

## LEGISLATIVE BILL 339

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 48-601 to 48-609, 48-612, 48-613, 48-616 to 48-619, 48-621 to 48-623, 48-626 to 48-628, 48-628.02, 48-629, 48-632, 48-635, 48-636, 48-640, 48-643, 48-645 to 48-652, 48-654, 48-657, 48-659 to 48-662, 48-664, 48-665, 48-666 to 48-668, 48-668.02, 48-668.03, 48-670, and 48-671, Reissue Revised Statutes of Nebraska, 1943; to change internal references; to redefine a law; to change provisions relating to rules and regulations; to harmonize provisions; and to repeal the original sections.

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

Section 1. That section 48-601, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:  
48-601. Sections 48-601 to ~~48-669~~ 48-671 shall be known and may be cited as the Employment Security Law.

Sec. 2. That section 48-602, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:  
48-602. As used in ~~sections 48-601 to 48-669~~ the Employment Security Law, unless the context otherwise requires:

- (1) Base period shall mean the last four completed calendar quarters immediately preceding the first day of an individual's benefit year;
- (2) Benefits shall mean the money payments payable to an individual with respect to his or her unemployment;
- (3) Benefit year, with respect to any individual, shall mean the one-year period beginning with the first day of the first week with respect to which the individual first files a valid claim for benefits, and thereafter the one-year period beginning with the first day of the first week with respect to which the individual next files a valid claim for benefits after the termination of his or her last preceding benefit year. Any claim for benefits made in accordance with section 48-629 shall be deemed to be a valid claim for the purpose of this subdivision if the individual has been paid the wages for insured work required under section 48-627. For the purposes of this subdivision a week with respect to which

an individual files a valid claim shall be deemed to be in, within, or during that benefit year which includes the greater part of such week;

(4) Calendar quarter shall mean the period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31, or the equivalent thereof as the Commissioner of Labor may by rule and regulation prescribe;

(5) Commissioner shall mean the Commissioner of Labor;

(6) Contributions shall mean the money payments to the state Unemployment Compensation Fund as required by sections 48-648 and 48-649;

(7) Department shall mean the Department of Labor;

(8) Employment office shall mean a free public employment office or branch thereof, operated by this state or maintained as a part of a state-controlled system of public employment offices, including public employment offices operated by an agency of a foreign government;

(9) Fund shall mean the Unemployment Compensation Fund established by section 48-617, to which all contributions and payments in lieu of contributions required and from which all benefits provided shall be paid;

(10) Hospital shall mean an institution which has been licensed, certified, or approved by the Department of Health as a hospital;

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

(12) Insured work shall mean employment for employers;

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

(14) State includes, in addition to the states of the United States of America, any dependency of the United States, the Commonwealth of Puerto Rico, the Virgin

Islands, and the District of Columbia;

(15) Wages, except with respect to services performed in employment as provided in section 48-604, subdivisions (4)(c) and (d), shall mean all remuneration for personal services, including commissions and bonuses and the cash value of all remunerations in any medium other than cash. The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with rules and regulations prescribed by the commissioner. With respect to services performed in employment in agricultural labor as is provided in section 48-604, subdivision (4)(c), or in domestic service as is provided in section 48-604, subdivision (4)(d), wages shall mean cash remuneration for such services, ~~except that~~ ~~PROVIDED~~, as used in sections 48-648 and 48-649 only, prior to January 1, 1978, the term wages shall not include that part of the remuneration which, after remuneration equal to four thousand two hundred dollars, subsequent to December 31, 1977, after remuneration equal to six thousand dollars, and subsequent to December 31, 1982, after remuneration equal to seven thousand dollars has been paid to an individual by an employer or by the predecessor of such employer with respect to employment within this or any other state during any calendar year, is paid to such individual by such employer during such calendar year, unless that part of the remuneration is subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund. The term wages shall not include (a) the amount of any payment, including any amount paid by an employer for insurance or annuities, or into a fund, to provide for such payment, made to, or on behalf of, an individual in employment, or any of his or her dependents, under a plan or system established by an employer which makes provision for such individuals generally, or for a class or classes of such individuals, including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment, on account of retirement, sickness or accident disability, or medical and hospitalization expenses in connection with sickness or accident disability, or death; (b) the payment by an employer, without deduction from the remuneration of the employee, of the tax imposed upon an employee under section 3101 of the Internal Revenue Code of 1954, as amended; (c) any payment made to an individual, including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment, on account of retirement; (d) any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an individual after the expiration of six calendar months

following the last calendar month in which such individual worked for such employer; (e) any payment made to, or on behalf of, an individual or his or her beneficiary (i) from or to a trust described in section 401 (a) of the Internal Revenue Code of 1954 which is exempt from tax under section 501 (a) of the Internal Revenue Code of 1954 at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust, or (ii) under or to an annuity plan which, at the time of such payment, meets the requirements of section 401 of the Internal Revenue Code of 1954; (f) remuneration paid in any medium other than cash to an individual for service not in the course of the employer's trade or business; and (g) any payment, other than vacation or sick pay, made to an individual after the month in which he or she attains the age of sixty-five, if he or she did not work for the employer in the period for which such payment is made;

(16) Week shall mean such period of seven consecutive days, as the commissioner may by rule and regulation prescribe; and

(17) Week of unemployment with respect to any individual shall mean any week during which he or she performs less than full-time work and the wages payable to him or her with respect to such week are less than his or her weekly benefit amount.

Sec. 3. That section 48-603, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-603. As used in ~~sections 48-601 to 48-669~~ the Employment Security Law, unless the context clearly requires otherwise, employer shall mean:

(1) Any individual or type of organization, including any partnership, association, trust, estate, joint-stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which is or was an employer as defined by ~~sections 48-601 to 48-669~~ the Employment Security Law immediately prior to May 27, 1971, and after December 31, 1971, any such individual or employing concern which for some portion of a day but not necessarily simultaneously in each of twenty different calendar weeks, whether or not such weeks are or were consecutive, within either the current or preceding calendar year, and for the purpose of this definition, if any week includes both December 31 and January 1, the days up to January 1 shall be deemed one calendar week and the days beginning January 1 another such week, has or had in employment one or more individuals, irrespective of whether the same individuals are or were employed in each such day; all individuals performing services for any employer of any person in this state, who maintains two or more separate establishments within this state, shall be

deemed to be employed by a single employer; any artifice or device, including any contract or subcontract, by an employer for the performance of work, which is a part of such employer's usual trade, occupation, profession, or business, entered into for the purpose or with the intent of evading the application of this section to such employer, is hereby prohibited and declared to be unlawful;

(2) Any employer of any person in this state who after December 31, 1971, in any calendar quarter in either the current or preceding calendar year has paid wages for employment in the total sum of fifteen hundred dollars or more;

(3) Any individual or employer of any person in this state which acquired the organization, trade, or business, or substantially all the assets thereof, of another employer which, at the time of such acquisition, was an employer subject to ~~sections 48-601 to 48-669~~ the Employment Security Law;

(4) Any employer of any person in this state, which acquired the organization, trade, or business, or substantially all the assets thereof, of another employer of any person in this state, not an employer subject to ~~said sections such law~~, and which, if subsequent to such acquisition it were treated as a single unit with such other employer, would be an employer under subdivision (1) or (2) of this section;

(5) Any employer of any person in this state which, having become an employer under any provision of ~~sections 48-601 to 48-669~~ the Employment Security Law and which has not, under section 48-661, ceased to be an employer subject to ~~said sections such law~~;

(6) For the effective period of its election pursuant to section 48-661, any other employer of any person in this state who has elected to become fully subject to ~~sections 48-601 to 48-669~~ the Employment Security Law;

(7) Any employer of any person in this state not an employer by reason of any other subdivision of this section (a) for which services in employment are or were performed with respect to which such employer is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment compensation fund; or (b) which, as a condition for approval of ~~this act~~ the Employment Security Law for full tax credit against the tax imposed by the Federal Unemployment Tax Act, is required, pursuant to such act, to be an employer under ~~this act~~ the Employment Security Law;

(8) The state or any of its instrumentalities which is or was an employer under the ~~provisions of sections 48-601 to 48-669~~ Employment Security Law immediately prior to September 2, 1977, and after December

31, 1977, the state or any political subdivision thereof and any instrumentality of any one or more of the foregoing;

(9) Any organization for which service in employment as defined in section 48-604, subdivision (4)(b) is performed after December 31, 1971;

(10) Any individual or employing unit for which service in employment as defined in section 48-604, subdivision (4)(c), is performed after December 31, 1977;

(11) Any individual or employing unit for which service in employment as defined in section 48-604, subdivision (4)(d), is performed after December 31, 1977; and

(12)(a) In determining whether or not an employing unit for which service other than domestic service is also performed is an employer under subdivision (1) or (10) of this section, the wages earned or the employment of an employee performing domestic service after December 31, 1977, shall not be taken into account; and

(b) In determining whether or not an employing unit for which agricultural labor is also performed is an employer under subdivision (11) of this section, the wages earned or the employment of an employee performing services in agricultural labor after December 31, 1977, shall not be taken into account. If an employing unit is determined an employer of agricultural labor, such employing unit shall be determined an employer for the purposes of subdivision (1) of this section.

Sec. 4. That section 48-604, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-604. As used in ~~sections 48-601 to 48-669~~ the Employment Security Law, unless the context otherwise requires, employment shall mean:

(1) Any service performed after June 30, 1941, including service in interstate commerce, for wages or under any contract of hire, written or oral, express or implied;

(2) The term employment shall include an individual's entire service, performed within or both within and without this state if (a) the service is localized in this state, (b) the service is not localized in any state but some of the service is performed in this state and the base of operations or, if there is no base of operations, then the place from which such service is directed or controlled is in this state or the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed but the individual's residence is in this state, (c) the service shall be deemed to be localized within a state if (1) the service is performed entirely within such state, or (2) the service is performed both within and without such state, but the service performed

without such state is incidental to the individual's service within the state; for example, is temporary or transitory in nature or consists of isolated transactions;

(3) Services performed outside the state and services performed outside the United States as follows:

(a) Services not covered under subdivision (2) of this section and performed entirely without this state, with respect to no part of which contributions are required under an unemployment compensation law of any other state or of the federal government, shall be deemed to be employment subject to ~~sections 48-601 to 48-669~~ the Employment Security Law if the Commissioner of Labor approves the election of the employer, for whom such services are performed, that the entire service of such individual shall be deemed to be employment subject to ~~said sections~~ such law;

(b) Services of an individual wherever performed within the United States or Canada, if (1) such service is not covered under the employment compensation law of any other state or Canada, and (2) the place from which the service is directed or controlled is in this state;

(c) Services of an individual who is a citizen of the United States, performed outside the United States except in Canada in the employ of an American employer, other than service which is deemed employment under the ~~provisions of~~ subsections (2) and (3)(a) and (b) of this section or the parallel provisions of another state's law, if: (1) The employer's principal place of business in the United States is located in this state; or (2) the employer has no place of business in the United States, but the employer is an individual who is a resident of this state; or the employer is a corporation which is organized under the laws of this state; or the employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any other state; or (3) none of the criteria of subdivisions (1) and (2) of this ~~subsection~~ subdivision is met, but the employer has elected coverage in this state or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service under the laws of this state; (4) an American employer, for the purposes of this subsection, shall mean: (i) an individual who is a resident of the United States; (ii) a partnership if two-thirds or more of the partners are residents of the United States; (iii) a trust if all the trustees are residents of the United States; or (iv) a corporation organized under the laws of the United States or of any state; (5) the term United States for the purpose of this section includes the states, the District of Columbia, the Virgin Islands, and the Commonwealth of Puerto Rico;

(4)(a) Service performed prior to January 1, 1978, which is or was service in employment for this state

or any instrumentality thereof immediately prior to September 2, 1977, including service performed after December 31, 1971, in the employ of this state or any of its instrumentalities, or in the employ of this state and one or more other states or their instrumentalities, for a hospital or institution of higher education located in this state; and service performed after December 31, 1977, in the employ of this state or any political subdivision thereof or any instrumentality of any one or more of the foregoing or any instrumentality which is wholly owned by this state and one or more other states or political subdivisions, or any service performed in the employ of any instrumentality of this state or of any political subdivision thereof and one or more other states or political subdivisions; ~~PROVIDED, if such service is excluded from employment as defined in the Federal Unemployment Tax Act solely by reason of section 3306 (c)(7) of that act and is not otherwise excluded under the provisions of this section;~~

(b) Service performed after December 31, 1971, by an individual in the employ of a religious, charitable, educational, or other organization, but only if the following conditions are met: (1) The service is excluded from employment as defined in the Federal Unemployment Tax Act solely by reason of section 3306 (c)(8) of that act and is not otherwise excluded under ~~the provisions of this section;~~ and (2) the organization had four or more individuals in employment for some portion of a day in each of twenty different weeks, whether or not such weeks were consecutive, within either the current or preceding calendar year, regardless of whether they were employed at the same moment of time;

(c) Service performed after December 31, 1977, by an individual in agricultural labor as defined in subdivision (6)(a) of this section when: (i) Such service is performed for a person who during any calendar quarter in either the current or preceding calendar year paid remuneration in cash of twenty thousand dollars or more to individuals employed in agricultural labor, or for some portion of a day in each of twenty different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor ten or more individuals, regardless of whether they were employed at the same moment of time; (ii) such service is not performed in agricultural labor if performed before January 1, 1984, by an individual who is an alien admitted to the United States to perform service in agricultural labor pursuant to sections 214 (c) and 101 (a)(15)(H) of the Immigration and Nationality Act; (iii) for the purposes of this subdivision, any individual who is a member of a crew furnished by a crew leader to perform services in agricultural labor for any other person shall be treated as an employee of such crew leader



if such crew leader holds a valid certificate of registration under the Farm Labor Contractor Registration Act of 1963; or substantially all the members of such crew operate or maintain tractors, mechanized harvesting or cropdusting equipment, or any other mechanized equipment, which is provided by such crew leader; and if such individual is not an employee of such other person within the meaning of any other provisions of this section; (iv) for the purposes of subdivision (c) of this subdivision, in case any individual who is furnished by a crew leader to perform service in agricultural labor for any other person and who is not treated as an employee of such crew leader under subdivision (c)(iii); such other person and not the crew leader shall be treated as the employer of such individual; and such other person shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader, either on his or her own behalf or on behalf of such other person, for the service in agricultural labor performed for such other person; and (v) for the purposes of subdivision (c) of this subdivision, the term crew leader means an individual who furnishes individuals to perform service in agricultural labor for any other person, pays, either on his or her own behalf or on behalf of such other person, the individuals so furnished by him or her for the service in agricultural labor performed by them, and has not entered into a written agreement with such other person under which such individual is designated as an employee of such other person; and

(d) Service performed after December 31, 1977, by an individual in domestic service in a private home, local college club, or local chapter of a college fraternity or sorority if performed for a person who paid cash remuneration of one thousand dollars or more after December 31, 1977, in the current calendar year or the preceding calendar year to individuals employed in such domestic service in any calendar quarter;

(5) Services performed by an individual for wages shall be deemed to be employment, unless it be shown to the satisfaction of the commissioner that (a) such individual has been and will continue to be free from control or direction over the performance of such services, both under his or her contract of service and in fact, (b) such service is either outside the usual course of the business for which such service is performed or such service is performed outside of all the places of business of the enterprise for which such service is performed, and (c) such individual is customarily engaged in an independently established trade, occupation, profession, or business. The provisions of this subdivision are not intended to be a codification of the common law and shall be considered complete as written;

(6) The term employment shall not include: (a) Agricultural labor, except as provided in subdivision (4)(c) of this section, including all services performed (1) on a farm, in the employ of any employer, in connection with cultivating the soil or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals, and wildlife; (2) in the employ of the owner, tenant, or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment or in salvaging timber or clearing land of brush and other debris left by a windstorm, if the major part of such service is performed on a farm; (3) in connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15(g) of the Federal Agricultural Marketing Act, as amended; in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes; (4)(i) in the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than one half of the commodity with respect to which such service is performed; (ii) in the employ of a group of operators of farms, or a cooperative organization of which such operators are members, in the performance of service described in subdivision (i), but only if such operators produced more than one half of the commodity with respect to which such service is performed; (iii) ~~the provisions in~~ subdivisions (i) and (ii) of this subdivision shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or (5) on a farm operated for profit if such service is not in the course of the employer's trade or business. As used in this section, the term farm includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses, or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards; (b) domestic service, except as provided in subdivision (4)(d) of this section, in a private home, local college club, or local chapter of a college fraternity or sorority; (c) service not in the course of the employer's trade or business performed in any calendar quarter by an employee, unless the cash remuneration paid for such service is fifty

dollars or more and such service is performed by an individual who is regularly employed by such employer to perform such service and, for the purposes of this subdivision, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if (i) on each of some twenty-four days during such quarter such individual performs for such employer for some portion of the day service not in the course of the employer's trade or business, or (ii) such individual was regularly employed, as determined under subdivision (i) of this subdivision, by such employer in the performance of such service during the preceding calendar quarter; (d) service performed by an individual in the employ of his or her son, daughter, or spouse and service performed by a child under the age of twenty-one in the employ of his or her father or mother; (e) service performed in the employ of the United States government or an instrumentality of the United States immune under the Constitution of the United States from the contributions imposed by sections 48-648 and 48-649, except that, to the extent that the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation act, all of the provisions of sections 48-601 to 48-669 Employment Security Law shall be applicable to such instrumentalities and to services performed for such instrumentalities in the same manner, to the same extent, and on the same terms as to all other employers, individuals, and services, except that if this state shall not be certified for any year by the Secretary of Labor of the United States under section 3304 of the Internal Revenue Code of 1954, the payments required of such instrumentalities with respect to such year shall be refunded by the commissioner from the fund in the same manner and within the same period as is provided in section 48-660, with respect to contributions erroneously collected; (f) service performed in the employ of this state, or any political subdivision thereof or any instrumentality of any one or more of the foregoing if such services are performed by an individual in the exercise of his or her duties: (i) As an elected official; (ii) as a member of the legislative body or a member of the judiciary of a state or political subdivision thereof; (iii) as a member of the Army National Guard or Air National Guard; (iv) as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency; or (v) in a position which, under or pursuant to the state law, is designated a major nontenured policymaking or advisory position, or a policymaking or advisory position, the performance of the duties of which ordinarily does not require more than eight hours per week; (g) for the purposes of subdivisions (4)(a) and (4)(b) of this section, service performed (1) in the employ of (i) a

church or convention or association of churches; or (ii) an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches; (2) by a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry or by a member of a religious order in the exercise of the duties required by such order; (3) prior to January 1, 1978, in the employ of a school which is not an institution of higher education; (4) in a facility conducted for the purpose of carrying out a program of rehabilitation for an individual whose earning capacity is impaired by age or physical or mental deficiency or injury providing remunerative work for the individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market or by an individual receiving such rehabilitation or remunerative work; (5) as part of an unemployment work relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work relief or work training; or (6) prior to January 1, 1978, for a hospital in a state prison or other state correctional institution by an inmate of the prison or correctional institution and after December 31, 1977, by an inmate of a custodial or penal institution; (h) service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of Congress; (i) service performed in any calendar quarter in the employ of any organization exempt from income tax under section 501 (a) of the Internal Revenue Code of 1954, other than an organization described in section 401 (a) of the Internal Revenue Code of 1954, or under section 521 thereof, if the remuneration for such service is less than fifty dollars; (j) service performed in the employ of a school, college, or university, if such service is performed (1) by a student who is enrolled and is regularly attending classes at such school, college, or university or (2) by the spouse of such student, if such spouse is advised, at the time such spouse commences to perform such service, that (i) the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university; and (ii) such employment will not be covered by any program of unemployment insurance; (k) service performed as a student nurse in the employ of a hospital or nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law; and service performed as an intern in the employ of a hospital by an individual who has completed a four-year course in a medical school chartered or approved pursuant to state law; (l) service

performed by an individual as a real estate salesperson, as an insurance agent, or as an insurance solicitor, if all such service performed by such individual is performed for remuneration solely by way of commission; (m) service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution; (n) service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers and magazines are to be sold by him or her at a fixed price, his or her compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him or her, whether or not he or she is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back; (o) service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this subdivision shall not apply to service performed in a program established for or on behalf of an employer or a group of employers; (p) service performed in the employ of a hospital, if such service is performed by a patient of the hospital; (q) service performed for a motor carrier, as defined in 49 U.S.C. section 10102 (11) as amended or subsection (8) of section 75-302 as amended, by a lessor leasing one or more motor vehicles driven by the lessor or one or more drivers provided by the lessor under a lease executed pursuant to 49 CFR 1057 as amended or Article 7 of section III as amended of the rules and regulations of the Nebraska Public Service Commission with the motor carrier as lessee. This shall not preclude the determination of an employment relationship between the lessor and any personnel provided by the lessor in the conduct of the service performed for the lessee. The existence of such a lease either prior to, on the date of, or after August 26, 1983, shall preclude a determination of liability as defined by the Employment Security Law after September 1, 1982; and (r) service performed by an individual for a business engaged in compilation of marketing data bases if such service consists only of the processing of data and is performed in the residence of the individual. The performance of such service prior to, on, or after August 26, 1983, shall preclude a determination of liability as defined by the Employment Security Law after January 1,

1983;

(7) If the services performed during one half or more of any pay period by an individual for the person employing him or her constitute employment, all the services of such individual for such period shall be deemed to be employment, but if the services performed during more than one half of any such pay period by an individual for the person employing him or her do not constitute employment, then none of the services of such individual for such period shall be deemed to be employment. As used in this subdivision the term pay period means a period, of not more than thirty-one consecutive days, for which a payment of remuneration is ordinarily made to such individual by the person employing him or her. This subdivision shall not be applicable with respect to services performed in a pay period by an individual for the person employing him or her where any of such service is excepted by subdivision (h) of subdivision (6) of this section;

(8) Notwithstanding the foregoing exclusions from the definition of employment, services shall be deemed to be in employment if with respect to such services a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment compensation fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act is required to be covered under this act the Employment Security Law; and

(9) Any extension of the definition of employment by this section to include services heretofore excluded shall not be effective until after December 31, 1977, and section 48-604 as it existed prior to its amendments by this act shall be applicable to services performed prior to January 1, 1978.

Sec. 5. That section 48-605, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-605. The commissioner, for his or her services with respect to the administration of ~~sections 48-601 to 48-669~~ the Employment Security Law, shall receive the sum fixed by the Governor, payable monthly, to be paid from the Employment Security Administration Fund in addition to the salary of the commissioner as set out in section 81-103.

Sec. 6. That section 48-606, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-606. It shall be the duty of the Commissioner of Labor to administer ~~sections 48-601 to 48-669~~ the Employment Security Law. He ~~or she~~ shall have the power and authority ~~to adopt, amend, or rescind such lawful rules and regulations,~~ to employ such persons, make such expenditures, require such reports, make such investigations, and take such other action as he ~~or she~~

deems necessary or suitable to that end if the same are consistent with the Employment Security Law, provisions of said sections. Such rules and regulations shall be effective upon publication in the manner, not inconsistent with the provisions of said sections, which the commissioner shall prescribe. The commissioner shall determine his or her own organization and methods of procedure in accordance with the provisions of said sections such law and shall have an official seal which shall be judicially noticed. Not later than the thirty-first day of December of each year, the commissioner shall submit to the Governor a report covering the administration and operation of said sections such law during the preceding fiscal year and shall make such recommendations for amendments to said sections such law as he or she deems proper. Such report shall include a balance sheet of the money in the fund in which there shall be provided, if possible, a reserve against the liability in future years to pay benefits in excess of the then current contributions, which reserve shall be set up by the commissioner in accordance with accepted actuarial principles on the basis of statistics of employment, business activity, and other relevant factors for the longest possible period. Whenever the commissioner believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, he or she shall promptly inform the Governor and the Clerk of the Legislature thereof and make recommendations with respect thereto. Each member of the Legislature shall receive a copy of such information by making a request for it to the commissioner.

Sec. 7. That section 48-606.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-606.01. The commissioner, with the written consent of the Department of Administrative Services, is authorized and empowered to use any funds available under the provisions of either subdivision (a) or (b) of section 48-621, for the purpose of acquiring suitable office space within the corporate limits of the state capital city for the administration of sections 48-601 to 48-669 the Employment Security Law by purchase, contract, or in any other manner including the right to use such funds or any part thereof to assist in financing the construction of any building erected by the State of Nebraska or any of its agencies wherein available space will be provided for the department under lease or contract between the commissioner and the State of Nebraska or such other agency whereby the department will continue to occupy such space ~~rent-free~~ rent free after the cost of financing such building has been liquidated. The commissioner, upon approval by the Department of Administrative Services, is authorized and empowered to use any such funds to acquire suitable office space for local employment offices

anywhere in the State of Nebraska.

Sec. 8. That section 48-607, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~48-607. General and special rules may be adopted, amended or rescinded by the commissioner only after public hearing or opportunity to be heard thereon, of which proper notice has been given. General rules shall become effective ten days after filing with the Secretary of State and publication in one or more newspapers of general circulation in this state. Special rules shall become effective ten days after notification to or mailing to the last-known address of the individuals or concerns affected thereby. Lawful regulations may be adopted, amended or rescinded by the commissioner and shall become effective in the manner and at the time prescribed by the commissioner. The commissioner shall adopt and promulgate rules and regulations necessary to carry out the Employment Security Law pursuant to Chapter 84, article 9. This section shall not be construed to invalidate any rules or regulations in effect on the effective date of this act.~~

Sec. 9. That section 48-608, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~48-608. The Commissioner of Labor shall cause to be printed for distribution to the public the text of sections 48-601 to 48-668 the Employment Security Law, his or her rules and regulations, and general rules, and any other material he or she deems relevant and suitable, and shall furnish eight copies of the same to the Nebraska Publications Clearinghouse, and one copy to any person upon application therefor.~~

Sec. 10. That section 48-609, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~48-609. Subject to other provisions of sections 48-601 to 48-669 the Employment Security Law, the Commissioner of Labor is authorized to appoint, fix the compensation of, and prescribe the duties and powers of such officers, accountants, attorneys, experts, and other persons as may be necessary in the performance of his or her duties under such sections. The commissioner may delegate to any such person such power and authority as he or she deems reasonable and proper for the effective administration of such sections law. Employees handling money or signing warrants under such sections law shall be bonded under the blanket surety bond required by section 11-201. The commissioner may pay the share of the premium for such bond from the unemployment compensation administration fund. The commissioner shall classify positions under such sections law and shall establish salary schedules and minimum personnel standards for the positions so classified. He or she shall provide for the holding of examinations to determine the qualifications of applicants for the positions so classified and, except for temporary appointments of not to exceed six months in~~



duration, such personnel shall be appointed on the basis of efficiency and fitness as determined in such examinations. No person who is an officer or committee member of any political party organization or who holds or is a candidate for any public office shall be appointed or employed under such sections the Employment Security Law. The commissioner shall establish and enforce fair and reasonable rules and regulations for appointments, promotions, and demotions based upon ratings of efficiency and fitness and for terminations for cause.

The commissioner may provide for a contributory retirement system for the employees of the department employed prior to July 1, 1984, and paid from funds provided pursuant to Title III of the Social Security Act or funds from other federal sources, or let a contract for such purpose with an insurance company licensed in Nebraska, and pay the employer's share of such system or contract from the Employment Security Administration Fund as long as this fund is wholly financed from Title III of the Social Security Act or from other federal sources. The employee's contribution to any such plan shall be deducted from his or her salary. Any person employed by the department after June 30, 1984, and paid from funds provided pursuant to Title III of the Social Security Act or funds from other federal sources shall be enrolled in the State Employees Retirement System of the State of Nebraska when he or she becomes eligible.

Sec. 11. That section 48-612, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-612. Each employer, whether or not subject to ~~sections 48-601 to 48-668~~ the Employment Security Law, shall keep true and accurate work records containing such information as the Commissioner of Labor may prescribe. Such records shall be open to inspection and be subject to being copied by the commissioner or his or her authorized representatives at any reasonable time and as often as may be necessary. The commissioner and the ~~chairman~~ chairperson of any appeal tribunal may require from any such employer any sworn or unsworn reports, with respect to persons employed by it, which he, she, or it deems necessary for the effective administration of ~~said sections such law~~. Information thus obtained or obtained from any individual pursuant to the administration of ~~said sections such law~~, shall be held confidential, except to the extent necessary for the proper presentation of the contest of a claim, and shall not be published or be open to public inspection, other than to public employees in the performance of their public duties, in any manner revealing the individual's or employing unit's identity, but any claimant, or his or her legal representative, at a hearing before an appeal tribunal or court shall be supplied with information from such records to the extent necessary for the proper presentation of his or her claim.

Any employee of the commissioner who violates any provision of sections 48-606 to 48-616, shall be guilty of a Class III misdemeanor. All letters, reports, communications, or any other matters, either oral or written, from an employer or his or her workers to each other, or to the commissioner or any of his or her agents, representatives, or employees which shall have been written or made in connection with the requirements and administration of sections 48-601 to 48-668 the Employment Security Law, or the rules and regulations thereunder, shall be absolutely privileged and shall not be made the subject matter or basis for any suit for slander or libel in any court of this state, unless the same be false in fact and malicious in intent.

Sec. 12. That section 48-613, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-613. In the discharge of the duties imposed by sections 48-601 to 48-668 the Employment Security Law, the Commissioner of Labor, the chairman chairperson of an appeal tribunal, and any duly authorized representative of any of them shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with a disputed claim or the administration of said sections such law.

Sec. 13. That section 48-616, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-616. In the administration of sections 48-601 to 48-669 the Employment Security Law, the Commissioner of Labor shall cooperate, to the fullest extent consistent with the provisions of said sections such law, with the Secretary of Labor of the United States and is authorized and directed to take such action, through the adoption of appropriate rules, and regulations, administrative methods, and standards, as may be necessary to secure to this state and its citizens all advantages available under the provisions of the Social Security Act, under the provisions of sections 3303 and 3304 of the Federal Unemployment Tax Act, and under the provisions of the Act of Congress entitled An act to provide for the establishment of a national employment system and for cooperation with states in the promotion of such system, and for other purposes, approved June 6, 1933, as amended. The commissioner shall comply with the regulations of the Secretary of Labor relating to the receipt or expenditure by this state of money granted under any of such acts and shall make such reports, in such form and containing such information as the Secretary of Labor may from time to time require, and shall comply with such provisions as the Secretary of Labor may from time to time find necessary to assure the correctness and verification of such reports.

Upon request therefor the commissioner shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment the name, address, ordinary occupation, and employment status of each recipient of benefits and such recipient's rights to further benefits under ~~said sections~~ the Employment Security Law. The commissioner may afford reasonable cooperation with every agency of the United States charged with the administration of any unemployment insurance law.

Sec. 14. That section 48-617, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-617. There is hereby established as a special fund, separate and apart from all public money or funds of this state, an Unemployment Compensation Fund, which shall be administered by the Commissioner of Labor exclusively for the purposes of ~~sections 48-601 to 48-669~~ the Employment Security Law. This fund shall consist of (1) all contributions and payments in lieu of contributions collected under ~~said sections~~ such law together with any interest thereon collected pursuant to sections 48-655 to 48-660.01, except as provided in subsection (b) of section 48-621, (2) interest earned upon any money in the fund, (3) any property or securities acquired through the use of money belonging to the fund, (4) all earnings of such property or securities, (5) all money credited to this state's account in the Unemployment Trust Fund pursuant to section 903 of the Social Security Act, as amended, and (6) all other money received for the fund from any other source. Any money in the Unemployment Compensation Fund available for investment shall be invested by the state investment officer pursuant to ~~the provisions of~~ sections 72-1237 to 72-1259 72-1269.

Sec. 15. That section 48-618, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-618. The Commissioner of Labor shall designate a treasurer and custodian of the fund, who shall be selected in accordance with section 48-609, and who shall administer such fund in accordance with the directions of the commissioner and shall issue his or her warrants upon it in accordance with such rules and regulations as the commissioner shall prescribe. He or she shall maintain within the fund three separate accounts: (1) A clearing account, (2) an Unemployment Trust Fund account, and (3) a benefit account. All money payable to the fund, upon receipt thereof by the commissioner, shall be forwarded to the treasurer who shall immediately deposit the same in the clearing account. Transfers of interest on delinquent contributions pursuant to subsection (b) of section 48-621 and refunds payable pursuant to section 48-660, may be paid from the clearing account upon warrants issued by the treasurer of the Unemployment Compensation Fund under the direction of the

commissioner. After clearance thereof, all other money in the clearing account shall be immediately deposited with the Secretary of the Treasury of the United States of America to the credit of the account of this state in the Unemployment Trust Fund, established and maintained pursuant to section 904 of the Social Security Act, any provisions of law in this state relating to the deposit, administration, release, or disbursement of money in the possession or custody of this state to the contrary notwithstanding. The benefit account shall consist of all money requisitioned from this state's account in the Unemployment Trust Fund. Except as herein otherwise provided, money in the clearing and benefit accounts may be deposited by the treasurer under the direction of the commissioner, in any bank or public depository in which general funds of the state may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund. The treasurer shall be bonded under the blanket surety bond required by section 11-201.

Sec. 16. That section 48-619, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-619. Money shall be requisitioned from this state's account in the Unemployment Trust Fund solely for the payment of benefits in accordance with lawful rules and regulations prescribed by the Commissioner of Labor, except that subject to the limitations therein contained, money credited to this fund pursuant to section 903 of the Federal Social Security Act, as amended, may upon an appropriation duly made by the Legislature, be used for the administration of the Employment Security Law and shall for such purposes and to the extent required be transferred to the Administration Fund established in subsection (a) of section 48-621. The commissioner shall from time to time requisition from the Unemployment Trust Fund such amounts, not exceeding the amounts standing to this state's account therein, as he or she deems necessary for the payment of benefits for a reasonable future period. Upon receipt thereof the treasurer shall deposit such money in the benefit account and shall issue his or her warrants as aforesaid and as provided by law for the payment of benefits solely from such benefit account. Expenditures of such money in the benefit account and refunds from the clearing account shall not be subject to any provisions of law requiring specific appropriations. Any balance of money requisitioned from the Unemployment Trust Fund, which remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned, shall either be deducted from estimates for, and may be utilized for the payment of, benefits during succeeding periods or, in the discretion of the commissioner, shall be redeposited with the Secretary of the Treasury of the United States of America, to the credit of this state's account in the

Unemployment Trust Fund, as provided in section 48-618.

Sec. 17. That section 48-621, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-621. The administrative fund shall consist of the Employment Security Administration Fund and the Employment Security Special Contingent Fund. Each fund shall be maintained as a separate and distinct account in all respects, as follows:

(a) There is hereby created in the state treasury a special fund to be known as the Employment Security Administration Fund. All money deposited or paid into this fund is hereby appropriated and made available to the Commissioner of Labor. All money in this fund shall be expended solely for the purposes and in the amounts found necessary by the Secretary of Labor of the United States for the proper and efficient administration of ~~sections 48-601 to 48-669~~ the Employment Security Law, and for no other purpose whatsoever. The fund shall consist of all money appropriated by this state and all money received from the United States of America, or any agency thereof, including the Department of Labor, the Railroad Retirement Board, or from any other source for such purpose. Money received from any agency of the United States or any other state as compensation for services or facilities supplied to such agency, any amounts received pursuant to any surety bond or insurance policy for losses sustained by the Administration Fund or by reason of damage to equipment or supplies purchased from money in such fund, and any proceeds realized from the sale or disposition of any equipment or supplies, which may no longer be necessary for the proper administration of ~~said sections such law~~, shall also be paid into this fund. All money in this fund shall be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as is provided by law for other special funds in the state treasury. Any balances in this fund, except balances of money therein appropriated from the General Fund of this state, shall not lapse at any time, but shall be continuously available to the commissioner for expenditure consistent with ~~said sections~~ the Employment Security Law. Notwithstanding any other provisions of this section, all money requisitioned and deposited in this fund pursuant to section 903 of the Social Security Act, as amended, shall remain part of the Unemployment Compensation Fund and shall be used only in accordance with the conditions specified in ~~said~~ section 903 of the Social Security Act. Any money in the Employment Security Administration Fund available for investment shall be invested by the state investment officer pursuant to ~~the provisions of sections 72-1237 to 72-1259~~ 72-1269.

(b) There is hereby created in the state treasury a special fund to be known as the Employment Security Special Contingent Fund. Any money in the

Employment Security Special Contingent Fund available for investment shall be invested by the state investment officer pursuant to ~~the provisions of~~ sections 72-1237 to ~~72-1259~~ 72-1269. All money collected under section 48-655 as interest on delinquent contributions, less refunds, shall be paid into this fund from the clearing account of the Unemployment Compensation Fund at the end of each calendar quarter. ~~Said~~ Such money shall not be expended or available for expenditure in any manner which would permit its substitution for, or a corresponding reduction in federal funds which would in the absence of ~~said~~ such money be available to finance expenditures for the administration of the unemployment insurance law, but nothing in this section shall prevent ~~said~~ the money from being used as a revolving fund to cover expenditures necessary and proper under the law for which federal funds have been duly requested but not yet received, subject to the charging of such expenditures against such federal funds when received. The money in this fund may be used by the Commissioner of Labor only as follows:

(1) To replace within a reasonable time any money received by this state pursuant to section 302 of the Federal Social Security Act, as amended, and required to be paid under section 48-622; and

(2) To meet special extraordinary and contingent expenses which are deemed essential for good administration but which are not provided in grants from the Secretary of Labor of the United States and, for this purpose, no expenditures shall be made from this fund except on written authorization by the Governor at the request of the Commissioner of Labor.

Sec. 18. That section 48-622, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-622. This state recognizes its obligation to replace, and hereby pledges the faith of this state that funds will be provided in the future, and applied to the replacement of, any money received from the Secretary of Labor of the United States under Title III of the Social Security Act, any unencumbered balances in the Employment Security Administration Fund, any money granted to this state pursuant to ~~the provisions of~~ the Wagner-Peyser Act, and any money made available by the state or its political subdivisions and matched by such money granted to this state pursuant to ~~the provisions of~~ the Wagner-Peyser Act, which the Secretary of Labor finds has, because of any action or contingency, been lost or has been expended for purposes other than, or in amounts in excess of, those found necessary by the Secretary of Labor for the proper administration of ~~sections 48-601 to 48-669~~ the Employment Security Law. To the extent possible such money shall be promptly replaced by money appropriated for such purpose from the Employment Security Special Contingent Fund of this state to the Employment Security Administration Fund

for expenditure as provided in section 48-621.

Sec. 19. That section 48-623, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-623. All benefits provided ~~herein~~ in the Employment Security Law shall be payable from the Unemployment Compensation Fund. All benefits shall be paid through employment offices in accordance with such rules and regulations as the Commissioner of Labor may prescribe.

Sec. 20. That section 48-626, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-626. Any otherwise eligible individual shall be entitled during any benefit year to a total amount of benefits equal to whichever is the lesser of (1) twenty-six times his or her benefit amount or (2) one-third of his or her wages in the employment of each employer per calendar quarter of his or her base period; ~~PROVIDED, except that~~ when any individual has been separated from his or her employment with a base period employer under the circumstances under which he or she was or could have been determined disqualified under the provisions of subdivision (a) or (b) of section 48-628, the total benefit amount based on the employment from which he or she was so separated shall be reduced by an amount equal to the number of weeks for which he or she is or would have been disqualified had he or she filed a claim immediately after the separation, multiplied by his or her weekly benefit amount, but not more than one reduction may be made for each separation. ~~AND PROVIDED FURTHER, in~~ In no event shall the benefit amount based on employment for any employer be reduced to less than one benefit week where the individual was or could have been determined disqualified under the provisions of subdivision (a) of section 48-628. Earnings of less than three-fourths of his or her weekly benefit amount during any calendar quarter in the employment of a base period employer shall not be included in computing such entitlement. For purposes of sections 48-623 to 48-626, wages shall be counted as wages for insured work for benefit purposes with respect to any benefit year only if such benefit year begins subsequent to the date on which the employer by whom such wages were paid has satisfied the conditions of section 48-603 or subsection (c) of section 48-661(e) with respect to becoming an employer. In order to determine the benefits due under this section and sections 48-624 and 48-625, each employer shall make reports, in conformity with reasonable rules and regulations adopted by the commissioner, of the wages of any claimant. If any such employer shall fail to make such report within the time prescribed, the commissioner may accept the statement of such claimant as to his or her wages, and any benefit payments based on such statement of earnings, in the absence of fraud or collusion, will be final as to amount.

Sec. 21. That section 48-627, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-627. An unemployed individual shall be eligible to receive benefits with respect to any week, only if the Commissioner of Labor finds:

(a) He or she has registered for work at, and thereafter continued to report at, an employment office in accordance with such rules and regulations as the commissioner may prescribe, except that the commissioner may, by rule and regulation, waive or alter either or both of the requirements of this subdivision as to individuals attached to regular jobs and as to such other types of cases or situations, with respect to which he or she finds that compliance with such requirements, would be oppressive, or would be inconsistent with the purposes of sections 48-601 to 48-669, PROVIDED, the Employment Security Law, except that no such rule or regulation shall conflict with section 48-623;

(b) He or she has made a claim for benefits, in accordance with the provisions of section 48-629;

(c) He or she is able to work, and is available for work. No ~~PROVIDED, that no~~ individual, who is otherwise eligible, shall be deemed ineligible, or unavailable for work, because he or she is on vacation without pay during such week, if said such vacation is not the result of his or her own action as distinguished from any collective action by a collective-bargaining agent or other action beyond his or her individual control, and regardless of whether he or she has not been notified of said the vacation at the time of his or her hiring. Receipt ~~PROVIDED FURTHER, that receipt of a nonservice-connected total disability pension by a veteran at the age of sixty-five or more, shall not of itself bar the veteran from benefits as not able to work. An~~ ~~AND PROVIDED FURTHER, an~~ otherwise eligible individual while engaged in a training course approved for him or her by the commissioner shall be considered available for work for the purposes of this section;

(d) He or she has been unemployed for a waiting period of one week; no week shall be counted as a week of unemployment for the purpose of this subdivision (1) unless it occurs within the benefit year, which includes the week with respect to which he or she claims payment of benefits, (2) if benefits have been paid with respect thereto, or (3) unless the individual was eligible for benefits with respect thereto, as provided in sections 48-627 and 48-628, except for the requirements of this subdivision and of subdivision (f) of section 48-628; and

(e) For any benefit year, he or she has, within his or her base period, been paid a total sum of wages for employment by employers equal to not less than six hundred dollars, of which sum at least two hundred dollars shall have been paid in each of two quarters in his or her base



period. For the purposes of this subdivision, (1) wages shall be counted as wages for insured work for benefit purposes with respect to any benefit year only if such benefit year begins subsequent to the date on which the employer, by whom such wages were paid, has satisfied the conditions of section 48-603 or subsection (c) of section 48-661, with respect to becoming an employer; and (2) with respect to weeks of unemployment beginning on or after January 1, 1978, wages for insured work for benefit purposes with respect to any benefit year shall include wages paid for services as defined by section 48-604, subdivision (4)(a), (b), (c), or (d), to the extent that such services were not services in employment under ~~the provisions of~~ section 48-604, subdivision (4)(a), or section 48-661 immediately prior to September 2, 1977, even though the employer by whom such wages were paid had not satisfied the conditions of section 48-603, subdivision (8), (9), (10), or (11), with respect to becoming an employer at the time such wages were paid except to the extent that assistance under Title II of the Emergency Jobs and Unemployment Assistance Act of 1974 was paid on the basis of such services.

Sec. 22. That section 48-628, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-628. An individual shall be disqualified for benefits:

(a)(1) For the week in which he or she has left work voluntarily without good cause, if so found by the Commissioner of Labor, and for not less than seven weeks nor more than ten weeks which immediately follow such week, as determined by the commissioner according to the circumstances in each case, or (2) for the week in which he or she has left work voluntarily for the sole purpose of accepting previously secured, permanent, full-time, insured work, which he or she does accept, which offers a reasonable expectation of betterment of wages or working conditions, or both, and he or she earns wages payable to him or her for such work, if so found by the commissioner, and for not more than one week which immediately follows such week;

(b) For the week in which he or she has been discharged for misconduct connected with his or her work, if so found by the commissioner, and for not less than seven weeks nor more than ten weeks which immediately follow such week, as determined by the commissioner in each case according to the seriousness of the misconduct, ~~except~~ ~~PROVIDED~~, that if the commissioner finds that such individual's misconduct was gross, flagrant, and willful, or was unlawful, the commissioner shall totally disqualify such individual from receiving benefits with respect to wage credits earned prior to such misconduct;

(c) For any week of unemployment in which he or she has failed, without good cause, either to apply for

available, suitable work when so directed by the employment office or the commissioner or to accept suitable work when offered him or her, or to return to his or her customary self-employment, if any, and the commissioner so finds, and for not less than seven weeks nor more than ten weeks which immediately follow such week, as determined by the commissioner, and his or her total benefit amount to which he or she is then entitled shall be reduced by an amount equal to the number of weeks for which he or she has been disqualified by the commissioner. (1) In determining whether or not any work is suitable for an individual, the commissioner shall consider the degree of risk involved to his or her health, safety, and morals, his or her physical fitness and prior training, his or her experience and prior earnings, his or her length of unemployment and prospects for securing local work in his or her customary occupation, and the distance of the available work from his or her residence. (2) Notwithstanding any other provisions of ~~sections 48-601 to 48-669~~ the Employment Security Law, no work shall be deemed suitable and benefits shall not be denied under such ~~sections~~ law to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (i) If the position offered is vacant due directly to a strike, lockout, or other labor dispute; (ii) if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; or (iii) if, as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization. (3) Notwithstanding any other provisions in this subdivision, no otherwise eligible individual shall be denied benefits with respect to any week in which he or she is in training with the approval of the commissioner, by reason of the application of the provisions in this subdivision relating to failure to apply for or a refusal to accept suitable work;

(d) For any week with respect to which the commissioner finds that his or her total unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which he or she is or was last employed, ~~except~~ PROVIDED, that this subdivision shall not apply if it is shown to the satisfaction of the commissioner that (1) he or she is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work and (2) he or she does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating, financing, or directly interested in the dispute. If, ~~AND PROVIDED FURTHER~~, that if in any

case, separate branches of work, which are commonly conducted as separate businesses in separate premises, are conducted in separate departments of the same premises, each such department shall, for the purposes of this subdivision, be deemed to be a separate factory, establishment, or other premises;

(e) For any week with respect to which he or she is receiving or has received remuneration in the form of (1) wages in lieu of notice, or a dismissal or separation allowance, (2) compensation for temporary partial disability under the ~~workmen's~~ worker's compensation law of any state or under a similar law of the United States, (3) primary insurance benefits under Title II of the Social Security Act, as amended, or similar payments under any act of Congress, (4) retirement or retired pay, pension, annuity, or other similar periodic payment under a plan maintained or contributed to by a base period or chargeable employer, or (5) a gratuity or bonus from an employer, paid after termination of employment, on account of prior length of service, or disability not compensated under the ~~workmen's~~ worker's compensation law. Such payments made in lump sums shall be prorated in an amount which is reasonably attributable to such week. If the prorated remuneration is less than the benefits which would otherwise be due, he or she shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration. No payment by the United States to veterans for service-connected disabilities shall be deemed to be disqualifying or deductible from the benefit amount and no deduction shall be made for the part of any retirement pension which represents return of payments made by the individual;

(f) For any week with respect to which or a part of which he or she has received or is seeking unemployment benefits under an unemployment compensation law of any other state or of the United States, except ~~PROVIDED~~, that if the appropriate agency of such other state or of the United States finally determines that he or she is not entitled to such unemployment benefits, this disqualification shall not apply;

(g) For any week of unemployment if such individual is a student. For the purpose of this subdivision, the term student shall mean an individual registered for full attendance at and regularly attending an established school, college, or university or who has so attended during the most recent school term, unless the major portion of his or her wages for insured work during his or her base period was for services performed while attending school, except ~~PROVIDED~~, that attendance for training purposes under a plan approved by the commissioner for such individual before attendance shall not be disqualifying;

(h) For any week of unemployment if benefits

claimed are based on services performed (1) prior to December 31, 1977, in an instructional, research, or principal administrative capacity in an institution of higher education if such week of unemployment begins during the period between two successive academic years or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual has a contract or contracts to perform services in any such capacity for any institution of higher education for both such academic years or both such terms, (2) after December 31, 1977, in an instructional, research, or principal administrative capacity for an educational institution or in an educational institution when employed by an educational service agency if such week of unemployment begins during the period between two successive academic years, or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, or during an established and customary vacation period or holiday recess, if such individual performs such services in the first of such academic years or terms or prior to such paid sabbatical leave or established and customary vacation period or holiday recess, and if there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any educational institution or in an educational institution when employed by an educational service agency in the second of such academic years or terms or after such paid sabbatical leave or established and customary vacation period or holiday recess, or (3) in any other capacity for an educational institution or in an educational institution when employed by an educational service agency, other than an institution of higher education prior to September 3, 1982, if such week of unemployment begins during a period between two successive academic years or terms or during an established and customary vacation period or holiday recess, if such individual performs such services in the first of such academic years or terms or prior to such established and customary vacation period or holiday recess, and if there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms or after such established and customary vacation period or holiday recess, except that after September 3, 1982, if compensation is denied to any individual under subdivision (h)(3) of this section for any week other than a week which begins during an established and customary vacation period or holiday recess, and such individual was not offered an opportunity to perform such services for the educational institution or in the educational institution when employed by the educational service agency for the second of such academic years or terms, such individual

shall be entitled to a retroactive payment of compensation for each week for which the individual filed a timely claim for compensation and for which compensation was denied solely by reason of subdivision (h)(3) of this section. As used in subdivision (h) of this section, educational service agency shall mean a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing services to one or more educational institutions;

(i) For any week of unemployment benefits if substantially all the services upon which such benefits are based consist of participating in sports or athletic events or training or preparing to so participate, if such week of unemployment begins during the period between two successive sport seasons or similar periods, if such individual performed such services in the first of such seasons or similar periods, and if there is a reasonable assurance that such individual will perform such services in the later of such seasons or similar periods;

(j) For any week of unemployment benefits if the services upon which such benefits are based are performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was permanently residing in the United States under color of law at the time such services were performed, including an alien who was lawfully present in the United States as a result of the application of ~~the provisions of~~ section 203 (a)(7) or section 212 (d)(5) of the Immigration and Nationality Act. Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits. In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of his or her alien status shall be made except upon a preponderance of the evidence; and

(k) Notwithstanding any other provisions of ~~this article~~ the Employment Security Law, no otherwise eligible individual shall be denied benefits for any week because he or she is in training approved under section 236 (a)(1) of the Trade Act of 1974, nor shall such individual be denied benefits by reason of leaving work to enter such training, if the work left is not suitable employment, or because of the application to any such week in training of provisions ~~in this law of the Employment Security Law~~, or any applicable federal unemployment compensation law, relating to availability for work, active search for work, or refusal to accept work. For purposes of this subdivision the term suitable employment shall mean, with respect to an individual, work of a substantially equal or

higher skill level than the individual's past adversely affected employment, as defined for purposes of the Trade Act of 1974, and wages for such work at not less than eighty per cent of the individual's average weekly wage as determined for purposes of the Trade Act of 1974.

Sec. 23. That section 48-628.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-628.02. As used in this act the Employment Security Law, unless the context otherwise requires:

(1) Extended benefit period shall mean a period subsequent to December 31, 1971, which (a) begins with the third week after a week for which there is a state on indicator and (b) ends with either of the following weeks, whichever occurs later: (1) The third week after the first week for which there is a state off indicator or (2) the thirteenth consecutive week of such period, except ~~PROVIDED~~, that no extended benefit period may begin by reason of a state on indicator before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to this state;

(2) There is a state on indicator for this state for a week if the commissioner determines that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment, not seasonally adjusted, under the provisions of this act Employment Security Law: (a) Equaled or exceeded one hundred twenty per cent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years and (b) equaled or exceeded four per cent for weeks beginning prior to or on September 25, 1982, or five per cent for weeks beginning after September 25, 1982, except ~~PROVIDED~~, that with respect to benefits for weeks of unemployment beginning after March 30, 1977, the determination of whether there has been a state on or off indicator beginning or ending any extended benefit period shall be made under this section as if (i) this subdivision did not contain subdivision (a) thereof and (ii) the four per cent contained in subdivision (b) thereof were five per cent for weeks beginning prior to or on September 25, 1982, or six per cent for weeks beginning after September 25, 1982; except that, notwithstanding any such provision of this subdivision, any week for which there would otherwise be a state on indicator shall continue to be such a week and shall not be determined to be a week for which there is a state off indicator;

(3) There is a state off indicator for this state for a week if the commissioner determines that, for the period consisting of such week and the immediately preceding twelve weeks, either subdivision (2)(a) or (b) of this section was not satisfied;

(4) Rate of insured unemployment, for purposes

of subdivisions (2) and (3) of this section, shall mean the percentage derived by dividing (a) the average weekly number of individuals filing claims for regular compensation in this state for weeks of unemployment with respect to the most recent thirteen consecutive week period, as determined by the commissioner on the basis of his or her reports to the United States Secretary of Labor, by (b) the average monthly employment covered under the ~~provisions of this act~~ Employment Security Law for the first four of the most recent six completed calendar quarters ending before the end of such thirteen-week period;

(5) Regular benefits shall mean benefits payable to an individual under the Employment Security Law of this state or under any other state law, including benefits payable to federal civilian employees and to ex-servicemen or ex-servicewomen pursuant to 5 U.S.C. Chapter 85, other than extended benefits;

(6) Extended benefits shall mean benefits, including benefits payable to federal civilian employees and to ex-servicemen or ex-servicewomen pursuant to 5 U.S.C. Chapter 85, payable to an individual under the ~~provisions of this section~~ for weeks of unemployment in his or her eligibility period;

(7) Eligibility period of an individual shall mean the period consisting of the weeks in his or her benefit year which begin in an extended benefit period and, if his or her benefit year ends within such extended benefit period, any weeks thereafter which begin in such period;

(8) Exhaustee shall mean an individual who, with respect to any week of unemployment in his or her eligibility period: (a) Has received, prior to such week, all of the regular benefits that were available to him or her under the Employment Security Law of this state or any other state law, including dependents' allowances and benefits payable to federal civilian employees and ex-servicemen or ex-servicewomen under 5 U.S.C. Chapter 85, in his or her current benefit year that includes such week, ~~except~~ except, ~~PROVIDED~~, for the purposes of this subdivision, an individual shall be deemed to have received all of the regular benefits that were available to him or her although as a result of a pending appeal with respect to wages or employment or both wages and employment that were not considered in the original monetary determination in his or her benefit year, he or she may subsequently be determined to be entitled to added regular benefits; or (b) his or her benefit year having expired prior to such week, has no, or insufficient, wages or employment or both wages and employment on the basis of which he or she could establish a new benefit year that would include such week; and (c)(1) has no right to unemployment benefits or allowances, as the case may be,

under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965, and such other federal laws as are specified in regulations issued by the United States Secretary of Labor; and (2) has not received and is not seeking unemployment benefits under the unemployment compensation law of Canada, but if he or she is seeking such benefits and the appropriate agency finally determines that he or she is not entitled to benefits under such law he or she is considered an exhaustee;

(9) State law shall mean the unemployment insurance law of any state, approved by the United States Secretary of Labor under section 3304 of the Internal Revenue Code of 1954; (a) except when the result would be inconsistent with the other provisions of this section, as provided in the rules and regulations of the commissioner, the provisions of this act the Employment Security Law which apply to claims for, or payment of, regular benefits shall apply to claims for, and the payment of, extended benefits; (b) an individual shall be eligible to receive extended benefits with respect to any week of unemployment in his or her eligibility period only if the commissioner finds that with respect to such week: (1) He or she is an exhaustee as defined in subdivision (8) of this section, (2) he or she has satisfied the requirements of this act the Employment Security Law for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits, (3) the provisions of sections 48-628.03 and 48-628.04 do not apply, and (4) he or she has been paid wages for insured work during the individual's base period equal to at least one and one half times the wages paid in that calendar quarter of the individual's base period in which such wages were highest; (c) the weekly extended benefit amount payable to an individual for a week of total unemployment in his or her eligibility period shall be an amount equal to the weekly benefit amount payable to him or her during his or her applicable benefit year; (d) the total extended benefit amount payable to any eligible individual with respect to his or her applicable benefit year shall be the least of the following amounts: (1) Fifty per cent of the total amount of regular benefits which were payable to him or her under the Employment Security Law of this state in his or her applicable benefit year; or (2) thirteen times his or her weekly benefit amount which was payable to him or her under the Employment Security Law of this state for a week of total unemployment in the applicable benefit year; (e)(1) whenever an extended benefit period is to become effective in this state as a result of a state on indicator, or an extended benefit period is to be terminated in this state as a result of a state off indicator, the commissioner shall make an appropriate



public announcement; (2) computations required by ~~the provisions of~~ subdivision (4) of this section shall be made by the commissioner, in accordance with regulations prescribed by the United States Secretary of Labor; and (f) any amount of extended benefits payable to any individual for any week, if not an even dollar amount, shall be rounded to the next lower full dollar amount; and

(10) Notwithstanding any other provisions of ~~this article~~ the Employment Security Law, if the benefit year of any individual ends within an extended benefit period, the remaining balance of extended benefits that such individual would, but for this section, be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced, but not below zero, by the product of the number of weeks for which the individual received any amounts as trade readjustment allowances within that benefit year multiplied by the individual's weekly benefit amount for extended benefits.

Sec. 24. That section 48-629, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-629. Claims for benefits shall be made in accordance with such rules and regulations as the commissioner may prescribe. Each employer shall post and maintain printed statements of such rules and regulations in places readily accessible to individuals in his or her service and shall make available to each such individual at the time he or she becomes unemployed, a printed statement of such rules and regulations. Such printed statements shall be supplied by the commissioner to each employer without cost to ~~him~~ the employer.

Sec. 25. That section 48-632, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-632. Notice of a determination upon a claim shall be promptly given to the claimant by delivery thereof or by mailing such notice to his or her last-known address. In addition, notice of any determination, together with the reasons therefor, shall be promptly given in the same manner to any employer by whom claimant was employed on or after the first day of his or her base period, and who has indicated prior to the determination, in such manner as required by rule and regulation of the commissioner, that such individual may be ineligible or disqualified under any provision of ~~sections 48-601 to 48-668~~ the Employment Security Law.

Sec. 26. That section 48-635, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-635. The manner in which disputed claims shall be presented and the conduct of hearings and appeals shall be in accordance with rules and regulations prescribed by the commissioner for determining the rights of the parties, whether or not such rules and regulations conform to common law or statutory rules of evidence and

other technical rules of procedure. A full and complete record shall be kept of all proceedings in connection with the disputed claims. All testimony at any hearing upon a disputed claim shall be recorded, but need not be transcribed unless the disputed claim is further appealed.

Sec. 27. That section 48-636, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-636. Except insofar as reconsideration of any determination is had under the provisions of sections 48-630 to 48-632, any right, fact, or matter in issue, directly passed upon or necessarily involved in a determination or redetermination which has become final, or in a decision on appeal which has become final, shall be conclusive for all the purposes of ~~sections 48-601 to 48-669~~ the Employment Security Law as between the Commissioner of Labor, the claimant, and all employers who had notice of such determination, redetermination, or decision. Subject to appeal proceedings and judicial review as provided in sections 48-633 to 48-644, any determination, redetermination, or decision as to rights to benefits shall be conclusive for all the purposes of ~~said sections such law~~ and shall not be subject to collateral attack by any employer.

Sec. 28. 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~~ Employment Security Law, as is provided in cases arising under the ~~workmen's~~ worker's compensation law.

Sec. 29. That section 48-643, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-643. Witnesses subpoenaed pursuant to sections 48-629 to 48-644 shall be allowed fees at a rate fixed by the commissioner, and not exceeding the amount allowed for witness fees in district court. Such fees shall be deemed a part of the expense of administering ~~sections 48-601 to 48-668~~ the Employment Security Law.

Sec. 30. That section 48-645, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-645. Any agreement by an individual to waive, release, or commute his or her rights to benefits or any other rights under ~~sections 48-601 to 48-668~~ the Employment Security Law shall be void. Any agreement by an individual in the employ of any person or concern to pay all or any portion of an employer's contributions required under ~~said section~~ such law from such employer, shall be void. No employer shall directly or indirectly make or require or accept any deduction from wages to finance the employer's contributions required from him or her, or require or accept any waiver of any right hereunder by any individual in his or her employ, or discriminate in regard

to the hiring, rehiring, or tenure of work of any individual on account of any claim made by such individual for benefits under said sections the Employment Security Law, or in any manner obstruct or impede the filing of claims for benefits. Any employer, officer, or agent of an employer who violates any provision of this section shall be guilty of a Class II misdemeanor.

Sec. 31. That section 48-646, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-646. No individual claiming benefits shall be charged fees of any kind in any proceeding under sections 48-601 to 48-668 the Employment Security Law except as provided herein. Any individual claiming benefits in any proceeding before the commissioner or an appeal tribunal or his, her, or its representative may be represented by counsel, any other duly authorized agent, or a person of his or her choice. Any individual claiming benefits in any proceeding before a court may be represented by counsel. Such counsel may either charge or receive for such services a reasonable fee to be approved by the commissioner. The commissioner may, in special cases, pay such fee from the Employment Security Administration Fund. Any person who violates any provision of this section shall be guilty of a Class II misdemeanor.

Sec. 32. That section 48-647, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-647. (1) Any assignment, pledge, or encumbrance of any right to benefits which are or may become due or payable under sections 48-623 to 48-626 shall be void except as set forth in this section. Such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debt. Benefits received by any individual, so long as they are not mingled with other funds of the recipient, shall be exempt from any remedy whatsoever for the collection of all debts except debts incurred for necessities furnished to such individual or his or her spouse or dependents during the time when such individual was unemployed. Any waiver of any exemption provided for in this section shall be void. Any assignment, pledge, or encumbrance of any right or claim to contributions or to any money credited to any employer's reserve account in the Unemployment Compensation Fund shall be void, and the same shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debt, and any waiver of any exemption provided for in this section shall be void.

(2)(a) An individual filing a new claim for unemployment compensation shall, at the time of filing such claim, disclose whether or not he or she owes child support obligations as defined under subdivision (g) of this subsection. If such individual discloses that he or

she owes child support obligations, and is determined to be eligible for unemployment compensation, the commissioner shall notify the Director of Social Services that the individual has been determined to be eligible for unemployment compensation.

(b) The commissioner shall deduct and withhold from any unemployment compensation otherwise payable to an individual disclosing child support obligations as defined under subdivision (g) of this subsection:

(i) The amount specified by the individual to the commissioner to be deducted under this subsection, if neither subdivision (ii) nor (iii) of this subsection is applicable;

(ii) The amount, if any, determined pursuant to an agreement between the Director of Social Services and such individual owing the obligations to have a specified amount withheld and such agreement being submitted to the commissioner, unless subdivision (iii) of this subdivision is applicable; or

(iii) The amount otherwise required to be so deducted and withheld from such unemployment compensation pursuant to legal process, as that term is defined in subdivision (h) of this subsection, properly served upon the commissioner.

(c) Any amount deducted and withheld under subdivision (b) of this subsection shall be paid by the commissioner to the Director of Social Services.

(d) Any amount deducted and withheld under subdivision (b) of this subsection shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by such individual to the Director of Social Services in satisfaction of his or her child support obligations.

(e) For purposes of subdivisions (a) through (d) of this subsection, the term unemployment compensation shall mean any compensation payable under the provisions of sections 48-601 to 48-671 Employment Security Law and including amounts payable by the commissioner pursuant to an agreement by any federal law providing for compensation, assistance, or allowances with respect to unemployment.

(f) This section applies only if appropriate arrangements have been made for reimbursement by the Department of Social Services for the administrative costs incurred by the commissioner under this section which are attributable to child support obligations being enforced by the Department of Social Services.

(g) For the purpose of this section, the term child support obligations includes only obligations which are being enforced pursuant to a plan described in section 454 of the Social Security Act which has been approved by the Secretary of Health and Human Services under Part D of Title IV of the Social Security Act.

(h) For the purposes of this section, the term legal process shall mean any writ, order, summons, or other similar process in the nature of garnishment, which:

(i) Is issued by a court of competent jurisdiction of any state, territory, or possession of the United States, or an authorized official pursuant to order of such a court of competent jurisdiction or pursuant to state law; and

(ii) Is directed to, and the purpose of which is to compel, the commissioner to make a payment for unemployment compensation otherwise payable to an individual in order to satisfy a legal obligation of such individual to provide child support.

Sec. 33. That section 48-648, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-648. (1) Contributions shall accrue and become payable by each employer not otherwise entitled to make payments in lieu of contributions for each calendar year in which he or she is subject to ~~sections 48-601 to 48-668~~ the Employment Security Law, with respect to wages for employment. Such contributions shall become due and be paid by each employer to the commissioner for the fund in such manner and at such times as the commissioner may, by ~~general rule and regulation~~, prescribe, and shall not be deducted, in whole or in part, from the wages of individuals in such employer's employ. In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to one half cent or more, in which case it shall be increased to one cent.

(2) For wages paid after December 31, 1981, if two or more related corporations concurrently employ the same individual and compensate such individual through a common paymaster which is one of such corporations, each such corporation shall be considered to have paid as remuneration to such individual only the amounts actually disbursed by it to such individual and shall not be considered to have paid as remuneration to such individual amounts actually disbursed to such individual by another of such corporations.

Sec. 34. That section 48-649, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

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

(1) An employer's rate for calendar years prior to 1985 shall be two and seven-tenths per cent of his or her annual payroll and for calendar years beginning 1985 shall be three and five-tenths per cent of his or her annual payroll unless and until (a) benefits have been payable

from and chargeable to his or her experience account throughout the preceding one calendar year, and (b) contributions have been payable to the fund and credited to his or her experience account with respect to the two preceding calendar years. Subject to fair and reasonable general rules and regulations of the commissioner issued with due regard for the solvency of the fund, the contribution rate required of each employer who meets the requirements of subdivisions (a) and (b) of this subdivision shall be based directly on his or her contributions to and benefit experience of his or her experience account and shall be determined by the commissioner for each calendar year at its beginning. Such rate for calendar years prior to 1985 shall not be greater than two and seven-tenths per cent of his or her annual payroll and for calendar years beginning 1985 shall not be greater than three and five-tenths per cent of his or her annual payroll if his or her experience account exhibits a positive balance as of the beginning of such calendar year, but for any employer who has been subject to the payment of contributions for the two preceding calendar years and whose experience account exhibits a negative balance as of the beginning of such calendar year, the rate for calendar years prior to 1985 shall be three and seven-tenths per cent of his or her annual payroll and for calendar years beginning 1985 shall be greater than three and five-tenths per cent of his or her annual payroll but not greater than five and four-tenths per cent of his or her annual payroll until such time as the experience account exhibits a positive balance, and thereafter the rate for calendar years prior to 1985 shall not be greater than two and seven-tenths per cent of his or her annual payroll and for calendar years beginning 1985 shall not be greater than three and five-tenths per cent of his or her annual payroll. For calendar years beginning 1985, the standard rate shall be five and four-tenths per cent of the employer's annual payroll. As used in this subdivision, standard rate shall mean the rate from which all reduced rates are calculated;

(2) Any employer may at any time make voluntary contributions, additional to the required contributions, to the fund to be credited to his or her account;

(3) As used in sections 48-648 to 48-654, the term payroll shall mean the total amount of wages during a calendar year, except as otherwise provided in section 48-654, by which contributions were measured; and

(4)(a) The state or any of its instrumentalities shall not be required to pay contributions on wages paid for services rendered in employment for the state or its instrumentalities prior to January 1, 1978, but the state or any of its instrumentalities shall make payments in lieu of contributions in an amount equal to the full amount of regular benefits plus one half of the amount of extended

benefits paid during each calendar quarter that is attributable to service in employment of the state or any of its instrumentalities. The commissioner after the end of each calendar quarter shall notify any state instrumentality or other public employer of the amount of regular benefits and one half the amount of extended benefits paid that are attributable to service in its employment and the instrumentality or public employer so notified shall reimburse the fund within thirty days after receipt of such notice; (b) after December 31, 1977, the state or any of its political subdivisions and any instrumentality of one or more of the foregoing or any other governmental entity for which services in employment as is provided by section 48-604, subdivision (4)(a), ~~is~~ are performed, shall be required to pay contributions on wages paid for services rendered in its or their employment on the same basis as any other employer who is liable for the payment of contributions under the provisions of sections 48-601 to 48-669 Employment Security Law, unless the state or any political subdivision thereof and any instrumentality of one or more of the foregoing or any other governmental entity for which such services are performed files with the commissioner its written election not later than January 31, 1978, or if such employer becomes subject to the provisions of this section after January 1, 1978, not later than thirty days after such subjectivity begins, to become liable to make payments in lieu of contributions in an amount equal to the full amount of regular benefits plus one half of the amount of extended benefits paid during each calendar quarter that is attributable to service in employment of such electing employer prior to December 31, 1978, and in an amount equal to the full amount of regular benefits plus the full amount of extended benefits paid during each calendar quarter that is attributable to service in employment of such electing employer after January 1, 1979. The commissioner, after the end of each calendar quarter, shall notify any such employer that has so elected of the amount of benefits for which it is liable to pay pursuant to its election that have been paid that are attributable to service in its employment and the employer so notified shall reimburse the fund within thirty days after receipt of such notice; (c) any employer which makes an election in accordance with subdivision (b) to become liable for payments in lieu of contributions shall continue to be liable for payments in lieu of contributions for all benefits paid based upon wages paid for service in employment of such employer while such election is effective and such election shall continue until such employer files with the commissioner, not later than December 1 of any calendar year, a written notice terminating its election as of December 31 of that year and thereafter such employer shall again be liable for the

payment of contributions and for the reimbursement of such benefits as may be paid based upon wages paid for services in employment of such employer while such election was effective.

Sec. 35. That section 48-650, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-650. The commissioner shall promptly notify each employer of his or her rate of contributions as determined for any calendar year. Such determination shall become conclusive and binding upon the employer unless, within thirty days after the mailing of notice thereof to his or her last-known address or, in the absence of mailing, within thirty days after the delivery of such notice, the employer files an application for review and redetermination, setting forth his the reasons therefor. If the commissioner grants such review, the employer shall be promptly notified thereof and shall be granted an opportunity for a fair hearing, but no employer shall have standing, in any proceeding involving his or her rate of contributions or contribution liability, to contest the chargeability to his or her account of any benefits paid in accordance with a determination, redetermination, or decision pursuant to sections 48-629 to 48-644, except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute services performed in employment for him or her and only in the event that he or she was not a party to such determination, redetermination, or decision or to any other proceedings under sections 48-601 to 48-668 the Employment Security Law in which the character of such services was determined. A full and complete record shall be kept of all proceedings in connection with such hearing. The employer shall be promptly notified of the commissioner's denial of his or her application, or the commissioner's redetermination, either of which shall become final unless within thirty days after the mailing of notice thereof to his or her last-known address or in the absence of mailing, within thirty days after the delivery of such notice, a petition for judicial review is filed in the district court of Lancaster County. In any judicial proceeding under this section trial de novo shall be had to the judge of such court. An appeal may be taken from the decision of the district court of Lancaster County to the Supreme Court of Nebraska in the same manner, but not inconsistent with the provisions of sections 48-601 to 48-668 Employment Security Law, as is provided in civil cases.

Sec. 36. That section 48-651, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-651. The commissioner may provide by rule and regulation for periodic notification to employers of benefits paid and chargeable to their accounts or of the status of such accounts, and for notification to all base



period employers of any individual of the establishment of such individual's benefit year, and any such notification, in the absence of an application for redetermination filed in such manner and with such period as the commissioner may prescribe, shall become conclusive and binding upon the employer for all purposes. Such redeterminations, made after notice and opportunity for hearing, and the commissioner's findings of fact in connection therewith, may be introduced in any subsequent administrative or judicial proceedings involving the determination of the rate of contributions of any employer for any calendar year.

Sec. 37. That section 48-652, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-652. (1)(a) A separate experience account shall be established for each employer who is liable for payment of contributions. Whenever and wherever in ~~sections 48-661 to 48-669~~ the Employment Security Law the terms reserve account or experience account are used, unless the context clearly indicates otherwise, such terms shall be deemed interchangeable and synonymous and reference to either of such accounts shall refer to and also include the other. (b) A separate reimbursement account shall be established for each employer who is liable for payments in lieu of contributions. All benefits paid with respect to service in employment for such employer shall be charged to his or her reimbursement account and such employer shall be billed for and shall be liable for the payment of the amount charged when billed by the commissioner. Payments in lieu of contributions received by the commissioner on behalf of each such employer shall be credited to such employer's reimbursement account and two or more employers who are liable for payments in lieu of contributions may jointly apply to the commissioner for establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of such employers. The commissioner shall prescribe such rules and regulations as he or she deems necessary with respect to applications for establishment, maintenance, and termination of group accounts authorized by this subdivision.

(2) All contributions paid by an employer shall be credited to the experience account of such employer. In addition to such credits, each employer's account shall be credited as of June 30 of each calendar year with interest at a rate determined by the commissioner based on the average annual interest rate paid by the Secretary of the Treasury of the United States of America upon the account of the Nebraska Unemployment Trust Fund for the preceding calendar year multiplied by the balance in his or her experience account at the beginning of such calendar year. Should the total credits as of such date to all employers'

experience accounts be equal to or greater than ninety per cent of the total amount in the Unemployment Compensation Fund, no interest shall be credited for that year to any employer's account. All voluntary contributions and contributions with respect to prior years which are received on or before January 31 of any year shall be considered as having been paid at the beginning of the calendar year.

(3)(a) Each experience account shall be charged only for benefits based upon wages paid by such employer. No benefits shall be charged to the experience account of any employer if such benefits were paid on the basis of a period of employment from which the claimant has left work voluntarily without good cause or employment from which he or she has been discharged for misconduct connected with his or her work and concerning which separation the employer has filed timely notice of the facts on which such exemption is claimed in accordance with rules and regulations prescribed by the commissioner and no benefits shall be charged to the experience account of any employer if such benefits were paid on the basis of wages paid in the base period that are wages for insured work solely by reason of the provisions of subdivision (e)(2) of section 48-627. (b) Each reimbursement account shall be charged only for benefits paid that were based upon wages paid by such employer in the base period that were wages for insured work solely by reason of the provisions of subdivision (e)(1) of section 48-627. (c) Benefits paid to an eligible individual shall be charged against the account of his or her most recent employers within his or her base period against whose accounts the maximum charges hereunder have not previously been made in the inverse chronological order in which the employment of such individual occurred. The maximum amount so charged against the account of any employer, other than an employer for which services in employment as provided in subdivision (4)(a) of section 48-604 are performed, shall not exceed the total benefit amount to which such individual was entitled as set out in section 48-626 with respect to base period wages of such individual paid by such employer plus one half the amount of extended benefits paid to such eligible individual with respect to base period wages of such individual paid by such employer. The commissioner shall by general rules and regulations prescribe the manner in which benefits shall be charged against the account of several employers for whom an individual performed employment during the same quarter or during the same base period. Any benefit check duly issued and delivered or mailed to a claimant and not presented for payment within one year from the date of its issue may be invalidated and the amount thereof credited to the Unemployment Compensation Fund, except that a substitute check may be issued and charged to the fund on proper

showing at any time within the year next following. Any charge made to an employer's account for any such invalidated check shall stand as originally made.

(4) An employer's experience account shall be deemed to be terminated one calendar year after such employer has ceased to be subject to ~~sections 48-601 to 48-669~~ the Employment Security Law, except that if the commissioner finds that an employer's business is closed solely because of the entrance of one or more of the owners, officers, or partners or the majority stockholder into the armed forces of the United States, or of any of its allies, after July 1, 1950, such employer's account shall not be terminated and, if the business is resumed within two years after the discharge or release from active duty in the armed forces of such person or persons, the employer's experience account shall be deemed to have been continuous throughout such period.

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

Sec. 38. That section 48-654, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-654. Any employer that acquires the organization, trade, or business, or substantially all the assets thereof, of another employer shall immediately notify the commissioner thereof, and shall assume the position of such employer with respect to the resources and liabilities of such employer's experience account as if no change with respect to such employer's experience account has occurred. ~~The 7 PROVIDED,~~ the commissioner may provide by general rule and regulation for partial transfers of experience accounts, except that the such partial transfers of accounts authorized in this proviso shall be construed to allow computation and fixing of contribution rates only on and after January 1, 1953, where an employer has transferred at any time subsequent to or on January 1, 1950, a definable and segregable portion of his or her payroll and business to a transferee-employer. A new rate of contributions, payable by the transferee-employer with respect to wages paid by him or her after midnight of the date of such acquisition and prior to midnight of the last day of the calendar year in which acquisition occurs, shall be computed in accordance with the provisions of this section. For the purpose of computing such new rate of contributions, the computation date with respect to any such acquisition shall be December 31 of the preceding calendar year and the term payroll shall mean the total amount of wages by which contributions to the transferee's account and to the transferor's account were measured for the calendar year preceding the computation date.

Sec. 39. That section 48-657, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-657. (1) If any employer defaults in any payment of contributions or interest, then the commissioner may make in any manner feasible, and cause to be recorded as a secured transaction as provided in ~~article~~ Article 9 of the Uniform Commercial Code and in the real estate mortgage records of any county in which such employer is engaged in business or owns real or personal property, a statement, under oath, showing the amount of contributions and interest in default, which statement, when filed for record, shall operate as a lien and mortgage on all of the real and personal property of the employer, subject only to the liens of prior record, and the property of such employer shall be subject to seizure and sale for the payment of such contributions and interest. Such lien on personal property may be enforced or dissolved in the manner provided by ~~article~~ Article 9, of the Uniform Commercial Code and such liens on real estate may be enforced or dissolved in the manner provided by Chapter 25, article 21, in the enforcing and dissolving of real estate mortgages.

(2) It shall be the duty of the State of Nebraska, or any department or agency thereof, county boards, the contracting board of all cities, villages, and school districts, all public boards empowered by law to enter into a contract by public bidding for the erecting and finishing, or the repairing of any public building, bridge, highway, or other public structure or improvement, and any officer or officers so empowered by law to enter into such contract, to provide in such contract that the person, persons, firm, or corporation to whom the contract is awarded will pay to the Unemployment Compensation Fund of the State of Nebraska unemployment contributions and interest due under the ~~provisions of sections 48-601 to 48-669~~ Employment Security Law on wages paid to individuals employed in the performance of ~~said~~ such contract.

(3) No contract, referred to in subsection (2) of this section, shall be entered into by the State of Nebraska, department or agency thereof, officer or officers, or board referred to in subsection (2) of this section unless the contract contains the proviso mentioned in subsection (2) of this section.

(4) Before final payment may be made on the final three per cent of any such contract awarded on or after June 1, 1957, the State of Nebraska, department or agency thereof, officer or officers, or board awarding the contract must have received from the contractor a written clearance from the commissioner certifying that all payments then due of contributions or interest which may have arisen under such contract have been made by the contractor or his or her subcontractor to the Unemployment

## Compensation Fund.

Sec. 40. That section 48-659, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-659. In the event of any distribution of an employer's assets pursuant to an order of any court under the laws of this state, including dissolution, reorganization, administration of estates of decedents, receivership, assignment for benefit of creditors, adjudicated insolvency, composition, or similar proceeding, any claims for contributions and interest thereon due or accrued under ~~sections 48-601 to 48-669~~ the Employment Security Law which have not been reduced to a lien in accordance with ~~the provisions of~~ section 48-657, shall receive the priority of a tax.

Sec. 41. That section 48-660, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-660. If more than the correct amounts of contributions or interest are collected, then, under rules and regulations made under section 48-607, proper adjustments with respect thereto shall be made, without interest, in connection with subsequent contributions. If such adjustment cannot be made within a reasonable time the commissioner shall refund the excess from the fund. Applications for adjustments or refunds shall be made within four years after the date of such overcollection.

Sec. 42. That section 48-660.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-660.01. Benefits paid to employees of nonprofit organizations shall be financed in accordance with ~~the provisions of~~ this section. For the purpose of this section, a nonprofit organization is an organization, or group of organizations, described in subsection (9) of section 48-603. ~~(9)~~

(1) Any nonprofit organization which is, or becomes, subject to ~~this act~~ the Employment Security Law on or after January 1, 1972, shall pay contributions under ~~the provisions of~~ sections 48-648 to 48-661, unless it elects, in accordance with this subdivision, to pay to the commissioner for the unemployment fund an amount, equal to the amount of regular benefits and of one half of the extended benefits paid, that is attributable to service in the employ of such nonprofit organization, to individuals for weeks of unemployment which begin during the effective period of such election.

(a) Any nonprofit organization which is, or becomes, subject to ~~this act~~ the Employment Security Law on January 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than one taxable year beginning with January 1, 1972, provided it files with the commissioner a written notice of its election within the thirty-day period immediately following such date or within a like period immediately

following the date of enactment of this subdivision, whichever occurs later.

(b) Any nonprofit organization which becomes subject to ~~this act~~ the Employment Security Law after January 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than twelve months beginning with the date on which such subjectivity begins by filing a written notice of its election with the commissioner not later than thirty days immediately following the date of the determination of such subjectivity.

(c) Any nonprofit organization which makes an election in accordance with subdivision (a) or (b) of this subdivision will continue to be liable for payments in lieu of contributions until it files with the commissioner a written notice terminating its election not later than thirty days prior to the beginning of the taxable year for which such termination shall first be effective.

(d) Any nonprofit organization which has been paying contributions under ~~this act~~ the Employment Security Law for a period subsequent to January 1, 1972, may change to a reimbursable basis by filing with the commissioner not later than thirty days prior to the beginning of any taxable year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by the organization for that and the next year.

(e) The commissioner may for good cause extend the period within which a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after December 31, 1969.

(f) The commissioner, in accordance with such rules and regulations as he or she may prescribe, shall notify each nonprofit organization of any determination which he or she may make of its status as an employer and of the effective date of any election which it makes and of any termination of such election. Such determinations shall be subject to redetermination, appeal, and review in accordance with the provisions of section 48-650.

(2) Payments in lieu of contributions shall be made in accordance with the provisions of this subdivision as follows:

(a) At the end of each calendar quarter, or at the end of any other period as determined by the commissioner, the commissioner shall bill each nonprofit organization, or group of such organizations, which has elected to make payment in lieu of contributions for an amount equal to the full amount of regular benefits plus one half of the amount of extended benefits paid during such quarter or other prescribed period that is attributable to service in the employ of such organization;

(b) Payment of any bill rendered under subdivision (a) of this subdivision shall be made not later than thirty days after such bill was mailed to the last-known address of the nonprofit organization or was otherwise delivered to it, unless there has been an application for review and redetermination in accordance with subdivision (d) of this subdivision;

(c) Payments made by any nonprofit organization under ~~the provisions of~~ this subdivision shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the organization;

(d) The amount due specified in any bill from the commissioner shall be conclusive on the organization unless, not later than thirty days after the bill was mailed to its last-known address or otherwise delivered to it, the organization files an application for redetermination by the commissioner setting forth the grounds for such application. The commissioner shall promptly review and reconsider the amount due specified in the bill and shall thereafter issue a redetermination in any case in which such application for redetermination has been filed. Any such redetermination shall be conclusive on the organization unless, not later than thirty days after the redetermination was mailed to its last-known address or otherwise delivered to it, a petition for judicial review is filed in the district court of Lancaster County. In any judicial proceeding under this section, trial de novo shall be had to the judge of such court. An appeal may be taken from the decision of the district court of Lancaster County to the Supreme Court of Nebraska in the same manner, but not inconsistent with the provisions of sections 48-601 to 48-669 Employment Security Law, as is provided in civil cases; and

(e) Past due payments of amounts in lieu of contributions shall be subject to the same interest that, pursuant to section 48-655, applies to past due contributions.

(3) If any nonprofit organization is delinquent in making payments in lieu of contributions as required under subdivision (2) of this subdivision, the commissioner may terminate such organization's election to make payments in lieu of contributions as of the beginning of the next taxable year, and such termination shall be effective for that and the next taxable year.

(4) Each employer that is liable for payments in lieu of contributions shall pay to the commissioner for the fund the amount of regular benefits plus the amount of one half of extended benefits paid that are attributable to service in the employ of such employer. If benefits paid to an individual are based on wages paid by more than one employer and one or more of such employers are liable for payments in lieu of contributions, the amount payable to

the fund by each employer that is liable for such payments shall be determined in accordance with the provisions of section 48-652.

Sec. 43. That section 48-661, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-661. (a) Except as otherwise provided in subsections (b) and (c) of this section, any employer not otherwise subject to ~~sections 48-601 to 48-669~~ the Employment Security Law, who is or becomes an employer subject to ~~said sections such law~~ within any calendar year, shall be subject to ~~said sections such law~~ during the whole of such calendar year.

(b) Except as otherwise provided in subsection (c) of this section, an employer, other than an employer subject by reason of subdivision (4)(a) of section 48-604, shall cease to be an employer subject to ~~said sections the Employment Security Law~~ only as of January 1 of any calendar year, if he or she files with the commissioner, on or before January 31 of such year, a written application for termination of coverage, and the commissioner finds: (1) ~~That~~ that there were no twenty different days, each day being in a different calendar week, within the preceding calendar year within which such employer employed one or more individuals in employment subject to ~~said sections such law~~ and there was no calendar quarter within the preceding calendar year in which such employer paid wages for employment in the total sum of fifteen hundred dollars or more; (2) if the employer is subject by reason of ~~the provisions of~~ section 48-603, subdivision (9), there were no twenty different days, each being in a different calendar week, within the preceding calendar year within which such employer employed four or more individuals in employment subject to that section; (3) if the employer is subject by reason of ~~the provisions of~~ section 48-603, subdivision (10), there were no twenty different days, each being in a different calendar week, within the preceding calendar year within which such employer employed ten or more individuals in employment subject to that section and there was no calendar quarter within the preceding calendar year in which such employer paid remuneration in cash for employment subject to that section in the total sum of twenty thousand dollars or more; or (4) if the employer is subject by reason of ~~the provisions of~~ section 48-603, subdivision (11), there was no calendar quarter within the preceding calendar year in which such employer paid cash remuneration in the total sum of one thousand dollars or more for services in employment subject to that section. ~~The~~ PROVIDED, the commissioner may on his or her motion terminate the coverage of any employer who has not made such written request, but is otherwise eligible to terminate. Any AND PROVIDED FURTHER, any employer whose entire experience account has been transferred to another employer under ~~the provisions~~



of section 48-654 may request termination as of the date of such transfer if such request is made within thirty days after the determination is made allowing the transfer.

(c) An employer not otherwise subject to ~~sections 48-601 to 48-669~~ the Employment Security Law, who files with the commissioner his or her written election to become an employer subject thereto for not less than two calendar years, shall, with the written approval of such election by the commissioner, become an employer subject thereto to the same extent as all other employers, as of the date stated in such approval, and shall cease to be subject thereto as of January 1 of any calendar year subsequent to such two calendar years, only if on or before January 31 of such year, he or she has filed with the commissioner a written notice to that effect. Any employer of any person in this state for whom services that do not constitute employment as defined in section 48-604 are performed, may file with the commissioner a written election that all such services performed by individuals in his or her employ in one or more distinct establishments or places of business shall be deemed to constitute employment for all the purposes of ~~sections 48-601 to 48-669~~ the Employment Security Law for not less than two calendar years. Upon the written approval of such election by the commissioner, such services shall be deemed to constitute employment subject to ~~said sections~~ such law from and after the date stated in such approval. Such services shall cease to be deemed employment subject hereto as of January 1 of any calendar year subsequent to such two calendar years, only if on or before January 31 of such year such employer has filed with the commissioner a written notice to that effect.

Sec. 44. That section 48-662, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-662. The state employment service is hereby established in the Department of Labor, State of Nebraska. The commissioner of such department, in the conduct of such service, shall establish and maintain free public employment offices in such number and in such places as may be necessary for the proper administration of ~~sections 48-601 to 48-669~~ the Employment Security Law and for the purpose of performing such functions as are within the purview of the Act of Congress entitled An act to provide for the establishment of a national employment system and for cooperation with the states in the promotion of such system, and for other purposes, approved June 6, 1933 (48 Stat. 113; U.S.C.A., title 29, sec. 49 (c)), as amended, herein referred to as the Wagner-Peyser Act. The provisions of the Act of Congress are hereby accepted by this state and the Department of Labor is hereby designated and constituted the agency of this state for the purposes of such act. All money received by this state under the Act of Congress shall be paid into the Employment Security

Administration Fund and shall be expended solely for the maintenance of the state system of public employment offices. There shall also be credited to the Employment Security Administration Fund for the same purpose, any sums appropriated by the Legislature from the General Fund of the state for the purposes of maintaining public employment offices or of matching funds granted under ~~the provisions of~~ the Wagner-Peyser Act. For the purpose of establishing and maintaining free public employment offices and promoting the use of their facilities, the commissioner is authorized to enter into agreements with the Railroad Retirement Board, any other agency of the United States or of this or any other state charged with the administration of any law whose purposes are reasonably related to the purposes of such sections, any political subdivision of this state, or any private nonprofit organization and as a part of such agreements may accept money, services, or quarters as a contribution to the maintenance of the state system of public employment offices or as reimbursement for services performed. All money received for such purposes shall be paid into the Employment Security Administration Fund.

Sec. 45. That section 48-664, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-664. Any employer, whether or not subject to ~~sections 48-601 to 48-669~~ the Employment Security Law, or any officer or agent of such an employer or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled thereto, ~~or~~ to obtain benefits for an individual not entitled thereto, ~~or~~ to avoid becoming or remaining subject to ~~said sections~~ such law, or to avoid or reduce any contribution or other payment required from an employer under sections 48-648 and 48-649, or who willfully fails or refuses to make any such contributions or other payment or to furnish any reports required ~~hereunder~~ under the Employment Security Law or to produce or permit the inspection or copying of records as required ~~hereunder~~ under such law, shall be guilty of a Class III misdemeanor. Each such false statement or representation or failure to disclose a material fact, and each day of such failure or refusal shall constitute a separate offense.

Sec. 46. That section 48-665, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-665. Any person who has received any sum as benefits under ~~sections 48-601 to 48-669~~ 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: (1) Without interest by civil action in the name of the commissioner, or (2) 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 within one year after the end of such current benefit year, except - PROVIDED; 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 sections 48-601 to 48-669 the Employment Security Law or would be against equity and good conscience.

Sec. 47. That section 48-666, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-666. Any person who shall willfully violate any provision of sections 48-601 to 48-668 the Employment Security Law or any order, rule, or regulation thereunder, the violation of which is made unlawful or the observance of which is required under the terms of said sections such law, and for which a penalty is neither prescribed herein in such law nor provided by any other applicable statute, shall be guilty of a Class III misdemeanor. Each day such violation continues shall be a separate offense.

Sec. 48. That section 48-667, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-667. (1) In any civil action to enforce the provisions of sections 48-601 to 48-669 Employment Security Law, the commissioner and the state may be represented by any qualified attorney who is employed by the commissioner and is designated by him or her for this purpose or at the commissioner's request by the Attorney General.

(2) All criminal actions for violation of any provision of said sections the Employment Security Law or of any rules or regulations issued pursuant thereto, shall be prosecuted by the county attorney of any county in which the violation, or a part thereof, occurred.

Sec. 49. That section 48-668, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-668. The commissioner is hereby authorized to enter into arrangements with the appropriate and duly authorized agencies of other states or the federal government, or both, whereby:

(1) Services performed by an individual for a single employer for which services are customarily performed by such individual in more than one state shall be deemed to be services performed entirely within any one of the states in which (a) any part of such individual's service is performed, (b) such individual has his or her residence, or (c) the employer maintains a place of business, if there is in effect, as to such services, an election by an employer with the acquiescence of such individual, approved by the agency charged with the administration of such state's unemployment compensation law, pursuant to which services performed by such

individual for such employer are deemed to be performed entirely within such state; -

(2) Service performed by not more than three individuals, on any portion of a day but not necessarily simultaneously, for a single employer which customarily operates in more than one state shall be deemed to be service performed entirely within the state in which such employer maintains the headquarters of his or her business if, ~~PROVIDED, that~~ there is in effect, as to such service, an approved election by an employer with the affirmative consent of each such individual, pursuant to which service performed by such individual for such employer is deemed to be performed entirely within such state; -

(3) Potential rights to benefits under the provisions of sections 48-601 to 48-668 Employment Security Law may constitute the basis for payment of benefits by another state or the federal government and potential rights to benefits accumulated under the law of another state or the federal government may constitute the basis for the payment of benefits by this state. Such benefits shall be paid under such provisions of sections 48-601 to 48-668 the Employment Security Law or under the provisions of the law of such state or the federal government or under such combination of the provisions of both laws, as may be agreed upon as being fair and reasonable to all affected interests. No such arrangement shall be entered into unless it contains provisions for reimbursement to the fund for such benefits as are paid on the basis of wages and service subject to the law of another state or the federal government, and provision for reimbursement from the fund for such benefits as are paid by another state or the federal government on the basis of wages and service subject to the provisions of sections 48-601 to 48-668 Employment Security Law. Reimbursements paid from the fund pursuant to this section shall be deemed to be benefits for the purposes of the Employment Security Law; and sections 48-601 to 48-668.

(4) Wages, upon the basis of which an individual may become entitled to benefits under an employment security law of another state or of the federal government, shall be deemed to be wages for insured work for the purpose of determining his or her benefits under sections 48-601 to 48-668 the Employment Security Law; and wages for insured work, on the basis of which an individual may become entitled to benefits under the provisions of sections 48-601 to 48-668 Employment Security Law, shall be deemed to be wages on the basis of which unemployment insurance is payable under such law of another state or of the federal government. No such arrangement shall be entered into unless it contains provisions for reimbursement to the fund for such of the benefits paid under the provisions of sections 48-601 to 48-668 Employment Security Law upon the basis of such wages and

provision for reimbursement from the fund for such benefits paid under such other law upon the basis of wages for insured work, as the commissioner finds will be fair and reasonable to all affected interests. Reimbursement paid from the fund pursuant to this section shall be deemed to be benefits for the purposes of the Employment Security Law. sections 48-661 to 48-668-

(5) Notwithstanding any other provisions of this section, the commissioner shall participate in any arrangements for the payment of benefits on the basis of combining an individual's wages and employment covered under this act the Employment Security Law with his or her wages and employment covered under the unemployment compensation laws of other states which are approved by the United States Secretary of Labor in consultation with the state unemployment compensation agencies as reasonably calculated to assure the prompt and full payment of benefits in such situations and which include provisions for (a) applying the base period of a single state law to a claim involving the combining of an individual's wages and employment covered under two or more state unemployment compensation laws, and (b) avoiding the duplicate use of wages and employment by reason of such combining.

Sec. 50. That section 48-668.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-668.02. Reimbursements paid from the fund pursuant to subsections (3) and (4) of section 48-668 shall be deemed to be benefits for the purposes of said sections the Employment Security Law. The commissioner is authorized to make to other state or federal agencies and to receive from such other state or federal agencies; reimbursements from or to the fund; in accordance with arrangements entered into pursuant to section 48-668.

Sec. 51. That section 48-668.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-668.03. To the extent permissible under the laws and Constitution of the United States, the commissioner is authorized to enter into or cooperate in arrangements whereby facilities and services provided under said sections the Employment Security Law and facilities and services provided under the unemployment compensation law of any foreign government; may be utilized for the taking of claims and the payment of benefits under the unemployment insurance law of this state or under a similar law of such government.

Sec. 52. That section 48-670, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-670. If Public Law 94-566 or the federal acts it amends is adjudged unconstitutional or invalid in its application or stayed pendente lite by any court of competent jurisdiction, then the coverage under this act

the Employment Security Law of those employees of any political subdivision is automatically stayed or repealed.

Sec. 53. That section 48-671, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-671. Any city or village of the state which makes any contributions or payments required to be made by this act the Employment Security Law shall levy a tax in order to defray the cost to such city or village in meeting the obligations arising by reason of this act such law. Such tax shall be in excess of and in addition to all other taxes now or hereafter authorized to be levied by such city. The revenue so raised shall be limited to the amount needed to defray the cost to such city or village in meeting the obligations arising by reason of this act, the Employment Security Law and shall be used for no other purpose.

Sec. 54. That original sections 48-601 to 48-609, 48-612, 48-613, 48-616 to 48-619, 48-621 to 48-623, 48-626 to 48-628, 48-628.02, 48-629, 48-632, 48-635, 48-636, 48-640, 48-643, 48-645 to 48-652, 48-654, 48-657, 48-659 to 48-662, 48-664, 48-665, 48-666 to 48-668, 48-668.02, 48-668.03, 48-670, and 48-671, Reissue Revised Statutes of Nebraska, 1943, are repealed.