

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 402

Introduced by von Gillern, 4.

Read first time January 17, 2025

Committee: Business and Labor

1 A BILL FOR AN ACT relating to labor; to amend section 48-665, Reissue
2 Revised Statutes of Nebraska, and sections 9-1302, 9-1303, 9-1304,
3 9-1306, 9-1307, 9-1308, and 9-1313, Revised Statutes Cumulative
4 Supplement, 2024; to change provisions of the Gambling Winnings
5 Setoff for Outstanding Debt Act to include collections related to
6 overpayment of unemployment benefits under the Employment Security
7 Law; to change provisions of the Employment Security Law relating to
8 the statute of limitations for recovery of unemployment overpayment
9 debt; to harmonize provisions; and to repeal the original sections.
10 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 9-1302, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

3 9-1302 The purposes of the Gambling Winnings Setoff for Outstanding
4 Debt Act are to:

5 (1) Establish and maintain a procedure to set off against an
6 obligor's casino winnings, parimutuel winnings, sports wagering winnings,
7 or cash device winnings any debt (a) that is assigned to the Department
8 of Health and Human Services or that any individual not eligible as a
9 public assistance recipient is attempting to collect through the Title
10 IV-D child support enforcement program, (b) that has accrued through
11 written contract, subrogation, or court judgment, and (c) that is in the
12 form of a liquidated amount due and owing for the care, support, or
13 maintenance of a child or for medical or spousal support; ~~and~~

14 (2) Establish and maintain a procedure to set off against a
15 taxpayer's casino winnings, parimutuel winnings, sports wagering
16 winnings, or cash device winnings the amount of such taxpayer's
17 outstanding state tax liability as determined by the Department of
18 Revenue; ~~and -~~

19 (3) Establish and maintain a procedure to set off against an
20 obligor's casino winnings, parimutuel winnings, sports wagering winnings,
21 or cash device winnings any debt that is assigned to the Department of
22 Labor for receipt of any sum as benefits under section 48-663.01 to which
23 the obligor was not entitled under the Employment Security Law.

24 **Sec. 2.** Section 9-1303, Revised Statutes Cumulative Supplement,
25 2024, is amended to read:

26 9-1303 For purposes of the Gambling Winnings Setoff for Outstanding
27 Debt Act, unless the context otherwise requires:

28 (1) Applicable winnings means any casino winnings, parimutuel
29 winnings, sports wagering winnings, or cash device winnings;

30 (2) Cash device winnings means any cash prize won by a player of a
31 cash device as defined in section 77-3001 that requires the operator,

1 distributor, or manufacturer of such cash device to provide the player
2 with an Internal Revenue Service Form 1099;

3 (3) Casino winnings means any winnings that are required to be
4 reported on Internal Revenue Service Form W-2G won by a player from a
5 game of chance at a licensed racetrack enclosure under the jurisdiction
6 of the State Racing and Gaming Commission;

7 (4) Claimant means:

8 (a) The Department of Health and Human Services with respect to
9 collection of a debt owed by a parent in a case involving a recipient of
10 aid to dependent children in which rights to child, spousal, or medical
11 support payments have been assigned to this state;

12 (b) An individual who is not eligible as a public assistance
13 recipient and to whom a debt is owed that the individual is attempting to
14 collect through the Title IV-D child support enforcement program; ~~or~~

15 (c) Any person or entity entitled to receive child support, spousal
16 support, or medical support as defined in section 43-1712.01 pursuant to
17 an order issued by a court or agency of another state or jurisdiction,
18 including an agency of another state or jurisdiction to which a person
19 has assigned his or her right to receive such support. Such a claimant
20 shall submit certification and documentation to the Department of Health
21 and Human Services sufficient to satisfy the requirements of section
22 43-1730; or

23 (d) The Department of Labor with respect to collection of a debt
24 owed by an individual in a case involving the receipt of unemployment
25 insurance benefits under section 48-663.01 to which the individual was
26 not entitled under the Employment Security Law;

27 (5) Collection system means the collection system developed and
28 implemented pursuant to section 9-1304;

29 (6) Debt means any liquidated amount of arrears that has accrued
30 through assignment, contract, subrogation, court judgment, or operation
31 of law, regardless of whether there is an outstanding judgment for such

1 amount, and that is (a) for the care, support, or maintenance of a child
2 or for medical or spousal support or (b) owed as a result of an
3 overpayment of benefits under section 48-663.01;

4 (7) Net winnings payment means the winnings payment amount minus the
5 debt and outstanding state tax liability balance;

6 (8) Obligor means any individual (a) owing money to or having a
7 delinquent account with any claimant that has not been satisfied by court
8 order, set aside by court order, or discharged in bankruptcy or (b) owing
9 money on an outstanding state tax liability;

10 (9) Operator means an authorized gaming operator as defined in
11 section 9-1103, any corporation or association licensed under sections
12 2-1201 to 2-1218 and authorized to conduct parimutuel wagering at a
13 licensed racetrack, and any operator, distributor, or manufacturer of a
14 cash device licensed under the Mechanical Amusement Device Tax Act;

15 (10) Outstanding state tax liability means any liability arising
16 from any tax or fee, including penalties and interest, under any tax
17 program administered by the Tax Commissioner, Department of Labor, or
18 Department of Motor Vehicles;

19 (11) Parimutuel winnings means any winnings that are required to be
20 reported on Internal Revenue Service Form W-2G and have tax withheld by
21 the operator and that are won by a player from a parimutuel wager at a
22 licensed racetrack under the jurisdiction of the State Racing and Gaming
23 Commission;

24 (12) Sports wagering winnings means any winnings that are required
25 to be reported on Internal Revenue Service Form W-2G and have tax
26 withheld by the operator and that are won by a player from sports
27 wagering as defined in section 9-1103 on a sports wager authorized by the
28 State Racing and Gaming Commission;

29 (13) Spousal support has the same meaning as in section 43-1715; and

30 (14) Winnings payment means a payout of casino winnings, parimutuel
31 winnings, sports wagering winnings, or cash device winnings to which an

1 individual is entitled as a result of playing or wagering.

2 **Sec. 3.** Section 9-1304, Revised Statutes Cumulative Supplement,
3 2024, is amended to read:

4 9-1304 (1)(a) The Department of Revenue, in consultation with the
5 Department of Health and Human Services and the Department of Labor,
6 shall develop and implement a secure, electronic collection system to
7 carry out the purposes of the Gambling Winnings Setoff for Outstanding
8 Debt Act.

9 (b) The collection system shall include access to the name of an
10 obligor, the social security number of an obligor, and any other
11 information that assists the operator in identifying an obligor. The
12 collection system shall inform the operator of the total amount owed
13 without detailing the source of any of the amounts owed.

14 (2) The Department of Health and Human Services may submit any
15 certified debt of twenty-five dollars or more to the collection system
16 except when the validity of the debt is legitimately in dispute. The
17 submission of debts of past-due support shall be a continuous process
18 that allows the amount of debt to fluctuate up or down depending on the
19 actual amount owed.

20 (3) The Department of Revenue may submit to the collection system
21 any amount of outstanding state tax liability owed by a taxpayer except
22 when the validity of the outstanding state tax liability is legitimately
23 in dispute. The inclusion of outstanding state tax liability in the
24 amount owed shall be a continuous process that allows the amount owed to
25 fluctuate up or down depending on the actual amount of outstanding state
26 tax liability owed.

27 (4) The Department of Labor may submit any certified debt of twenty-
28 five dollars or more to the collection system except when the validity of
29 the debt is legitimately in dispute. The submission of debts owed as a
30 result of overpayments received under section 48-663.01 shall be a
31 continuous process that allows the amount of debt to fluctuate up or down

1 depending on the actual amount owed.

2 (5) (4) If the name of the obligor is retrieved from the collection
3 system by the operator, the retrieval of such name shall be evidence of a
4 valid lien upon and claim of lien against any applicable winnings of the
5 obligor whose name is electronically retrieved from the collection
6 system. If an obligor's applicable winnings are required to be set off
7 pursuant to the Gambling Winnings Setoff for Outstanding Debt Act, the
8 full amount of the debt and outstanding state tax liability shall be
9 collected from any applicable winnings due the obligor.

10 (6) (5) The information obtained by an operator from the collection
11 system in accordance with this section shall retain its confidentiality
12 and shall only be used by the operator for the purposes of complying with
13 the Gambling Winnings Setoff for Outstanding Debt Act. An employee or
14 prior employee of an operator who unlawfully discloses any such
15 information for any other purpose, except as otherwise specifically
16 authorized by law, shall be subject to the same penalties specified by
17 law for unauthorized disclosure of confidential information by an agent
18 or employee of the operator.

19 (7) (6) The information obtained by the Department of Health and
20 Human Services, the Department of Labor, or the Department of Revenue
21 from the operator in accordance with this section shall retain its
22 confidentiality and shall only be used by any one of such departments
23 ~~either department~~ in the pursuit of such department's debt or outstanding
24 state tax liability collection duties and practices. An employee or prior
25 employee of the Department of Health and Human Services, the Department
26 of Labor, or the Department of Revenue who unlawfully discloses any such
27 information for any other purpose, except as specifically authorized by
28 law, shall be subject to the penalties specified by law for unauthorized
29 disclosure of confidential information by an agent or employee of either
30 such department.

31 (7) The amount of debt and outstanding state tax liability owed

1 shall be prima facie evidence of the validity of the liability.

2 **Sec. 4.** Section 9-1306, Revised Statutes Cumulative Supplement,
3 2024, is amended to read:

4 9-1306 (1) Beginning on the applicable implementation date
5 designated by the Tax Commissioner pursuant to subsection (1) or (2) of
6 section 9-1312, prior to making a winnings payment and after the operator
7 has checked the collection system as provided in section 9-1305, the
8 operator shall deduct the amount of debt and outstanding state tax
9 liability identified in the collection system from the winnings payment
10 and shall remit the net winnings payment, if any, to the winner and the
11 amount deducted to the Department of Revenue in a manner prescribed by
12 the department.

13 (2) If an operator determines that an obligor identified using the
14 collection system is entitled to a winnings payment, the operator shall
15 notify the Department of Revenue in a manner prescribed by the department
16 that a balance of debt or outstanding state tax liability owed by the
17 winner is being remitted to the department.

18 (3) The Department of Revenue shall on a pro rata basis (a) first
19 credit any such winnings payment against any debt of such winner
20 certified by the Department of Health and Human Services until such debt
21 is satisfied, (b) next credit any such winnings payment against any debt
22 of such winner certified by the Department of Labor until such debt is
23 satisfied, and (c) lastly credit any such winnings payment then against
24 any outstanding state tax liability owed by such winner until such
25 liability is satisfied ~~on a pro rata basis.~~

26 **Sec. 5.** Section 9-1307, Revised Statutes Cumulative Supplement,
27 2024, is amended to read:

28 9-1307 (1) Within twenty days after a remittance pursuant to section
29 9-1306 due to an outstanding state tax liability, the Department of
30 Revenue shall notify the winner of the remittance. The notice shall state
31 (a) the basis for the claim to the outstanding state tax liability by the

1 Department of Revenue, (b) the application of the winnings payment
2 against the outstanding state tax liability of the obligor, (c) the
3 obligor's opportunity to give written notice of intent to contest the
4 validity of the claim before the Department of Revenue within thirty days
5 after the date of the mailing of the notice, (d) the mailing address to
6 which the request must be sent, and (e) that a failure to contest the
7 claim in writing within the thirty-day period will be deemed a waiver of
8 the opportunity to contest the claim resulting in a setoff by default.

9 (2)(a) Within twenty days after notification from the Department of
10 Revenue of a remittance pursuant to section 9-1306 due to owing a debt
11 certified by the Department of Health and Human Services, the Department
12 of Health and Human Services shall send written notification to the
13 obligor of an assertion of its rights, or of the rights of an individual
14 not eligible as a public assistance recipient, to all or a portion of the
15 obligor's winnings payment.

16 (b) The written notification shall clearly set forth (i) the basis
17 for the claim to the winnings payment, (ii) the intention to apply the
18 winnings payment against the debt owed to a claimant, (iii) the obligor's
19 opportunity to give written notice of intent to contest the validity of
20 the claim before the Department of Health and Human Services within
21 thirty days after the date of the mailing of the notice, (iv) the mailing
22 address to which the request for a hearing must be sent, and (v) that
23 failure to apply for a hearing in writing within the thirty-day period
24 will be deemed a waiver of the opportunity to contest the claim resulting
25 in a setoff by default.

26 (3)(a) Within twenty days after notification from the Department of
27 Revenue of a remittance pursuant to section 9-1306 due to owing a debt
28 certified by the Department of Labor, the Department of Labor shall send
29 written notification to the obligor of an assertion of its rights to all
30 or a portion of the obligor's winnings payment.

31 (b) The written notification shall clearly set forth (i) the basis

for the claim to the winnings payment, (ii) the intention to apply the winnings payment against the debt owed to a claimant, (iii) the obligor's opportunity to give written notice of intent to contest the validity of the claim before the Department of Labor within thirty days after the date of the mailing of the notice, (iv) the mailing address to which the request for a hearing must be sent, and (v) that failure to apply for a hearing in writing within the thirty-day period will be deemed a waiver of the opportunity to contest the claim resulting in a setoff by default.

Sec. 6. Section 9-1308, Revised Statutes Cumulative Supplement, 2024, is amended to read:

9-1308 (1)(a) A written request by a winner pursuant to subsection (1) of section 9-1307 shall be effective upon mailing the request, postage prepaid and properly addressed, to the Department of Revenue.

(b) Any appeal or action taken as a result of a decision pursuant to subdivision (1)(a) of this section shall be in accordance with the Administrative Procedure Act.

(2)(a) A written request for a hearing by a winner pursuant to subsection (2) of section 9-1307 shall be effective upon mailing the request, postage prepaid and properly addressed, to the Department of Health and Human Services.

(b) If the Department of Health and Human Services receives a written request for a hearing contesting a claim, the department shall grant a hearing to the obligor to determine whether the claim is valid. If the amount asserted as due and owing is not correct, an adjustment to the claimed amount shall be made. No issues shall be reconsidered at the hearing which have been previously litigated.

(c) Any appeal of an action taken at or as a result of a hearing held pursuant to subdivision (2)(b) of this section shall be in accordance with the Administrative Procedure Act.

(3)(a) A written request for a hearing by a winner pursuant to subsection (3) of section 9-1307 shall be effective upon mailing the

1 request, postage prepaid and properly addressed, to the Department of
2 Labor.

3 (b) If the Department of Labor receives a written request for a
4 hearing contesting a claim, the department shall grant a hearing to the
5 obligor to determine whether the claim is valid. If the amount asserted
6 as due and owing is not correct, an adjustment to the claimed amount
7 shall be made. No issues shall be reconsidered at the hearing which have
8 been previously litigated.

9 (c) Any appeal of an action taken at or as a result of a hearing
10 held pursuant to subdivision (3)(b) of this section shall be in
11 accordance with the Administrative Procedure Act.

12 **Sec. 7.** Section 9-1313, Revised Statutes Cumulative Supplement,
13 2024, is amended to read:

14 9-1313 The Department of Health and Human Services, the Department
15 of Labor, the Department of Revenue, and the State Racing and Gaming
16 Commission may adopt and promulgate rules and regulations to carry out
17 the Gambling Winnings Setoff for Outstanding Debt Act.

18 **Sec. 8.** Section 48-665, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 48-665 (1) Any person who has received any sum as benefits under the
21 Employment Security Law to which he or she was not entitled shall be
22 liable to repay such sum to the commissioner for the fund. Any such
23 erroneous benefit payments shall be collectible (a) without interest by
24 civil action in the name of the commissioner, (b) by offset against any
25 future benefits payable to the claimant with respect to the benefit year
26 current at the time of such receipt or any benefit year which may
27 commence ~~within three years~~ after the end of such current benefit year,
28 except that no such recoupment by the withholding of future benefits
29 shall be had if such sum was received by such person without fault on his
30 or her part and such recoupment would defeat the purpose of the
31 Employment Security Law or would be against equity and good conscience,

1 (c) by setoff against any state income tax refund due the claimant
2 pursuant to sections 77-27,197 to 77-27,209, (d) by offset against any
3 winnings payment pursuant to the Gambling Winnings Setoff for Outstanding
4 Debt Act, or (e) {d} as provided in subsection (2) of this section.

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

23 **Sec. 9.** Original section 48-665, Reissue Revised Statutes of
24 Nebraska, and sections 9-1302, 9-1303, 9-1304, 9-1306, 9-1307, 9-1308,
25 and 9-1313, Revised Statutes Cumulative Supplement, 2024, are repealed.