

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SIXTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 306**

FINAL READING

Introduced by Crawford, 45; McCollister, 20.

Read first time January 15, 2019

Committee: Business and Labor

1 A BILL FOR AN ACT relating to the Employment Security Law; to amend  
2 sections 48-628.13 and 48-652, Revised Statutes Cumulative  
3 Supplement, 2018; to change provisions relating to good cause for  
4 voluntarily leaving employment; to harmonize provisions; and to  
5 repeal the original sections.

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

1           Section 1. Section 48-628.13, Revised Statutes Cumulative  
2 Supplement, 2018, is amended to read:

3           48-628.13 Good cause for voluntarily leaving employment shall  
4 include, but not be limited to, the following reasons:

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

9           (2) An individual left his or her employment voluntarily due to a  
10 bona fide non-work-connected illness or injury that prevented him or her  
11 from continuing the employment or from continuing the employment without  
12 undue risk of harm to the individual;

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

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

18           (5)(a) An individual is a construction worker and left his or her  
19 employment voluntarily for the purpose of accepting previously secured  
20 insured work in the construction industry if the commissioner finds that:

21           (i)(A) The quit occurred within thirty days immediately prior to the  
22 established termination date of the job which the individual voluntarily  
23 leaves, (B) the specific starting date of the new job is prior to the  
24 established termination date of the job which the worker quits, (C) the  
25 new job offered employment for a longer period of time than remained  
26 available on the job which the construction worker voluntarily quit, and  
27 (D) the worker had worked at least twenty days or more at the new job  
28 after the established termination date of the previous job unless the new  
29 job was terminated by a contract cancellation; or

30           (ii)(A) The construction worksite of the job which the worker quit  
31 was more than fifty miles from his or her place of residence, (B) the new

1 construction job was fifty or more miles closer to his or her residence  
2 than the job which he or she quit, and (C) the worker actually worked  
3 twenty days or more at the new job unless the new job was terminated by a  
4 contract cancellation.

5 (b) The provisions of this subdivision (5) shall not apply if the  
6 individual is separated from the new job under conditions resulting in a  
7 disqualification from benefits under section 48-628.10 or 48-628.12;

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

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

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

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

16 (10) An individual left his or her employment to attend school; ~~or~~

17 (11) An individual has made all reasonable efforts to preserve  
18 employment but voluntarily leaves employment for the purpose of caring  
19 for a family member with a serious health condition. For purposes of this  
20 subdivision:

21 (a) Family member means:

22 (i) A biological, adopted, or foster child, a stepchild, or a legal  
23 ward of the individual or the individual's spouse or a person to whom the  
24 individual or the individual's spouse stood in loco parentis when such  
25 person was a minor child, regardless of the age or dependency status of  
26 such child, stepchild, legal ward, or person;

27 (ii) A biological, adoptive, or foster parent, a stepparent, or a  
28 legal guardian of the individual or the individual's spouse or a person  
29 who stood in loco parentis to the individual or the individual's spouse  
30 when the individual or the individual's spouse was a minor child;

31 (iii) The individual's spouse or domestic partner; or

1        (iv) A grandparent, grandchild, or sibling, whether of a biological,  
2 foster, adoptive, or step relationship, of the individual or the  
3 individual's spouse; and

4        (b) Serious health condition has the same meaning as in 29 U.S.C.  
5 2611, as such section existed on January 1, 2019; or

6        (12) ~~(11)~~ Equity and good conscience demand a finding of good cause.  
7        Sec. 2. Section 48-652, Revised Statutes Cumulative Supplement,  
8 2018, is amended to read:

9        48-652 (1)(a) A separate experience account shall be established for  
10 each employer who is liable for payment of combined tax. Whenever and  
11 wherever in the Employment Security Law the terms reserve account or  
12 experience account are used, unless the context clearly indicates  
13 otherwise, such terms shall be deemed interchangeable and synonymous and  
14 reference to either of such accounts shall refer to and also include the  
15 other.

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

1           (2) All contributions paid by an employer shall be credited to the  
2 experience account of such employer. State unemployment insurance tax  
3 payments shall not be credited to the experience account of each  
4 employer. Partial payments of combined tax shall be credited so that at  
5 least eighty percent of the combined tax payment excluding interest and  
6 penalty is credited first to contributions due. Contributions with  
7 respect to prior years which are received on or before January 31 of any  
8 year shall be considered as having been paid at the beginning of the  
9 calendar year. All voluntary contributions which are received on or  
10 before January 10 of any year shall be considered as having been paid at  
11 the beginning of the calendar year.

12           (3)(a) Each experience account shall be charged only for benefits  
13 based upon wages paid by such employer. No benefits shall be charged to  
14 the experience account of any employer if:

15           (i) Such benefits were paid on the basis of a period of employment  
16 from which the claimant (A) left work voluntarily without good cause, (B)  
17 left work voluntarily due to a nonwork-connected illness or injury, (C)  
18 left work voluntarily with good cause to escape abuse as defined in  
19 section 42-903 between household members as provided in subdivision (1)  
20 of section 48-628.13, (D) left work from which he or she was discharged  
21 for misconduct connected with his or her work, (E) left work voluntarily  
22 and is entitled to unemployment benefits without disqualification in  
23 accordance with subdivision (3), ~~or (5)~~, or (11) of section 48-628.13, or  
24 (F) was involuntarily separated from employment and such benefits were  
25 paid pursuant to section 48-628.17; and

26           (ii) The employer has filed timely notice of the facts on which such  
27 exemption is claimed in accordance with rules and regulations adopted and  
28 promulgated by the commissioner.

29           (b) No benefits shall be charged to the experience account of any  
30 employer if such benefits were paid during a week when the individual was  
31 participating in training approved under section 236(a)(1) of the federal

1 Trade Act of 1974, 19 U.S.C. 2296(a)(1).

2 (c) Each reimbursement account shall be charged only for benefits  
3 paid that were based upon wages paid by such employer in the base period  
4 that were wages for insured work solely by reason of section 48-627.01.

5 (d)(i) Benefits paid to an eligible individual shall be charged  
6 against the account of his or her most recent employers within his or her  
7 base period against whose accounts the maximum charges hereunder have not  
8 previously been made in the inverse chronological order in which the  
9 employment of such individual occurred. The maximum amount so charged  
10 against the account of any employer, other than an employer for which  
11 services in employment as provided in subdivision (4)(a) of section  
12 48-604 are performed, shall not exceed the total benefit amount to which  
13 such individual was entitled as set out in section 48-626 with respect to  
14 base period wages of such individual paid by such employer plus one-half  
15 the amount of extended benefits paid to such eligible individual with  
16 respect to base period wages of such individual paid by such employer.  
17 The commissioner shall adopt and promulgate rules and regulations  
18 determining the manner in which benefits shall be charged against the  
19 account of several employers for whom an individual performed employment  
20 during the same quarter or during the same base period.

21 (ii) Any benefit check duly issued and delivered or mailed to a  
22 claimant and not presented for payment within one year from the date of  
23 its issue may be invalidated and the amount thereof credited to the  
24 Unemployment Compensation Fund, except that a substitute check may be  
25 issued and charged to the fund on proper showing at any time within the  
26 year next following. Any charge made to an employer's account for any  
27 such invalidated check shall stand as originally made.

28 (4)(a) An employer's experience account shall be terminated one  
29 calendar year after such employer has ceased to be subject to the  
30 Employment Security Law, except that if the commissioner finds that an  
31 employer's business is closed solely because one or more of the owners,

1 officers, partners, or limited liability company members or the majority  
2 stockholder entered the armed forces of the United States, or of any of  
3 its allies, such employer's account shall not be terminated and, if the  
4 business is resumed within two years after the discharge or release from  
5 active duty in the armed forces of such person or persons, the employer's  
6 experience account shall be deemed to have been continuous throughout  
7 such period.

8 (b) An experience account terminated pursuant to this subsection  
9 shall be reinstated if:

10 (i) The employer becomes subject again to the Employment Security  
11 Law within one calendar year after termination of such experience  
12 account;

13 (ii) The employer makes a written application for reinstatement of  
14 such experience account to the commissioner within two calendar years  
15 after termination of such experience account; and

16 (iii) The commissioner finds that the employer is operating  
17 substantially the same business as prior to the termination of such  
18 experience account.

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

24 (6)(a) For benefit years beginning before September 3, 2017, if an  
25 individual's base period wage credits represent part-time employment for  
26 a contributory employer and the contributory employer continues to employ  
27 the individual to the same extent as during the base period, then the  
28 contributory employer's experience account shall not be charged if the  
29 contributory employer has filed timely notice of the facts on which such  
30 exemption is claimed in accordance with rules and regulations adopted and  
31 promulgated by the commissioner.

1           (b) For benefit years beginning on or after September 3, 2017, if an  
2 individual's base period wage credits represent part-time employment for  
3 an employer and the employer continues to employ the individual to the  
4 same extent as during the base period, then the employer's experience  
5 account, in the case of a contributory employer, or the employer's  
6 reimbursement account, in the case of a reimbursable employer, shall not  
7 be charged if the employer has filed timely notice of the facts on which  
8 such exemption is claimed in accordance with rules and regulations  
9 prescribed by the commissioner.

10           (7) If a contributory employer responds to the department's request  
11 for information within the time period set forth in subsection (1) of  
12 section 48-632 and provides accurate information as known to the employer  
13 at the time of the response, the employer's experience account shall not  
14 be charged if the individual's separation from employment is voluntary  
15 and without good cause as determined under section 48-628.12.

16           Sec. 3. Original sections 48-628.13 and 48-652, Revised Statutes  
17 Cumulative Supplement, 2018, are repealed.