

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1257

Introduced by Business and Labor Committee:
Vrtiska, 1, Chairperson; Dierks, 40; Hilgert, 7;
Redfield, 12; Schimek, 27

Read first time January 13, 2000

Committee: Business and Labor

A BILL

1 FOR AN ACT relating to labor; to amend section 81-401, Reissue
2 Revised Statutes of Nebraska; to adopt the Nebraska
3 Workforce Investment Act; to terminate the Nebraska Job
4 Training Act; to harmonize provisions; to provide
5 operative dates; to repeal the original section; to
6 outright repeal sections 48-1601 to 48-1615, Reissue
7 Revised Statutes of Nebraska; and to declare an
8 emergency.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 12 of this act shall be known
2 and may be cited as the Nebraska Workforce Investment Act.

3 Sec. 2. The purpose of the Nebraska Workforce Investment
4 Act is to provide workforce investment activities through statewide
5 and local workforce investment systems that increase the
6 employment, retention, and earnings of participants, increase
7 occupational skill attainment by participants, and, as a result,
8 improve the quality of the workforce, reduce welfare dependency,
9 and enhance the productivity and competitiveness of Nebraska and
10 the nation.

11 Sec. 3. For purposes of the Nebraska Workforce
12 Investment Act, unless the context otherwise requires:

13 (1) Commissioner means the Commissioner of Labor or his
14 or her designee;

15 (2) Federal Workforce Investment Act means the Workforce
16 Investment Act of 1998, Public Law 105-220, as amended; and

17 (3) State board means the Nebraska Workforce Investment
18 Board established pursuant to section 4 of this act.

19 Sec. 4. (1) The Nebraska Workforce Investment Board is
20 established to assist in the development of a state plan to carry
21 out the other functions described in the federal Workforce
22 Investment Act.

23 (2) The state board shall include:

24 (a) The Governor;

25 (b) Two members of the Legislature selected by the
26 Executive Board of the Legislative Council, who shall serve as
27 nonvoting members; and

28 (c) Representatives appointed by the Governor who serve

1 at the pleasure of the Governor who are:

2 (i) Representatives of business in the state who:

3 (A) Are owners of businesses, chief executives or
4 operating officers of businesses, and other business executives or
5 employers with optimum policymaking or hiring authority, including
6 members of local boards described in section 117(b)(2)(A)(i) of the
7 federal Workforce Investment Act;

8 (B) Represent businesses with employment opportunities
9 that reflect the employment opportunities of the state; and

10 (C) Are appointed from among individuals nominated by
11 state business organizations and business trade associations;

12 (ii) Chief elected officials representing both cities and
13 counties;

14 (iii) Representatives of labor organizations who have
15 been nominated by state labor federations;

16 (iv) Representatives of individuals and organizations
17 that have experience with respect to youth activities;

18 (v) Representatives of individuals and organizations that
19 have experience and expertise in the delivery of workforce
20 investment activities, including chief executive officers of
21 community colleges and community-based organizations within the
22 state;

23 (vi)(A) The lead state agency officials with
24 responsibility for the programs and activities that are described
25 in section 121(b) of the federal Workforce Investment Act and
26 carried out by one-stop partners. The required partners are those
27 described in section 121(b) of the federal Workforce Investment
28 Act; and

1 (B) In any case in which no lead state agency official
2 has responsibility for such a program, service, or activity, a
3 representative in the state with expertise relating to such
4 program, service, or activity; and

5 (vii) Such other representatives and state agency
6 officials as the Governor may designate, such as the state agency
7 officials responsible for economic development and juvenile justice
8 programs in the state.

9 (3) Members of the board that represent organizations,
10 agencies, or other entities shall be individuals with optimum
11 policymaking authority within the organizations, agencies, or
12 entities. The members of the board shall represent diverse regions
13 of the state, including urban, rural, and suburban areas.

14 (4) A majority of the members of the state board shall be
15 private sector representatives described in subdivision (2)(b)(i)
16 of this section. The Governor shall select a chairperson and a
17 vice-chairperson for the state board from among the representatives
18 described in such subdivision.

19 (5) To transact business at all meetings of the state
20 board, a quorum of members must be present and shall consist of a
21 majority of the voting members.

22 Sec. 5. The state board is responsible for administering
23 the federal Workforce Investment Act, the Nebraska Workforce
24 Investment Act, and other job training duties as may be assigned by
25 the Governor.

26 Sec. 6. The state board shall assist the Governor in:

27 (1) The development of the state plan;

28 (2) The development and continuous improvement of a

1 statewide system of activities that are funded under the federal
2 Workforce Investment Act or carried out through a one-stop delivery
3 system described in section 134(c) of the federal act that receives
4 funds under the statewide workforce investment system, including:

5 (a) The development of linkages in order to assure
6 coordination and nonduplication among the programs and activities
7 described in section 121(b) of the federal Workforce Investment
8 Act; and

9 (b) The review of local plans;

10 (3) Commenting at least once annually on the measures
11 taken pursuant to section 113(b)(14) of the federal Carl D. Perkins
12 Vocational and Applied Technology Education Act, 20 U.S.C.
13 2323(b)(14);

14 (4) The designation of local areas as required in section
15 116 of the federal Workforce Investment Act;

16 (5) The development of allocation formulas for the
17 distribution of funds for adult employment and training activities
18 and youth activities to local areas as permitted under sections
19 128(b)(3)(B) and 133(b)(3)(B) of the federal Workforce Investment
20 Act;

21 (6) The development and continuous improvement of
22 comprehensive state performance measures, including state adjusted
23 levels of performance, to assess the effectiveness of the workforce
24 investment activities in the state as required under section 136(b)
25 of the federal Workforce Investment Act;

26 (7) The preparation of the annual report to the Secretary
27 of Labor described in section 136(d) of the federal Workforce
28 Investment Act;

1 (8) The development of the statewide employment
2 statistics system described in section 15(e) of the federal
3 Wagner-Peyser Act, 29 U.S.C. 49 et seq.; and

4 (9) The development of an application for an incentive
5 grant under section 503 of the federal Workforce Investment Act.

6 Sec. 7. (1) The state board shall submit to the Governor
7 a single state plan that outlines a five-year strategy for the
8 statewide workforce investment system for the State of Nebraska in
9 accordance with section 112 of the federal Workforce Investment
10 Act.

11 (2) The state plan is subject to approval by the
12 Governor.

13 (3) The state board shall submit to the chairperson of
14 the Business and Labor Committee of the Legislature and the Clerk
15 of the Legislature a copy of the state plan or any modification of
16 the state plan at the time it is presented for public comment
17 pursuant to section 112 of the federal Workforce Investment Act,
18 and the annual report of the state board.

19 Sec. 8. (1) The commissioner is designated as the
20 Governor's Workforce Investment Act liaison and may:

21 (a) Visit and inspect organizations and agencies engaged
22 in and facilities used for the administration or delivery of job
23 training programs;

24 (b) Provide staff support and adopt such methods of
25 administration as are necessary for the proper and efficient
26 operation of the duties and functions of the Department of Labor
27 provided in the federal Workforce Investment Act;

28 (c) Conduct hearings and establish procedures for appeals

1 brought in accordance with sections 116(a), 122(g), and
2 136(h)(2)(A) of the federal Workforce Investment Act as provided in
3 subsection (2) of this section; and

4 (d) Adopt and promulgate rules and regulations necessary
5 to carry out his or her duties under this section.

6 (2)(a) Unless otherwise specified in this subsection or
7 the federal Workforce Investment Act, appeals brought under this
8 subsection shall be governed by the Administrative Procedure Act.

9 (b) Appeals brought pursuant to section 122(g) of the
10 federal Workforce Investment Act shall be filed with the
11 commissioner within thirty days after the denial of eligibility,
12 termination of eligibility, or other action by the local board or
13 state agency. A hearing shall be held on the appeal within thirty
14 days after the appeal is filed and a decision on the appeal shall
15 be served on the parties to the appeal hearing within ten days
16 after the conclusion of the appeal hearing.

17 (c)(i) A local area that is subject to a reorganization
18 plan authorized under section 136(h)(2)(A) of the federal Workforce
19 Investment Act shall be notified of the reorganization plan by
20 mailing the reorganization plan to the chief executive officer of
21 the local area, certified mail, return receipt requested.

22 (ii) The local area may, not later than thirty days after
23 receipt of the notice of the reorganization plan, appeal, seeking
24 to have the reorganization plan rescinded or revised. The appeal
25 shall be in writing and shall set forth all issues that are the
26 basis for the appeal. A decision shall be rendered not later than
27 thirty days after the receipt of such appeal. The local area shall
28 be notified of the decision by having the decision mailed to the

1 chief executive officer of the local area, certified mail, return
2 receipt requested.

3 (iii) The decision on the appeal shall be final unless
4 the decision is appealed to the Secretary of Labor of the United
5 States in accordance with section 136(h)(2)(B) of the federal
6 Workforce Investment Act within thirty days after receipt of the
7 decision by the local area.

8 (d)(ii) A unit of general local government, including a
9 combination of such units, or grant recipients that requests but
10 are not granted designation of an area as a local area under
11 subsection (4) of section 6 of this act may submit an appeal to the
12 state board by filing a written appeal in the office of the
13 commissioner within thirty days after the mailing of the notice
14 that the appealing party was not granted designation as a local
15 area. The appeal shall set forth all issues that are the basis for
16 the appeal.

17 (ii) The commissioner shall conduct the appeal hearing on
18 behalf of the state board. The appealing party shall be notified
19 of the decision of the state board within ninety days after the
20 date the appeal is filed by having the decision mailed to the
21 person designated for receipt of notices by the appealing party in
22 its notice of appeal, certified mail, return receipt requested.

23 (iii) The decision of the state board shall be final
24 unless an appeal is filed with the Secretary of Labor of the United
25 States within thirty days after the mailing of the decision of the
26 state board to all interested parties. Appeals from the decision
27 of the state board shall be made to the Secretary of Labor of the
28 United States as required under section 116(a)(5) of the federal

1 Workforce Investment Act.

2 Sec. 9. (1) In each local area of the state a local
3 workforce investment board shall be established and certified by
4 the Governor. The local board shall set policy for the portion of
5 the statewide workforce investment system within the local area.

6 (2) The Governor, in partnership with the state board,
7 shall establish criteria for use by chief elected officials in the
8 local areas for appointment of members of the local boards in such
9 local areas. Such criteria shall require, at a minimum, that the
10 membership of each local board:

11 (a) Shall include:

12 (i) Representatives of business in the local area who:

13 (A) Are owners of businesses, chief executives or
14 operating officers of businesses, and other business executives or
15 employers with optimum policymaking or hiring authority;

16 (B) Represent businesses with employment opportunities
17 that reflect the employment opportunities of the local area; and

18 (C) Are appointed from among individuals nominated by
19 local business organizations and business trade associations;

20 (ii) Representatives of local educational entities,
21 including representatives of local educational agencies, local
22 school boards, entities providing adult education and literacy
23 activities, and post-secondary educational institutions, including
24 representatives of community colleges, where such entities exist,
25 selected from among individuals to be nominated by regional or
26 local educational agencies, institutions, or organizations
27 representing such local educational entities;

28 (iii) Representatives of labor organizations, for a local

1 area in which employees are represented by labor organizations,
2 nominated by local labor federations, or for a local area in which
3 no employees are represented by such organizations, nominated by
4 other representatives of employees;

5 (iv) Representatives of community-based organizations,
6 including organizations representing individuals with disabilities
7 and veterans, for a local area in which such organizations are
8 present;

9 (v) Representatives of economic development agencies,
10 including private sector economic development entities; and

11 (vi) Representatives of each of the one-stop partners.
12 The required partners are those described in section 121(b) of the
13 federal Workforce Investment Act; and

14 (b) May include such other individuals or representatives
15 of entities as the chief elected official in the local area
16 determines appropriate.

17 (3) Members of the local board that represent
18 organizations, agencies, or other entities shall be individuals
19 with optimum policymaking authority within the organizations,
20 agencies, or entities.

21 (4) A majority of the members of the local board shall be
22 representatives described in subdivision (2)(a)(i) of this section.
23 The local board shall elect a chairperson for the local board from
24 among the representatives described in such subdivision.

25 (5) The chief elected official in a local area shall
26 appoint the members of the local board for such area in accordance
27 with the criteria established under subsection (2) of this section.

28 (6) To transact business at all meetings of the local

1 board, a quorum of members must be present and shall consist of a
2 majority of the members.

3 (7) The local boards in partnership with the chief
4 elected officials shall develop and submit to the Governor and the
5 state board a comprehensive five-year local plan in accordance with
6 section 118 of the federal Workforce Investment Act.

7 (8) The local plan is subject to approval by the
8 Governor.

9 Sec. 10. (1) As a part of the core services required by
10 section 134(d)(2)(E)(i) of the federal Workforce Investment Act,
11 one-stop centers shall provide timely listings of job
12 opportunities.

13 (2) Funds allocated to a local area for adults and
14 dislocated workers pursuant to the federal Workforce Investment Act
15 shall be used to provide intensive services to adults and
16 dislocated workers, respectively:

17 (a) Who are unemployed and are unable to obtain
18 employment through core services provided in section 134(d)(2) of
19 the federal Workforce Investment Act and have been determined by a
20 one-stop operator to be in need of more intensive services in order
21 to obtain employment; or

22 (b) Who are employed but who are determined by a one-stop
23 operator to be in need of such intensive services in order to
24 obtain or retain employment that allows for self-sufficiency.

25 (3) Intensive services shall be provided through the
26 one-stop delivery system:

27 (a) Directly through one-stop operators identified
28 pursuant to section 121(d) of the federal Workforce Investment Act;

1 or

2 (b) Through contracts with service providers, which may
3 include contracts with public, private for-profit, and private
4 nonprofit service providers, approved by the local board.

5 (4) Intensive services may include the following:

6 (a) Comprehensive and specialized assessments of the
7 skill levels and service needs of adults and dislocated workers,
8 which may include:

9 (i) Diagnostic testing and use of other assessment tools;
10 and

11 (ii) In-depth interviewing and evaluation to identify
12 employment barriers and appropriate employment goals;

13 (b) Development of an individual employment plan, to
14 identify the employment goals, appropriate achievement objectives,
15 and appropriate combination of services for the participant to
16 achieve the employment goals;

17 (c) Group counseling;

18 (d) Individual counseling and career planning;

19 (e) Case management for participants seeking training
20 services; and

21 (f) Short-term prevocational services, including
22 development of learning skills, communication skills, interviewing
23 skills, punctuality, personal maintenance skills, and professional
24 conduct, to prepare individuals for employment or training.

25 (5) Except as provided in section 134(d)(4)(G)(ii) of the
26 federal Workforce Investment Act, training services provided in
27 accordance with section 134 of the federal act shall be provided
28 through the use of individual training accounts and shall be

1 provided to eligible individuals through the one-stop delivery
2 system.

3 Sec. 11. The Governor shall establish such committees,
4 subcommittees, or advisory groups as are necessary to administer
5 the Nebraska Workforce Investment Act. The state board and any
6 committees, subcommittees, or advisory groups established shall
7 meet at such times and in such places as necessary to carry out
8 such act and the purposes stated in section 2 of this act.

9 Sec. 12. The State Treasurer is the custodian of all
10 funds received by the state from appropriations made by the
11 Congress of the United States for the purpose of carrying out the
12 federal Workforce Investment Act and the Nebraska Workforce
13 Investment Act. The State Treasurer may receive and provide for
14 the proper custody of such funds and establish such special funds
15 and accounts as may be necessary to comply with such acts. The
16 Director of Administrative Services shall draw warrants upon such
17 funds upon presentation of proper vouchers by the commissioner.

18 Sec. 13. Section 81-401, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 81-401. The Governor, through the agency of the
21 Department of Labor created by section 81-101, shall have power:

22 (1) To foster, promote, and develop the welfare of wage
23 earners;

24 (2) To improve working conditions;

25 (3) To advance opportunities for profitable employment;

26 (4) To collect, collate, assort, systematize, and report
27 statistical details relating to all departments of labor,
28 especially in its relation to commercial, industrial, social,

1 economic, and educational conditions and to the permanent
2 prosperity of the manufacturing and productive industries;

3 (5) To acquire and distribute useful information on
4 subjects connected with labor in the most general and comprehensive
5 sense of the word;

6 (6) To acquire and distribute useful information
7 concerning the means of promoting the material, social,
8 intellectual, and moral prosperity of laboring men and women;

9 (7) To acquire and distribute information as to the
10 conditions of employment and such other facts as may be deemed of
11 value to the industrial interests of the state;

12 (8) To acquire and distribute information in relation to
13 the prevention of accidents, occupational diseases, and other
14 related subjects;

15 (9) To acquire and distribute useful information
16 regarding the role of the part-time labor force and the manner in
17 which such labor force affects the economy and citizens of the
18 state; and

19 (10) To administer and enforce all of the provisions of
20 the Boiler Inspection Act, the Employment Security Law, the Farm
21 Labor Contractors Act, the Nebraska Amusement Ride Act, the
22 ~~Nebraska Job Training Act~~ Nebraska Workforce Investment Act, and
23 the Wage and Hour Act and Chapter 48, articles 2, 3, 4, and 5, and
24 for that purpose there is imposed upon the Commissioner of Labor
25 the duty of executing all of the provisions of such acts, law, and
26 articles.

27 Sec. 14. Section 16 of this act becomes operative on
28 July 1, 2000. The other sections of this act become operative on

1 their effective date.

2 Sec. 15. Original section 81-401, Reissue Revised
3 Statutes of Nebraska, is repealed.

4 Sec. 16. The following sections are outright repealed:
5 Sections 48-1601 to 48-1615, Reissue Revised Statutes of Nebraska.

6 Sec. 17. Since an emergency exists, this act takes
7 effect when passed and approved according to law.