books, papers, records, and  
12 equipment of any person selling property and any person liable for  
13 the use tax and may investigate the character of the business of the  
14 person in order to verify the accuracy of any return made or, if no  
15 return is made by the person, to ascertain and determine the amount  
16 required to be paid. In the examination of any person selling  
17 property or of any person liable for the use tax, an inquiry shall be  
18 made as to the accuracy of the reporting of city sales and use taxes  
19 for which the person is liable under the Local Option Revenue Act or  
20 sections 13-319, 13-324, and 13-2813 and the accuracy of the  
21 allocation made between the various counties, cities, villages, and  
22 municipal counties of the tax due. The Tax Commissioner may make or  
23 cause to be made copies of resale or exemption certificates and may  
24 pay a reasonable amount to the person having custody of the records  
25 for providing such copies.

1           (5) The taxpayer shall have the right to keep or store  
2 his or her records at a point outside this state and shall make his  
3 or her records available to the Tax Commissioner at all times.

4           (6) In administration of the use tax, the Tax  
5 Commissioner may require the filing of reports by any person or class  
6 of persons having in his, her, or their possession or custody  
7 information relating to sales of property, the storage, use, or other  
8 consumption of which is subject to the tax. The report shall be filed  
9 when the Tax Commissioner requires and shall set forth the names and  
10 addresses of purchasers of the property, the sales price of the  
11 property, the date of sale, and such other information as the Tax  
12 Commissioner may require.

13           (7) It shall be a Class I misdemeanor for the Tax  
14 Commissioner or any official or employee of the Tax Commissioner, the  
15 State Treasurer, or the Department of Administrative Services to make  
16 known in any manner whatever the business affairs, operations, or  
17 information obtained by an investigation of records and activities of  
18 any retailer or any other person visited or examined in the discharge  
19 of official duty or the amount or source of income, profits, losses,  
20 expenditures, or any particular thereof, set forth or disclosed in  
21 any return, or to permit any return or copy thereof, or any book  
22 containing any abstract or particulars thereof to be seen or examined  
23 by any person not connected with the Tax Commissioner. Nothing in  
24 this section shall be construed to prohibit (a) the delivery to a  
25 taxpayer, his or her duly authorized representative, or his or her

1 successors, receivers, trustees, executors, administrators,  
2 assignees, or guarantors, if directly interested, of a certified copy  
3 of any return or report in connection with his or her tax, (b) the  
4 publication of statistics so classified as to prevent the  
5 identification of particular reports or returns and the items  
6 thereof, (c) the inspection by the Attorney General, other legal  
7 representative of the state, or county attorney of the reports or  
8 returns of any taxpayer when either (i) information on the reports or  
9 returns is considered by the Attorney General to be relevant to any  
10 action or proceeding instituted by the taxpayer or against whom an  
11 action or proceeding is being considered or has been commenced by any  
12 state agency or the county or (ii) the taxpayer has instituted an  
13 action to review the tax based thereon or an action or proceeding  
14 against the taxpayer for collection of tax or failure to comply with  
15 the Nebraska Revenue Act of 1967 is being considered or has been  
16 commenced, (d) the furnishing of any information to the United States  
17 Government or to states allowing similar privileges to the Tax  
18 Commissioner, (e) the disclosure of information and records to a  
19 collection agency contracting with the Tax Commissioner pursuant to  
20 sections 77-377.01 to 77-377.04, (f) the disclosure to another party  
21 to a transaction of information and records concerning the  
22 transaction between the taxpayer and the other party, (g) the  
23 disclosure of information pursuant to section 77-27,195 or 77-5731,  
24 or (h) the disclosure of information to the Department of ~~Labor~~  
25 Economic Development necessary for the administration of the

1 Employment Security Law, the Contractor Registration Act, or the  
2 Employee Classification Act.

3 (8) Notwithstanding the provisions of subsection (7) of  
4 this section, the Tax Commissioner may permit the Postal Inspector of  
5 the United States Postal Service or his or her delegates to inspect  
6 the reports or returns of any person filed pursuant to the Nebraska  
7 Revenue Act of 1967 when information on the reports or returns is  
8 relevant to any action or proceeding instituted or being considered  
9 by the United States Postal Service against such person for the  
10 fraudulent use of the mails to carry and deliver false and fraudulent  
11 tax returns to the Tax Commissioner with the intent to defraud the  
12 State of Nebraska or to evade the payment of Nebraska state taxes.

13 (9) Notwithstanding the provisions of subsection (7) of  
14 this section, the Tax Commissioner may permit other tax officials of  
15 this state to inspect the tax returns, reports, and applications  
16 filed under sections 77-2701.04 to 77-2713, but such inspection shall  
17 be permitted only for purposes of enforcing a tax law and only to the  
18 extent and under the conditions prescribed by the rules and  
19 regulations of the Tax Commissioner.

20 (10) Notwithstanding the provisions of subsection (7) of  
21 this section, the Tax Commissioner may, upon request, provide the  
22 county board of any county which has exercised the authority granted  
23 by section 81-1254 with a list of the names and addresses of the  
24 hotels located within the county for which lodging sales tax returns  
25 have been filed or for which lodging sales taxes have been remitted

1 for the county's County Visitors Promotion Fund under the Nebraska  
2 Visitors Development Act.

3           The information provided by the Tax Commissioner shall  
4 indicate only the names and addresses of the hotels located within  
5 the requesting county for which lodging sales tax returns have been  
6 filed for a specified period and the fact that lodging sales taxes  
7 remitted by or on behalf of the hotel have constituted a portion of  
8 the total sum remitted by the state to the county for a specified  
9 period under the provisions of the Nebraska Visitors Development Act.  
10 No additional information shall be revealed.

11           (11)(a) Notwithstanding the provisions of subsection (7)  
12 of this section, the Tax Commissioner shall, upon written request by  
13 the Auditor of Public Accounts or the Legislative Performance Audit  
14 Committee, make tax returns and tax return information open to  
15 inspection by or disclosure to Auditor of Public Accounts or  
16 Legislative Performance Audit Section employees for the purpose of  
17 and to the extent necessary in making an audit of the Department of  
18 Revenue pursuant to section 50-1205 or 84-304. Confidential tax  
19 returns and tax return information shall be audited only upon the  
20 premises of the Department of Revenue. All audit workpapers  
21 pertaining to the audit of the Department of Revenue shall be stored  
22 in a secure place in the Department of Revenue.

23           (b) No employee of the Auditor of Public Accounts or  
24 Legislative Performance Audit Section shall disclose to any person,  
25 other than another Auditor of Public Accounts or Legislative

1 Performance Audit Section employee whose official duties require such  
2 disclosure or as provided in subsections (2) and (3) of section  
3 50-1213, any return or return information described in the Nebraska  
4 Revenue Act of 1967 in a form which can be associated with or  
5 otherwise identify, directly or indirectly, a particular taxpayer.

6 (c) Any person who violates the provisions of this  
7 subsection shall be guilty of a Class I misdemeanor. For purposes of  
8 this subsection, employee includes a former Auditor of Public  
9 Accounts or Legislative Performance Audit Section employee.

10 (12) For purposes of this subsection and subsection (11)  
11 of this section:

12 (a) Disclosure means the making known to any person in  
13 any manner a tax return or return information;

14 (b) Return information means:

15 (i) A taxpayer's identification number and (A) the  
16 nature, source, or amount of his or her income, payments, receipts,  
17 deductions, exemptions, credits, assets, liabilities, net worth, tax  
18 liability, tax withheld, deficiencies, overassessments, or tax  
19 payments, whether the taxpayer's return was, is being, or will be  
20 examined or subject to other investigation or processing or (B) any  
21 other data received by, recorded by, prepared by, furnished to, or  
22 collected by the Tax Commissioner with respect to a return or the  
23 determination of the existence or possible existence of liability or  
24 the amount of liability of any person for any tax, penalty, interest,  
25 fine, forfeiture, or other imposition or offense; and

1           (ii) Any part of any written determination or any  
2 background file document relating to such written determination; and

3           (c) Tax return or return means any tax or information  
4 return or claim for refund required by, provided for, or permitted  
5 under sections 77-2701 to 77-2713 which is filed with the Tax  
6 Commissioner by, on behalf of, or with respect to any person and any  
7 amendment or supplement thereto, including supporting schedules,  
8 attachments, or lists which are supplemental to or part of the filed  
9 return.

10           (13) Notwithstanding the provisions of subsection (7) of  
11 this section, the Tax Commissioner shall, upon request, provide any  
12 municipality which has adopted the local option sales tax under the  
13 Local Option Revenue Act with a list of the names and addresses of  
14 the retailers which have collected the local option sales tax for the  
15 municipality. The request may be made annually and shall be submitted  
16 to the Tax Commissioner on or before June 30 of each year. The  
17 information provided by the Tax Commissioner shall indicate only the  
18 names and addresses of the retailers. The Tax Commissioner may  
19 provide additional information to a municipality so long as the  
20 information does not include any data detailing the specific revenue,  
21 expenses, or operations of any particular business.

22           (14) In all proceedings under the Nebraska Revenue Act of  
23 1967, the Tax Commissioner may act for and on behalf of the people of  
24 the State of Nebraska. The Tax Commissioner in his or her discretion  
25 may waive all or part of any penalties provided by the provisions of

1 such act or interest on delinquent taxes specified in section  
2 45-104.02, as such rate may from time to time be adjusted.

3 (15)(a) The purpose of this subsection is to set forth  
4 the state's policy for the protection of the confidentiality rights  
5 of all participants in the system operated pursuant to the  
6 streamlined sales and use tax agreement and of the privacy interests  
7 of consumers who deal with model 1 sellers.

8 (b) For purposes of this subsection:

9 (i) Anonymous data means information that does not  
10 identify a person;

11 (ii) Confidential taxpayer information means all  
12 information that is protected under a member state's laws,  
13 regulations, and privileges; and

14 (iii) Personally identifiable information means  
15 information that identifies a person.

16 (c) The state agrees that a fundamental precept for model  
17 1 sellers is to preserve the privacy of consumers by protecting their  
18 anonymity. With very limited exceptions, a certified service provider  
19 shall perform its tax calculation, remittance, and reporting  
20 functions without retaining the personally identifiable information  
21 of consumers.

22 (d) The governing board of the member states in the  
23 streamlined sales and use tax agreement may certify a certified  
24 service provider only if that certified service provider certifies  
25 that:

1           (i) Its system has been designed and tested to ensure  
2 that the fundamental precept of anonymity is respected;

3           (ii) Personally identifiable information is only used and  
4 retained to the extent necessary for the administration of model 1  
5 with respect to exempt purchasers;

6           (iii) It provides consumers clear and conspicuous notice  
7 of its information practices, including what information it collects,  
8 how it collects the information, how it uses the information, how  
9 long, if at all, it retains the information, and whether it discloses  
10 the information to member states. Such notice shall be satisfied by a  
11 written privacy policy statement accessible by the public on the web  
12 site of the certified service provider;

13           (iv) Its collection, use, and retention of personally  
14 identifiable information is limited to that required by the member  
15 states to ensure the validity of exemptions from taxation that are  
16 claimed by reason of a consumer's status or the intended use of the  
17 goods or services purchased; and

18           (v) It provides adequate technical, physical, and  
19 administrative safeguards so as to protect personally identifiable  
20 information from unauthorized access and disclosure.

21           (e) The state shall provide public notification to  
22 consumers, including exempt purchasers, of the state's practices  
23 relating to the collection, use, and retention of personally  
24 identifiable information.

25           (f) When any personally identifiable information that has

1 been collected and retained is no longer required for the purposes  
2 set forth in subdivision (15)(d)(iv) of this section, such  
3 information shall no longer be retained by the member states.

4 (g) When personally identifiable information regarding an  
5 individual is retained by or on behalf of the state, it shall provide  
6 reasonable access by such individual to his or her own information in  
7 the state's possession and a right to correct any inaccurately  
8 recorded information.

9 (h) If anyone other than a member state, or a person  
10 authorized by that state's law or the agreement, seeks to discover  
11 personally identifiable information, the state from whom the  
12 information is sought should make a reasonable and timely effort to  
13 notify the individual of such request.

14 (i) This privacy policy is subject to enforcement by the  
15 Attorney General.

16 (j) All other laws and regulations regarding the  
17 collection, use, and maintenance of confidential taxpayer information  
18 remain fully applicable and binding. Without limitation, this  
19 subsection does not enlarge or limit the state's authority to:

20 (i) Conduct audits or other reviews as provided under the  
21 agreement and state law;

22 (ii) Provide records pursuant to the federal Freedom of  
23 Information Act, disclosure laws with governmental agencies, or other  
24 regulations;

25 (iii) Prevent, consistent with state law, disclosure of

1 confidential taxpayer information;

2 (iv) Prevent, consistent with federal law, disclosure or  
3 misuse of federal return information obtained under a disclosure  
4 agreement with the Internal Revenue Service; and

5 (v) Collect, disclose, disseminate, or otherwise use  
6 anonymous data for governmental purposes.

7 Sec. 222. Section 77-27,119, Revised Statutes Cumulative  
8 Supplement, 2010, is amended to read:

9 77-27,119 (1) The Tax Commissioner shall administer and  
10 enforce the income tax imposed by sections 77-2714 to 77-27,135, and  
11 he or she is authorized to conduct hearings, to adopt and promulgate  
12 such rules and regulations, and to require such facts and information  
13 to be reported as he or she may deem necessary to enforce the income  
14 tax provisions of such sections, except that such rules, regulations,  
15 and reports shall not be inconsistent with the laws of this state or  
16 the laws of the United States. The Tax Commissioner may for  
17 enforcement and administrative purposes divide the state into a  
18 reasonable number of districts in which branch offices may be  
19 maintained.

20 (2)(a) The Tax Commissioner may prescribe the form and  
21 contents of any return or other document required to be filed under  
22 the income tax provisions. Such return or other document shall be  
23 compatible as to form and content with the return or document  
24 required by the laws of the United States. The form shall have a  
25 place where the taxpayer shall designate the high school district in

1 which he or she lives and the county in which the high school  
2 district is headquartered. The Tax Commissioner shall adopt and  
3 promulgate such rules and regulations as may be necessary to insure  
4 compliance with this requirement.

5 (b) The State Department of Education, with the  
6 assistance and cooperation of the Department of Revenue, shall  
7 develop a uniform system for numbering all school districts in the  
8 state. Such system shall be consistent with the data processing needs  
9 of the Department of Revenue and shall be used for the school  
10 district identification required by subdivision (a) of this  
11 subsection.

12 (c) The proper filing of an income tax return shall  
13 consist of the submission of such form as prescribed by the Tax  
14 Commissioner or an exact facsimile thereof with sufficient  
15 information provided by the taxpayer on the face of the form from  
16 which to compute the actual tax liability. Each taxpayer shall  
17 include such taxpayer's correct social security number or state  
18 identification number and the school district identification number  
19 of the school district in which the taxpayer resides on the face of  
20 the form. A filing is deemed to occur when the required information  
21 is provided.

22 (3) The Tax Commissioner, for the purpose of ascertaining  
23 the correctness of any return or other document required to be filed  
24 under the income tax provisions, for the purpose of determining  
25 corporate income, individual income, and withholding tax due, or for

1 the purpose of making an estimate of taxable income of any person,  
2 shall have the power to examine or to cause to have examined, by any  
3 agent or representative designated by him or her for that purpose,  
4 any books, papers, records, or memoranda bearing upon such matters  
5 and may by summons require the attendance of the person responsible  
6 for rendering such return or other document or remitting any tax, or  
7 any officer or employee of such person, or the attendance of any  
8 other person having knowledge in the premises, and may take testimony  
9 and require proof material for his or her information, with power to  
10 administer oaths or affirmations to such person or persons.

11 (4) The time and place of examination pursuant to this  
12 section shall be such time and place as may be fixed by the Tax  
13 Commissioner and as are reasonable under the circumstances. In the  
14 case of a summons, the date fixed for appearance before the Tax  
15 Commissioner shall not be less than twenty days from the time of  
16 service of the summons.

17 (5) No taxpayer shall be subjected to unreasonable or  
18 unnecessary examinations or investigations.

19 (6) Except in accordance with proper judicial order or as  
20 otherwise provided by law, it shall be unlawful for the Tax  
21 Commissioner, any officer or employee of the Tax Commissioner, any  
22 person engaged or retained by the Tax Commissioner on an independent  
23 contract basis, any person who pursuant to this section is permitted  
24 to inspect any report or return or to whom a copy, an abstract, or a  
25 portion of any report or return is furnished, any employee of the

1 State Treasurer or the Department of Administrative Services, or any  
2 other person to divulge, make known, or use in any manner the amount  
3 of income or any particulars set forth or disclosed in any report or  
4 return required except for the purpose of enforcing sections 77-2714  
5 to 77-27,135. The officers charged with the custody of such reports  
6 and returns shall not be required to produce any of them or evidence  
7 of anything contained in them in any action or proceeding in any  
8 court, except on behalf of the Tax Commissioner in an action or  
9 proceeding under the provisions of the tax law to which he or she is  
10 a party or on behalf of any party to any action or proceeding under  
11 such sections when the reports or facts shown thereby are directly  
12 involved in such action or proceeding, in either of which events the  
13 court may require the production of, and may admit in evidence, so  
14 much of such reports or of the facts shown thereby as are pertinent  
15 to the action or proceeding and no more. Nothing in this section  
16 shall be construed (a) to prohibit the delivery to a taxpayer, his or  
17 her duly authorized representative, or his or her successors,  
18 receivers, trustees, personal representatives, administrators,  
19 assignees, or guarantors, if directly interested, of a certified copy  
20 of any return or report in connection with his or her tax, (b) to  
21 prohibit the publication of statistics so classified as to prevent  
22 the identification of particular reports or returns and the items  
23 thereof, (c) to prohibit the inspection by the Attorney General,  
24 other legal representatives of the state, or a county attorney of the  
25 report or return of any taxpayer who brings an action to review the

1 tax based thereon, against whom an action or proceeding for  
2 collection of tax has been instituted, or against whom an action,  
3 proceeding, or prosecution for failure to comply with the Nebraska  
4 Revenue Act of 1967 is being considered or has been commenced, (d) to  
5 prohibit furnishing to the Nebraska Workers' Compensation Court the  
6 names, addresses, and identification numbers of employers, and such  
7 information shall be furnished on request of the court, (e) to  
8 prohibit the disclosure of information and records to a collection  
9 agency contracting with the Tax Commissioner pursuant to sections  
10 77-377.01 to 77-377.04, (f) to prohibit the disclosure of information  
11 pursuant to section 77-27,195, 77-4110, or 77-5731, (g) to prohibit  
12 the disclosure to the Public Employees Retirement Board of the  
13 addresses of individuals who are members of the retirement systems  
14 administered by the board, and such information shall be furnished to  
15 the board solely for purposes of its administration of the retirement  
16 systems upon written request, which request shall include the name  
17 and social security number of each individual for whom an address is  
18 requested, (h) to prohibit the disclosure of information to the  
19 Department of ~~Labor~~ Economic Development necessary for the  
20 administration of the Employment Security Law, the Contractor  
21 Registration Act, or the Employee Classification Act, (i) to prohibit  
22 the disclosure to the Department of Motor Vehicles of tax return  
23 information pertaining to individuals, corporations, and businesses  
24 determined by the Department of Motor Vehicles to be delinquent in  
25 the payment of amounts due under agreements pursuant to the

1 International Fuel Tax Agreement Act, and such disclosure shall be  
2 strictly limited to information necessary for the administration of  
3 the act, or (j) to prohibit the disclosure under section 42-358.08,  
4 43-512.06, or 43-3327 to any court-appointed individuals, the county  
5 attorney, any authorized attorney, or the Department of Health and  
6 Human Services of an absent parent's address, social security number,  
7 amount of income, health insurance information, and employer's name  
8 and address for the exclusive purpose of establishing and collecting  
9 child, spousal, or medical support. Information so obtained shall be  
10 used for no other purpose. Any person who violates this subsection  
11 shall be guilty of a felony and shall upon conviction thereof be  
12 fined not less than one hundred dollars nor more than five hundred  
13 dollars, or be imprisoned not more than five years, or be both so  
14 fined and imprisoned, in the discretion of the court and shall be  
15 assessed the costs of prosecution. If the offender is an officer or  
16 employee of the state, he or she shall be dismissed from office and  
17 be ineligible to hold any public office in this state for a period of  
18 two years thereafter.

19 (7) Reports and returns required to be filed under income  
20 tax provisions of sections 77-2714 to 77-27,135 shall be preserved  
21 until the Tax Commissioner orders them to be destroyed.

22 (8) Notwithstanding the provisions of subsection (6) of  
23 this section, the Tax Commissioner may permit the Secretary of the  
24 Treasury of the United States or his or her delegates or the proper  
25 officer of any state imposing an income tax, or the authorized

1 representative of either such officer, to inspect the income tax  
2 returns of any taxpayer or may furnish to such officer or his or her  
3 authorized representative an abstract of the return of income of any  
4 taxpayer or supply him or her with information concerning an item of  
5 income contained in any return or disclosed by the report of any  
6 investigation of the income or return of income of any taxpayer, but  
7 such permission shall be granted only if the statutes of the United  
8 States or of such other state, as the case may be, grant  
9 substantially similar privileges to the Tax Commissioner of this  
10 state as the officer charged with the administration of the income  
11 tax imposed by sections 77-2714 to 77-27,135.

12 (9) Notwithstanding the provisions of subsection (6) of  
13 this section, the Tax Commissioner may permit the Postal Inspector of  
14 the United States Postal Service or his or her delegates to inspect  
15 the reports or returns of any person filed pursuant to the Nebraska  
16 Revenue Act of 1967 when information on the reports or returns is  
17 relevant to any action or proceeding instituted or being considered  
18 by the United States Postal Service against such person for the  
19 fraudulent use of the mails to carry and deliver false and fraudulent  
20 tax returns to the Tax Commissioner with the intent to defraud the  
21 State of Nebraska or to evade the payment of Nebraska state taxes.

22 (10)(a) Notwithstanding the provisions of subsection (6)  
23 of this section, the Tax Commissioner shall, upon written request by  
24 the Auditor of Public Accounts or the Legislative Performance Audit  
25 Committee, make tax returns and tax return information open to

1 inspection by or disclosure to officers and employees of the Auditor  
2 of Public Accounts or Legislative Performance Audit Section employees  
3 for the purpose of and to the extent necessary in making an audit of  
4 the Department of Revenue pursuant to section 50-1205 or 84-304. The  
5 Auditor of Public Accounts or Legislative Performance Audit Section  
6 shall statistically and randomly select the tax returns and tax  
7 return information to be audited based upon a computer tape provided  
8 by the Department of Revenue which contains only total population  
9 documents without specific identification of taxpayers. The Tax  
10 Commissioner shall have the authority to approve the statistical  
11 sampling method used by the Auditor of Public Accounts or Legislative  
12 Performance Audit Section. Confidential tax returns and tax return  
13 information shall be audited only upon the premises of the Department  
14 of Revenue. All audit workpapers pertaining to the audit of the  
15 Department of Revenue shall be stored in a secure place in the  
16 Department of Revenue.

17 (b) No officer or employee of the Auditor of Public  
18 Accounts or Legislative Performance Audit Section employee shall  
19 disclose to any person, other than another officer or employee of the  
20 Auditor of Public Accounts or Legislative Performance Audit Section  
21 employee whose official duties require such disclosure or as provided  
22 in subsections (2) and (3) of section 50-1213, any return or return  
23 information described in the Nebraska Revenue Act of 1967 in a form  
24 which can be associated with or otherwise identify, directly or  
25 indirectly, a particular taxpayer.

1           (c) Any person who violates the provisions of this  
2 subsection shall be guilty of a Class IV felony and, in the  
3 discretion of the court, may be assessed the costs of prosecution.  
4 The guilty officer or employee shall be dismissed from employment and  
5 be ineligible to hold any position of employment with the State of  
6 Nebraska for a period of two years thereafter. For purposes of this  
7 subsection, officer or employee ~~shall include~~ includes a former  
8 officer or employee of the Auditor of Public Accounts or former  
9 Legislative Performance Audit Section employee.

10           (11) For purposes of subsections (10) through (13) of  
11 this section:

12           (a) Tax returns ~~shall mean~~ means any tax or information  
13 return or claim for refund required by, provided for, or permitted  
14 under sections 77-2714 to 77-27,135 which is filed with the Tax  
15 Commissioner by, on behalf of, or with respect to any person and any  
16 amendment or supplement thereto, including supporting schedules,  
17 attachments, or lists which are supplemental to or part of the filed  
18 return;

19           (b) Return information ~~shall mean:~~ means:

20           (i) A taxpayer's identification number and (A) the  
21 nature, source, or amount of his or her income, payments, receipts,  
22 deductions, exemptions, credits, assets, liabilities, net worth, tax  
23 liability, tax withheld, deficiencies, overassessments, or tax  
24 payments, whether the taxpayer's return was, is being, or will be  
25 examined or subject to other investigation or processing or (B) any

1 other data received by, recorded by, prepared by, furnished to, or  
2 collected by the Tax Commissioner with respect to a return or the  
3 determination of the existence or possible existence of liability or  
4 the amount of liability of any person for any tax, penalty, interest,  
5 fine, forfeiture, or other imposition or offense; and

6 (ii) Any part of any written determination or any  
7 background file document relating to such written determination; and

8 (c) Disclosures ~~shall mean~~ means the making known to any  
9 person in any manner a return or return information.

10 (12) The Auditor of Public Accounts or the Legislative  
11 Auditor of the Legislative Performance Audit Section shall (a) notify  
12 the Tax Commissioner in writing thirty days prior to the beginning of  
13 an audit of his or her intent to conduct an audit, (b) provide an  
14 audit plan, and (c) provide a list of the tax returns and tax return  
15 information identified for inspection during the audit.

16 (13) The Auditor of Public Accounts or the Legislative  
17 Performance Audit Section shall, as a condition for receiving tax  
18 returns and tax return information: (a) Subject employees involved in  
19 the audit to the same confidential information safeguards and  
20 disclosure procedures as required of Department of Revenue employees;  
21 (b) establish and maintain a permanent system of standardized records  
22 with respect to any request for tax returns or tax return  
23 information, the reason for such request, and the date of such  
24 request and any disclosure of the tax return or tax return  
25 information; (c) establish and maintain a secure area or place in the

1 Department of Revenue in which the tax returns, tax return  
2 information, or audit workpapers shall be stored; (d) restrict access  
3 to the tax returns or tax return information only to persons whose  
4 duties or responsibilities require access; (e) provide such other  
5 safeguards as the Tax Commissioner determines to be necessary or  
6 appropriate to protect the confidentiality of the tax returns or tax  
7 return information; (f) provide a report to the Tax Commissioner  
8 which describes the procedures established and utilized by the  
9 Auditor of Public Accounts or Legislative Performance Audit Section  
10 for insuring the confidentiality of tax returns, tax return  
11 information, and audit workpapers; and (g) upon completion of use of  
12 such returns or tax return information, return to the Tax  
13 Commissioner such returns or tax return information, along with any  
14 copies.

15 (14) The Tax Commissioner may permit other tax officials  
16 of this state to inspect the tax returns and reports filed under  
17 sections 77-2714 to 77-27,135, but such inspection shall be permitted  
18 only for purposes of enforcing a tax law and only to the extent and  
19 under the conditions prescribed by the rules and regulations of the  
20 Tax Commissioner.

21 (15) The Tax Commissioner shall compile the school  
22 district information required by subsection (2) of this section.  
23 Insofar as it is possible, such compilation shall include, but not be  
24 limited to, the total adjusted gross income of each school district  
25 in the state. The Tax Commissioner shall adopt and promulgate such

1 rules and regulations as may be necessary to insure that such  
2 compilation does not violate the confidentiality of any individual  
3 income tax return nor conflict with any other provisions of state or  
4 federal law.

5           Sec. 223. Section 77-27,188, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           77-27,188 (1) A refundable credit against the taxes  
8 imposed by the Nebraska Revenue Act of 1967 shall be allowed to any  
9 taxpayer who has an approved application pursuant to the Nebraska  
10 Advantage Rural Development Act, who is engaged in a qualifying  
11 business as described in section 77-27,189, and who after January 1,  
12 2006:

13           (a)(i) Increases employment by two new equivalent  
14 employees and makes an increased investment of at least one hundred  
15 twenty-five thousand dollars prior to the end of the first taxable  
16 year after the year in which the application was submitted in (A) any  
17 county in this state with a population of fewer than fifteen thousand  
18 inhabitants, according to the most recent federal decennial census,  
19 (B) any village in this state, or (C) any area within the corporate  
20 limits of a city of the metropolitan class consisting of one or more  
21 contiguous census tracts, as determined by the most recent federal  
22 decennial census, which contain a percentage of persons below the  
23 poverty line of greater than thirty percent, and all census tracts  
24 contiguous to such tract or tracts; or

25           (ii) Increases employment by five new equivalent

1 employees and makes an increased investment of at least two hundred  
2 fifty thousand dollars prior to the end of the first taxable year  
3 after the year in which the application was submitted in any county  
4 in this state with a population of less than twenty-five thousand  
5 inhabitants, according to the most recent federal decennial census,  
6 or any city of the second class; and

7 (b) Pays a minimum qualifying wage of eight dollars and  
8 twenty-five cents per hour to the new equivalent employees for which  
9 tax credits are sought under the Nebraska Advantage Rural Development  
10 Act. The Department of Revenue shall adjust the minimum qualifying  
11 wages required for applications filed after January 1, 2004, and each  
12 January 1 thereafter, as follows: The current rural Nebraska average  
13 weekly wage shall be divided by the rural Nebraska average weekly  
14 wage for 2003; and the result shall be multiplied by the eight  
15 dollars and twenty-five cents minimum qualifying wage for 2003 and  
16 rounded to the nearest one cent. The amount of increase or decrease  
17 in the minimum qualifying wages for any year shall be the cumulative  
18 change in the rural Nebraska average weekly wage since 2003. For  
19 purposes of this subsection, rural Nebraska average weekly wage means  
20 the most recent average weekly wage paid by all employers in all  
21 counties with a population of less than twenty-five thousand  
22 inhabitants as reported by October 1 by the Department of ~~Labor~~.  
23 Economic Development.

24 For purposes of this section, a teleworker working in  
25 Nebraska from his or her residence for a taxpayer shall be considered

1 an employee of the taxpayer, and property of the taxpayer provided to  
2 the teleworker working in Nebraska from his or her residence shall be  
3 considered an investment. Teleworker includes an individual working  
4 on a per-item basis and an independent contractor working for the  
5 taxpayer so long as the taxpayer withholds Nebraska income tax from  
6 wages or other payments made to such teleworker. For purposes of  
7 calculating the number of new equivalent employees when the  
8 teleworkers are paid on a per-item basis or are independent  
9 contractors, the total wages or payments made to all such new  
10 employees during the year shall be divided by the qualifying wage as  
11 determined in subdivision (b) of this subsection, with the result  
12 divided by two thousand eighty hours.

13 (2) A refundable credit against the taxes imposed by the  
14 Nebraska Revenue Act of 1967 shall be allowed to any taxpayer who (a)  
15 has an approved application pursuant to the Nebraska Advantage Rural  
16 Development Act, (b) is engaged in livestock production, and (c)  
17 after January 1, 2007, invests at least fifty thousand dollars for  
18 livestock modernization or expansion.

19 (3) The amount of the credit allowed under subsection (1)  
20 of this section shall be three thousand dollars for each new  
21 equivalent employee and two thousand seven hundred fifty dollars for  
22 each fifty thousand dollars of increased investment. The amount of  
23 the credit allowed under subsection (2) of this section shall be ten  
24 percent of the investment, not to exceed a credit of thirty thousand  
25 dollars. For each application, a taxpayer engaged in livestock

1 production may qualify for a credit under either subsection (1) or  
2 (2) of this section, but cannot qualify for more than one credit per  
3 application.

4 (4) An employee of a qualified employee leasing company  
5 shall be considered to be an employee of the client-lessee for  
6 purposes of this section if the employee performs services for the  
7 client-lessee. A qualified employee leasing company shall provide the  
8 Department of Revenue access to the records of employees leased to  
9 the client-lessee.

10 (5) The credit shall not exceed the amounts set out in  
11 the application and approved by the Tax Commissioner.

12 (6)(a) If a taxpayer who receives tax credits creates  
13 fewer jobs or less investment than required in the project agreement,  
14 the taxpayer shall repay the tax credits as provided in this  
15 subsection.

16 (b) If less than seventy-five percent of the required  
17 jobs in the project agreement are created, one hundred percent of the  
18 job creation tax credits shall be repaid. If seventy-five percent or  
19 more of the required jobs in the project agreement are created, no  
20 repayment of the job creation tax credits is necessary.

21 (c) If less than seventy-five percent of the required  
22 investment in the project agreement is created, one hundred percent  
23 of the investment tax credits shall be repaid. If seventy-five  
24 percent or more of the required investment in the project agreement  
25 is created, no repayment of the investment tax credits is necessary.

1                   (7) For taxpayers who submitted applications for benefits  
2 under the Nebraska Advantage Rural Development Act before January 1,  
3 2006, subsection (1) of this section, as such subsection existed  
4 immediately prior to such date, shall continue to apply to such  
5 taxpayers. The changes made by Laws 2005, LB 312, shall not preclude  
6 a taxpayer from receiving the tax incentives earned prior to January  
7 1, 2006.

8                   Sec. 224. Section 77-27,197, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10                   77-27,197 It is the intent of the Legislature to  
11 establish and maintain a procedure to set off against a debtor's  
12 income tax refund any debt owed to the Department of ~~Labor~~Economic  
13 Development which has accrued as a result of an individual's  
14 liability for the repayment of unemployment insurance benefits  
15 determined to be in overpayment pursuant to sections 48-665 and  
16 48-665.01 or an employer's liability for combined tax determined to  
17 be due and owing pursuant to sections 48-655 and 48-656.

18                   Sec. 225. Section 77-27,198, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20                   77-27,198 The Department of Revenue, the Department of  
21 Administrative Services, and the Department of ~~Labor~~Economic  
22 Development shall develop and implement a collection system to carry  
23 out the intent of section 77-27,197.

24                   Sec. 226. Section 77-27,199, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1                   77-27,199 For purposes of sections 77-27,197 to  
2 77-27,209:

3                   (1) Debt means combined tax due and payable to the  
4 Department of ~~Labor~~Economic Development pursuant to sections 48-655  
5 and 48-656 or erroneous benefit payments due and payable to the  
6 department pursuant to sections 48-665 and 48-665.01; and

7                   (2) Refund means any Nebraska state income tax refund  
8 which the Department of Revenue determines to be due an individual,  
9 corporate, or business taxpayer. In the case of a joint income tax  
10 return, it shall be presumed that each partner to the marriage  
11 submitting such return contributed one-half of the earnings upon  
12 which the refund is based. The presumption may be contested by the  
13 state, the debtor, and the innocent spouse by virtue of the hearing  
14 process prescribed in section 77-27,203.

15                   Sec. 227. Section 77-27,201, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17                   77-27,201 The Department of ~~Labor~~Economic Development  
18 may submit any debt of twenty-five dollars or more to the Department  
19 of Revenue for collection pursuant to sections 77-27,197 to 77-27,209  
20 except when the validity of the debt has not been finally determined  
21 by the debtor's exercise or failure to exercise all applicable appeal  
22 rights.

23                   Sec. 228. Section 77-27,202, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25                   77-27,202 (1) If a debtor identified by the Department of

1 ~~Labor—Economic Development~~ pursuant to section 77-27,201 is  
2 determined by the Department of Revenue to be entitled to a refund of  
3 twenty-five dollars or more, the Department of Revenue shall notify  
4 the Department of ~~Labor—Economic Development~~ that a refund is  
5 pending.

6 (2) Upon receipt of the notification, the Department of  
7 ~~Labor—Economic Development~~ shall, within twenty days, send written  
8 notification to the debtor of an assertion of its rights to all or a  
9 portion of the debtor's refund.

10 (3) The notification to the debtor shall clearly set  
11 forth the basis for the claim to the refund, the intention to apply  
12 the refund against the debt, the debtor's opportunity to give written  
13 notice of intent to contest the validity of the claim before the  
14 Department of ~~Labor—Economic Development~~ within twenty days of the  
15 date of the mailing of the notice, the mailing address to which the  
16 application for a hearing must be sent, and notice that failure to  
17 apply for a hearing in writing within the twenty-day period will be  
18 deemed a waiver of the opportunity to contest the claim, causing a  
19 setoff by default. In the case of a joint income tax return, the  
20 notice shall also state the name of the taxpayer named in the return  
21 against whom no debt is claimed. There shall be no affirmative duty  
22 placed upon the non-owing spouse to initiate an action to receive  
23 payment of the noninterceptable amount.

24 Sec. 229. Section 77-27,203, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1                   77-27,203 A written application pursuant to section  
2 77-27,202 by a debtor for a hearing shall be effective upon receipt  
3 of the application by the Department of ~~Labor~~. Economic Development.  
4 If the department receives a timely written application contesting  
5 its claim to a refund, it shall grant a hearing to the taxpayer to  
6 determine whether the claim is valid. If the amount asserted as due  
7 and owing is not correct, an adjustment to the claimed amount shall  
8 be made. No hearing shall be granted upon issues which have been  
9 finally determined.

10                   Sec. 230. Section 77-27,205, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12                   77-27,205 Upon the final determination of the amount and  
13 validity of the debt due and owing, by means of the hearing provided  
14 for in section 77-27,203 or by the taxpayer's default through failure  
15 to request a hearing, the Department of ~~Labor~~. Economic Development  
16 shall certify the debt to the Department of Administrative Services  
17 within twenty days from the date of the final determination. Upon  
18 receipt of the certified debt amount from the Department of ~~Labor~~,  
19 Economic Development, the Department of Administrative Services shall  
20 deduct an amount equal to the certified debt from the refund due the  
21 debtor, up to the amount of the refund, and shall transfer such  
22 amount to the Department of ~~Labor~~. Economic Development. The  
23 Department of Administrative Services shall refund any remaining  
24 balance to the debtor as if the setoff had not occurred.

25                   Sec. 231. Section 77-27,206, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           77-27,206 When the Department of ~~Labor~~ Economic  
3 Development receives all or a portion of a certified debt pursuant to  
4 section 77-27,205, the department shall notify the debtor of the  
5 completion of the setoff and amount received. Such notice shall  
6 include the final amount of the refund to which the debtor was  
7 entitled prior to the setoff, the amount of the certified debt, and  
8 the amount of the refund in excess of the debt, if any.

9           Sec. 232. Section 77-27,207, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           77-27,207 The Department of ~~Labor~~ Economic Development  
12 shall reimburse the Department of Revenue and the Department of  
13 Administrative Services for all reasonable and necessary costs  
14 incurred in setting off debts pursuant to sections 77-27,197 to  
15 77-27,209.

16           Sec. 233. Section 77-27,208, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           77-27,208 Setoffs against state income tax refunds shall  
19 have priority in the following order:

20           (1) Setoffs by the Department of Health and Human  
21 Services;

22           (2) Setoffs by the Internal Revenue Service;

23           (3) Setoffs by the Department of ~~Labor~~ Economic  
24 Development; and

25           (4) Setoffs by the Department of Motor Vehicles.

1           Sec. 234. Section 77-27,209, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           77-27,209 The Department of ~~Labor~~Economic Development  
4 shall adopt and promulgate rules and regulations necessary to carry  
5 out sections 77-27,197 to 77-27,209.

6           Sec. 235. Section 77-3902, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           77-3902 For purposes of the Uniform State Tax Lien  
9 Registration and Enforcement Act:

10           (1) Appropriate filing officer means (a) with respect to  
11 real property subject to a tax lien, the register of deeds of the  
12 county or counties in which the real property is situated and (b)  
13 with respect to personal property subject to a tax lien, the  
14 Secretary of State; ~~and~~

15           (2) Any reference to tax, taxes, fee, or tax program  
16 shall be construed to include any tax, fee, or in-lieu-of-tax  
17 contribution which is imposed by the laws of this state and  
18 administered or collected and enforced by the Tax Commissioner or  
19 ~~Commissioner of Labor,~~director, unless a tax lien is otherwise  
20 provided for by law; ~~and~~ -

21           (3) Director means the Director of Economic Development.

22           Sec. 236. Section 77-3903, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           77-3903 (1)(a) A notice of lien provided for in the  
25 Uniform State Tax Lien Registration and Enforcement Act upon real

1 property shall be presented in the office of the Secretary of State.  
2 Such notice of lien shall be transmitted by the Secretary of State to  
3 and filed in the office of the register of deeds by the register of  
4 deeds of the county or counties in which the real property subject to  
5 the lien is situated as designated in the notice of lien. The  
6 register of deeds shall enter the notice in the alphabetical state  
7 tax lien index, showing on one line the name and residence of the  
8 person liable named in such notice, the last four digits of the  
9 social security number or the federal tax identification number of  
10 such person, the Tax Commissioner's or ~~Commissioner of Labor's~~  
11 director's serial number of such notice, the date and hour of filing,  
12 and the amount due. Such presentments to the Secretary of State may  
13 be made by direct input to the Secretary of State's data base or by  
14 other electronic means. All such notices of lien shall be retained in  
15 numerical order in a file designated state tax lien notices, except  
16 that in offices filing by the roll form of microfilm pursuant to  
17 section 23-1517.01, the original notices need not be retained. A lien  
18 subject to this subsection shall be effective upon real property when  
19 filed by the register of deeds as provided in this subsection.

20 (b) A notice of lien provided for in the Uniform State  
21 Tax Lien Registration and Enforcement Act upon personal property  
22 shall be filed in the office of the Secretary of State. The Secretary  
23 of State shall enter the notice in the state's central tax lien  
24 index, showing on one line the name and residence of the person  
25 liable named in such notice, the last four digits of the social

1 security number or the federal tax identification number of such  
2 person, the Tax Commissioner's or ~~Commissioner of Labor's~~ director's  
3 serial number of such notice, the date and hour of filing, and the  
4 amount due. Such filings with the Secretary of State may be filed by  
5 direct input to the Secretary of State's data base or by other  
6 electronic means. All such notices of lien shall be retained in  
7 numerical order in a file designated state tax lien notices.

8 (2) ~~Beginning July 1, 1999, the~~ The uniform fee, payable  
9 to the Secretary of State, for presenting for filing, releasing,  
10 continuing, or subordinating or for filing, releasing, continuing, or  
11 subordinating each tax lien pursuant to the Uniform State Tax Lien  
12 Registration and Enforcement Act shall be six dollars. There shall be  
13 no fee for the filing of a termination statement. The uniform fee for  
14 each county more than one designated pursuant to subdivision (1)(a)  
15 of this section shall be three dollars. The Secretary of State shall  
16 deposit each fee received pursuant to this section in the Uniform  
17 Commercial Code Cash Fund. Of the fees received and deposited  
18 pursuant to this section, the Secretary of State shall remit three  
19 dollars to the register of deeds of a county for each designation of  
20 such county in a filing pursuant to subdivision (1)(a) of this  
21 section.

22 (3) The Secretary of State shall bill the Tax  
23 Commissioner or ~~Commissioner of Labor~~ director on a monthly basis for  
24 fees for documents presented to or filed with the Secretary of State.  
25 No payment of any fee shall be required at the time of presenting or

1 filing any such lien document.

2           Sec. 237. Section 77-3904, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           77-3904 (1) If any person liable to pay any tax or fee  
5 under any tax program administered by the Tax Commissioner or  
6 ~~Commissioner of Labor director~~ neglects or refuses to pay such tax or  
7 fee after demand, the amount of such tax or fee, including any  
8 interest, penalty, and additions to such tax and such additional  
9 costs that may accrue, shall be a lien in favor of the State of  
10 Nebraska upon all property and rights to property, whether real or  
11 personal, then owned by such person or acquired by him or her  
12 thereafter and prior to the expiration of the lien. Unless another  
13 date is specifically provided by law, such lien shall arise at the  
14 time of the assessment and shall remain in effect (a) for three years  
15 from the time of the assessment if the notice of lien is not filed  
16 for record in the office of the appropriate filing officer, (b) for  
17 ten years from the time of filing for record in the office of the  
18 appropriate filing officer, or (c) until such amounts have been paid  
19 or a judgment against such person arising out of such liability has  
20 been satisfied or has become unenforceable by reason of lapse of  
21 time, unless a continuation statement is filed prior to the lapse.

22           (2)(a) The Tax Commissioner or ~~Commissioner of Labor~~  
23 director may present for filing or file for record in the office of  
24 the appropriate filing officer a notice of lien specifying the year  
25 the tax was due, the tax program, and the amount of the tax and any

1 interest, penalty, or addition to such tax that are due. Such notice  
2 shall be filed for record in the office of the appropriate filing  
3 officer within three years after the time of assessment. Such notice  
4 shall contain the name and last-known address of the taxpayer, the  
5 last four digits of the taxpayer's social security number or federal  
6 identification number, the Tax Commissioner's or ~~Commissioner of~~  
7 ~~Labor's director's~~ serial number, and a statement to the effect that  
8 the Tax Commissioner or ~~Commissioner of Labor director~~ has complied  
9 with all provisions of the law for the particular tax program which  
10 he or she administers in the determination of the amount of the tax  
11 and any interest, penalty, and addition to such tax required to be  
12 paid.

13 (b) If the assets of the taxpayer are in the control or  
14 custody of the court in any proceeding before any court of the United  
15 States or of any state or the District of Columbia, before the end of  
16 the three-year period in subdivision (2)(a) of this section, the  
17 notice shall be filed for record within the three-year period or  
18 within six months after the assets are released by the court,  
19 whichever is later.

20 (3)(a)(i) A lien imposed upon real property pursuant to  
21 the Uniform State Tax Lien Registration and Enforcement Act shall be  
22 valid against any subsequent creditor when notice of such lien and  
23 the amount due has been presented for filing by the Tax Commissioner  
24 or ~~Commissioner of Labor director~~ in the office of the Secretary of  
25 State and filed in the office of the register of deeds.

1           (ii) A lien imposed upon personal property pursuant to  
2 the Uniform State Tax Lien Registration and Enforcement Act shall be  
3 valid against any subsequent creditor when notice of such lien and  
4 the amount due has been filed by the Tax Commissioner or ~~Commissioner~~  
5 ~~of Labor~~ director in the office of the Secretary of State.

6           (b) In the case of any prior mortgage on real property or  
7 secured transaction covering personal property so written as to  
8 secure a present debt and future advances, the lien provided in the  
9 act, when notice thereof has been filed in the office of the  
10 appropriate filing officer, shall be subject to such prior lien  
11 unless the Tax Commissioner or ~~Commissioner of Labor~~ director has  
12 notified the lienholder in writing of the recording of such tax lien,  
13 in which case the lien of any indebtedness thereafter created under  
14 such mortgage or secured transaction shall be junior to the lien  
15 provided for in the act.

16           (4) The lien may, within ten years from the date of  
17 filing for record of the notice of lien in the office of the  
18 appropriate filing officer, be extended by filing for record a  
19 continuation statement. Upon timely filing of the continuation  
20 statement, the effectiveness of the original notice shall be  
21 continued for ten years after the last date to which the filing was  
22 effective. After such period the notice shall lapse in the manner  
23 prescribed in subsection (1) of this section unless another  
24 continuation statement is filed prior to such lapse.

25           (5) When a termination statement of any tax lien issued

1 by the Tax Commissioner or ~~Commissioner of Labor~~ director is filed in  
2 the office where the notice of lien is filed, the appropriate filing  
3 officer shall enter such statement with the date of filing in the  
4 state tax lien index where notice of the lien so terminated is  
5 entered and shall file the termination statement with the notice of  
6 the lien.

7 (6) The Tax Commissioner or ~~Commissioner of Labor~~  
8 director may at any time, upon request of any party involved, release  
9 from a lien all or any portion of the property subject to any lien  
10 provided for in the Uniform State Tax Lien Registration and  
11 Enforcement Act or subordinate a lien to other liens and encumbrances  
12 if he or she determines that (a) the tax amount and any interest,  
13 penalties, and additions to such tax have been paid or secured  
14 sufficiently by a lien on other property, (b) the lien has become  
15 legally unenforceable, (c) a surety bond or other satisfactory  
16 security has been posted, deposited, or pledged with the Tax  
17 Commissioner or ~~Commissioner of Labor~~ director in an amount  
18 sufficient to secure the payment of such taxes and any interest,  
19 penalties, and additions to such taxes, or (d) the release, partial  
20 release, or subordination of the lien will not jeopardize the  
21 collection of such taxes and any interest, penalties, and additions  
22 to such tax.

23 (7) A certificate by the Tax Commissioner or ~~Commissioner~~  
24 ~~of Labor~~ director stating that any property has been released from  
25 the lien or the lien has been subordinated to other liens and

1 encumbrances shall be conclusive evidence that the property has in  
2 fact been released or the lien has been subordinated pursuant to the  
3 certificate.

4           Sec. 238. Section 77-3905, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           77-3905 (1) At any time within three years after any  
7 amount of tax to be collected under any tax program administered by  
8 the Tax Commissioner or ~~Commissioner of Labor~~ director is assessed or  
9 within ten years after the last filing for record as set forth in the  
10 Uniform State Tax Lien Registration and Enforcement Act, the Tax  
11 Commissioner or ~~Commissioner of Labor~~ director may bring an action in  
12 the courts of this state, any other state, or the United States in  
13 the name of the people of the State of Nebraska to collect the  
14 delinquent amount together with penalties, any additions to such tax,  
15 costs, and interest.

16           (2)(a) The Attorney General shall prosecute the action on  
17 behalf of the Tax Commissioner, (b) the ~~Commissioner of Labor~~  
18 director shall be represented in an action under the act as provided  
19 in section 48-667, and (c) the rules of civil procedure relating to  
20 service of summons, pleadings, proofs, trials, and appeals shall be  
21 applicable to the proceedings.

22           (3) In the action, a writ of attachment may issue, and no  
23 bond or affidavit previous to the issuing of the attachment shall be  
24 required.

25           (4) In the action, a certificate by the Tax Commissioner

1 or ~~Commissioner of Labor~~ director showing the delinquency shall be  
2 prima facie evidence of the determination of such tax or the amount  
3 of such tax, the delinquency of the amounts set forth, and the  
4 compliance by the Tax Commissioner or ~~Commissioner of Labor~~ director  
5 with all provisions of the applicable tax program which he or she  
6 administers in relation to the computation and determination of the  
7 amounts set forth.

8 (5) The tax amounts required to be paid by any person  
9 under any tax program administered by the Tax Commissioner or  
10 ~~Commissioner of Labor~~ director together with any interest, penalties,  
11 and additions to such tax shall be satisfied first in any of the  
12 following cases: When the person is insolvent; when the person makes  
13 a voluntary assignment of his or her assets; when the estate of the  
14 person in the hands of executors, personal representatives,  
15 administrators, or heirs is insufficient to pay all the debts due  
16 from the deceased; or when the estate and effects of an absconding,  
17 concealed, or absent person required to pay any amount under any tax  
18 program administered by the Tax Commissioner or ~~Commissioner of Labor~~  
19 director are levied upon by process of law.

20 (6) Any tax which by law must be deducted and withheld by  
21 an employer or payor or is collected by a retailer or any other  
22 designated person as agent for the State of Nebraska on any  
23 transaction governed by a tax program administered by the Tax  
24 Commissioner or ~~Commissioner of Labor~~ director shall constitute a  
25 trust fund in the hands of the employer, payor, or retailer or such

1 other designated person and shall be owned by the state as of the  
2 time the tax is deducted and withheld or is owing to the employer,  
3 payor, or retailer or such other designated person.

4           Sec. 239. Section 77-3906, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           77-3906 (1) In addition to all other remedies or actions  
7 provided by law under any tax program administered by the Tax  
8 Commissioner or ~~Commissioner of Labor, director,~~ it shall be lawful  
9 for the Tax Commissioner or ~~Commissioner of Labor, director,~~ after  
10 making demand for payment, to collect any delinquent taxes, together  
11 with any interest, penalties, and additions to such tax by distraint  
12 and sale of the real and personal property of the taxpayer. If the  
13 Tax Commissioner finds that the collection of any tax is in jeopardy  
14 pursuant to section 77-2710, 77-27,111, or 77-4311, notice and demand  
15 for immediate payment of such tax may be made by the Tax Commissioner  
16 and, upon failure or refusal to pay such tax, collection by levy  
17 shall be lawful.

18           (2)(a) In case of failure to pay taxes or deficiencies,  
19 the Tax Commissioner, or his or her authorized employee, may levy or,  
20 by warrant issued under his or her own hand, authorize a sheriff or  
21 duly authorized employee of the Tax Commissioner to levy upon, seize,  
22 and sell such real and personal property belonging to the taxpayer,  
23 except exempt property, as is necessary to satisfy the liability for  
24 the payment of the amount due.

25           (b) In case of failure to pay taxes or deficiencies, the

1 ~~Commissioner of Labor, director,~~ or his or her authorized employee,  
2 may levy or, by warrant issued under his or her own hand, authorize a  
3 sheriff or duly authorized employee of the Department of ~~Labor~~  
4 Economic Development to levy upon, seize, and sell such real and  
5 personal property belonging to the taxpayer, except exempt property,  
6 as is necessary to satisfy the liability for the payment of the  
7 amount due.

8 (c) As used in this section, exempt property ~~shall mean~~  
9 means such property as is exempt from execution under the laws of  
10 this state.

11 (3) When a warrant is issued or a levy is made by the Tax  
12 Commissioner or ~~Commissioner of Labor, director,~~ or his or her duly  
13 authorized employee, for the collection of any tax and any interest,  
14 penalty, or addition to such tax imposed by law under any tax program  
15 administered by the Tax Commissioner or ~~Commissioner of Labor~~  
16 director or for the enforcement of any tax lien authorized by the  
17 Uniform State Tax Lien Registration and Enforcement Act, such warrant  
18 or levy shall have the same force and effect of a levy and sale  
19 pursuant to a writ of execution. Such warrant or levy may be issued  
20 and sale made pursuant to it in the same manner and with the same  
21 force and effect of a levy and sale pursuant to a writ of execution.  
22 The Tax Commissioner or ~~Commissioner of Labor~~ director shall pay the  
23 levying sheriff the same fees, commissions, and expenses pursuant to  
24 such warrant as are provided by law for similar services pursuant to  
25 a writ of execution, except that fees for publications in a newspaper

1 shall be subject to approval by the Tax Commissioner or ~~Commissioner~~  
2 ~~of Labor.~~ director. Such fees, commissions, and expenses shall be an  
3 obligation of the taxpayer and may be collected from the taxpayer by  
4 virtue of the warrant. Any such warrant shall show the name and last-  
5 known address of the taxpayer, the identity of the tax program, the  
6 year for which such tax and any interest, penalty, or addition to  
7 such tax is due and the amount thereof, the fact that the Tax  
8 Commissioner or ~~Commissioner of Labor~~ director has complied with all  
9 provisions of the law for the applicable tax program which he or she  
10 administers in the determination of the amount required to be paid,  
11 and that the tax and any interest, penalty, or addition to such tax  
12 is due and payable according to law.

13 (4)(a) Any person upon whom a levy is served who fails or  
14 refuses to honor the levy without cause may be held liable for the  
15 amount of the levy up to the value of the assets of the taxpayer  
16 under his or her control at the time the levy was served or  
17 thereafter. Such person may be subject to collection provisions as  
18 set forth in the act.

19 (b) The effect of a levy on salary, wages, or other  
20 regular payments due to or received by a taxpayer shall be continuous  
21 from the date the levy is served until the amount of the levy, with  
22 accrued interest, is satisfied.

23 (5) Notice of the sale and the time and place of the sale  
24 shall be given, to the delinquent taxpayer and to any other person  
25 with an interest in the property who has filed for record with the

1 appropriate filing officer on such property, in writing at least  
2 twenty days prior to the date of such sale in the following manner:  
3 The notice shall be sent by certified mail, return receipt requested,  
4 to the taxpayer and to any other person with such interest at his or  
5 her last-known residence or place of business in this state. The  
6 notice shall also be given by publication at least once each week for  
7 four weeks prior to the date of the sale in the newspaper of general  
8 circulation published in the county in which the property seized is  
9 to be sold. If there is no newspaper of general circulation in the  
10 county, notice shall be posted in three public places in the county  
11 twenty days prior to the date of the sale. The notice shall contain a  
12 description of the property to be sold, a statement of the type of  
13 tax due and of the amount due, including interest, penalties,  
14 additions to tax, and costs, the name of the delinquent taxpayer, and  
15 the further statement that unless the amount due, including interest,  
16 penalties, additions to tax, and costs, is paid on or before the time  
17 fixed in the notice for the sale or such security as may be  
18 determined by the Tax Commissioner or ~~Commissioner of Labor~~ director  
19 is placed with the Tax Commissioner or ~~Commissioner of Labor,~~  
20 director, or his or her duly authorized representative, on or before  
21 such time, the property, or so much of it as may be necessary, will  
22 be sold in accordance with law and the notice.

23 (6) At the sale the Tax Commissioner or ~~Commissioner of~~  
24 ~~Labor,~~ director, or his or her duly authorized representative, shall  
25 sell the property in accordance with law and the notice and shall

1 deliver to the purchaser a bill of sale for the property. The bill of  
2 sale shall vest the interest or title of the person liable for the  
3 amount in the purchaser. The unsold portion of any property seized  
4 shall remain in the custody and control of the Tax Commissioner or  
5 ~~Commissioner of Labor, director,~~ or his or her duly authorized  
6 representative, until offered for sale again in accordance with this  
7 section or redeemed by the taxpayer.

8 (7) Whenever any property which is seized and sold under  
9 this section is not sufficient to satisfy the claim of the state for  
10 which distraint or seizure is made, the sheriff or duly authorized  
11 employee of the Tax Commissioner or Department of ~~Labor~~ Economic  
12 Development may thereafter, and as often as the same may be  
13 necessary, proceed to seize and sell in like manner any other  
14 property liable to seizure of the taxpayer against whom such claim  
15 exists until the amount due from such taxpayer, together with all  
16 expenses, is fully paid.

17 (8) If after the sale the money received exceeds the  
18 total of all amounts due the state, including any interest,  
19 penalties, additions to tax, and costs, and if there is no other  
20 interest in or lien upon such money received, the Tax Commissioner or  
21 ~~Commissioner of Labor~~ director shall return the excess to the person  
22 liable for the amounts and obtain a receipt. If any person having an  
23 interest or lien upon the property files with the Tax Commissioner or  
24 ~~Commissioner of Labor~~ director prior to the sale notice of his or her  
25 interest or lien, the Tax Commissioner or ~~Commissioner of Labor~~

1 director shall withhold any excess pending a determination of the  
2 rights of the respective parties thereto by a court of competent  
3 jurisdiction. If for any reason the receipt of the person liable for  
4 the amount is not available, the Tax Commissioner or ~~Commissioner of~~  
5 ~~Labor~~ director shall deposit the excess money with the State  
6 Treasurer, as trustee for the owner, subject to the order of the  
7 person liable for the amount or his or her heirs, successors, or  
8 assigns. No interest earned, if any, shall become the property of the  
9 person liable for the amount.

10 (9) All persons and officers of companies or corporations  
11 shall, on demand of a sheriff or duly authorized employee of the Tax  
12 Commissioner or Department of ~~Labor~~ Economic Development about to  
13 distraint or having distrained any property or right to property,  
14 exhibit all books containing evidence or statements relating to the  
15 property or rights of property liable to distraint for the tax due.

16 Sec. 240. Section 77-3907, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 77-3907 (1) To enforce collection of any tax not paid  
19 when due, the Tax Commissioner or ~~Commissioner of Labor~~ director may  
20 make demand upon any security which is provided for by law and which  
21 has been submitted to the Tax Commissioner or ~~Commissioner of Labor~~  
22 director on behalf of the person liable for the tax, together with  
23 any interest, penalties, additions to tax, and costs thereon. The  
24 security may, if necessary, be sold by the Tax Commissioner or  
25 ~~Commissioner of Labor~~ director in the manner provided by section

1 77-27,131.

2 (2) The Tax Commissioner or ~~Commissioner of Labor~~  
3 director may abate the unpaid portion of the assessment of any tax,  
4 or other liability in respect thereof, if he or she determines that  
5 the administration and collection costs involved would not warrant  
6 collection of the amount due.

7 Sec. 241. Section 77-3908, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 77-3908 (1) No injunction or writ of mandamus or other  
10 legal or equitable process shall issue in any suit, action, or  
11 proceeding in any court against this state to enjoin the collection  
12 of any tax, fee, or any amount of tax required to be collected under  
13 any tax program administered by the Tax Commissioner or ~~Commissioner~~  
14 ~~of Labor.~~ director.

15 (2) The methods of enforcement and collection provided in  
16 the Uniform State Tax Lien Registration and Enforcement Act,  
17 including distraint and sale, shall be fully independent so that  
18 pursuit of any one method shall not be conditioned upon pursuit of  
19 any other, nor shall pursuit of any one method in any way affect or  
20 limit the right of the Tax Commissioner or ~~Commissioner of Labor~~  
21 director to subsequently pursue any of the other methods of  
22 enforcement or collection.

23 Sec. 242. Section 77-5403, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 77-5403 For purposes of the Rural Economic Opportunities

1 Act:

2 (1) Any term defined in the Nebraska Revenue Act of 1967  
3 and used in the Rural Economic Opportunities Act has the same meaning  
4 as in the Nebraska Revenue Act of 1967;

5 (2) Average annual total employment means the average  
6 total employment reported for the county of employment for the most  
7 recent calendar year reported as of July 1 by the Department of  
8 ~~Labor~~; Economic Development;

9 (3) Base year means the year immediately before the year  
10 in which the application was submitted;

11 (4) Base-year employee means any individual who was  
12 employed in Nebraska and subject to the Nebraska income tax on  
13 compensation received from the taxpayer or its predecessors during  
14 the base year and who is employed at the project;

15 (5) Compensation means the wages and other payments  
16 subject to withholding for federal income tax purposes;

17 (6) County average annual wage means the most recent  
18 average annual wage paid by all employers in a county or in the  
19 state, whichever is lower, for the most recent calendar year reported  
20 as of July 1 by the Department of ~~Labor~~. Economic Development. County  
21 average annual wage for a project located in more than one county  
22 means the county average annual wages for each county in which the  
23 project is located, multiplied by the total of the average annual  
24 total employment for each county in which the project is located,  
25 summing the products for all counties in which the project is

1 located, then dividing the result by the average annual total  
2 employment for all counties in which the project is located;

3 (7) Entitlement period means the year during which the  
4 required increases in employment, wages, and investment were met or  
5 exceeded and the next six years;

6 (8) Equivalent employees means the number computed by  
7 dividing the total hours paid in a year by the product of forty times  
8 the number of weeks in a year;

9 (9) Investment, for qualified property owned by the  
10 taxpayer, means the original cost of the property. Investment, for  
11 qualified property rented by the taxpayer, means the average net  
12 annual rent multiplied by the number of years of the lease for which  
13 the taxpayer was originally bound, not to exceed ten years or the end  
14 of the third year after the entitlement period, whichever is earlier.  
15 The rental of land included in and incidental to the leasing of a  
16 building is included in the computation;

17 (10) Labor force means the total annual average county  
18 labor force for the most recent calendar year reported as of July 1  
19 by the Department of ~~Labor~~; Economic Development;

20 (11) Motor vehicle means any motor vehicle, trailer, or  
21 semitrailer as defined in the Motor Vehicle Registration Act and  
22 subject to registration for operation on the highways;

23 (12) Number of new employees means the number of  
24 equivalent employees at the project during the year minus the number  
25 of equivalent employees during the base year;

1                   (13)(a) Qualified business means any business engaged in  
2 the storage, warehousing, distribution, transportation, or sale of  
3 tangible personal property. Qualified business also means any  
4 business engaged in any of the following activities:

5                   (i) The conducting of research, development, or testing  
6 for scientific, agricultural, animal husbandry, food product, or  
7 industrial purposes;

8                   (ii) The performance of data processing,  
9 telecommunication, insurance, or financial services. Financial  
10 services for purposes of this subdivision only includes services  
11 provided by any person or entity licensed by the Department of  
12 Banking and Finance or the Securities and Exchange Commission;

13                   (iii) The assembly, fabrication, manufacture, or  
14 processing of tangible personal property;

15                   (iv) The administrative management of any activities,  
16 including headquarter facilities relating to such activities; or

17                   (v) Any combination of the activities listed in  
18 subdivisions (13)(a)(i) through (iv) of this section;

19                   (b) Qualified business does not include (i) any business  
20 activity in which eighty percent or more of the total sales are (A)  
21 sales to the ultimate consumer of food prepared for immediate  
22 consumption or (B) sales to the ultimate consumer of tangible  
23 personal property which is not assembled, fabricated, manufactured,  
24 or processed by the taxpayer or which is not used by the purchaser in  
25 any of the activities listed in subdivisions (13)(a)(i) through (v)

1 of this section or (ii) a livestock operation. For purposes of this  
2 subdivision, livestock operation means the feeding or holding of beef  
3 cattle, dairy cattle, horses, swine, sheep, poultry, or other  
4 livestock in buildings, lots, or pens;

5 (14) Qualified employee leasing company means a company  
6 which places all employees of a client-lessee on its payroll and  
7 leases such employees to the client-lessee on an ongoing basis for a  
8 fee and, by written agreement between the employee leasing company  
9 and client-lessee, grants to the client-lessee input into the hiring  
10 and firing of the employees leased to the client-lessee;

11 (15) Qualified property means any tangible property of a  
12 type subject to depreciation, amortization, or other recovery under  
13 the Internal Revenue Code, or the components of such property, that  
14 will be located and used at the project. Qualified property does not  
15 include (a) aircraft, barges, motor vehicles, railroad rolling stock,  
16 or watercraft or (b) property that is rented by the taxpayer  
17 qualifying under the Rural Economic Opportunities Act to another  
18 person;

19 (16) Qualifying wage means the greater of one hundred  
20 twenty-five percent of the county average annual wage in the county  
21 or counties in which the project is located or one hundred percent of  
22 the regional average annual wage in the region or regions in which  
23 the project is located;

24 (17) Region means the following regions:

25 (a) Panhandle region, composed of the counties of Banner,

1 Box Butte, Cheyenne, Dawes, Deuel, Garden, Kimball, Morrill, Scotts  
2 Bluff, Sheridan, and Sioux;

3 (b) Mid-plains region, composed of the counties of  
4 Arthur, Chase, Cherry, Dawson, Dundy, Frontier, Furnas, Gosper,  
5 Grant, Hayes, Hitchcock, Hooker, Keith, Lincoln, Logan, McPherson,  
6 Perkins, Red Willow, and Thomas;

7 (c) Central region, composed of the counties of Adams,  
8 Blaine, Buffalo, Clay, Custer, Franklin, Garfield, Greeley, Hall,  
9 Hamilton, Harlan, Howard, Kearney, Loup, Merrick, Nance, Nuckolls,  
10 Phelps, Sherman, Valley, Webster, and Wheeler;

11 (d) Northeast region, composed of the counties of  
12 Antelope, Boone, Boyd, Brown, Burt, Cedar, Colfax, Cuming, Dakota,  
13 Dixon, Dodge, Holt, Keya Paha, Knox, Madison, Pierce, Platte, Rock,  
14 Stanton, Thurston, and Wayne;

15 (e) Southeast region, composed of the counties of Butler,  
16 Fillmore, Gage, Jefferson, Johnson, Nemaha, Otoe, Pawnee, Polk,  
17 Richardson, Saline, Saunders, Seward, Thayer, and York;

18 (f) Omaha region, composed of the counties of Douglas,  
19 Sarpy, Cass, and Washington; and

20 (g) Lincoln region, composed of the county of Lancaster;

21 (18) Regional average annual wage, for a project located  
22 in one region, means the most recent average annual wage paid by all  
23 employers in the region for the most recent calendar year calculated  
24 by multiplying the average annual wage for each county in the region  
25 for the most recent calendar year reported as of July 1 by the

1 Department of ~~Labor~~Economic Development by the corresponding average  
2 annual total employment in each county, summing the products for all  
3 counties in the region, and then dividing the result by the average  
4 annual total employment of all counties in the region. Regional  
5 average annual wage, for a project located in more than one region,  
6 means the regional average annual wage for each region in which the  
7 project is located, multiplied by the total of the average annual  
8 total employment for each region in which the project is located, the  
9 product then divided by the sum of the average annual total  
10 employment for the regions;

11 (19) Related persons means any corporations,  
12 partnerships, limited liability companies, or joint ventures which  
13 are or would otherwise be members of the same unitary group, if  
14 incorporated, or any persons who are considered to be related persons  
15 under section 267(b) or (c) or 707(b) of the Internal Revenue Code;

16 (20) Taxpayer means any person subject to the sales and  
17 use taxes and an income tax imposed by the Nebraska Revenue Act of  
18 1967; any corporation, partnership, limited liability company, or  
19 joint venture that is or would otherwise be a member of the same  
20 unitary group, if incorporated, which is, or whose partners, members,  
21 or owners are, subject to such tax; and any other partnership,  
22 limited liability company, subchapter S corporation, subchapter T  
23 cooperative, or joint venture when the partners, shareholders, or  
24 members are subject to such tax; and

25 (21) Year means the taxable year of the taxpayer.

1           Sec. 243. Section 77-5521, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           77-5521 Nebraska average annual wage means the most  
4 recent average annual wage paid by all employers in this state for  
5 the most recent calendar year as reported by the Department of ~~Labor~~  
6 Economic Development on or before the July 1 immediately prior to the  
7 beginning of the particular year the company applied for benefits for  
8 which such determination applies.

9           Sec. 244. Section 77-5707.01, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           77-5707.01 County average weekly wage for any calendar  
12 year means the most recent average weekly wage paid by all employers  
13 in the county as reported by the Department of ~~Labor~~Economic  
14 Development by October 1 of the year prior to application.

15           Sec. 245. Section 77-5712, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17           77-5712 Nebraska average weekly wage for any calendar  
18 year means the most recent average weekly wage paid by all employers  
19 in all counties in Nebraska as reported by the Department of ~~Labor~~  
20 Economic Development by October 1 of the year prior to application.

21           Sec. 246. Section 77-5903, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           77-5903 For purposes of the Nebraska Advantage  
24 Microenterprise Tax Credit Act:

25           (1) Actively engaged in the operation of a microbusiness

1 means personal involvement on a continuous basis in the daily  
2 management and operation of the business;

3 (2) Distressed area means a municipality, county,  
4 unincorporated area within a county, or census tract in Nebraska that  
5 has (a) an unemployment rate which exceeds the statewide average  
6 unemployment rate, (b) a per capita income below the statewide  
7 average per capita income, or (c) had a population decrease between  
8 the two most recent federal decennial censuses;

9 (3) Equivalent employees means the number of employees  
10 computed by dividing the total hours paid in a year by the product of  
11 forty times the number of weeks in a year;

12 (4) Microbusiness means any business employing five or  
13 fewer equivalent employees at the time of application. Microbusiness  
14 does not include a farm or livestock operation unless (a) the person  
15 actively engaged in the operation of the microbusiness has a net  
16 worth of not more than three hundred fifty thousand dollars,  
17 including any holdings by a spouse or dependent, based on fair market  
18 value, or (b) the investment or employment is in the processing or  
19 marketing of agricultural products, aquaculture, agricultural  
20 tourism, or the production of fruits, herbs, tree products,  
21 vegetables, tree nuts, dried fruits, organic crops, or nursery crops;

22 (5) New employment means the amount by which the total  
23 compensation plus the employer cost for health insurance for  
24 employees paid during the tax year to or for employees who are  
25 Nebraska residents exceeds the total compensation paid plus the

1 employer cost for health insurance for employees to or for employees  
2 who are Nebraska residents in the tax year prior to application. New  
3 employment does not include compensation to any employee that is in  
4 excess of one hundred fifty percent of the Nebraska average weekly  
5 wage. Nebraska average weekly wage means the most recent average  
6 weekly wage paid by all employers as reported by October 1 by the  
7 Department of ~~Labor~~; Economic Development;

8 (6) New investment means the increase during the tax year  
9 over the year prior to the application in the applicant's (a)  
10 purchases of buildings and depreciable personal property located in  
11 Nebraska, (b) expenditures on repairs and maintenance on property  
12 located in Nebraska, neither subdivision (a) or (b) of this  
13 subdivision to include vehicles required to be registered for  
14 operation on the roads and highways of this state, and (c)  
15 expenditures on advertising, legal, and professional services. If the  
16 buildings or depreciable personal property is leased, the amount of  
17 new investment shall be the increase in average net annual rents  
18 multiplied by the number of years of the lease for which the taxpayer  
19 is bound, not to exceed ten years;

20 (7) Related persons means (a) any corporation,  
21 partnership, limited liability company, cooperative, including  
22 cooperatives exempt under section 521 of the Internal Revenue Code of  
23 1986, as amended, limited cooperative association, or joint venture  
24 which is or would otherwise be a member of the same unitary group, if  
25 incorporated, or any person who is considered to be a related person

1 under either section 267(b) and (c) or section 707(b) of the Internal  
2 Revenue Code of 1986, as amended, and (b) any individual who is a  
3 spouse, parent if the taxpayer is a minor, or minor son or daughter  
4 of the taxpayer; and

5 (8) Taxpayer means any person subject to the income tax  
6 imposed by the Nebraska Revenue Act of 1967, any corporation,  
7 partnership, limited liability company, cooperative, including a  
8 cooperative exempt under section 521 of the Internal Revenue Code of  
9 1986, as amended, limited cooperative association, or joint venture  
10 that is or would otherwise be a member of the same unitary group, if  
11 incorporated, which is, or whose partners, members, or owners  
12 representing an ownership interest of at least ninety percent of such  
13 entity are, subject to such tax, and any other partnership, limited  
14 liability company, subchapter S corporation, cooperative, including a  
15 cooperative exempt under section 521 of the Internal Revenue Code of  
16 1986, as amended, limited cooperative association, or joint venture  
17 when the partners, shareholders, or members representing an ownership  
18 interest of at least ninety percent of such entity are subject to  
19 such tax.

20 The changes made to this section by Laws 2008, LB 177,  
21 shall be operative for all applications for benefits received on or  
22 after July 18, 2008.

23 Sec. 247. Section 81-101, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 81-101 The civil administration of the laws of the state

1 is vested in the Governor. For the purpose of aiding the Governor in  
2 the execution and administration of the laws, the executive and  
3 administrative work shall be divided into the following agencies: (1)  
4 Department of Agriculture; (2) ~~Department of Labor~~; (3) ~~Department of~~  
5 ~~Roads~~; (4) ~~(3)~~ Department of Natural Resources; (5) ~~(4)~~ Department of  
6 Banking and Finance; (6) ~~(5)~~ Department of Insurance; (7) ~~(6)~~  
7 Department of Motor Vehicles; (8) ~~(7)~~ Department of Administrative  
8 Services; (8) ~~(9)~~ Department of Economic Development; (10) ~~(9)~~  
9 Department of Correctional Services; (11) ~~(10)~~ Nebraska State Patrol;  
10 and (12) ~~(11)~~ Department of Health and Human Services.

11 Sec. 248. Section 81-102, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 81-102 The Governor shall appoint heads for the various  
14 agencies listed in section 81-101, subject to confirmation by a  
15 majority vote of the members elected to the Legislature. Such  
16 appointments shall be submitted to the Legislature within sixty  
17 calendar days following the first Thursday after the first Tuesday in  
18 each odd-numbered year. The officers shall be designated as follows:  
19 (1) The Director of Agriculture for the Department of Agriculture;  
20 (2) ~~the Commissioner of Labor for the Department of Labor~~; (3) ~~the~~  
21 ~~Director-State Engineer~~ for the Department of Roads; (4) ~~(3)~~ the  
22 Director of Natural Resources for the Department of Natural  
23 Resources; (5) ~~(4)~~ the Director of Banking and Finance for the  
24 Department of Banking and Finance; (6) ~~(5)~~ the Director of Insurance  
25 for the Department of Insurance; (7) ~~(6)~~ the Director of Motor

1 Vehicles for the Department of Motor Vehicles; ~~(8)~~(7) the Director  
2 of Administrative Services for the Department of Administrative  
3 Services; ~~(9)~~(8) the Director of Correctional Services for the  
4 Department of Correctional Services; ~~(10)~~(9) the Director of  
5 Economic Development for the Department of Economic Development; ~~(11)~~  
6 (10) the Superintendent of Law Enforcement and Public Safety for the  
7 Nebraska State Patrol; ~~(12)~~(11) the Property Tax Administrator as  
8 the chief administrative officer of the property assessment division  
9 of the Department of Revenue; and ~~(13)~~(12) the chief executive  
10 officer for the Department of Health and Human Services. Whoever  
11 shall be so nominated by the Governor and shall fail to receive the  
12 number of votes requisite for confirmation, shall not be subject to  
13 nomination or appointment for this or any other appointive state  
14 office requiring confirmation by the Legislature during the period  
15 for which his or her appointment was sought. In case of a vacancy in  
16 any of such offices during the recess of the Legislature, the  
17 Governor shall make a temporary appointment until the next meeting of  
18 the Legislature, when he or she shall nominate some person to fill  
19 such office. Any person so nominated who is confirmed by the  
20 Legislature, shall hold his or her office during the remainder of the  
21 term if a specific term has been provided by law, otherwise during  
22 the pleasure of the Governor subject to the provisions of this  
23 section; except any such officers may be removed by the Governor  
24 pursuant to Article IV of the Constitution of Nebraska.

25                   Sec. 249. Section 81-401, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           81-401 (1) The Governor, through the agency of the  
3 Department of ~~Labor~~ Economic Development created by section 81-101,  
4 shall have power:

5           ~~(1)~~ (a) To foster, promote, and develop the welfare of  
6 wage earners;

7           ~~(2)~~ (b) To improve working conditions;

8           ~~(3)~~ (c) To advance opportunities for profitable  
9 employment;

10           ~~(4)~~ (d) To collect, collate, assort, systematize, and  
11 report statistical details relating to all departments of labor,  
12 especially in its relation to commercial, industrial, social,  
13 economic, and educational conditions and to the permanent prosperity  
14 of the manufacturing and productive industries;

15           ~~(5)~~ (e) To acquire and distribute useful information on  
16 subjects connected with labor in the most general and comprehensive  
17 sense of the word;

18           ~~(6)~~ (f) To acquire and distribute useful information  
19 concerning the means of promoting the material, social, intellectual,  
20 and moral prosperity of laboring men and women;

21           ~~(7)~~ (g) To acquire and distribute information as to the  
22 conditions of employment and such other facts as may be deemed of  
23 value to the industrial interests of the state;

24           ~~(8)~~ (h) To acquire and distribute information in relation  
25 to the prevention of accidents, occupational diseases, and other

1 related subjects;

2 ~~(9)~~ (i) To acquire and distribute useful information  
3 regarding the role of the part-time labor force and the manner in  
4 which such labor force affects the economy and citizens of the state;  
5 and

6 ~~(10)~~ (j) To administer and enforce all of the provisions  
7 of the ~~Boiler Inspection Act, the Employment Security Law, the Farm~~  
8 ~~Labor Contractors Act, the Nebraska Amusement Ride Act, the Nebraska~~  
9 ~~Workforce Investment Act, and the Wage and Hour Act and Chapter 48,~~  
10 ~~articles 2, 3, 4, and 5, and for that purpose there is imposed upon~~  
11 ~~the Commissioner of Labor the duty of executing all of the provisions~~  
12 ~~of such acts, law, and articles. law which the department has been~~  
13 ~~charged to carry out.~~

14 (2) The department and the Economic Development  
15 Commission shall maintain and develop the economy of the state to  
16 provide opportunities for the people which will enhance and expand  
17 the quality of their lives. The department and the commission shall  
18 promote the:

19 (a) Expansion of personal income through the development  
20 of business and employment opportunities which afford sufficient  
21 compensation to ensure an adequate standard of living for the people  
22 of the state;

23 (b) Development of an economy that contributes to and  
24 enhances the environmental quality of the state;

25 (c) Development of a stable economy within the state;

1           (d) Development of economic health and opportunities  
2 throughout the communities and counties of the state; and

3           (e) Development of an economy which is capable of  
4 providing the necessary revenue for state government, local  
5 governments, and other political subdivisions of the state and in  
6 this way minimize the tax burden faced by all taxpayers of the state.

7           (3) The chief executive officer of the department shall  
8 be the Director of Economic Development appointed by the Governor  
9 pursuant to section 81-102. The director shall administer the affairs  
10 of the department, including all provisions of law which the  
11 department or the director have been charged to administer. The  
12 director shall have equal rank with the heads of other state  
13 departments, and his or her salary shall be fixed by the Governor  
14 with the advice of the commission. The director shall employ a deputy  
15 director. The director shall employ division directors and such other  
16 assistants, professional staff, and other employees as he or she  
17 deems necessary to effectively carry out his or her duties and the  
18 duties of the department within the appropriations provided by the  
19 Legislature.

20           (4) The department and its staff shall be structured as a  
21 nonpolitical, professionally managed division of state government.

22           Sec. 250. Section 81-402, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           81-402 The ~~Commissioner of Labor~~ Director of Economic  
25 Development shall, in the manner provided in section 48-609, provide

1 a merit system for the appointment, promotion, and demotion of  
2 employees of the Division of Safety of the Department of ~~Labor~~. ~~Any~~  
3 ~~employee of the division on December 25, 1969, other than a~~  
4 ~~probationary employee, shall be deemed to have qualified under the~~  
5 ~~merit system for the position then held.~~ Economic Development.

6 Sec. 251. Section 81-403, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 81-403 The Department of ~~Labor~~ Economic Development shall  
9 review current programs, policies, and funding sources to identify  
10 available resources that may provide educational opportunities for  
11 youth. Such opportunities shall include training and job experience  
12 in the repair and alteration of public buildings as may be necessary  
13 to comply with the requirements of the federal Americans with  
14 Disabilities Act of 1990.

15 Sec. 252. Section 81-405, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 81-405 The Mechanical Safety Inspection Fund is created.  
18 All fees collected by the Department of ~~Labor~~ Economic Development  
19 pursuant to the Nebraska Amusement Ride Act and the Conveyance Safety  
20 Act shall be remitted to the State Treasurer for credit to the  
21 Mechanical Safety Inspection Fund. Fees so collected shall not lapse  
22 into the General Fund. Fees so collected shall be used for the sole  
23 purpose of administering the provisions of the Nebraska Amusement  
24 Ride Act and the Conveyance Safety Act. Any money in the Mechanical  
25 Safety Inspection Fund available for investment shall be invested by

1 the state investment officer pursuant to the Nebraska Capital  
2 Expansion Act and the Nebraska State Funds Investment Act. ~~All funds~~  
3 ~~existing in the Elevator Inspection Fund and the Nebraska Amusement~~  
4 ~~Ride Fund on January 1, 2008, shall be transferred to the Mechanical~~  
5 ~~Safety Inspection Fund.~~

6 Sec. 253. Section 81-8,220, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 81-8,220 The Director of Insurance, ~~Commissioner of~~  
9 ~~Labor,~~ Director of Economic Development, and Director of  
10 Administrative Services shall constitute the State Claims Board which  
11 shall be a part of the Risk Management Program created by section  
12 81-8,239.01. The Attorney General shall be its legal advisor. With  
13 the advice and consent of the other members of the board, the  
14 Director of Administrative Services may hire a secretary for the  
15 board. The members of the board shall receive no compensation for  
16 their services except that provided by law for the offices they hold,  
17 but they shall be allowed necessary traveling expenses in performing  
18 their duties as provided in sections 81-1174 to 81-1177.

19 Sec. 254. Section 81-1201.04, Revised Statutes Cumulative  
20 Supplement, 2010, is amended to read:

21 81-1201.04 (1) There is hereby created a commission to be  
22 known as the Economic Development Commission. The commission shall  
23 consist of nine voting members appointed by the Governor. The  
24 chairperson of the commission shall be one of the appointed members  
25 and shall be chosen by the commission. Each congressional district in

1 Nebraska shall be represented by three members, and the Governor  
2 shall solicit nominations for appointments to the commission from  
3 recognized economic development groups in Nebraska. The members of  
4 the commission shall be representative, to the extent possible, of  
5 the various geographic areas of the state and of both the urban and  
6 rural population. The director shall serve as an ad hoc nonvoting  
7 member of the commission.

8           (2) In appointing the members, the Governor shall seek to  
9 create a broad-based commission representative of the Nebraska  
10 economy. To achieve this objective the Governor shall appoint  
11 individuals from the following private industry sectors:

12           ~~(1)~~ (a) Production agriculture;

13           ~~(2)~~ (b) At least two individuals from manufacturing, one  
14 such individual shall represent a company with no more than seventy-  
15 five employees;

16           ~~(3)~~ (c) Transportation and logistics;

17           ~~(4)~~ (d) Travel and tourism;

18           ~~(5)~~ (e) Financial services and insurance;

19           ~~(6)~~ (f) Information technology and communications;

20           ~~(7)~~ (g) Biotechnology; and

21           ~~(8)~~ (h) Community development.

22           (3) The commission and department are encouraged to  
23 involve other essential groups in the work of the commission,  
24 including, but not limited to, the (a) University of Nebraska, (b)  
25 Department of Agriculture, (c) State Energy Office, (d) educational

1 institutions, ~~(e) Department of Labor,~~ and ~~(f) (e) Nebraska~~  
2 Investment Finance Authority. No more than five voting members of the  
3 commission shall belong to the same political party.

4 (4) The commission shall provide programmatic policy  
5 guidance and oversight to the Nebraska Manufacturing Extension  
6 Partnership and shall provide regular consultation to the Community  
7 Development Block Grant Program.

8 Sec. 255. Section 81-1202, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 81-1202 For purposes of sections 81-1202 to 81-1210:

11 (1) Department means the Department of Economic  
12 Development; and

13 (2) Job , job-training grant means a grant from the Job  
14 Training Cash Fund or any nonfederal funding source within the  
15 ~~Department of Economic Development~~ department awarded by the  
16 department.

17 Sec. 256. Section 81-1203, Revised Statutes Cumulative  
18 Supplement, 2010, is amended to read:

19 81-1203 (1) A business applying for a job training grant,  
20 other than a grant provided under subsection (3) of section  
21 81-1201.21, shall submit a business plan to the ~~Department of~~  
22 ~~Economic Development~~ department which includes, but is not limited  
23 to:

24 (a) The number of jobs to be created or the number of  
25 existing positions that will be retrained;

1                   (b) The nature of the business and the type of jobs to be  
2     created or positions to be retrained;

3                   (c) The estimated wage levels of the jobs to be created  
4     or positions to be retrained; and

5                   (d) A program schedule for the job training project.

6                   (2) A business applying for a job training grant, other  
7     than a grant provided under subsection (3) of section 81-1201.21,  
8     must demonstrate that the job training project to be conducted  
9     pursuant to the grant meets the following criteria:

10                  (a) The wage level of the jobs created will meet the  
11     local prevailing average;

12                  (b) The jobs created will diversify the local economy;

13                  (c) The goods or services produced by the company will be  
14     export-oriented;

15                  (d) Seventy-five percent of the jobs created will be  
16     full-time jobs; and

17                  (e) The new jobs will be created within three calendar  
18     years.

19                  (3) A business applying for a training grant under  
20     subsection (3) of section 81-1201.21 may partner with a postsecondary  
21     educational institution; a private, nonprofit organization holding a  
22     certificate of exemption under section 501(c)(3) of the Internal  
23     Revenue Code; or a learning community coordinating council or school  
24     district that has partnered with a private, nonprofit organization.  
25     The application shall specify the role of the partnering entity in

1 identifying and training potential job applicants for the applicant  
2 business.

3 (4) A business applying for a training grant under  
4 subsection (3) of section 81-1201.21 may apply as a business that has  
5 established a program under which residents of rural areas or high-  
6 poverty areas are trained for employment or potential employment by  
7 documenting:

8 (a) That the business has established a program designed  
9 to fill a minimum of four positions in rural areas and a minimum of  
10 eight positions in high-poverty areas for such business;

11 (b) A program schedule for the training project;

12 (c) The nature of the business and the number of  
13 positions available or to be created;

14 (d) That the wage level of the positions available or to  
15 be created will meet the local prevailing average;

16 (e) The value of the positions available or to be created  
17 in diversifying the local economy;

18 (f) That a minimum of seventy-five percent of the  
19 positions available or to be created will be full-time jobs;

20 (g) That the business will accept funding on behalf of  
21 trainees and will provide a match of a minimum of twenty-five percent  
22 of the value of the grant, either monetarily or through in-kind  
23 services, as part of the training for each trainee;

24 (h) That any new position created will be done within  
25 three calendar years;

1           (i) That the number of trainees will not exceed one  
2 hundred twenty-five percent of the number of positions that will be  
3 available at the time of application; and

4           (j) That the goods or services produced by the business  
5 are generally exportable in nature resulting in additional money to  
6 the community or the state and the positions available or to be  
7 created are not local retail positions.

8           (5) Each business participating in a training grant under  
9 subsection (3) of section 81-1201.21 shall be subject to an audit by  
10 the ~~Department of Economic Development~~ department and shall annually  
11 report or provide to the department the following information:

12           (a) The percentage of trainees who have successfully  
13 completed the training;

14           (b) The percentage of trainees that such business hired;

15           (c) An itemized description of such business's match  
16 including expenditures per trainee; and

17           (d) A copy of the training curriculum.

18           (6) For purposes of subsections (3) through (5) of this  
19 section:

20           (a) High-poverty area means an area consisting of one or  
21 more contiguous census tracts, as determined by the most recent  
22 federal decennial census, which contain a percentage of persons with  
23 incomes below the poverty line of greater than thirty percent, and  
24 all census tracts contiguous to such tract or tracts, as determined  
25 by the most recent federal decennial census; and

1                   (b) Private, nonprofit organization means an organization  
2 whose purpose is providing basic job and life skills training to  
3 individuals in need of such training in rural or high-poverty areas.

4                   Sec. 257. Section 81-1204, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6                   81-1204 (1) Except as otherwise provided in this section,  
7 the ~~Department of Economic Development~~ department shall not approve a  
8 job training grant which exceeds an average expenditure of five  
9 thousand dollars per job created if the proposed wage levels do not  
10 exceed thirty thousand dollars per year or which exceeds an average  
11 expenditure of ten thousand dollars per job if the proposed wage  
12 levels exceed thirty thousand dollars per year.

13                   (2) The ~~Department of Economic Development~~ department may  
14 approve a job training grant up to ten thousand dollars per job  
15 created if the proposed wage levels do not exceed thirty thousand  
16 dollars per year or a job training grant up to fifteen thousand  
17 dollars per job if the proposed wage levels exceed thirty thousand  
18 dollars per year, if the application is approved with provisions  
19 described in subsection (3) of section 81-1203.

20                   Sec. 258. Section 81-1204.01, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22                   81-1204.01 Whenever practicable, the ~~Department of~~  
23 ~~Economic Development~~ department shall give priority consideration to  
24 training services offered by community college areas.

25                   Sec. 259. Section 81-1205, Revised Statutes Supplement,

1 2011, is amended to read:

2           81-1205 A business which is awarded a job training grant  
3 or a training grant shall provide annual performance reports to the  
4 ~~Department of Economic Development~~ department and a final performance  
5 report upon the completion of the project. The department shall  
6 include information relating to such grants in the department's  
7 annual status report under section 81-1201.11. The status report  
8 shall include information on each active grant, including specific  
9 information regarding the number of positions to be trained, whether  
10 new or existing employees are to be trained, the length of time that  
11 the project has been active, the amount of funding committed to the  
12 project, the amount of funding paid out to date, and the projected  
13 completion date. The status report shall also provide information on  
14 grants closed during the reporting year, including the total number  
15 of employees trained, whether new or existing employees were trained,  
16 total project expenditures, and the duration time of the project. The  
17 status report shall also provide information summarizing the use of  
18 community college areas to provide training services and list  
19 specific projects where a community college area is providing all or  
20 a component of the training services. If private or inhouse training  
21 services are used, the status report shall provide information  
22 regarding the name of the private or inhouse training service and the  
23 qualifications of the training service.

24           Sec. 260. Section 81-1206, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1                   81-1206 The ~~Department of Economic Development~~ department  
2 shall monitor the progress of job training projects conducted  
3 pursuant to job training grants. As deemed necessary, the department  
4 may conduct a site audit of job training projects and review business  
5 records pertaining to the job training project.

6                   Sec. 261. Section 81-1208, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8                   81-1208 If a business relocates or abandons its site  
9 during the grant disbursement period, the disbursements made to the  
10 business shall be immediately due and payable to the ~~Department of~~  
11 ~~Economic Development.~~ department. If a business is sold during the  
12 grant disbursement period, the disbursements made to the business  
13 shall be immediately due and payable to the department unless the  
14 purchaser agrees to carry out the terms and conditions of the  
15 business plan.

16                  Sec. 262. Section 81-1209, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18                  81-1209 The ~~Department of Economic Development~~ department  
19 shall remit repayments of job training grants due to noncompliance to  
20 the State Treasurer for credit to the Job Training Cash Fund.

21                  Sec. 263. Section 81-1210, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23                  81-1210 The ~~Department of Economic Development~~ department  
24 shall adopt and promulgate rules and regulations to govern the award  
25 and disbursement of job training grants.

1           Sec. 264. Section 81-1356, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           81-1356 As used in sections 81-1355 to 81-1368, unless  
4 the context otherwise requires:

5           (1) Equal employment opportunity ~~shall mean~~ means the  
6 right of all persons to work and to advance on the basis of merit and  
7 ability without regard to race, color, religion, national origin,  
8 age, sex, marital status, or physical or mental disability;

9           (2) Affirmative action ~~shall mean~~ means a deliberate and  
10 sustained effort to identify and eliminate barriers to employment and  
11 advancement which may discriminate against various groups. Particular  
12 emphasis shall be focused on racial minorities, women, and the  
13 disabled but not to the exclusion of the criteria set forth in  
14 subdivision (1) of this section. The ultimate goal is to achieve, at  
15 all levels, a state government ~~work force~~ workforce which is  
16 representative of the state working population. The composition of  
17 the state working population shall be determined annually through  
18 reports of the Department of ~~Labor.~~ Economic Development. Such a goal  
19 is to be an integral part of every aspect of personnel policy;

20           (3) Office ~~shall mean~~ means the Affirmative Action  
21 Office;

22           (4) Program ~~shall mean~~ means the Affirmative Action  
23 Program;

24           (5) Agency ~~shall mean~~ means each department, agency,  
25 office, board, commission, and committee of the State of Nebraska

1 under the executive authority of the Governor;

2 (6) Plan ~~shall mean~~ means the Affirmative Action Plan  
3 prepared by the individual agencies; and

4 (7) Administrator ~~shall mean~~ means the Affirmative Action  
5 Administrator.

6 Sec. 265. Section 84-1301, Revised Statutes Supplement,  
7 2011, is amended to read:

8 84-1301 For purposes of the State Employees Retirement  
9 Act, unless the context otherwise requires:

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

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

1 accordance with the payment option chosen by the member;

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

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

11 (5)(a) Compensation means gross wages or salaries payable  
12 to the member for personal services performed during the plan year.  
13 Compensation does not include insurance premiums converted into cash  
14 payments, reimbursement for expenses incurred, fringe benefits, or  
15 bonuses for services not actually rendered, including, but not  
16 limited to, early retirement inducements, cash awards, and severance  
17 pay, except for retroactive salary payments paid pursuant to court  
18 order, arbitration, or litigation and grievance settlements.  
19 Compensation includes overtime pay, member retirement contributions,  
20 and amounts contributed by the member to plans under sections 125,  
21 403(b), and 457 of the Internal Revenue Code or any other section of  
22 the code which defers or excludes such amounts from income.

23 (b) Compensation in excess of the limitations set forth  
24 in section 401(a)(17) of the Internal Revenue Code shall be  
25 disregarded. For an employee who was a member of the retirement

1 system before the first plan year beginning after December 31, 1995,  
2 the limitation on compensation shall not be less than the amount  
3 which was allowed to be taken into account under the retirement  
4 system as in effect on July 1, 1993;

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

7 (7) Defined contribution benefit means a member's  
8 retirement benefit from a money purchase plan in which member  
9 benefits equal annual contributions and earnings pursuant to section  
10 84-1310 and, if vested, employer contributions and earnings pursuant  
11 to section 84-1311;

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

16 (9) Employee means any employee of the State Board of  
17 Agriculture who is a member of the state retirement system on July 1,  
18 1982, and any person or officer employed by the State of Nebraska  
19 whose compensation is paid out of state funds or funds controlled or  
20 administered by a state department through any of its executive or  
21 administrative officers when acting exclusively in their respective  
22 official, executive, or administrative capacities. Employee does not  
23 include (a) judges as defined in section 24-701, (b) members of the  
24 Nebraska State Patrol, except for those members of the Nebraska State  
25 Patrol who elected pursuant to section 60-1304 to remain members of

1 the State Employees Retirement System of the State of Nebraska, (c)  
2 employees of the University of Nebraska, (d) employees of the state  
3 colleges, (e) employees of community colleges, (f) employees of the  
4 Department of Labor employed prior to July 1, 1984, and paid from  
5 funds provided pursuant to Title III of the federal Social Security  
6 Act or funds from other federal sources, except that if the  
7 contributory retirement plan or contract let pursuant to section  
8 48-609 is terminated, such employees of the Department of Economic  
9 Development shall become employees for purposes of the State  
10 Employees Retirement Act on the first day of the first pay period  
11 following the termination of such contributory retirement plan or  
12 contract, (g) employees of the State Board of Agriculture who are not  
13 members of the state retirement system on July 1, 1982, (h) the  
14 Nebraska National Guard air and army technicians, (i) persons  
15 eligible for membership under the School Employees Retirement System  
16 of the State of Nebraska who have not elected to become members of  
17 the retirement system pursuant to section 79-920 or been made members  
18 of the system pursuant to such section, except that those persons so  
19 eligible and who as of September 2, 1973, are contributing to the  
20 State Employees Retirement System of the State of Nebraska shall  
21 continue as members of such system, or (j) employees of the  
22 Coordinating Commission for Postsecondary Education who are eligible  
23 for and have elected to become members of a qualified retirement  
24 program approved by the commission which is commensurate with  
25 retirement programs at the University of Nebraska. Any individual

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

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

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

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

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

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

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

20 (16) Guaranteed investment contract means an investment  
21 contract or account offering a return of principal invested plus  
22 interest at a specified rate. For investments made after July 19,  
23 1996, guaranteed investment contract does not include direct  
24 obligations of the United States or its instrumentalities, bonds,  
25 participation certificates or other obligations of the Federal

1 National Mortgage Association, the Federal Home Loan Mortgage  
2 Corporation, or the Government National Mortgage Association, or  
3 collateralized mortgage obligations and other derivative securities.  
4 This subdivision shall not be construed to require the liquidation of  
5 investment contracts or accounts entered into prior to July 19, 1996;

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

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

1 from the plan;

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

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

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

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

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

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

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

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

24 (27) Retirement means qualifying for and accepting the  
25 retirement benefit granted under the State Employees Retirement Act

1 after terminating employment;

2 (28) Retirement board or board means the Public Employees  
3 Retirement Board;

4 (29) Retirement system means the State Employees  
5 Retirement System of the State of Nebraska;

6 (30) Service means the actual total length of employment  
7 as an employee and shall not be deemed to be interrupted by (a)  
8 temporary or seasonal suspension of service that does not terminate  
9 the employee's employment, (b) leave of absence authorized by the  
10 employer for a period not exceeding twelve months, (c) leave of  
11 absence because of disability, or (d) military service, when properly  
12 authorized by the retirement board. Service does not include any  
13 period of disability for which disability retirement benefits are  
14 received under section 84-1317;

15 (31) State department means any department, bureau,  
16 commission, or other division of state government not otherwise  
17 specifically defined or exempted in the act, the employees and  
18 officers of which are not already covered by a retirement plan;

19 (32) Surviving spouse means (a) the spouse married to the  
20 member on the date of the member's death or (b) the spouse or former  
21 spouse of the member if survivorship rights are provided under a  
22 qualified domestic relations order filed with the board pursuant to  
23 the Spousal Pension Rights Act. The spouse or former spouse shall  
24 supersede the spouse married to the member on the date of the  
25 member's death as provided under a qualified domestic relations

1 order. If the benefits payable to the spouse or former spouse under a  
2 qualified domestic relations order are less than the value of  
3 benefits entitled to the surviving spouse, the spouse married to the  
4 member on the date of the member's death shall be the surviving  
5 spouse for the balance of the benefits;

6 (33) Termination of employment occurs on the date on  
7 which the agency which employs the member determines that the  
8 member's employer-employee relationship with the State of Nebraska is  
9 dissolved. The agency which employs the member shall notify the board  
10 of the date on which such a termination has occurred. Termination of  
11 employment does not occur if an employee whose employer-employee  
12 relationship with the State of Nebraska is dissolved enters into an  
13 employer-employee relationship with the same or another agency of the  
14 State of Nebraska and there are less than one hundred twenty days  
15 between the date when the employee's employer-employee relationship  
16 ceased with the state and the date when the employer-employee  
17 relationship commenced with the same or another agency. It shall be  
18 the responsibility of the current employer to notify the board of  
19 such change in employment and provide the board with such information  
20 as the board deems necessary. If the board determines that  
21 termination of employment has not occurred and a termination benefit  
22 has been paid to a member of the retirement system pursuant to  
23 section 84-1321, the board shall require the member who has received  
24 such benefit to repay the benefit to the retirement system; and

25 (34) Vesting credit means credit for years, or a fraction

1 of a year, of participation in another Nebraska governmental plan for  
2 purposes of determining vesting of the employer account.

3 Sec. 266. Section 84-1307, Revised Statutes Supplement,  
4 2011, is amended to read:

5 84-1307 (1) The membership of the retirement system shall  
6 be composed of all persons who are or were employed by the State of  
7 Nebraska and who maintain an account balance with the retirement  
8 system.

9 (2) The following employees of the State of Nebraska are  
10 authorized to participate in the retirement system: (a) All permanent  
11 full-time employees shall begin participation in the retirement  
12 system upon employment; and (b) all permanent part-time employees who  
13 have attained the age of eighteen years may exercise the option to  
14 begin participation in the retirement system. An employee who  
15 exercises the option to begin participation in the retirement system  
16 pursuant to this section shall remain in the retirement system until  
17 his or her termination of employment or retirement, regardless of any  
18 change of status as a permanent or temporary employee.

19 (3) On and after July 1, 2010, no employee shall be  
20 authorized to participate in the retirement system provided for in  
21 the State Employees Retirement Act unless the employee (a) is a  
22 United States citizen or (b) is a qualified alien under the federal  
23 Immigration and Nationality Act, 8 U.S.C. 1101 et seq., as such act  
24 existed on January 1, 2009, and is lawfully present in the United  
25 States.

1           (4) For purposes of this section, (a) permanent full-time  
2 employees includes employees of the Legislature or Legislative  
3 Council who work one-half or more of the regularly scheduled hours  
4 during each pay period of the legislative session and (b) permanent  
5 part-time employees includes employees of the Legislature or  
6 Legislative Council who work less than one-half of the regularly  
7 scheduled hours during each pay period of the legislative session.

8           (5)(a) Within the first one hundred eighty days of  
9 employment, a full-time employee may apply to the board for vesting  
10 credit for years of participation in another Nebraska governmental  
11 plan, as defined by section 414(d) of the Internal Revenue Code.  
12 During the years of participation in the other Nebraska governmental  
13 plan, the employee must have been a full-time employee, as defined in  
14 the Nebraska governmental plan in which the credit was earned. The  
15 board may adopt and promulgate rules and regulations governing the  
16 assessment and granting of vesting credit.

17           (b) If the contributory retirement plan or contract let  
18 pursuant to section 48-609 is terminated, employees of the Department  
19 of ~~Labor~~Economic Development who are active participants in such  
20 contributory retirement plan or contract on the date of termination  
21 of such plan or contract shall be granted vesting credit for their  
22 years of participation in such plan or contract.

23           (6) Any employee who qualifies for membership in the  
24 retirement system pursuant to this section may not be disqualified  
25 for membership in the retirement system solely because such employee

1 also maintains separate employment which qualifies the employee for  
2 membership in another public retirement system, nor may membership in  
3 this retirement system disqualify such an employee from membership in  
4 another public employment system solely by reason of separate  
5 employment which qualifies such employee for membership in this  
6 retirement system.

7 (7) State agencies shall ensure that employees authorized  
8 to participate in the retirement system pursuant to this section  
9 shall enroll and make required contributions to the retirement system  
10 immediately upon becoming an employee. Information necessary to  
11 determine membership in the retirement system shall be provided by  
12 the employer.

13 Sec. 267. Section 85-1008, Revised Statutes Cumulative  
14 Supplement, 2010, is amended to read:

15 85-1008 (1) To assist the center in carrying out its  
16 purposes and functions, the Board of Regents may establish a Nebraska  
17 Safety Center Advisory Council composed of the following members:

- 18 (a) One representative from the Department of Roads;  
19 (b) One representative from the Department of Motor  
20 Vehicles;  
21 (c) One representative from the State Department of  
22 Education;  
23 (d) One representative from the Game and Parks  
24 Commission;  
25 (e) One representative from the Department of ~~Labor~~;

1 Economic Development;

2 (f) One person representing the community college areas;

3 (g) One person representing private business and  
4 industry;

5 (h) One person representing the University of Nebraska;

6 (i) One person representing the medical profession;

7 (j) One person representing the area of law enforcement  
8 in this state;9 (k) One person representing the Safety Council of  
10 Nebraska, Inc.;

11 (l) One person representing the area of transportation;

12 (m) One person representative of emergency medical  
13 services;14 (n) One person representing the judiciary in the State of  
15 Nebraska;

16 (o) One person representing city government;

17 (p) One person representing county government;

18 (q) One person representing the area of agriculture;

19 (r) One person representing the local public school  
20 system;

21 (s) One person representing fire safety;

22 (t) One representative of the Coordinating Commission for  
23 Postsecondary Education;

24 (u) One person representing the Red Cross; and

25 (v) One person representing the state colleges.

1           (2) Representatives selected to serve on the council  
2 shall have appropriate education, training, and experience in the  
3 field of fire safety, industrial safety, recreational safety,  
4 domestic safety, or traffic safety.

5           Sec. 268. Section 85-1539, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           85-1539 There is hereby created the Nebraska Community  
8 College Aid, Grant, and Contract Review Committee. The committee  
9 shall be selected by the Director of Administrative Services and  
10 shall consist of (1) a representative of the University of Nebraska  
11 who has expertise and experience in research and development, (2) a  
12 representative of the Department of Economic Development, (3) a  
13 ~~representative of the Department of Labor, (4)~~ a representative of  
14 the State Department of Education, and ~~(5)~~(4) a representative of  
15 the community colleges.

16           The committee shall develop guidelines and submit  
17 recommendations to the Director of Administrative Services for the  
18 distribution of the Nebraska Community College Aid Cash Fund and any  
19 other funds appropriated to Program 99 in Agency 83, Aid to Community  
20 Colleges, pursuant to any directives of the Governor or the  
21 Legislature. Recommendations made by the committee shall not exceed  
22 the amount appropriated to the fund.

23           Sec. 269. On and after July 1, 2012, positions of  
24 employment in the Department of Labor are transferred to the  
25 Department of Economic Development. For purposes of the transition,

1 employees of the department shall be considered employees of the  
2 Department of Economic Development and shall retain their rights  
3 under the state personnel system or pertinent bargaining agreement,  
4 and their service shall be deemed continuous. This section does not  
5 grant employees any new rights or benefits not otherwise provided by  
6 law or bargaining agreement or preclude the Department of Economic  
7 Development or the Director of Economic Development from exercising  
8 any of the prerogatives of management set forth in section 81-1311 or  
9 as otherwise provided by law. This section is not an amendment to or  
10 substitute for the provisions of any existing bargaining agreements.

11           Sec. 270. On July 1, 2012, all items of property, real  
12 and personal, including office furniture and fixtures, books,  
13 documents, and records of the Department of Labor shall become the  
14 property of the Department of Economic Development.

15           Sec. 271. On and after July 1, 2012, whenever the  
16 Department of Labor is referred to or designated by any contract or  
17 other document, such reference or designation shall apply to the  
18 Department of Economic Development. All contracts entered into by the  
19 Department of Labor prior to July 1, 2012, are hereby recognized,  
20 with the Department of Economic Development succeeding to all rights  
21 and obligations under such contracts. Any cash funds, custodial  
22 funds, gifts, trusts, grants, and any appropriations of funds from  
23 prior fiscal years available to satisfy obligations incurred under  
24 such contracts shall be transferred and appropriated to the  
25 Department of Economic Development for the payment of such

1 obligations. All licenses, certificates, registrations, permits,  
2 seals, or other forms of approval issued by the Department of Labor  
3 shall remain valid as issued unless revoked or their effectiveness is  
4 otherwise terminated as provided by law. All documents and records  
5 transferred, or copies of such documents and records, may be  
6 authenticated or certified by the Department of Economic Development  
7 for all legal purposes.

8           Sec. 272. (1) All rules, regulations, and orders of the  
9 Department of Labor adopted prior to July 1, 2012, shall continue to  
10 be effective until revised, amended, repealed, or nullified pursuant  
11 to law.

12           (2) No suit, action, or other proceeding, judicial or  
13 administrative, lawfully commenced prior to July 1, 2012, or which  
14 could have been commenced prior to that date, by or against the  
15 Department of Labor or any commissioner or employee thereof in such  
16 commissioner's or employees's official capacity or in relation to the  
17 discharge of his or her official duties, shall abate by reason of the  
18 transfer of duties and functions from the department to the  
19 Department of Economic Development.

20           (3) On and after July 1, 2012, unless otherwise  
21 specified, whenever any provision of law refers to the Department of  
22 Labor, the law shall be construed as referring to the Department of  
23 Economic Development.

24           Sec. 273. This act becomes operative on July 1, 2012.

25           Sec. 274. Original sections 25-1558, 48-121.02, 48-1,118,

1 48-214, 48-222, 48-229, 48-301, 48-302, 48-302.04, 48-303, 48-304,  
2 48-307, 48-309, 48-310, 48-310.01, 48-310.02, 48-311, 48-312, 48-401,  
3 48-402, 48-403, 48-404, 48-405, 48-412, 48-413, 48-414, 48-415,  
4 48-416, 48-421, 48-425, 48-427, 48-428, 48-431, 48-440, 48-443,  
5 48-444, 48-445, 48-446, 48-501.01, 48-503, 48-504, 48-505, 48-507,  
6 48-511, 48-513, 48-514, 48-515, 48-516, 48-518, 48-519, 48-524,  
7 48-602, 48-603.01, 48-605, 48-606, 48-606.01, 48-607, 48-608, 48-609,  
8 48-611, 48-612, 48-612.01, 48-613, 48-614, 48-616, 48-617, 48-618,  
9 48-619, 48-621, 48-622.02, 48-622.03, 48-623, 48-626, 48-627, 48-628,  
10 48-628.01, 48-628.02, 48-628.03, 48-628.05, 48-629, 48-629.01,  
11 48-630, 48-632, 48-633, 48-634, 48-635, 48-636, 48-637, 48-638,  
12 48-641, 48-642, 48-643, 48-646, 48-647, 48-648, 48-648.01, 48-649,  
13 48-650, 48-651, 48-652, 48-654, 48-654.01, 48-655, 48-656, 48-657,  
14 48-658, 48-660, 48-660.01, 48-661, 48-662, 48-663.01, 48-665,  
15 48-665.01, 48-667, 48-668, 48-668.01, 48-668.02, 48-668.03, 48-720,  
16 48-721, 48-722, 48-723, 48-724, 48-726, 48-727, 48-728, 48-729,  
17 48-730, 48-731, 48-733, 48-735.01, 48-737, 48-738, 48-743, 48-1202,  
18 48-1203.01, 48-1205, 48-1206, 48-1618, 48-1619, 48-1625, 48-1626,  
19 48-1627, 48-1702, 48-1705, 48-1706, 48-1710, 48-1802, 48-1803,  
20 48-1804, 48-1805, 48-1806, 48-1807, 48-1808, 48-1809, 48-1811,  
21 48-1812, 48-1813, 48-1814, 48-1817, 48-1819, 48-2103, 48-2106,  
22 48-2107, 48-2108, 48-2110, 48-2111, 48-2112, 48-2113, 48-2114,  
23 48-2117, 48-2208, 48-2210, 48-2213, 48-2214, 48-2502, 48-2504,  
24 48-2506, 48-2509, 48-2511, 48-2512.01, 48-2514, 48-2516, 48-2518,  
25 48-2520, 48-2521, 48-2522, 48-2525, 48-2526, 48-2527, 48-2528,

1 48-2529, 48-2530, 48-2702, 48-2902, 48-2907, 48-2908, 48-2910,  
2 49-506, 55-161, 55-161.01, 60-368, 60-488, 68-1711, 68-1732, 74-915,  
3 74-917, 77-373.01, 77-3,116, 77-27,188, 77-27,197, 77-27,198,  
4 77-27,199, 77-27,201, 77-27,202, 77-27,203, 77-27,205, 77-27,206,  
5 77-27,207, 77-27,208, 77-27,209, 77-3902, 77-3903, 77-3904, 77-3905,  
6 77-3906, 77-3907, 77-3908, 77-5403, 77-5521, 77-5707.01, 77-5712,  
7 77-5903, 81-101, 81-102, 81-401, 81-402, 81-403, 81-405, 81-8,220,  
8 81-1202, 81-1204, 81-1204.01, 81-1206, 81-1208, 81-1209, 81-1210,  
9 81-1356, and 85-1539, Reissue Revised Statutes of Nebraska, sections  
10 23-120, 42-917, 43-1723, 43-1726, 77-378, 77-2711, 77-27,119,  
11 81-1201.04, 81-1203, and 85-1008, Revised Statutes Cumulative  
12 Supplement, 2010, and sections 37-917, 43-2,108.05, 48-604,  
13 48-622.01, 48-631, 49-617, 81-1205, 84-1301, and 84-1307, Revised  
14 Statutes Supplement, 2011, are repealed.

15           Sec. 275. The following sections are outright repealed:  
16 Sections 81-1201.02, 81-1201.03, 81-12,117, 81-12,118, 81-12,119,  
17 81-12,120, 81-12,121, 81-12,122, 81-12,123, 81-12,124, 90-225,  
18 90-526, 90-532, 90-533, and 90-534, Reissue Revised Statutes of  
19 Nebraska, and section 81-1212, Revised Statutes Cumulative  
20 Supplement, 2010.

21           Sec. 276. Since an emergency exists, this act takes  
22 effect when passed and approved according to law.