

## LEGISLATIVE BILL 338

Approved by the Governor February 21, 1985

Introduced by Business & Labor Committee, Barrett, 39,  
Chairperson; Chronister, 18; Eret, 32;  
Hall, 7; Labedz, 5; Vickers, 38;  
Wesely, 26

AN ACT relating to employment security; to amend sections 48-630, 48-639, and 48-640, Reissue Revised Statutes of Nebraska, 1943; to change certain appeal procedures for claims; and to repeal the original sections.

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

Section 1. That section 48-630, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-630. A determination upon a claim filed pursuant to section 48-629 shall be made promptly by a representative designated by the commissioner, hereinafter referred to as a deputy, and shall include a statement as to whether and in what amount claimant is entitled to benefits for the week with respect to which the determination is made and, in the event of a denial, shall state the reasons therefor. A determination with respect to the first week of a benefit year shall also include a statement as to whether the claimant has been paid the wages required under section 48-627(e), and, if so, the first day of the benefit year, his or her weekly benefit amount, and the maximum total amount of benefits payable to him or her with respect to such benefit year. Any benefits to which a claimant has been found eligible shall not be withheld because of the filing of an appeal under the provisions of section 48-634 and such benefits shall be paid until the appeal tribunal has rendered its decision modifying or reversing the determination allowing such benefits if the claimant is otherwise eligible. Any benefits received by any person to which, under a redetermination or decision pursuant to sections 48-630 to 48-640, he or she has been found not entitled shall be treated as excessive payments in accordance with the provisions of section 48-665. Whenever any claim involves the application of the provisions of section 48-628(d), the deputy shall promptly transmit his or her full findings of fact, with respect to that subdivision, to the commissioner, who, on the basis of the evidence submitted and such additional evidence as he or she may require, shall affirm, modify, or set aside such findings of fact and transmit to the deputy a decision upon the issue involved under the subdivision, which shall be deemed to be

the decision of the deputy. All claims arising out of the same alleged labor dispute may be considered at the same time. The parties shall be promptly notified of the determination, together with the reasons therefor, and such determination shall be deemed to be the final decision on the claim, unless within ten days after the mailing of notice to a party's last-known address, or, in the absence of such mailing, within seven days after the delivery of such notice, an appeal is filed with the appeal tribunal in the manner prescribed in section 48-634.

Sec. 2. That section 48-639, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-639. In any judicial proceeding under sections 48-638 ~~to 48-640 and 48-639~~ the district court shall consider the matter de novo upon the record. The court may on its own motion order additional evidence to be taken before it. In addition, any party to such review may offer additional evidence before the court, provided that such party shall have served written notice of such offer on the other parties at least ten days prior to the hearing thereof. Such notice shall set out the nature of the evidence which the party he so desires to offer and the names of the witnesses whom such party he intends to call. In such event the other parties may without advance notice offer evidence in rebuttal. Such proceedings shall be heard in a summary manner and shall be given precedence over all other civil cases, ~~except cases arising under the workmen's compensation law of this state.~~

Sec. 3. That section 48-640, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-640. An appeal may be taken from the decision of the district court to the Supreme Court of Nebraska in the same manner, but not inconsistent with the provisions of sections 48-601 to 48-668, as is provided in civil cases. In any judicial proceeding under this section the court shall consider the matter de novo upon the record. ~~arising under the workmen's compensation law.~~

Sec. 4. That original sections 48-630, 48-639, and 48-640, Reissue Revised Statutes of Nebraska, 1943, are repealed.