

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 265

FINAL READING

(SECOND)

Introduced by Business and Labor Committee: Cornett, 45,
Chairperson; Lathrop, 12; McGill, 26; Rogert,
16; Wallman, 30

Read first time January 10, 2007

Committee: Business and Labor

A BILL

1 FOR AN ACT relating to labor; to amend sections 13-1102, 20-113,
2 48-606, 48-612, 48-663.01, 48-1001, 48-1002, 48-1003,
3 48-1004, 48-1005, 48-1007, 48-1008, 48-1009, 48-1010,
4 48-1203, 48-1203.01, and 48-1809, Reissue Revised
5 Statutes of Nebraska, and sections 48-418, 48-601,
6 48-602, 48-624, 48-649, 48-652, 48-664, 48-2501, 48-2503,
7 48-2506, 48-2507, 48-2508, and 48-2512, Revised Statutes
8 Cumulative Supplement, 2006; to change and eliminate
9 provisions of the Act Prohibiting Unjust Discrimination
10 in Employment Because of Age, the Employment Security

1 Law, the Nebraska Amusement Ride Act, and the Conveyance
2 Safety Act; to change provisions relating to minimum wage
3 rates; to create and eliminate funds; to transfer and
4 eliminate provisions relating to elevator inspections;
5 to harmonize provisions; to provide operative dates;
6 to repeal the original sections; to outright repeal
7 sections 48-418.01, 48-418.02, 48-418.03, 48-418.05,
8 48-418.06, 48-418.07, 48-418.08, 48-418.10, 48-418.11,
9 48-418.12, 48-418.14, 48-1006, and 48-1810, Reissue
10 Revised Statutes of Nebraska, and sections 48-418.04,
11 48-418.09, 48-649.01, and 48-2505, Revised Statutes
12 Cumulative Supplement, 2006; and to declare an emergency.
13 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 13-1102, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 13-1102 In addition to any other powers which it may
4 now have, each municipality and each county shall have without any
5 other authority the following powers:

6 (1) To acquire, whether by construction, purchase,
7 devise, gift, or lease, or any one or more of such methods, one or
8 more projects, which shall be located within this state, and may
9 be located within, without, partially within, or partially without
10 the municipality or county;

11 (2) To lease to others any or all of its projects for
12 such rentals and upon such terms and conditions as the governing
13 body may deem advisable and as shall not conflict with the
14 provisions of sections 13-1101 to 13-1110;

15 (3) To finance the acquisition, construction,
16 rehabilitation, or purchase of projects in blighted areas.
17 The power to finance such projects in blighted areas shall mean and
18 include the power to enter into any type of agreement, including
19 a loan agreement, when the other party to the agreement agrees
20 (a) to use the proceeds of money provided under the agreement to
21 pay the costs of such acquisition, construction, rehabilitation,
22 or purchase and any costs incident to the issuance of the related
23 bonds and the funding of any reserve funds, (b) to be bound by the
24 terms of the ~~Act Prohibiting Unjust Discrimination in Employment~~
25 ~~Because of Age Discrimination in Employment Act~~, the Nebraska

1 Fair Employment Practice Act, and sections 48-1219 to 48-1227,
2 regardless of the number of employees, and (c) to make payments
3 to the municipality or county sufficient to enable it to pay on a
4 timely basis all principal, redemption premiums, and interest on
5 the related revenue bonds issued to provide such financing, and any
6 amounts necessary to repay such municipality or county for any and
7 all costs incurred by it that are incidental to such financing.
8 Title to any such project in a blighted area need not be in the
9 name of the municipality or county, but may be in the name of a
10 private party;

11 (4) To issue revenue bonds for the purpose of defraying
12 the cost of acquiring, improving, or financing any project or
13 projects, including the cost of any real estate previously
14 purchased and used for such project or projects, or the cost
15 of any option in connection with acquiring such property, and to
16 secure the payment of such bonds as provided in sections 13-1101 to
17 13-1110, which revenue bonds may be issued in two or more series
18 or issues where deemed advisable, and each such series or issue
19 may contain different maturity dates, interest rates, priorities
20 on revenue available for payment of such bonds and priorities on
21 securities available for guaranteeing payment thereof, and such
22 other differing terms and conditions as are deemed necessary and
23 are not in conflict with the provisions of sections 13-1101 to
24 13-1110; and

25 (5) To sell and convey any real or personal property

1 acquired as provided by subdivision (1) of this section, and make
2 such order respecting the same as may be deemed conducive to the
3 best interest of the municipality or county, ~~except + PROVIDED,~~
4 that such sale or conveyance shall be subject to the terms of any
5 lease but shall be free and clear of any other encumbrance.

6 No municipality or county shall have the power to (a)
7 operate any project, referred to in this section, as a business or
8 in any manner except as the lessor thereof, (b) lease any project
9 acquired under powers conferred by this section for use principally
10 for commercial feeding of livestock, (c) issue bonds under this
11 section principally for the purpose of financing the construction
12 or acquisition of commercial feeding facilities for livestock, or
13 (d) acquire any project or any part thereof by condemnation.

14 Sec. 2. Section 20-113, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 20-113 Any incorporated city may enact ordinances and any
17 county may adopt resolutions which are substantially equivalent to
18 the ~~Act Prohibiting Unjust Discrimination in Employment Because of~~
19 ~~Age,~~ Age Discrimination in Employment Act, the Nebraska Fair
20 Employment Practice Act, the Nebraska Fair Housing Act, and
21 sections 20-126 to 20-143 and 48-1219 to 48-1227 or which are
22 more comprehensive than such acts and sections in the protection of
23 civil rights. No such ordinance or resolution shall place a duty or
24 liability on any person, other than an employer, employment agency,
25 or labor organization, for acts similar to those prohibited by

1 section 48-1115. Such ordinance or resolution may include authority
2 for a local agency to seek an award of damages or other equitable
3 relief on behalf of the complainant by the filing of a petition
4 in the district court in the county with appropriate jurisdiction.
5 The local agency shall have within its authority jurisdiction
6 substantially equivalent to or more comprehensive than the Equal
7 Opportunity Commission or other enforcement agencies provided under
8 such acts and sections and shall have authority to order backpay
9 and other equitable relief or to enforce such orders or relief
10 in the district court with appropriate jurisdiction. Certified
11 copies of such ordinances or resolutions shall be transmitted to
12 the commission. When the commission determines that any such city
13 or county has enacted an ordinance or adopted a resolution that
14 is substantially equivalent to such acts and sections or is more
15 comprehensive than such acts and sections in the protection of
16 civil rights and has established a local agency to administer such
17 ordinance or resolution, the commission may thereafter refer all
18 complaints arising in such city or county to the appropriate local
19 agency. All complaints arising within a city shall be referred
20 to the appropriate agency in such city when both the city and
21 the county in which the city is located have established agencies
22 pursuant to this section. When the commission refers a complaint to
23 a local agency, it shall take no further action on such complaint
24 if the local agency proceeds promptly to handle such complaint
25 pursuant to the local ordinance or resolution. If the commission

1 determines that a local agency is not handling a complaint with
2 reasonable promptness or that the protection of the rights of
3 the parties or the interests of justice require such action, the
4 commission may regain jurisdiction of the complaint and proceed
5 to handle it in the same manner as other complaints which are
6 not referred to local agencies. In cases of conflict between this
7 section and section 20-332, for complaints subject to the Nebraska
8 Fair Housing Act, section 20-332 shall control.

9 Any club which has been issued a license by the Nebraska
10 Liquor Control Commission to sell, serve, or dispense alcoholic
11 liquor shall have that license revoked if the club discriminates
12 because of race, color, religion, sex, familial status as defined
13 in section 20-311, handicap as defined in section 20-313, or
14 national origin in the sale, serving, or dispensing of alcoholic
15 liquor to any person who is a guest of a member of such club.
16 The procedure for revocation shall be as prescribed in sections
17 53-134.04, 53-1,115, and 53-1,116.

18 Sec. 3. Section 48-601, Revised Statutes Cumulative
19 Supplement, 2006, is amended to read:

20 48-601 Sections 48-601 to 48-671 and section 7 of this
21 act shall be known and may be cited as the Employment Security Law.

22 Sec. 4. Section 48-602, Revised Statutes Cumulative
23 Supplement, 2006, is amended to read:

24 48-602 For purposes of the Employment Security Law,
25 unless the context otherwise requires:

1 (1) Base period ~~shall mean~~ means the last four completed
2 calendar quarters immediately preceding the first day of an
3 individual's benefit year, except that the commissioner may
4 prescribe by rule and regulation that base period ~~shall mean~~
5 means the first four of the last five completed calendar quarters
6 immediately preceding the first day of an individual's benefit
7 year;

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

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

24 (4) Calendar quarter ~~shall mean~~ means the period of three
25 consecutive calendar months ending on March 31, June 30, September

1 30, or December 31, or the equivalent thereof as the Commissioner
2 of Labor may by rule and regulation prescribe;

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

8 (6) Combined tax ~~shall mean~~ means the employer liability
9 consisting of contributions and the state unemployment insurance
10 tax;

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

13 (8) Commissioner ~~shall mean~~ means the Commissioner of
14 Labor;

15 (9) Contribution rate ~~shall mean~~ means the percentage of
16 the combined tax rate used to determine the contribution portion of
17 the combined tax;

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

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

23 (12) Employment office ~~shall mean~~ means a free public
24 employment office or branch thereof, operated by this state or
25 maintained as a part of a state-controlled system of public

1 employment offices, including public employment offices operated by
2 an agency of a foreign government;

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

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

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

24 (16) Insured work ~~shall mean~~ means employment for
25 employers;

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

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

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

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

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

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

22 (c) Employer responsibilities for worksite employees,
23 including those of hiring, firing, and disciplining, are shared
24 between the professional employer organization and the client
25 by contract. The term professional employer agreement shall not

1 include a contract between a parent corporation, company, or other
2 entity and a wholly owned subsidiary;

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

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

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

19 (24) State unemployment insurance tax rate ~~shall mean~~
20 means the percentage of the combined tax rate used to determine the
21 state unemployment insurance tax portion of the combined tax;

22 (25) Temporary employee ~~shall mean~~ means an employee of
23 a temporary help firm assigned to work for the clients of such
24 temporary help firm;

25 (26) Temporary help firm ~~shall mean~~ means a firm that

1 hires its own employees and assigns them to clients to support
2 or supplement the client's work force in work situations such as
3 employee absences, temporary skill shortages, seasonal workloads,
4 and special assignments and projects;

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

18 (28) Unemployment Trust Fund ~~shall mean~~ means the trust
19 fund in the Treasury of the United States of America established
20 under section 904 of the federal Social Security Act, 42 U.S.C.
21 1104, as such section existed on March 2, 2001, which receives
22 credit from the state Unemployment Compensation Fund;

23 (29) Wages, except with respect to services performed
24 in employment as provided in subdivisions (4)(c) and (d) of
25 section 48-604, ~~shall mean~~ means all remuneration for personal

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

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

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

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

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

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

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

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

1 of such payment unless such payment is made to an employee of the
2 trust as remuneration for services rendered as such employee and
3 not as a beneficiary of the trust or (ii) under or to an annuity
4 plan which, at the time of such payment, meets the requirements
5 of section 401 of the Internal Revenue Code as defined in section
6 49-801.01;

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

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

23 (g) Benefits paid under a supplemental unemployment
24 benefit plan which satisfies the eight points set forth in Internal
25 Revenue Service Revenue Ruling 56-249 as the ruling existed on

1 March 2, 2001, and is in compliance with the standards set forth in
2 Internal Revenue Service Revenue Rulings 58-128 and 60-330 as the
3 rulings existed on March 2, 2001; and

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

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

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

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

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

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

25 48-606 (1) It shall be the duty of the Commissioner of

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

1 request for it to the commissioner.

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

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

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

18 48-612 (1) Each employer, whether or not subject to
19 the Employment Security Law, shall keep true and accurate work
20 records containing such information as the Commissioner of Labor
21 may prescribe. Such records shall be open to inspection and
22 be subject to being copied by the commissioner or his or her
23 authorized representatives at any reasonable time and as often as
24 may be necessary. The commissioner and the appeal tribunal may
25 require from any such employer any sworn or unsworn reports, with

1 respect to persons employed by it, which he, she, or it deems
2 necessary for the effective administration of such law. ~~Information~~
3 Except as otherwise provided in section 7 of this act, information
4 thus obtained or obtained from any individual pursuant to the
5 administration of such law, shall be held confidential, ~~except~~
6 to the extent necessary for the proper presentation of the contest
7 of a claim, and shall not be published or be open to public
8 inspection, other than to public employees in the performance of
9 their public duties, in any manner revealing the individual's or
10 employing unit's identity, except that (a) any claimant, or his or
11 her legal representative, at a hearing before an appeal tribunal or
12 court shall be supplied with information from such records to the
13 extent necessary for the proper presentation of his or her claim
14 and (b) the Nebraska Workers' Compensation Court may use the names,
15 addresses, and identification numbers of employers for purposes of
16 enforcement of the Nebraska Workers' Compensation Act.

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

20 (3) All letters, reports, communications, or any other
21 matters, either oral or written, from an employer or his or her
22 workers to each other or to the commissioner or any of his or her
23 agents, representatives, or employees which shall have been written
24 or made in connection with the requirements and administration
25 of the Employment Security Law, or the rules and regulations

1 thereunder, shall be absolutely privileged and shall not be made
2 the subject matter or basis for any suit for slander or libel in
3 any court of this state, unless the same be false in fact and
4 malicious in intent.

5 Sec. 7. (1) Information obtained pursuant to subsection
6 (1) of section 48-612 may be disclosed under the following
7 circumstances:

8 (a) To the extent necessary for the proper presentation
9 of the contest of an unemployment benefit claim or tax appeal.
10 Any claimant or employer or representative of a claimant or
11 employer, as a party before an appeal tribunal or court regarding
12 an unemployment claim or tax appeal, shall be supplied with
13 information obtained in the administration of the Employment
14 Security Law, to the extent necessary for the proper presentation
15 of his, her, or its claim or appeal;

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

19 (c) Appeals records and decisions rendered under
20 the Employment Security Law and designated as precedential
21 determinations by the commissioner on the coverage of employers,
22 employment, wages, and benefit eligibility, if all social security
23 numbers have been removed and such disclosure is otherwise
24 consistent with federal and state law;

25 (d) To a public official for use in the performance of

1 his or her official duties. For purposes of this subdivision,
2 performance of official duties means the administration
3 or enforcement of law or the execution of the official
4 responsibilities of a federal, state, or local elected official.
5 Administration of law includes research related to the law
6 administered by the public official. Execution of official
7 responsibilities does not include solicitation of contributions or
8 expenditures to or on behalf of a candidate for public office or
9 to a political party;

10 (e) To an agent or contractor of a public official
11 to whom disclosure is permissible under subdivision (d) of this
12 subsection;

13 (f) Information collected exclusively for statistical
14 purposes under a cooperative agreement with the federal Bureau of
15 Labor Statistics. This subdivision does not restrict or impose any
16 condition on the transfer of any other information to the federal
17 Bureau of Labor Statistics under an agreement or the federal Bureau
18 of Labor Statistics' disclosure or use of such information; and

19 (g) In response to a court order.

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

22 (a) One who acts as an agent for the individual or
23 employer when the agent presents a written release from the
24 individual or employer, where practicable, or other evidence of
25 authority to act on behalf of the individual or employer;

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

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

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

12 (i) Specifically identifying the information that is to
13 be disclosed;

14 (ii) That state government files will be accessed to
15 obtain that information;

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

19 (iv) Identifying and describing all the parties who may
20 receive the information disclosed.

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

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

25 (b) To a local, state, or federal governmental official,

1 other than a clerk of court, attorney, or notary public acting on
2 behalf of a litigant, with authority to obtain such information by
3 subpoena under state or federal law; and

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

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

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

21 Sec. 8. Section 48-624, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 48-624 (1) For any benefit year beginning on or after
24 January 1, 2001, through December 31, 2005, an individual's weekly
25 benefit amount shall be one-half his or her average weekly wage

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

4 (2) For any benefit year beginning on or after January
5 1, 2006, through December 31, 2007, an individual's weekly benefit
6 amount shall be one-half of his or her average weekly wage rounded
7 down to the nearest even whole dollar amount, but shall not exceed
8 two hundred eighty-eight dollars per week.

9 (3) For any benefit year beginning on or after January
10 1, 2008, through December 31, 2010, an individual's weekly benefit
11 amount shall be one-half of his or her average weekly wage rounded
12 down to the nearest even whole dollar amount, but shall not exceed
13 the lesser of one-half of the state average weekly wage as annually
14 determined under section 48-121.02 or the previous year's maximum
15 weekly benefit amount plus ten dollars per week.

16 (4) For any benefit year beginning on or after January
17 1, 2011, an individual's weekly benefit amount shall be one-half
18 of his or her average weekly wage rounded down to the nearest even
19 whole dollar amount, but shall not exceed one-half of the state
20 average weekly wage as annually determined under section 48-121.02.

21 ~~(5) If the state's reserve ratio on September 30, 2008,~~
22 ~~or September 30, 2009, is less than four-tenths percent and~~
23 ~~an emergency solvency surcharge is imposed pursuant to section~~
24 ~~48-649.01 for such year, then the maximum weekly benefit amount for~~
25 ~~the following calendar year shall not be increased over the then~~

1 ~~current maximum weekly benefit amount.~~

2 ~~(6)~~ (5) For purposes of this section, an individual's
3 average weekly wage shall equal the wages paid for insured work in
4 the highest quarter of the base period divided by thirteen.

5 Sec. 9. Section 48-649, Revised Statutes Cumulative
6 Supplement, 2006, is amended to read:

7 48-649 The commissioner shall, for each calendar year,
8 determine the combined tax rate applicable to each employer on
9 the basis of his or her actual experience in the payment of
10 contributions and with respect to benefits charged against his or
11 her separate experience account, in accordance with the following
12 requirements:

13 (1) The commissioner shall, by December 1 of each
14 calendar year, and based upon information available through the
15 department, determine the state unemployment insurance tax rate for
16 the following year. The state unemployment insurance tax rate shall
17 be zero percent if:

18 (a) The average balance in the State Unemployment
19 Insurance Trust Fund at the end of any three months in the
20 preceding calendar year is greater than one percent of state
21 taxable wages for the same preceding year;

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

1 (c) The state advisory council determines that a zero
2 percent state unemployment insurance tax rate is in the best
3 interests of preserving the integrity of the state's account in the
4 Unemployment Trust Fund;

5 ~~(2)~~ (2)(a) If the state unemployment insurance tax rate
6 is not zero percent as determined in this section, the combined
7 tax rate shall be divided so that not less than eighty percent
8 of the combined tax rate equals the contribution rate and not
9 more than twenty percent of the combined tax rate equals the
10 state unemployment insurance tax rate except for employers who are
11 assigned a combined tax rate of five and four-tenths percent or
12 more. For those employers, the state unemployment insurance tax
13 rate shall equal zero and their combined tax rate shall equal their
14 contribution rate.

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

19 (3) In calendar year 2005, an employer's combined tax
20 rate shall be three and five-tenths percent of his or her annual
21 payroll unless and until (a) benefits have been payable from
22 and chargeable to his or her experience account throughout the
23 preceding one calendar year and (b) contributions have been payable
24 to the fund and credited to his or her experience account with
25 respect to the two preceding calendar years. Subject to fair and

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

24 (4) (a) Effective January 1, 2006, an employer's combined
25 tax rate (i) for employers other than employers engaged in the

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

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

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

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

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

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

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

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

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

20 (d) Beginning with rate calculations for calendar year
21 2006 and each year thereafter, the combined tax rate for employers
22 who meet the requirements of subdivision (4)(a) of this section
23 shall be calculated according to subdivisions (4)(e) and (4)(f) and
24 (4)(g) of this section and shall be based upon the employer's
25 experience rating record and determined from the employer's reserve

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

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

18	Category	Experience Factor
19	1	0.15 0.00
20	2	0.25
21	3	0.40
22	4	0.45
23	5	0.50
24	6	0.60
25	7	0.65

1	8	0.70
2	9	0.80
3	10	0.90
4	11	0.95
5	12	1.00
6	13	1.05
7	14	1.10
8	15	1.15 <u>1.20</u>
9	16	1.30 <u>1.35</u>
10	17	1.50 <u>1.55</u>
11	18	1.80
12	19	2.15
13	20	2.60

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

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

24 (ii) No employer with a reserve ratio calculated to five

1 decimal places equal to another employer similarly calculated shall
 2 be assigned to a higher rate than the employer to which it has the
 3 equal reserve ratio.

4 (f) The state's reserve ratio shall be calculated by
 5 dividing the amount available to pay benefits in the Unemployment
 6 Trust Fund and the State Unemployment Insurance Trust Fund as of
 7 September 30, 2005, and each September 30 thereafter, less any
 8 outstanding obligations and amounts appropriated therefrom by the
 9 state's total wages from the four calendar quarters ending on
 10 such September 30. For purposes of this section, total wages shall
 11 ~~mean~~ means all remuneration paid by an employer in employment.
 12 The state's reserve ratio shall be applied to the table in this
 13 subdivision to determine the yield factor for the upcoming rate
 14 year.

15	State's Reserve Ratio		Yield Factor
16	1.45 percent and above	=	0.70
17	1.30 percent up to but not including 1.45	=	0.75
18	1.15 percent up to but not including 1.30	=	0.80
19	1.00 percent up to but not including 1.15	=	0.90
20	0.85 percent up to but not including 1.00	=	1.00
21	0.70 percent up to but not including 0.85	=	1.10
22	0.60 percent up to but not including 0.70	=	1.20
23	0.50 percent up to but not including 0.60	=	1.25
24	0.45 percent up to but not including 0.50	=	1.30
25	0.40 percent up to but not including 0.45	=	1.35

1	0.35 percent up to but not including 0.40	=	1.40
2	0.30 percent up to but not including 0.35	=	1.45
3	Below 0.30 percent	=	1.50

4 Once the yield factor for the upcoming rate year has
5 been determined, it is multiplied by the amount of unemployment
6 benefits paid from combined tax during the four calendar quarters
7 ending September 30 of the preceding year. The resulting figure is
8 the planned yield for the rate year. The planned yield is divided
9 by the total taxable wages for the four calendar quarters ending
10 September 30 of the previous year and carried to ~~three~~ four decimal
11 places to create the average combined tax rate for the rate year.

12 (g) The average combined tax rate is assigned to rate
13 category twelve as established in subdivision (4)(e) of this
14 section. Rates for each of the remaining nineteen categories are
15 determined by multiplying the average combined tax rate by the
16 experience factor associated with each category and carried to
17 four decimal places. Employers who are delinquent in filing their
18 combined tax reports as of ~~the date of rate computation~~ October 31
19 of any year shall be assigned to category twenty for the following
20 calendar year unless the delinquency is corrected prior to December
21 31 of the year of rate calculation. †

22 (h) As used in this subdivision (4) of this section,
23 standard rate means the rate assigned to category twenty for
24 that year. For calendar years 2006 and thereafter, the standard

1 rate shall be not less than five and four-tenths percent of the
2 employer's annual taxable payroll;

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

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

14 (7)(a) The state or any of its instrumentalities shall
15 make payments in lieu of contributions in an amount equal to
16 the full amount of regular benefits plus one-half of the amount
17 of extended benefits paid during each calendar quarter that is
18 attributable to service in employment of the state or any of its
19 instrumentalities. The commissioner after the end of each calendar
20 quarter shall notify any state instrumentality or other public
21 employer of the amount of regular benefits and one-half the amount
22 of extended benefits paid that are attributable to service in its
23 employment and the instrumentality or public employer so notified
24 shall reimburse the fund within thirty days after receipt of such
25 notice. The commissioner may require that any employer whose annual

1 payroll for either of the two preceding calendar years has equaled
2 or exceeded five hundred thousand dollars to pay the reimbursement
3 by an electronic method approved by the commissioner, except when
4 the employer establishes to the satisfaction of the commissioner
5 that payment of the reimbursement by an electronic method would
6 work a hardship on the employer. †

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

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

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, not later than December 1
20 of any calendar year, a written notice terminating its election
21 as of December 31 of that year and thereafter such employer shall
22 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. 10. Section 48-652, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 48-652 (1) (a) A separate experience account shall be
4 established for each employer who is liable for payment of
5 contributions. Whenever and wherever in the Employment Security
6 Law the terms reserve account or experience account are used,
7 unless the context clearly indicates otherwise, such terms shall be
8 deemed interchangeable and synonymous and reference to either of
9 such accounts shall refer to and also include the other.

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

1 subdivision.

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

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

20 (b) Each reimbursement account shall be charged only for
21 benefits paid that were based upon wages paid by such employer in
22 the base period that were wages for insured work solely by reason
23 of 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
6 as provided in subdivision (4) (a) of section 48-604 are performed,
7 shall not exceed the total benefit amount to which such individual
8 was entitled as set out in section 48-626 with respect to base
9 period wages of such individual paid by such employer plus one-half
10 the amount of extended benefits paid to such eligible individual
11 with respect to base period wages of such individual paid by
12 such employer. The commissioner shall by rules and regulations
13 prescribe the manner in which benefits shall be charged against
14 the 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
20 be issued and charged to the fund on proper showing at any time
21 within the year next following. Any charge made to an employer's
22 account for any such invalidated check shall stand as originally
23 made.

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

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

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

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

1 (6) A contributory or reimbursable employer shall be
2 relieved of charges if the employer was previously charged for
3 wages and the same wages are being used a second time to establish
4 a new claim as a result of the October 1, 1988, change in the base
5 period.

6 Sec. 11. Section 48-663.01, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 48-663.01 (1) Notwithstanding any other provision of this
9 section, or of ~~sections~~ section 48-627 or 48-663, an individual
10 who willfully fails to disclose amounts earned during any week
11 with respect to which benefits are claimed by him or her or
12 who willfully fails to disclose or has falsified as to any fact
13 which would have disqualified him or her or rendered him or her
14 ineligible for benefits during such week, shall forfeit all or
15 part of his or her benefit rights, as determined by a deputy, with
16 respect to uncharged wage credits accrued prior to the date of such
17 failure or to the date of such falsifications. An appeal may be
18 taken from any such determination in the manner provided in section
19 48-634.

20 (2)(a) If any person liable to repay an overpayment
21 of unemployment benefits resulting from a determination under
22 subsection (1) of this section fails or refuses to repay such
23 overpayment within twelve months after the date the overpayment
24 determination becomes final, the commissioner may issue a levy on
25 salary, wages, or other regular payments due to or received by

1 such person and such levy shall be continuous from the date the
2 levy is served until the amount of the levy is satisfied. Notice
3 of the levy shall be mailed to the person whose salary, wages,
4 or other regular payment is levied upon at his or her last-known
5 address not later than the date that the levy is served. Exemptions
6 or limitations on the amount of salary, wages, or other regular
7 payment that can be garnished or levied upon by a judgment creditor
8 shall apply to levies made pursuant to this section. Appeal of a
9 levy may be made in the manner provided in section 48-634, but such
10 appeal shall not act as a stay of the levy.

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

17 Sec. 12. Section 48-664, Revised Statutes Cumulative
18 Supplement, 2006, is amended to read:

19 48-664 Any employer, whether or not subject to the
20 Employment Security Law, or any officer or agent of such an
21 employer or any other person who makes a false statement or
22 representation knowing it to be false, or who knowingly fails to
23 disclose a material fact, to prevent or reduce the payment of
24 benefits to any individual entitled thereto, to obtain benefits for
25 an individual not entitled thereto, to avoid becoming or remaining

1 subject to such law, or to avoid or reduce any contribution or
2 other payment required from an employer under sections 48-648
3 and 48-649, or who willfully fails or refuses to make any such
4 contributions or other payment or to furnish any reports required
5 under the Employment Security Law or to produce or permit the
6 inspection or copying of records as required under such law, shall
7 be guilty of a Class III misdemeanor. Each such false statement
8 or representation or failure to disclose a material fact and each
9 day of such failure or refusal shall constitute a separate offense.
10 An individual employer, partner, corporate officer, or member
11 of a limited liability company or limited liability partnership
12 who willfully fails or refuses to make any combined tax payment
13 shall be jointly and severally liable for the payment of such
14 combined tax and any penalties and interest owed thereon. When an
15 unemployment benefit overpayment occurs, in whole or in part, as
16 the result of a violation of this section by an employer, the
17 amount of the overpayment recovered shall not be credited back to
18 such employer's experience account.

19 Sec. 13. Section 48-1001, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 48-1001 (1) Sections 48-1001 to 48-1010 shall be known
22 and may be cited as the Age Discrimination in Employment Act.

23 ~~(1)~~ (2) (a) The Legislature hereby finds that the practice
24 of discriminating in employment against properly qualified persons
25 because of their age is contrary to American principles of liberty

1 and equality of opportunity, is incompatible with the Constitution,
 2 deprives the state of the fullest utilization of its capacities for
 3 production, and endangers the general welfare.

4 ~~(2)~~ (b) Hiring bias against workers ~~over~~ forty years or
 5 more of age deprives the state of its most important resource
 6 of experienced employees, adds to the number of persons receiving
 7 public assistance, and deprives older people of the dignity and
 8 status of self-support.

9 ~~(3)~~ (c) The right to employment otherwise lawful without
 10 discrimination because of age, where the reasonable demands of
 11 the position do not require such an age distinction, is hereby
 12 recognized as and declared to be a right of all the people of the
 13 state which shall be protected as provided in ~~sections 48-1001 to~~
 14 ~~48-1009.~~ the act.

15 ~~(4)~~ (d) It is hereby declared to be the policy of the
 16 state to protect the right recognized and declared in ~~subsection~~
 17 ~~(3)~~ subdivision (2)(c) of this section and to eliminate all such
 18 discrimination to the fullest extent permitted. ~~Sections 48-1001 to~~
 19 ~~48-1009~~ The Age Discrimination in Employment Act shall be construed
 20 to effectuate such policy.

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

23 48-1002 For purposes of the Age Discrimination in
 24 Employment Act: As used in sections 48-1001 to 48-1010, unless the
 25 context otherwise requires:

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

5 (2) Employer ~~shall mean~~ means any person having in his
6 or her employ ~~twenty-five~~ twenty or more ~~individuals~~ employees
7 for each working day in each of twenty or more calendar weeks
8 in the current or preceding calendar year and includes the State
9 of Nebraska, governmental agencies, and political subdivisions,
10 regardless of the number of employees, any person acting for or in
11 the interest of an employer, directly or indirectly, and any party
12 whose business is financed in whole or in part under the Nebraska
13 Investment Finance Authority Act, but such term ~~shall~~ does not
14 include (a) the United States, ~~or~~ (b) a corporation wholly owned by
15 the government of the United States, or (c) an Indian tribe;

16 (3) Labor organization ~~shall mean~~ means any organization
17 of employees which exists for the purpose, in whole or in part,
18 of collective bargaining or of dealing with employers concerning
19 grievances, terms, or conditions of employment, or for other mutual
20 aid or protection in connection with employment;

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

23 (5) Employment agency ~~shall mean~~ means any person
24 regularly undertaking with or without compensation to procure
25 employees for an employer or to procure for employees opportunities

1 to work for an employer and includes an agent of such a person, but
2 ~~shall~~ does not include an agency of the United States, except that
3 such term ~~shall~~ does include the United States Employment Service
4 and the system of state and local employment services receiving
5 federal assistance.

6 Sec. 15. Section 48-1003, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 48-1003 (1) The prohibitions of ~~sections 48-1001 to~~
9 ~~48-1009~~ the Age Discrimination in Employment Act shall be limited
10 to the employment of individuals who are ~~at least~~ forty years or
11 more of age, ~~but less than seventy years of age.~~

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

21 Sec. 16. Section 48-1004, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 48-1004 (1) It shall be an unlawful employment practice
24 for an employer:

25 (a) To refuse to hire, to discharge, or otherwise

1 to discriminate against any individual with respect to ~~his~~
2 the employee's terms, conditions, or privileges of employment,
3 otherwise lawful, because of such individual's age, when the
4 reasonable demands of the position do not require such an age
5 distinction; or

6 (b) To willfully utilize in the hiring or recruitment of
7 individuals for employment otherwise lawful, any employment agency,
8 placement service, training school or center, labor organization,
9 or any other source which so discriminates against ~~such~~ individuals
10 because of their age.

11 (2) It shall be an unlawful employment practice for any
12 labor organization to so discriminate against any individual or
13 to limit, segregate, or classify its membership in any way which
14 would deprive or tend to deprive ~~such~~ an individual of otherwise
15 lawful employment opportunities, or would limit such employment
16 opportunities or otherwise adversely affect his or her status as
17 an employee ~~or as an applicant for employment~~, or would affect
18 adversely his or her wages, hours, or employment.

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

24 ~~(3)~~ (4) It shall be an unlawful employment practice
25 for any employer, employment agency, or labor organization to

1 discharge, expel, or otherwise discriminate against any person,
 2 because he or she opposed any unlawful employment practice
 3 specified in ~~sections 48-1001 to 48-1009~~ the Age Discrimination
 4 in Employment Act or has filed a charge or suit, testified,
 5 participated, or assisted in any proceeding under the ~~provisions of~~
 6 ~~sections 48-1001 to 48-1009.~~ act.

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

12 Sec. 17. Section 48-1005, Reissue Revised Statutes of
 13 Nebraska, is amended to read:

14 48-1005 Any person who violates any provision of ~~sections~~
 15 ~~48-1001 to 48-1009~~ the Age Discrimination in Employment Act or who
 16 forcibly resists, opposes, impedes, intimidates, or interferes with
 17 ~~such commission~~ the Equal Opportunity Commission or any of its duly
 18 authorized representatives while engaged in its, ~~or his, or her~~
 19 duties under ~~sections 48-1001 to 48-1009~~ the act shall be guilty of
 20 a Class III misdemeanor. No person shall be imprisoned under this
 21 section except for a second or subsequent conviction.

22 Sec. 18. Section 48-1007, Reissue Revised Statutes of
 23 Nebraska, is amended to read:

24 48-1007 ~~Sections 48-1001 to 48-1009~~ The Age
 25 Discrimination in Employment Act shall be administered by

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

24 Sec. 19. Section 48-1008, Reissue Revised Statutes of
25 Nebraska, is amended to read:

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

15 (2) A written charge alleging violation of the Age
16 Discrimination in Employment Act shall be filed within three
17 hundred days after the occurrence of the alleged unlawful
18 employment practice, and notice of the charge, including a
19 statement of the date, place, and circumstances of the alleged
20 unlawful employment practice, shall be served upon the person
21 against whom such charge is made within ten days thereafter.

22 (3) A respondent shall file with the commission a
23 written response to the written charge of violation within
24 thirty days after service upon the respondent. Failure to file
25 a written response within thirty days, except for good cause

1 shown, shall result in a mandatory reasonable cause finding against
2 the respondent by the commission. Failure by any complainant to
3 cooperate with the commission, its investigators, or its staff,
4 except for good cause shown, shall result in dismissal of the
5 complaint by the commission.

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

17 Sec. 20. Section 48-1009, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 48-1009 In any action brought to enforce the ~~provisions~~
20 ~~of sections 48-1001 to 48-1009,~~ Age Discrimination in Employment
21 Act, the court shall have jurisdiction to grant such legal
22 or equitable relief as the court ~~may deem~~ deems appropriate
23 to effectuate the purposes of ~~sections 48-1001 to 48-1009,~~ the
24 act, including judgments compelling employment, reinstatement, or
25 promotion, or enforcing liability for amounts deemed to be unpaid

1 minimum wages or unpaid overtime compensation.

2 Sec. 21. Section 48-1010, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 48-1010 The state, governmental agencies, and political
5 subdivisions may be sued upon claims arising under the ~~Act~~
6 ~~Prohibiting Unjust Discrimination in Employment Because of Age~~
7 Age Discrimination in Employment Act in the same manner as provided
8 by such act for suits against other employers.

9 Sec. 22. Section 48-1203, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 48-1203 (1) Except as otherwise provided in this section
12 and section 48-1203.01, every employer shall pay to each of his
13 or her employees wages at the minimum rate of four dollars and
14 ~~twenty-five cents per hour through August 31, 1997, and five~~
15 ~~dollars and fifteen cents per hour on and after September 1, 1997.~~
16 a minimum wage of:

17 (a) Five dollars and fifteen cents per hour through July
18 23, 2007;

19 (b) Five dollars and eighty-five cents per hour on and
20 after July 24, 2007, through July 23, 2008;

21 (c) Six dollars and fifty-five cents per hour on and
22 after July 24, 2008, through July 23, 2009; and

23 (d) Seven dollars and twenty-five cents per hour on and
24 after July 24, 2009.

25 (2) For persons compensated by way of gratuities such

1 as waitresses, waiters, hotel bellhops, porters, and shoeshine
2 persons, the employer shall pay wages at the minimum rate of two
3 dollars and thirteen cents per hour, plus all gratuities given
4 to them for services rendered. The sum of wages and gratuities
5 received by each person compensated by way of gratuities shall
6 equal or exceed the minimum wage rate provided in subsection (1)
7 of this section. In determining whether or not the individual is
8 compensated by way of gratuities, the burden of proof shall be upon
9 the employer.

10 (3) Any employer employing student-learners as part
11 of a bona fide vocational training program shall pay such
12 student-learners' wages at a rate of at least seventy-five percent
13 of the minimum wage rate which would otherwise be applicable.

14 Sec. 23. Section 48-1203.01, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 48-1203.01 An employer may pay a new employee who is
17 younger than twenty years of age and is not a seasonal or migrant
18 worker a training wage at a ~~rate of four dollars and twenty-five~~
19 ~~cents per hour~~ of at least seventy-five percent of the federal
20 minimum wage for ninety days from the date the new employee was
21 hired. An employer may pay such new employee the training wage
22 rate for an additional ninety-day period while the new employee is
23 participating in on-the-job training which (1) requires technical,
24 personal, or other skills which are necessary for his or her
25 employment and (2) is approved by the Commissioner of Labor. No

1 more than one-fourth of the total hours paid by the employer shall
2 be at the training wage rate.

3 An employer shall not pay the training wage rate if the
4 hours of any other employee are reduced or if any other employee is
5 laid off and the hours or position to be filled by the new employee
6 is substantially similar to the hours or position of such other
7 employee. An employer shall not dismiss or reduce the hours of any
8 employee with the intention of replacing such employee or his or
9 her hours with a new employee receiving the training wage rate.

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

24 Sec. 25. Section 48-1809, Reissue Revised Statutes of
25 Nebraska, is amended to read:

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

7 Sec. 26. Section 48-2501, Revised Statutes Cumulative
8 Supplement, 2006, is amended to read:

9 48-2501 Sections 48-2501 to 48-2533 and section 27 of
10 this act shall be known and may be cited as the Conveyance Safety
11 Act.

12 Sec. 27. Section 48-418, Revised Statutes Cumulative
13 Supplement, 2006, is amended to read:

14 ~~48-418~~ (1) The Commissioner of Labor shall, ~~on or before~~
15 ~~the first day of July 1965,~~ appoint a state elevator inspector,
16 subject to the approval of the Governor, who shall work under
17 the direct supervision of the commissioner. The state elevator
18 inspector serving on the operative date of this section shall
19 continue to serve unless removed by the commissioner.

20 (2) The person so appointed shall be qualified by (a) not
21 less than five years' experience in the installation, maintenance,
22 and repair of elevators as determined by the commissioner, (b)
23 certification as a qualified elevator inspector by an association
24 accredited by the American Society of Mechanical Engineers, or
25 (c) not less than five years' journeyman experience in elevator

1 installation, maintenance, and inspection as determined by the
2 Commissioner of Labor and shall be familiar with the ~~inspection~~
3 ~~process provided by the Nebraska Elevator Code provided under~~
4 ~~section 48-418.12~~ and the inspection process and rules and
5 regulations adopted and promulgated under the Conveyance Safety
6 Act.

7 (3) The commissioner, subject to the approval of the
8 Governor, may appoint deputy inspectors possessing the same
9 qualifications as the state elevator inspector. A qualified
10 individual may apply for the position of inspector or deputy
11 inspector. ~~The and such~~ application shall include the applicant's
12 social security number, but such social security number shall not
13 be a public record.

14 Sec. 28. Section 48-2503, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 48-2503 (1) The Conveyance Advisory Committee is created.
17 One member shall be the state elevator inspector appointed pursuant
18 to section ~~48-418. 27~~ of this act. One member shall be the State
19 Fire Marshal or his or her designee. The Governor shall appoint the
20 remaining members of the committee as follows: One representative
21 from a major elevator manufacturing company; one representative
22 from an elevator servicing company; one representative who is a
23 building manager; one representative who is an elevator mechanic;
24 and one representative of the general public from each county that
25 has a population of more than one hundred thousand inhabitants. The

1 committee shall be appointed within ninety days after January 1,
2 2008.

3 (2) The members of the committee appointed by the
4 Governor shall serve for terms of three years, except that of
5 the initial members appointed, two shall serve for terms of one
6 year and three shall serve for terms of two years. The state
7 elevator inspector and the State Fire Marshal or his or her
8 designee shall serve continuously. The appointed members shall be
9 reimbursed for their actual and necessary expenses for service
10 on the committee as provided in sections 81-1174 to 81-1177. The
11 members of the committee shall elect a chairperson who shall be the
12 deciding vote in the event of a tie vote.

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

21 Sec. 29. Section 48-2506, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 48-2506 ~~(1) The Conveyance Inspection Fund is created.~~
24 ~~The commissioner shall use the fund for the administration of the~~
25 ~~Conveyance Safety Act. Fees collected in the administration of the~~

1 act shall be remitted to the State Treasurer for credit to the fund
2 and shall not lapse into the General Fund. Any money in the fund
3 available for investment shall be invested by the state investment
4 officer pursuant to the Nebraska Capital Expansion Act and the
5 Nebraska State Funds Investment Act.

6 ~~(2)~~ (1) The commissioner shall, after a public hearing
7 conducted by the commissioner or his or her designee, establish a
8 reasonable schedule of fees for licenses, permits, certificates,
9 and inspections authorized under the Conveyance Safety Act. The
10 commissioner shall establish the fees at a level necessary
11 to meet the costs of administering the act. Inspection fee
12 schedules relating to the inspection of conveyances adopted by
13 the commissioner prior to the operative date of this section shall
14 continue to be effective until they are amended or repealed by the
15 commissioner.

16 (2) The commissioner shall administer the Conveyance
17 Safety Act. It is the intent of the Legislature that, beginning
18 in fiscal year 2008-09, the funding for the administration of the
19 act shall be entirely from cash funds remitted to the Conveyance
20 Inspection Fund. Mechanical Safety Inspection Fund that are fees
21 collected in the administration of the act.

22 Sec. 30. Section 48-2507, Revised Statutes Cumulative
23 Supplement, 2006, is amended to read:

24 48-2507 (1) The Conveyance Safety Act applies to the
25 ~~design~~, construction, operation, inspection, testing, maintenance,

1 alteration, and repair of conveyances. Conveyances include the
2 following equipment, associated parts, and hoistways which are not
3 exempted under section 48-2508:

4 (a) Hoisting and lowering mechanisms equipped with a car
5 which moves between two or more landings. This equipment includes
6 elevators;

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

9 (i) Escalators; and

10 (ii) Moving sidewalks; and

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

15 (i) Dumbwaiters;

16 (ii) Material lifts and dumbwaiters with automatic
17 transfer devices; and

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

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

24 (3) The act applies to conveyances in private residences
25 located in counties that have a population of more than one hundred

1 thousand inhabitants at the time of installation. Such ~~and such~~
2 conveyances are subject to inspection at installation but ~~and~~ are
3 not subject to periodic inspections.

4 Sec. 31. Section 48-2508, Revised Statutes Cumulative
5 Supplement, 2006, is amended to read:

6 48-2508 The Conveyance Safety Act does not apply to:

- 7 (1) Conveyances under the jurisdiction and subject to
8 inspection by the United States Government;
- 9 (2) Conveyances used exclusively for agricultural
10 purposes;
- 11 (3) Personnel hoists within the scope of American
12 National Standards Institute A10.4;
- 13 (4) Material hoists within the scope of American National
14 Standards Institute A10.5;
- 15 (5) Manlifts within the scope of American Society of
16 Mechanical Engineers A90.1;
- 17 (6) Mobile scaffolds, towers, and platforms within the
18 scope of American National Standards Institute A92;
- 19 (7) Powered platforms and equipment for exterior and
20 interior maintenance within the scope of American National
21 Standards Institute 120.1;
- 22 (8) Cranes, derricks, hoists, hooks, jacks, and slings
23 within the scope of American Society of Mechanical Engineers B30;
- 24 (9) Industrial trucks within the scope of American
25 Society of Mechanical Engineers B56;

- 1 (10) Portable equipment, except for portable escalators
2 which are covered by American National Standards Institute A17.1;
- 3 (11) Tiering or piling machines used to move materials to
4 and from storage located and operating entirely within one story;
- 5 (12) Equipment for feeding or positioning materials at
6 machine tools, printing presses, and similar equipment;
- 7 (13) Skip or furnace hoists;
- 8 (14) Wharf ramps;
- 9 (15) Railroad car lifts or dumpers;
- 10 (16) Line jacks, false cars, shafters, moving platforms,
11 and similar equipment used for installing a conveyance by an
12 elevator contractor;
- 13 (17) Manlifts, hoists, or conveyances used in grain
14 elevators or feed mills;
- 15 (18) Dock levelators; and
- 16 (19) Stairway chair lifts and platform lifts; and -
- 17 (20) Conveyances in residences located in counties that
18 have a population of one hundred thousand or less inhabitants.

19 Sec. 32. Section 48-2512, Revised Statutes Cumulative
20 Supplement, 2006, is amended to read:

21 48-2512 (1) No person shall wire, alter, replace, remove,
22 or dismantle an existing conveyance contained within a building
23 or structure located in a county that has a population of more
24 than one hundred thousand inhabitants unless such person is a
25 licensed elevator mechanic or he or she is working under the

1 direct supervision of a person who is a licensed elevator mechanic.
2 Neither a licensed elevator mechanic nor a licensed elevator
3 contractor is required to perform nonmechanical maintenance of
4 a conveyance. Neither a licensed elevator contractor nor a
5 licensed elevator mechanic is required for removing or dismantling
6 conveyances which are destroyed as a result of a complete
7 demolition of a secured building.

8 (2) It shall be the responsibility of licensed
9 elevator mechanics and licensed elevator contractors to ensure
10 that installation and service of a conveyance is performed in
11 compliance with applicable fire and safety codes. It shall be the
12 responsibility of the owner of the conveyance to ensure that the
13 conveyance is maintained in compliance with applicable fire and
14 safety codes.

15 (3) All new conveyance installations shall be performed
16 by a licensed elevator mechanic under the control of a licensed
17 elevator contractor or by a licensed elevator contractor.
18 Subsequent to installation, a licensed elevator contractor shall
19 certify compliance with the Conveyance Safety Act.

20 Sec. 33. Sections 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 35,
21 and 39 of this act become operative on July 1, 2007. Sections 24,
22 25, 26, 27, 28, 29, 30, 31, 32, 34, and 38 of this act become
23 operative on January 1, 2008. Sections 1, 2, 13, 14, 15, 16, 17,
24 18, 19, 20, 21, 36, and 40 of this act become operative three
25 calendar months after the adjournment of this legislative session.

1 Sections 22, 23, 33, 37, and 41 of this act become operative on
2 their effective date.

3 Sec. 34. Original section 48-1809, Reissue Revised
4 Statutes of Nebraska, and sections 48-418, 48-2501, 48-2503,
5 48-2506, 48-2507, 48-2508, and 48-2512, Revised Statutes Cumulative
6 Supplement, 2006, are repealed.

7 Sec. 35. Original sections 48-606, 48-612, and 48-663.01,
8 Reissue Revised Statutes of Nebraska, and sections 48-601, 48-602,
9 48-624, 48-649, 48-652, and 48-664, Revised Statutes Cumulative
10 Supplement, 2006, are repealed.

11 Sec. 36. Original sections 13-1102, 20-113, 48-1001,
12 48-1002, 48-1003, 48-1004, 48-1005, 48-1007, 48-1008, 48-1009, and
13 48-1010, Reissue Revised Statutes of Nebraska, are repealed.

14 Sec. 37. Original sections 48-1203 and 48-1203.01,
15 Reissue Revised Statutes of Nebraska, are repealed.

16 Sec. 38. The following sections are outright repealed:
17 Sections 48-418.01, 48-418.02, 48-418.03, 48-418.05, 48-418.06,
18 48-418.07, 48-418.08, 48-418.10, 48-418.11, 48-418.12, 48-418.14,
19 and 48-1810, Reissue Revised Statutes of Nebraska, and sections
20 48-418.04, 48-418.09, and 48-2505, Revised Statutes Cumulative
21 Supplement, 2006.

22 Sec. 39. The following section is outright repealed:
23 Section 48-649.01, Revised Statutes Cumulative Supplement, 2006.

24 Sec. 40. The following section is outright repealed:
25 Section 48-1006, Reissue Revised Statutes of Nebraska.

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