

## ENGROSSED LEGISLATIVE BILL 415

Introduced by Ballard, 21.

A BILL FOR AN ACT relating to law; to amend sections 48-665, 81-5,213, 81-5,215, 81-5,216, 81-5,217, 81-5,218, 81-5,219, 81-5,221, 81-5,223, 81-5,230, and 81-5,239, Reissue Revised Statutes of Nebraska, sections 9-1104, 9-1110, 9-1302, 9-1303, 9-1304, 9-1305, 9-1306, 9-1307, 9-1308, 9-1313, 77-3002, 77-3003, and 77-3014, Revised Statutes Cumulative Supplement, 2024, and sections 2, 3, 4, and 8, Initiative Law 2024, No. 436; to redefine terms and change and eliminate applicability, administrative, and enforcement provisions under the Nebraska Healthy Families and Workplaces Act; to define and redefine terms and provide for set off of debt owed due to the overpayment of unemployment benefits under the Employment Security Law against gambling winnings under the Gambling Winnings Setoff for Outstanding Debt Act; to change provisions relating to the offset of overpayment of unemployment benefits against future benefits under the Employment Security Law; to change and eliminate applicability, inspection, investigation, licensure, and enforcement provisions of the Conveyance Safety Act; to eliminate obsolete provisions; to harmonize provisions; and to repeal the original sections.

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

**Section 1.** Section 2, Initiative Law 2024, No. 436, is amended to read:

Sec. 2. For purposes of the Nebraska Healthy Families and Workplaces Act:

(1) Department means the Department of Labor;

(2) Employ means to permit to work by an employer pursuant to an employment relationship;

(3) Employee means any individual employed by an employer, but does not include:

(a) An individual owner-operator;

(b) An independent contractor;

(c) An individual who works in Nebraska for fewer than eighty hours in a calendar year;

(d) An individual who is employed in agricultural employment of a seasonal or other temporary nature;

(e) An "employee" as defined by 45 U.S.C. 351(d) who is subject to the federal Railroad Unemployment Insurance Act, 45 U.S.C. 351 et seq.; or

(f) An individual under sixteen years of age;

(4)(a) Employer means any individual, partnership, limited liability company, association, corporation, business trust, legal representative, or organized group of persons who employs eleven or more employees.

(b) Employer does not include the United States or the State of Nebraska or its agencies, departments, or political subdivisions;

(5) Family member means:

(a) Any of the following, regardless of age: A biological, adopted, or foster child, a stepchild, a legal ward, or a child to whom the employee stands in loco parentis;

(b) A biological, foster, step, or adoptive parent or a legal guardian of an employee or an employee's spouse;

(c) A person who stood in loco parentis to the employee or the employee's spouse when the employee or employee's spouse was a minor child;

(d) A person to whom the employee is legally married under the laws of any state;

(e) A grandparent, grandchild, or sibling, whether of a biological, foster, adoptive, or step relationship, of the employee or the employee's spouse; or

(f) Any other individual related by blood to the employee or whose close association with the employee is the equivalent of a family relationship;

(6) Health care professional means any person licensed under any federal or state law to provide medical or emergency services;

(7) Paid sick time means time that is compensated at the same hourly rate and with the same benefits, including health care benefits, as the employee

typically earns during hours worked and that is provided by an employer to an employee for the purposes described in section 4 of this act, and in no case shall the amount of this hourly rate be less than that provided under section 48-1203. Notwithstanding the foregoing, for employees paid on a commission, piece-rate, mileage, or fee-for-service basis, paid sick time means time that is compensated at an hourly rate determined by the employer using the average weekly rate calculation under section 48-126, which shall then be reduced to an hourly rate based on a forty-hour workweek, and that is provided by an employer to an employee for the purposes described in section 3 of this act. Paid sick time includes time made available to employees for purposes including, but not limited to, the purposes described in section 3 of this act under a paid leave policy described in subsection (7) of section 2 of this act;

(8) Public health emergency means a declaration or proclamation related to a public health threat, risk, disaster, or emergency that is made or issued by a federal, state, or local official with the authority to make or issue such a declaration or proclamation;

(9) Retaliatory personnel action means a denial of any right guaranteed under the Nebraska Healthy Families and Workplaces Act and any threat, discharge, suspension, demotion, reduction of hours or pay, or other adverse action against an employee for exercising or attempting to exercise any right guaranteed in the Nebraska Healthy Families and Workplaces Act;

(10)(a) Small business means an employer with at least eleven but fewer than twenty employees during a given week, including full-time, part-time, or temporary employees.

(b) Small business does not include an employer that maintained twenty or more employees on its payroll in each of twenty or more calendar weeks in the current or preceding calendar year; and

(11) Year means a regular and consecutive twelve-month period as determined by the employer.

**Sec. 2.** Section 3, Initiative Law 2024, No. 436, is amended to read:

Sec. 3. (1) All employees shall begin accruing paid sick time after eighty

hours of consecutive employment, at which point employees shall then accrue a minimum of one hour of paid sick time for every thirty hours worked. Unless the employer selects a higher limit, this section does not entitle an employee to earn or use more than:

(a) Forty hours of paid sick time in a year for an employee of a small business; or

(b) Fifty-six hours of paid sick time in a year for an employee of an employer that is not a small business.

(2) Employees who are exempt from overtime requirements under 29 U.S.C. 213(a)(1) or 29 U.S.C. 213(b)(1) of the federal Fair Labor Standards Act, 29 U.S.C. 201 et seq., shall be assumed to work forty hours in each workweek for purposes of paid sick time accrual unless their typical workweek is less than forty hours, in which case paid sick time accrues based upon that typical workweek.

(3) Paid sick time requirements provided under the Nebraska Healthy Families and Workplaces Act shall begin October 1, 2025. An employee shall be entitled to use paid sick time as it is accrued. An employer may provide all paid sick time that an employee is expected to accrue in a year at the beginning of the year.

(4) Paid sick time provided to an employee on or after January 1, 2025, and before October 1, 2025, shall be counted toward an employer's obligations under the Nebraska Healthy Families and Workplaces Act for calendar year 2025.

(5) Accrued paid sick time shall be carried over to the following year. A small business is not required to permit an employee to use more than forty hours of paid sick time per year, and other employers are not required to permit an employee to use more than fifty-six hours of paid sick time per year.

(6) In lieu of carryover of unused paid sick time provided pursuant to this section from one year to the next, an employer may pay an employee for unused paid sick time provided pursuant to this section at the end of a year and provide the employee with an amount of paid sick time that meets or exceeds the requirements of subsections (1) and (3) of this section that is available

for the employee's immediate use at the beginning of the subsequent year.

(7) Any employer with a paid leave policy, such as a paid time off policy, who makes available an amount of paid leave that equals or exceeds the requirements of the Nebraska Healthy Families and Workplaces Act and that may be used as paid sick time in accordance with section 3 of this act is not required to provide additional paid sick time under the act and is not obligated to allow an employee to accrue or carryover benefits beyond the employer's existing paid leave policy.

(8) At its discretion, an employer may loan paid sick time to an employee in advance of accrual by such employee.

(9) If an employee is transferred to a separate division, entity, or location, but remains employed by the same employer, the employee is entitled to all paid sick time accrued at the prior division, entity, or location and is entitled to use all paid sick time as provided in the Nebraska Healthy Families and Workplaces Act. When there is a separation from employment and the employee is rehired within twelve months of separation by the same employer, previously accrued paid sick time that had not been used or paid out to the employee shall be reinstated. The employee shall be entitled to use accrued paid sick time and accrue additional paid sick time at the recommencement of employment.

(10) Nothing in this section shall be construed to require employers to pay an employee for unused paid sick time upon the employee's separation from employment.

**Sec. 3.** Section 4, Initiative Law 2024, No. 436, is amended to read:

Sec. 4. (1) Paid sick time shall be provided to an employee by an employer for:

(a) An employee's mental or physical illness, injury, or health condition; an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or an employee's need for preventive medical care;

(b) Care of a family member with a mental or physical illness, injury, or health condition; care of a family member who needs medical diagnosis, care, or

treatment of a mental or physical illness, injury, or health condition; care of a family member who needs preventive medical care; or in the case of a child, to attend a meeting necessitated by the child's mental or physical illness, injury, or health condition, at a school or place where the child is receiving care; or

(c) Closure of the employee's place of business by order of a public official due to a public health emergency; an employee's need to care for a child whose school or place of care has been closed by order of a public official due to a public health emergency; or an employee's need to self-isolate or care for the employee or a family member when it has been determined by the health authorities having jurisdiction or by a health care professional that the employee's or family member's presence in the community may jeopardize the health of others because of exposure to a communicable disease, whether or not the employee or family member has actually contracted the communicable disease.

(2) Paid sick time under this section shall be provided upon the request of an employee in compliance with the Nebraska Healthy Families and Workplaces Act. When possible, the request shall include the expected duration of the absence.

(3) An employer that requires notice of the need to use paid sick time in accordance with this section shall provide a written policy that contains reasonable procedures for employees to provide notice. An employer that has not provided to the employee a copy of such written policy shall not deny paid sick time to the employee based on noncompliance with such a policy.

(4) An employer shall not require, as a condition of an employee's taking paid sick time under this section, that the employee search for or find a replacement worker to cover the hours during which the employee is using paid sick time.

(5) Paid sick time under this section may be used in the smaller of hourly increments or the smallest increment that the employer's payroll system uses to account for absences or use of other time.

(6) For use of paid sick time for more than three consecutive work days, an employer may require reasonable documentation that the paid sick time has been used for a purpose covered by subsection (1) of this section. Reasonable documentation shall include (a) documentation signed by a health care professional indicating that paid sick time is or was necessary or (b) if the employee or a family member did not receive services from a health care professional, or if documentation cannot be obtained from a health care professional in reasonable time or without added expense, a written statement from the employee indicating that the employee is taking or took paid sick time for a qualifying purpose covered by subsection (1) of this section.

(7) An employer signatory to a multi-employer collective-bargaining agreement may fulfill its obligations under the Nebraska Healthy Families and Workplaces Act by making contributions to a multi-employer paid sick time fund, plan, or program based on the hours each employee accrues pursuant to the act while working under the multi-employer collective-bargaining agreement, if the fund, plan, or program enables employees to collect paid sick time from the fund, plan, or program based on hours they have worked under the multi-employer collective-bargaining agreement and for the purposes specified under the act. Employees who work under a multi-employer collective-bargaining agreement into which their employers make contributions as provided in this subsection may collect from the paid sick time fund, plan, or program based on hours they have worked under the multi-employer collective-bargaining agreement and for the purposes specified under the act.

**Sec. 4.** Section 8, Initiative Law 2024, No. 436, is amended to read:

Sec. 8. (1) The Commissioner of Labor shall issue a citation to an employer when an investigation reveals that the employer may have violated the Nebraska Healthy Families and Workplaces Act.

(2) When a citation is issued, the commissioner shall notify the employer of the proposed administrative penalty, if any, by certified mail, by any other manner of delivery by which the United States Postal Service can verify delivery, or by any method of service recognized under Chapter 25, article 5.

The administrative penalty shall not be more than five hundred dollars in the case of a first violation and not more than five thousand dollars in the case of a second or subsequent violation.

(3) The employer has fifteen working days after the date of the citation or penalty to contest such citation or penalty. Notice of contest shall be sent to the commissioner who shall provide a hearing in accordance with the Administrative Procedure Act.

(4) Any employer who has an unpaid citation for a violation of the Nebraska Healthy Families and Workplaces Act shall be barred from contracting with the state or any political subdivision until such citation is paid. If a citation has been contested as described in subsection (3) of this section, it shall not be considered an unpaid citation under this subsection until after such contest has been resolved.

(5) Citations issued under this section and the names of employers who have been issued a citation shall be made available to the public upon request, except that this subsection shall not apply to any citations that are being contested as described in subsection (3) of this section.

**Sec. 5.** Section 9-1104, Revised Statutes Cumulative Supplement, 2024, is amended to read:

9-1104 (1) The operation of games of chance at a licensed racetrack enclosure may be conducted by an authorized gaming operator who holds an authorized gaming operator license.

(2) No more than one authorized gaming operator license shall be granted for each licensed racetrack enclosure within the state. It shall not be a requirement that the person or entity applying for or to be granted such authorized gaming operator license hold a racing license or be the same person or entity who operates the licensed racetrack enclosure at which such authorized gaming operator license shall be granted.

(3) Gaming devices, limited gaming devices, and all other games of chance may be operated by authorized gaming operators at a licensed racetrack enclosure.

(4) No person younger than twenty-one years of age shall play or participate in any way in any game of chance or use any gaming device or limited gaming device at a licensed racetrack enclosure.

(5) No authorized gaming operator shall permit an individual younger than twenty-one years of age to play or participate in any game of chance or use any gaming device or limited gaming device conducted or operated pursuant to the Nebraska Racetrack Gaming Act.

(6) If the licensed racetrack enclosure at which such authorized gaming operator conducts games of chance does not hold the minimum number of live racing meets required under section 2-1205, the authorized gaming operator shall be required to cease operating games of chance at such licensed racetrack enclosure until such time as the commission determines the deficiency has been corrected.

(7) Beginning on the implementation date designated by the Tax Commissioner pursuant to subsection (1) of section 9-1312, prior to the winnings payment of any casino winnings as defined in section 9-1303, an authorized gaming operator shall check the collection system to determine if the winner has a debt or an outstanding state liability as required by the Gambling Winnings Setoff for Outstanding Debt Act. If such authorized gaming operator determines that the winner is subject to the collection system, the operator shall deduct the amount of debt and outstanding state liability identified in the collection system from the winnings payment and shall remit the net winnings payment of casino winnings, if any, to the winner and the amount deducted to the Department of Revenue to be credited against such debt or outstanding state liability as provided in section 9-1306.

**Sec. 6.** Section 9-1110, Revised Statutes Cumulative Supplement, 2024, is amended to read:

9-1110 (1) The commission may permit an authorized gaming operator to conduct sports wagering. Any sports wager shall be placed in person or at a wagering kiosk in the designated sports wagering area at the licensed racetrack enclosure. A parimutuel wager in accordance with sections 2-1201 to 2-1218 may

be placed in the designated sports wagering area at the licensed racetrack enclosure. An individual employed and authorized to accept a sports wager may also accept a parimutuel wager.

(2) A floor plan identifying the designated sports wagering area, including the location of any wagering kiosks, shall be filed with the commission for review and approval. Modification to a previously approved plan must be submitted for approval at least ten days prior to implementation. The area shall not be accessible to persons under twenty-one years of age and shall have a sign posted to restrict access. Exceptions to this subsection must be approved in writing by the commission.

(3) The authorized gaming operator shall submit controls for approval by the commission, that include the following for operating the designated sports wagering area:

(a) Specific procedures and technology partners to fulfill the requirements set forth by the commission;

(b) Other specific controls as designated by the commission;

(c) A process to easily and prominently impose limitations or notification for wagering parameters, including, but not limited to, deposits and wagers; and

(d) An easy and obvious method for a player to make a complaint and to enable the player to notify the commission if such complaint has not been or cannot be addressed by the sports wagering operator.

(4) The commission shall develop policies and procedures to ensure a prohibited participant is unable to place a sports wager or parimutuel wager.

(5) Beginning on the implementation date designated by the Tax Commissioner pursuant to subsection (1) of section 9-1312, prior to the winnings payment of any sports wagering winnings as defined in section 9-1303, an authorized gaming operator shall check the collection system to determine if the winner has a debt or an outstanding state liability as required by the Gambling Winnings Setoff for Outstanding Debt Act. If such authorized gaming operator determines that the winner is subject to the collection system, the

operator shall deduct the amount of debt and outstanding state liability identified in the collection system from the winnings payment and shall remit the net winnings payment of sports wagering winnings, if any, to the winner and the amount deducted to the Department of Revenue to be credited against such debt or outstanding state liability as provided in section 9-1306.

**Sec. 7.** Section 9-1302, Revised Statutes Cumulative Supplement, 2024, is amended to read:

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

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

(2) Establish and maintain a procedure to set off against an obligor's casino winnings, parimutuel winnings, sports wagering winnings, or cash device winnings the amount of such obligor's outstanding state liability as determined by the Department of Revenue.

**Sec. 8.** Section 9-1303, Revised Statutes Cumulative Supplement, 2024, is amended to read:

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

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

(2) Cash device winnings means any cash prize won by a player of a cash device as defined in section 77-3001 that requires the operator, distributor, or manufacturer of such cash device to provide the player with an Internal

Revenue Service Form 1099;

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

(4) Claimant means:

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

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

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

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

(6) Debt means any liquidated amount of arrears that has accrued through assignment, contract, subrogation, court judgment, or operation of law, regardless of whether there is an outstanding judgment for such amount, and that is for the care, support, or maintenance of a child or for medical or spousal support;

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

(8) Obligor means any person as defined in section 77-2701.25:

(a) Owning money to or having a delinquent account with any claimant that

has not been satisfied by court order, set aside by court order, or discharged in bankruptcy; or

(b) Owing money on an outstanding state liability;

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

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

(11) Overpayment means an overpayment of unemployment insurance benefits established under section 48-663.01;

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

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

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

(15) Winnings payment means a payout of casino winnings, parimutuel winnings, sports wagering winnings, or cash device winnings to which a person is entitled as a result of playing or wagering.

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

9-1304 (1)(a) The Department of Revenue, in consultation with the Department of Health and Human Services, the Department of Motor Vehicles, and

the Department of Labor, shall develop and implement a secure, electronic collection system to carry out the purposes of the Gambling Winnings Setoff for Outstanding Debt Act.

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

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

(3) The Department of Revenue, the Department of Motor Vehicles, and the Department of Labor may submit to the collection system any amount of outstanding state liability owed by an obligor to the department except when the validity of the outstanding state liability is legitimately in dispute. The inclusion of outstanding state liability in the amount owed shall be a continuous process that allows the amount owed to fluctuate up or down depending on the actual amount of outstanding state liability owed.

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

(5) The information obtained by an operator or the State Racing and Gaming Commission from the collection system in accordance with this section shall retain its confidentiality and shall only be used by the operator or the commission for the purposes of complying with the Gambling Winnings Setoff for

Outstanding Debt Act. An employee or prior employee of an operator or the commission who unlawfully discloses any such information for any other purpose, except as otherwise specifically authorized by law, shall be subject to the same penalties specified by law for unauthorized disclosure of confidential information by an agent or employee of the agency to which the debt or outstanding state liability is owed.

(6) The information obtained by the Department of Health and Human Services, the Department of Motor Vehicles, the Department of Labor, or the Department of Revenue from the operator in accordance with this section shall retain its confidentiality and shall only be used by the department in the pursuit of such department's debt or outstanding state liability assessment and collection duties and practices. An employee or prior employee of the Department of Health and Human Services, the Department of Motor Vehicles, the Department of Labor, or the Department of Revenue who unlawfully discloses any such information for any other purpose, except as specifically authorized by law, shall be subject to the penalties specified by law for unauthorized disclosure of confidential information by an agent or employee of such department.

(7) The amount of debt and outstanding state liability owed shall be prima facie evidence of the validity of the liability.

**Sec. 10.** Section 9-1305, Revised Statutes Cumulative Supplement, 2024, is amended to read:

9-1305 (1) Beginning on the applicable implementation date designated by the Tax Commissioner pursuant to subsection (1) or (2) of section 9-1312, prior to making a winnings payment, an operator shall check the collection system to determine if there is a debt or an outstanding state liability owed by the winner. An operator shall have access to the collection system to look up winners that are due winnings payments for purposes of complying with the Gambling Winnings Setoff for Outstanding Debt Act. An operator shall not access the system for any other purpose.

(2)(a) An operator at a licensed racetrack enclosure or licensed racetrack

that fails to check the collection system for a debt or an outstanding state liability or fails to collect the amounts owed shall be subject to a fine by the State Racing and Gaming Commission of not more than ten thousand dollars.

(b) The State Racing and Gaming Commission shall establish a schedule for fines pursuant to this section that considers both the proportionality of the offense and the number of instances of past offenses.

(3) An operator licensed by the Department of Revenue that fails to check the collection system for a debt or an outstanding state liability or collect the amounts owed may be considered in violation of such license and subject to any penalties authorized for a violation of the license under the Mechanical Amusement Device Tax Act.

**Sec. 11.** Section 9-1306, Revised Statutes Cumulative Supplement, 2024, is amended to read:

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

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

(3) The Department of Revenue shall first credit any such winnings payment against any debt of such obligor certified by the Department of Health and Human Services until such debt is satisfied and then against any outstanding state liability owed by such obligor until such liability is satisfied on a pro rata basis.

**Sec. 12.** Section 9-1307, Revised Statutes Cumulative Supplement, 2024, is amended to read:

9-1307 (1) Within twenty days after a remittance pursuant to section 9-1306 due to an outstanding state liability, the Department of Revenue shall notify the obligor of the remittance. The notice shall state (a) the basis for the claim to the outstanding state liability by the Department of Revenue, (b) the application of the winnings payment against the outstanding state liability of the obligor, (c) the obligor's opportunity to give written notice of intent to contest the validity of the claim before the applicable department to which the outstanding state liability is owed within thirty days after the date of the mailing of the notice, (d) the mailing address to which the request must be sent, and (e) that a failure to contest the claim in writing within the thirty-day period will be deemed a waiver of the opportunity to contest the claim resulting in a setoff by default.

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

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

**Sec. 13.** Section 9-1308, Revised Statutes Cumulative Supplement, 2024, is

amended to read:

9-1308 (1)(a) A written request by an obligor pursuant to subsection (1) of section 9-1307 shall be effective upon mailing the request, postage prepaid and properly addressed, to the applicable department to which the outstanding state liability is owed.

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

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

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

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

**Sec. 14.** Section 9-1313, Revised Statutes Cumulative Supplement, 2024, is amended to read:

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

**Sec. 15.** Section 48-665, Reissue Revised Statutes of Nebraska, is amended to read:

48-665 (1) Any person who has received any sum as benefits under the Employment Security Law to which he or she was not entitled shall be liable to

repay such sum to the commissioner for the fund. Any such erroneous benefit payments shall be collectible (a) without interest by civil action in the name of the commissioner, (b) by offset against any future benefits payable to the claimant with respect to the benefit year current at the time of such receipt or any benefit year which may commence after the end of such current benefit year, except that no such recoupment by the withholding of future benefits shall be had if such sum was received by such person without fault on his or her part and such recoupment would defeat the purpose of the Employment Security Law or would be against equity and good conscience, (c) by setoff against any state income tax refund due the claimant pursuant to sections 77-27,197 to 77-27,209, (d) by offset against any winnings payment pursuant to the Gambling Winnings Setoff for Outstanding Debt Act, or (e) as provided in subsection (2) of this section.

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

**Sec. 16.** Section 77-3002, Revised Statutes Cumulative Supplement, 2024, is amended to read:

77-3002 (1) Any operator shall be required to procure an annual license from the Tax Commissioner permitting him or her to operate mechanical amusement devices within the State of Nebraska. The Tax Commissioner, upon the application of any person, may issue a license, except that if the applicant (a) is not of good character and reputation in the community in which he or she resides, (b) has been convicted of or has pleaded guilty to a felony under the laws of the State of Nebraska, of any other state, or of the United States, or (c) has been convicted of or has pleaded guilty to being the proprietor of a gambling house, or of any other crime or misdemeanor opposed to decency and morality, no license shall be issued. If the applicant is a corporation whose majority stockholders could not obtain a license, then such corporation shall not be issued a license. If the applicant is an individual, the application shall include the applicant's social security number. Procuring a license shall constitute sufficient contact with this state for the exercise of personal jurisdiction over such person in any action arising out of the operation of mechanical amusement devices in this state.

(2)(a) Except for an applicant that holds a liquor license under the Nebraska Liquor Control Act, an applicant for a license as an operator of a cash device shall be subject to a one-time background check by the department prior to the issuance of a license. An applicant shall pay the costs associated with the background check along with any required fees as determined by the department.

(b) The Tax Commissioner has the authority to deny any application for a license as an operator of a cash device for cause. Cause for denial of a license application includes instances in which the applicant individually, or in the case of a business entity, any officer, director, employee, or limited liability company member of the applicant or licensee other than an employee whose duties are purely ministerial in nature:

(i) Violated the provisions, requirements, conditions, limitations, or duties imposed by the Mechanical Amusement Device Tax Act or any rules or regulations adopted and promulgated pursuant to the act;

(ii) Knowingly caused, aided, abetted, or conspired with another to cause any person to violate any of the provisions of the act or any rules or regulations adopted and promulgated pursuant to the act;

(iii) Obtained a license or permit under the act by fraud, misrepresentation, or concealment;

(iv) Has been convicted of, forfeited bond upon a charge of, or pleaded guilty or nolo contendere to any offense or crime, whether a felony or a misdemeanor, involving any gambling activity or fraud, theft, willful failure to make required payments or reports, or filing false reports with a governmental agency at any level;

(v) Denied the department or its authorized representatives, including authorized law enforcement agencies, access to any place where activity required to be licensed under the act is being conducted or failed to produce for inspection or audit any book, record, document, or item required by law, rule, or regulation;

(vi) Made a misrepresentation of or failed to disclose a material fact to the department;

(vii) Failed to prove by clear and convincing evidence such applicant's qualifications to be licensed in accordance with the act;

(viii) Failed to pay any taxes and additions to taxes, including penalties and interest required by the act or any other taxes imposed pursuant to the Nebraska Revenue Act of 1967; or

(ix) Has been cited for a violation of the Nebraska Liquor Control Act and had a liquor license suspended, canceled, or revoked by the Nebraska Liquor Control Commission for illegal gambling activities on or about the premises licensed by the commission pursuant to the Nebraska Liquor Control Act or the rules and regulations adopted and promulgated pursuant to such act.

(c) No renewal of a license issued pursuant to this section shall be issued when the applicant for renewal would not be eligible for a license upon a first application.

(3) The Tax Commissioner has the authority to suspend or revoke the

license of any operator that is in violation of the Mechanical Amusement Device Tax Act.

(4) Beginning on the implementation date designated by the Tax Commissioner pursuant to subsection (2) of section 9-1312, prior to the winnings payment of any cash device winnings as defined in section 9-1303, an operator of a cash device shall check the collection system to determine if the winner has a debt or an outstanding state liability as required by the Gambling Winnings Setoff for Outstanding Debt Act. If such operator determines that the winner is subject to the collection system, the operator shall deduct the amount of debt and outstanding state liability identified in the collection system from the winnings payment and shall remit the net winnings payment of cash device winnings, if any, to the winner and the amount deducted to the Department of Revenue to be credited against such debt or outstanding state liability as provided in section 9-1306.

**Sec. 17.** Section 77-3003, Revised Statutes Cumulative Supplement, 2024, is amended to read:

77-3003 (1) Any distributor shall be required to procure an annual license from the Tax Commissioner permitting him or her to place and either directly or indirectly control or manage a mechanical amusement device within the State of Nebraska. The Tax Commissioner, upon the application of any person, may issue a license, subject to the same limitations as an operator's license under section 77-3002. If the applicant is an individual, the application shall include the applicant's social security number.

(2)(a) Except for an applicant that holds a liquor license under the Nebraska Liquor Control Act, an applicant for a license as a distributor of a cash device shall be subject to a one-time background check by the department prior to issuance of the license. An applicant shall pay the costs associated with the background check along with any required fees as determined by the department.

(b) The Tax Commissioner has the authority to deny any application for a license as a distributor of a cash device for cause. Cause for denial of a

license application includes instances in which the applicant individually, or in the case of a business entity, any officer, director, employee, or limited liability company member of the applicant or licensee other than an employee whose duties are purely ministerial in nature:

(i) Violated the provisions, requirements, conditions, limitations, or duties imposed by the Mechanical Amusement Device Tax Act or any rules or regulations adopted and promulgated pursuant to the act;

(ii) Knowingly caused, aided, abetted, or conspired with another to cause any person to violate any of the provisions of the act or any rules or regulations adopted and promulgated pursuant to the act;

(iii) Obtained a license or permit under the act by fraud, misrepresentation, or concealment;

(iv) Has been convicted of, forfeited bond upon a charge of, or pleaded guilty or nolo contendere to any offense or crime, whether a felony or a misdemeanor, involving any gambling activity or fraud, theft, willful failure to make required payments or reports, or filing false reports with a governmental agency at any level;

(v) Denied the department or its authorized representatives, including authorized law enforcement agencies, access to any place where activity required to be licensed under the act is being conducted or failed to produce for inspection or audit any book, record, document, or item required by law, rule, or regulation;

(vi) Made a misrepresentation of or failed to disclose a material fact to the department;

(vii) Failed to prove by clear and convincing evidence such applicant's qualifications to be licensed in accordance with the act;

(viii) Failed to pay any taxes and additions to taxes, including penalties and interest required by the act or any other taxes imposed pursuant to the Nebraska Revenue Act of 1967; or

(ix) Has been cited for a violation of the Nebraska Liquor Control Act and had a liquor license suspended, canceled, or revoked by the Nebraska Liquor

Control Commission for illegal gambling activities on or about the premises licensed by the commission pursuant to the Nebraska Liquor Control Act or the rules and regulations adopted and promulgated pursuant to such act.

(c) No renewal of a license issued pursuant to this section shall be issued when the applicant for renewal would not be eligible for a license upon a first application.

(3) Beginning January 1, 2025, the annual license for a distributor of a cash device shall be accompanied by a fee of one hundred dollars per cash device up to a maximum of five thousand dollars.

(4) The Tax Commissioner has the authority to suspend or revoke the license of any distributor that is in violation of the Mechanical Amusement Device Tax Act.

(5) Beginning on the implementation date designated by the Tax Commissioner pursuant to subsection (2) of section 9-1312, prior to the winnings payment of any cash device winnings as defined in section 9-1303, a distributor of a cash device shall check the collection system to determine if the winner has a debt or an outstanding state liability as required by the Gambling Winnings Setoff for Outstanding Debt Act. If such distributor determines that the winner is subject to the collection system, the distributor shall deduct the amount of debt and outstanding state liability identified in the collection system from the winnings payment and shall remit the net winnings payment of cash device winnings, if any, to the winner and the amount deducted to the Department of Revenue to be credited against such debt or outstanding state liability as provided in section 9-1306.

**Sec. 18.** Section 77-3014, Revised Statutes Cumulative Supplement, 2024, is amended to read:

77-3014 Beginning on the implementation date designated by the Tax Commissioner pursuant to subsection (2) of section 9-1312, prior to the winnings payment of any cash device winnings as defined in section 9-1303, a manufacturer of a cash device that makes winnings payments shall check the collection system to determine if the winner has a debt or an outstanding state

liability as required by the Gambling Winnings Setoff for Outstanding Debt Act. If such manufacturer determines that the winner is subject to the collection system, the manufacturer shall deduct the amount of debt and outstanding state liability identified in the collection system from the winnings payment and shall remit the net winnings payment of cash device winnings, if any, to the winner and the amount deducted to the Department of Revenue to be credited against such debt or outstanding state liability as provided in section 9-1306.

**Sec. 19.** Section 81-5,213, Reissue Revised Statutes of Nebraska, is amended to read:

81-5,213 The committee:

(1) May consult with engineering authorities and organizations concerned with standard safety codes;

(2) Shall recommend to the State Fire Marshal rules and regulations governing the operation, maintenance, servicing, construction, alteration, installation, and inspection of conveyances;

(3) Shall recommend to the State Fire Marshal qualifications for licensure as an elevator mechanic or elevator contractor and conditions for disciplinary actions, including suspension or revocation of a license;

(4) Shall recommend to the State Fire Marshal rules and regulations for temporary and emergency elevator mechanic thirty-day licenses;

(5) Shall recommend to the State Fire Marshal an enforcement program which will ensure compliance with the Conveyance Safety Act and the rules and regulations adopted and promulgated pursuant to the act. The enforcement program shall include the identification of property locations which are subject to the act, issuing notifications to violating property owners or operators, random onsite inspections and tests on existing installations, and assisting in development of public awareness programs; and

(6) Shall make recommendations to the State Fire Marshal regarding equivalencies and variances under section 81-5,217, continuing education providers under section 81-5,235, and license disciplinary actions under section 81-5,237.

**Sec. 20.** Section 81-5,215, Reissue Revised Statutes of Nebraska, is amended to read:

81-5,215 (1) The Conveyance Safety Act applies to the construction, operation, inspection, testing, maintenance, alteration, and repair of conveyances. Conveyances include the following equipment, associated parts, and hoistways which are not exempted under section 81-5,216:

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

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

(i) Escalators; and

(ii) Moving sidewalks; and

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

(i) Dumbwaiters;

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

(iii) Conveyors and related equipment within the scope of American Society of Mechanical Engineers B20.1, 2012 Edition.

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

(3) The act applies to conveyances in private residences located in counties that have a population of more than one hundred thousand inhabitants at the time of installation. Such conveyances are subject to inspection at installation but are not subject to periodic inspections.

**Sec. 21.** Section 81-5,216, Reissue Revised Statutes of Nebraska, is amended to read:

81-5,216 The Conveyance Safety Act does not apply to:

(1) Conveyances under the jurisdiction and subject to inspection by the

United States Government;

- (2) Conveyances used exclusively for agricultural purposes;
- (3) Personnel hoists within the scope of American National Standards Institute A10.4, 2016 Edition;
- (4) Material hoists within the scope of American National Standards Institute A10.5, 2013 Edition;
- (5) Manlifts within the scope of American Society of Mechanical Engineers A90.1, 2015 Edition;
- (6) Mobile scaffolds, towers, and platforms within the scope of American National Standards Institute A92.10, 2009 Edition;
- (7) Powered platforms and equipment for exterior and interior maintenance within the scope of American National Standards Institute 120.1;
- (8) Cranes, derricks, hoists, hooks, jacks, and slings within the scope of American Society of Mechanical Engineers B30.10, 2014 Edition;
- (9) Portable equipment, except for portable escalators which are covered by American National Standards Institute A17.1, 2013 Edition;
- (10) Tiering or piling machines used to move materials to and from storage located and operating entirely within one story;
- (11) Equipment for feeding or positioning materials at machine tools, printing presses, and similar equipment;
- (12) Skip or furnace hoists;
- (13) Wharf ramps;
- (14) Railroad car lifts or dumpers;
- (15) Line jacks, false cars, shafters, moving platforms, and similar equipment used for installing a conveyance by an elevator contractor;
- (16) Manlifts, hoists, or conveyances used in grain elevators or feed mills;
- (17) Dock levelators;
- (18) Stairway chair lifts and platform lifts; and
- (19) Conveyances in residences located in counties that have a population of one hundred thousand or less inhabitants.

**Sec. 22.** Section 81-5,217, Reissue Revised Statutes of Nebraska, is amended to read:

81-5,217 (1) The State Fire Marshal shall adopt and promulgate rules and regulations which establish the regulations for conveyances under the Conveyance Safety Act. The rules and regulations may include the Safety Code for Elevators and Escalators, American Society of Mechanical Engineers A17.1 except those parts exempted under section 81-5,216; the standards for conveyors and related equipment, American Society of Mechanical Engineers B20.1; and the Automated People Mover Standards, American Society of Civil Engineers 21. The State Fire Marshal shall annually review to determine if the most current form of such standards should be adopted.

(2) The State Fire Marshal may grant an equivalency or variance request to the rules and regulations adopted in subsection (1) of this section in individual situations upon good cause shown if the safety of those riding or using the conveyance is not compromised by the equivalency or variance. The decision of the State Fire Marshal in granting or refusing to grant an equivalency or variance request may be appealed. The appeal shall be in accordance with the Administrative Procedure Act.

**Sec. 23.** Section 81-5,218, Reissue Revised Statutes of Nebraska, is amended to read:

81-5,218 Conveyances shall be registered at the time they are completed and placed in service.

**Sec. 24.** Section 81-5,219, Reissue Revised Statutes of Nebraska, is amended to read:

81-5,219 Prior to any newly installed conveyance being used for the first time, the property owner or lessee shall obtain a certificate of inspection from the State Fire Marshal. A fee established under section 81-5,214 shall be paid for the certificate of inspection. A licensed elevator contractor shall complete and submit first-time registrations for new installations to the state elevator inspector for the inspector's approval. A certificate of inspection shall be clearly displayed in an elevator car and on or in each other

conveyance.

**Sec. 25.** Section 81-5,221, Reissue Revised Statutes of Nebraska, is amended to read:

81-5,221 (1) The State Fire Marshal shall employ a state elevator inspector who shall work under the direct supervision of the State Fire Marshal or the State Fire Marshal's designee.

(2) The person so employed shall be qualified by (a) not less than five years' experience in the installation, maintenance, and repair of elevators as determined by the State Fire Marshal, (b) certification as a qualified elevator inspector by an association accredited by the American Society of Mechanical Engineers, or (c) not less than five years' journeyman experience in elevator installation, maintenance, and inspection as determined by the State Fire Marshal and shall be familiar with the inspection process and rules and regulations adopted and promulgated under the Conveyance Safety Act.

(3) The State Fire Marshal may employ deputy inspectors possessing the same qualifications as the state elevator inspector as necessary to carry out the Conveyance Safety Act.

**Sec. 26.** Section 81-5,223, Reissue Revised Statutes of Nebraska, is amended to read:

81-5,223 (1) No inspection shall be required under the Conveyance Safety Act when an owner or user of a conveyance:

(a) Obtains and submits to the State Fire Marshal a certificate of inspection from a third-party inspection company;

(b) Obtains a policy of insurance upon the conveyance from a licensed insurance company;

(c) Files a statement that such conveyance is insured; and

(d) Pays an administrative fee established pursuant to section 81-5,214.

(2) No inspection shall be required under the act when there has been an annual inspection under a city ordinance which meets the standards of the act.

**Sec. 27.** Section 81-5,230, Reissue Revised Statutes of Nebraska, is amended to read:

81-5,230 (1) Any person wishing to engage in the work of an elevator mechanic shall apply for and obtain an elevator mechanic license from the State Fire Marshal. The application shall be on a form provided by the State Fire Marshal.

(2) Any person wishing to engage in the business of an elevator contractor shall apply for and obtain an elevator contractor license from the State Fire Marshal. The application shall be on a form provided by the State Fire Marshal.

(3) Each application for an elevator mechanic license shall contain:

(a) The name and address of the applicant;

(b) A contact email address;

(c) A contact telephone number;

(d) The number of years the applicant has engaged in the business of installing, inspecting, maintaining, or servicing conveyances;

(e) Permission for the State Fire Marshal to access the criminal history record information of individuals, partners, or officers maintained by the Federal Bureau of Investigation through the Nebraska State Patrol; and

(f) Such other information as the State Fire Marshal may by rule and regulation require.

(4) Each application for an elevator contractor license shall contain:

(a) All information required under subsection (3) of this section;

(b) The name and address of the business;

(c) The approximate number of employees to be employed by the applicant and, if applicable, satisfactory evidence that the employees are or will be covered by workers' compensation insurance;

(d) Satisfactory evidence that the applicant is or will be covered by general liability, personal injury, and property damage insurance;

(e) A description of all accidents causing personal injury or property damage in excess of one thousand dollars involving conveyances installed, inspected, maintained, or serviced by the applicant; and

(f) The name, telephone number, and Nebraska elevator mechanic license number of a licensed elevator mechanic employed by or contracted with the

business.

**Sec. 28.** Section 81-5,239, Reissue Revised Statutes of Nebraska, is amended to read:

81-5,239 (1) Any person may make a request for an investigation into an alleged violation of the Conveyance Safety Act by giving notice to the State Fire Marshal or state elevator inspector of such violation or danger.

(2) Upon receipt of a request for an investigation, the State Fire Marshal or state elevator inspector shall perform a preliminary inquiry into the charges contained in the request for investigation. A request for an investigation may be made in person or in writing and shall set forth with reasonable particularity the grounds for the request for an investigation. During the preliminary inquiry, the name, address, and telephone number of the person making the request for an investigation shall be available only to the State Fire Marshal, state elevator inspector, or other person carrying out the preliminary inquiry on behalf of the State Fire Marshal or state elevator inspector. The State Fire Marshal or state elevator inspector shall keep a record of each request for an investigation received under this section for three years after such request is made.

(3) If after the preliminary inquiry the State Fire Marshal or state elevator inspector determines that there are reasonable grounds to believe that such violation or danger exists and is likely to continue to exist such that the operation of the conveyance endangers the public, the State Fire Marshal or state elevator inspector shall cause a formal investigation to be made. During the formal investigation, a statement shall be taken from the person who made the request for an investigation and the person's name, address, and telephone number shall be made available to any opposing parties upon request.

(4) If the State Fire Marshal or state elevator inspector determines that there are no reasonable grounds to believe that a violation or danger exists under either subsection (2) or (3) of this section, the State Fire Marshal shall notify the person requesting the investigation in writing of such determination.

**Sec. 29.** Original sections 48-665, 81-5,213, 81-5,215, 81-5,216, 81-5,217, 81-5,218, 81-5,219, 81-5,221, 81-5,223, 81-5,230, and 81-5,239, Reissue Revised Statutes of Nebraska, sections 9-1104, 9-1110, 9-1302, 9-1303, 9-1304, 9-1305, 9-1306, 9-1307, 9-1308, 9-1313, 77-3002, 77-3003, and 77-3014, Revised Statutes Cumulative Supplement, 2024, and sections 2, 3, 4, and 8, Initiative Law 2024, No. 436, are repealed.

\_\_\_\_\_  
**PRESIDENT OF THE LEGISLATURE**

*THIS IS TO CERTIFY that the within LB 415 was passed by the One Hundred Ninth  
Legislature of Nebraska at its First Session on the ..... day  
of ..... 20.....*

\_\_\_\_\_  
**CLERK OF THE LEGISLATURE**

**Approved:**

..... 20....., ..... o'clock .....M.

\_\_\_\_\_  
**GOVERNOR**