

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 271

Introduced by Ebke, 32.

Read first time January 14, 2015

Committee:

1 A BILL FOR AN ACT relating to labor; to amend sections 48-602, 48-603,
2 48-603.01, 48-605, 48-625, 48-648, 48-648.01, 48-654, 48-660.01, and
3 48-669, Reissue Revised Statutes of Nebraska, and section 48-663.01,
4 Revised Statutes Cumulative Supplement, 2014; to change and
5 eliminate provisions of the Employment Security Law; to harmonize
6 provisions; and to repeal the original sections.

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

1 Section 1. Section 48-602, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 48-602 For purposes of the Employment Security Law, unless the
4 context otherwise requires:

5 (1) Base period means the first four of the last five completed
6 calendar quarters immediately preceding the first day of an individual's
7 benefit year, except that ~~for benefit years beginning on or after July 1,~~
8 ~~2011,~~ if the individual is not monetarily eligible for unemployment
9 benefits as determined pursuant to subdivision (5) of section 48-627
10 based upon wages paid during the first four of the five most recently
11 completed calendar quarters, the department shall make a redetermination
12 of monetary eligibility based upon an alternative base period which
13 consists of the last four completed calendar quarters immediately
14 preceding the first day of the claimant's benefit year;

15 (2) Benefits means the money payments payable to an individual with
16 respect to his or her unemployment;

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

30 (4) Calendar quarter means the period of three consecutive calendar
31 months ending on March 31, June 30, September 30, or December 31, or the

1 equivalent thereof as the Commissioner of Labor may by rule and
2 regulation prescribe;

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

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

10 (7) Combined tax rate means the rate which is applied to wages to
11 determine the combined taxes due;

12 (8) Commissioner means the Commissioner of Labor;

13 (9) Contribution rate means the percentage of the combined tax rate
14 used to determine the contribution portion of the combined tax;

15 (10) Contributions means that portion of the combined tax based upon
16 the contribution rate portion of the combined tax rate which is deposited
17 in the state Unemployment Compensation Fund as required by sections
18 48-648 and 48-649;

19 (11) Department means the Department of Labor;

20 (12) Employment office means a free public employment office or
21 branch thereof, operated by this state or maintained as a part of a
22 state-controlled system of public employment offices, including public
23 employment offices operated by an agency of a foreign government;

24 (13) Fund means the Unemployment Compensation Fund established by
25 section 48-617 to which all contributions and payments in lieu of
26 contributions required and from which all benefits provided shall be
27 paid;

28 (14) Hospital means an institution which has been licensed,
29 certified, or approved by the Department of Health and Human Services as
30 a hospital;

31 (15) Institution of higher education means an institution which: (a)

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

13 (16) Insured work means employment for employers;

14 (17) Leave of absence means any absence from work: (a) Mutually and
15 voluntarily agreed to by the employer and the employee; (b) mutually and
16 voluntarily agreed to between the employer and the employee's bargaining
17 agent; or (c) to which the employee is entitled to as a matter of state
18 or federal law;

19 (18) Paid vacation leave means a period of time while employed or
20 following separation from employment in which the individual renders no
21 services to the employer but is entitled to receive vacation pay equal to
22 or exceeding his or her base weekly wage;

23 (19) Payments in lieu of contributions means the money payments to
24 the Unemployment Compensation Fund required by sections 48-649, 48-652,
25 48-660.01, and 48-661;

26 (20) Professional employer agreement means a written professional
27 employer services contract whereby:

28 (a) A professional employer organization agrees to provide payroll
29 services, employee benefit administration, or personnel services for a
30 majority of the employees providing services to the client at a client
31 worksite;

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

3 (c) Employer responsibilities for worksite employees, including
4 those of hiring, firing, and disciplining, are shared between the
5 professional employer organization and the client by contract. The term
6 professional employer agreement shall not include a contract between a
7 parent corporation, company, or other entity and a wholly owned
8 subsidiary;

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

15 (22) State includes, in addition to the states of the United States
16 of America, any dependency of the United States, the Commonwealth of
17 Puerto Rico, the Virgin Islands, and the District of Columbia;

18 (23) State unemployment insurance tax means that portion of the
19 combined tax which is based upon the state unemployment insurance tax
20 rate portion of the combined tax rate and which is deposited in the State
21 Unemployment Insurance Trust Fund as required by sections 48-648 and
22 48-649;

23 (24) State unemployment insurance tax rate means the percentage of
24 the combined tax rate used to determine the state unemployment insurance
25 tax portion of the combined tax;

26 (25) Temporary employee means an employee of a temporary help firm
27 assigned to work for the clients of such temporary help firm;

28 (26) Temporary help firm means a firm that hires its own employees
29 and assigns them to clients to support or supplement the client's work
30 force in work situations such as employee absences, temporary skill
31 shortages, seasonal workloads, and special assignments and projects;

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

13 (28) Unemployment Trust Fund means the trust fund in the Treasury of
14 the United States of America established under section 904 of the federal
15 Social Security Act, 42 U.S.C. 1104, ~~as such section existed on March 2,~~
16 ~~2001,~~ which receives credit from the state Unemployment Compensation
17 Fund;

18 (29) Wages, except with respect to services performed in employment
19 as provided in subdivisions (4)(c) and (d) of section 48-604, means all
20 remuneration for personal services, including commissions and bonuses,
21 remuneration for personal services paid under a contract of hire, and the
22 cash value of all remunerations in any medium other than cash. The
23 reasonable cash value of remuneration in any medium other than cash shall
24 be estimated and determined in accordance with rules and regulations
25 prescribed by the commissioner. ~~Wages After December 31, 1985,~~ wages
26 includes tips which are received while performing services which
27 constitute employment and which are included in a written statement
28 furnished to the employer pursuant to section 6053(a) of the Internal
29 Revenue Code as defined in section 49-801.01.

30 With respect to services performed in employment in agricultural
31 labor as is provided in subdivision (4)(c) of section 48-604, wages means

1 cash remuneration and the cash value of commodities not intended for
2 personal consumption by the worker and his or her immediate family for
3 such services. With respect to services performed in employment in
4 domestic service as is provided in subdivision (4)(d) of section 48-604,
5 wages means cash remuneration for such services.

6 The term wages does not include:

7 (a) The amount of any payment, including any amount paid by an
8 employer for insurance or annuities or into a fund to provide for such
9 payment, made to, or on behalf of, an individual in employment or any of
10 his or her dependents under a plan or system established by an employer
11 which makes provision for such individuals generally or for a class or
12 classes of such individuals, including any amount paid by an employer for
13 insurance or annuities or into a fund to provide for any such payment, on
14 account of (i) sickness or accident disability, except, in the case of
15 payments made to an employee or any of his or her dependents, this
16 subdivision (i) shall exclude from wages only payments which are received
17 under a workers' compensation law, (ii) medical and hospitalization
18 expenses in connection with sickness or accident disability, or (iii)
19 death;

20 (b) The payment by an employer, without deduction from the
21 remuneration of the employee, of the tax imposed upon an employee under
22 section 3101 of the Internal Revenue Code as defined in section
23 49-801.01;

24 (c) Any payment on account of sickness or accident disability, or
25 medical or hospitalization expenses in connection with sickness or
26 accident disability, made by an employer to, or on behalf of, an
27 individual after the expiration of six calendar months following the last
28 calendar month in which such individual worked for such employer;

29 (d) Any payment made to, or on behalf of, an individual or his or
30 her beneficiary (i) from or to a trust described in section 401(a) of the
31 Internal Revenue Code as defined in section 49-801.01 which is exempt

1 from tax under section 501(a) of the Internal Revenue Code as defined in
2 section 49-801.01 at the time of such payment unless such payment is made
3 to an employee of the trust as remuneration for services rendered as such
4 employee and not as a beneficiary of the trust or (ii) under or to an
5 annuity plan which, at the time of such payment, meets the requirements
6 of section 401 of the Internal Revenue Code as defined in section
7 49-801.01;

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

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

22 (g) Benefits paid under a supplemental unemployment benefit plan
23 which satisfies the eight points set forth in Internal Revenue Service
24 Revenue Ruling 56-249 ~~as the ruling existed on March 2, 2001,~~ and is in
25 compliance with the standards set forth in Internal Revenue Service
26 Revenue Rulings 58-128 and 60-330 ~~as the rulings existed on March 2,~~
27 ~~2001;~~ and

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

1 (30) Week means such period of seven consecutive days as the
2 commissioner may by rule and regulation prescribe;

3 (31) Week of unemployment with respect to any individual means any
4 week during which he or she performs less than full-time work and the
5 wages payable to him or her with respect to such week are less than his
6 or her weekly benefit amount;

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

11 (33) Worksite ~~(a) Until January 1, 2012, worksite employee means a~~
12 ~~person receiving wages or benefits from a professional employer~~
13 ~~organization pursuant to the terms of a professional employer agreement~~
14 ~~for work performed at a client's worksite.~~

15 ~~(b) On and after January 1, 2012, worksite~~ employee has the same meaning
16 as the term covered employee in section 48-2702.

17 Sec. 2. Section 48-603, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 48-603 As used in the Employment Security Law, unless the context
20 clearly requires otherwise, employer shall mean:

21 (1) Any individual or type of organization, including any
22 partnership, limited liability company, association, trust, estate,
23 joint-stock company, insurance company or corporation, whether domestic
24 or foreign, or the receiver, trustee in bankruptcy, trustee or successor
25 thereof, or the legal representative of a deceased person, ~~which is or~~
26 ~~was an employer as defined by the Employment Security Law immediately~~
27 ~~prior to May 27, 1971, and after December 31, 1971, any such individual~~
28 ~~or employing concern~~ which for some portion of a day but not necessarily
29 simultaneously in each of twenty different calendar weeks, whether or not
30 such weeks are or were consecutive, within either the current or
31 preceding calendar year, and for the purpose of this definition, if any

1 week includes both December 31 and January 1, the days up to January 1
2 shall be deemed one calendar week and the days beginning January 1
3 another such week, has or had in employment one or more individuals,
4 irrespective of whether the same individuals are or were employed in each
5 such day; all individuals performing services for any employer of any
6 person in this state, who maintains two or more separate establishments
7 within this state, shall be deemed to be employed by a single employer;
8 any artifice or device, including any contract or subcontract, by an
9 employer for the performance of work, which is a part of such employer's
10 usual trade, occupation, profession, or business, entered into for the
11 purpose or with the intent of evading the application of this section to
12 such employer, is hereby prohibited and declared to be unlawful;

13 (2) Any employer of any person in this state who ~~after December 31,~~
14 ~~1971,~~ in any calendar quarter in either the current or preceding calendar
15 year has paid wages for employment in the total sum of fifteen hundred
16 dollars or more;

17 (3) Any individual or employer of any person in this state which
18 acquired the organization, trade, or business, or substantially all the
19 assets thereof, of another employer which, at the time of such
20 acquisition, was an employer subject to the Employment Security Law;

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

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

30 (6) For the effective period of its election pursuant to section
31 48-661, any other employer of any person in this state who has elected to

1 become fully subject to the Employment Security Law;

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

11 ~~(8) The state or any of its instrumentalities which is or was an~~
12 ~~employer under the Employment Security Law immediately prior to September~~
13 ~~2, 1977, and after December 31, 1977, the state or any political~~
14 ~~subdivision thereof and any instrumentality of any one or more of the~~
15 ~~foregoing;~~

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

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

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

24 (12)(a) In determining whether or not an employing unit for which
25 service other than domestic service is also performed is an employer
26 under subdivision (1) or (10) of this section, the wages earned or the
27 employment of an employee performing domestic service ~~after December 31,~~
28 ~~1977,~~ shall not be taken into account; and

29 (b) In determining whether or not an employing unit for which
30 agricultural labor is also performed is an employer under subdivision
31 (11) of this section, the wages earned or the employment of an employee

1 performing services in agricultural labor ~~after December 31, 1977,~~ shall
2 not be taken into account. If an employing unit is determined an employer
3 of agricultural labor, such employing unit shall be determined an
4 employer for the purposes of subdivision (1) of this section.

5 Sec. 3. Section 48-603.01, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 48-603.01 (1) For purposes of the Employment Security Law, unless
8 the context otherwise requires, the term employer shall include any
9 Indian tribe for which services in employment as provided in subdivision
10 (4)(a) of section 48-604 are performed.

11 (2) The term employment shall include service performed in the
12 employ of an Indian tribe, as defined in 26 U.S.C. 3306(u), ~~as such~~
13 ~~section existed on March 2, 2001,~~ if such service is excluded from
14 employment as defined in the Federal Unemployment Tax Act solely by
15 reason of 26 U.S.C. 3306(c)(7), ~~as such section existed on March 2, 2001,~~
16 and is not otherwise excluded from employment under the Employment
17 Security Law. For purposes of this section, the exclusions from
18 employment in subdivisions (6)(f) and (6)(g) of section 48-604 shall be
19 applicable to services performed in the employment of an Indian tribe.

20 (3) Benefits based on service in employment defined in this section
21 shall be payable in the same amount, on the same terms, and subject to
22 the same conditions as benefits payable on the basis of other covered
23 employment under the Employment Security Law. Subdivision (8) of section
24 48-628 shall apply to services performed in an educational institution or
25 educational service agency owned or operated by an Indian tribe.

26 (4)(a) Indian tribes or tribal units, subdivisions, subsidiaries, or
27 business enterprises wholly owned by such Indian tribes, subject to the
28 Employment Security Law, shall pay combined tax under the same terms and
29 conditions as all other subject employers, unless they elect to make
30 payments in lieu of contributions equal to the amount of benefits
31 attributable to service in the employ of the Indian tribe.

1 (b) Indian tribes electing to make payments in lieu of contributions
2 shall make such election in the same manner and under the same conditions
3 as provided in subdivision (7) of section 48-649 pertaining to state and
4 local governments subject to the Employment Security Law. Indian tribes
5 shall determine if reimbursement for benefits paid will be elected by the
6 tribe as a whole, by individual tribal units, or by combinations of
7 individual tribal units.

8 (c) Except as provided in subsection (7) of this section, Indian
9 tribes or tribal units shall be billed for the full amount of benefits
10 attributable to service in the employ of the Indian tribe or tribal unit
11 on the same schedule as other employing units that have elected to make
12 payments in lieu of contributions.

13 (d) At the discretion of the commissioner, any Indian tribe or
14 tribal unit that elects to become liable for payments in lieu of
15 contributions shall be required within thirty days after the effective
16 date of its election to:

17 (i) Execute and file with the commissioner a surety bond approved by
18 the commissioner; or

19 (ii) Deposit with the commissioner money or securities on the same
20 basis as other employers with the same election option.

21 (5)(a)(i) Failure of the Indian tribe or tribal unit to make
22 required payments, including assessments of interest and penalty, within
23 ninety days of receipt of the bill will cause the Indian tribe to lose
24 the option to make payments in lieu of contributions, as described in
25 subsection (4) of this section, for the following tax year unless payment
26 in full is received before combined tax rates for the next tax year are
27 computed.

28 (ii) Any Indian tribe that loses the option to make payments in lieu
29 of contributions due to late payment or nonpayment, as described in
30 subdivision (5)(a)(i) of this section, shall have such option reinstated
31 if, after a period of one year, all combined taxes have been paid timely

1 and no combined tax, payments in lieu of contributions for benefits paid,
2 penalties, or interest remain outstanding.

3 (b)(i) Failure of the Indian tribe or any tribal unit thereof to
4 make required payments, including assessments of interest and penalty,
5 after all collection activities deemed necessary by the commissioner have
6 been exhausted will cause services performed for such tribe to not be
7 treated as employment for purposes of subsection (2) of this section.

8 (ii) The commissioner may determine that any Indian tribe that loses
9 coverage under subdivision (5)(b)(i) of this section may have services
10 performed for such tribe again included as employment for purposes of
11 subsection (2) of this section if all contributions, payments in lieu of
12 contributions, penalties, and interest have been paid.

13 (6) Notices of payment and reporting delinquency to Indian tribes or
14 their tribal units shall include information that failure to make full
15 payment within the prescribed timeframe:

16 (a) Will cause the Indian tribe to be liable for taxes under the
17 Federal Unemployment Tax Act, ~~as the act existed on March 2, 2001;~~

18 (b) Will cause the Indian tribe to lose the option to make payments
19 in lieu of contributions; and

20 (c) Could cause the Indian tribe to be excepted from the definition
21 of employer, as provided in subsection (1) of this section, and services
22 in the employ of the Indian tribe, as provided in subsection (2) of this
23 section, to be excepted from employment.

24 (7) Extended benefits paid that are attributable to service in the
25 employ of an Indian tribe and not reimbursed by the federal government
26 shall be financed in their entirety by such Indian tribe.

27 (8) If an Indian tribe fails to make payments required under this
28 section, including assessments of interest and penalty, within ninety
29 days after a final notice of delinquency, the commissioner shall
30 immediately notify the United States Internal Revenue Service and the
31 United States Department of Labor.

1 Sec. 4. Section 48-605, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 48-605 The commissioner, for his or her services with respect to the
4 administration of the Employment Security Law, shall receive ~~the sum~~
5 ~~fixed by the Governor, payable monthly, to be paid from the Employment~~
6 ~~Security Administration Fund in addition to the salary of the~~
7 commissioner as set out in section 81-103.

8 Sec. 5. Section 48-625, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 48-625 (1) Each eligible ~~For benefit years beginning on or before~~
11 ~~September 30, 2006, each eligible individual who is unemployed in any~~
12 ~~week shall be paid with respect to such week a benefit in an amount equal~~
13 ~~to his or her full weekly benefit amount if he or she has wages payable~~
14 ~~to him or her with respect to such week equal to one half of such benefit~~
15 ~~amount or less. In the event he or she has wages payable to him or her~~
16 ~~with respect to such week greater than one-half of such benefit amount~~
17 ~~but less than his or her full weekly benefit amount, he or she shall be~~
18 ~~paid an amount equal to one-half of such benefit amount. For any benefit~~
19 ~~year beginning on or after October 1, 2006, each individual who is~~
20 unemployed in any week shall be paid with respect to such week a benefit
21 in an amount equal to his or her full weekly benefit amount if he or she
22 has wages payable to him or her with respect to such week equal to one-
23 fourth of such benefit amount or less. In the event he or she has wages
24 payable to him or her with respect to such week greater than one-fourth
25 of such benefit amount, he or she shall be paid with respect to that week
26 an amount equal to the individual's weekly benefit amount less that part
27 of wages payable to the individual with respect to that week in excess of
28 one-fourth of the individual's weekly benefit amount. In the event there
29 is any deduction from such individual's weekly benefit amount because of
30 earned wages pursuant to this subsection or as a result of the
31 application of subdivision (5) of section 48-628, the resulting benefit

1 payment, if not an exact dollar amount, shall be computed to the next
2 lower dollar amount.

3 Any amount of unemployment compensation payable to any individual
4 for any week, if not an even dollar amount, shall be rounded to the next
5 lower full dollar amount.

6 No deduction shall be made for any supplemental payments received by
7 a claimant under the provisions of subsection (b) of section 408 of Title
8 IV of the Veterans Readjustment Assistance Act of 1952.

9 The percentage of benefits and the percentage of extended benefits
10 which are federally funded may be adjusted in accordance with the
11 Balanced Budget and Emergency Deficit Control Act of 1985, Public Law
12 99-177.

13 (2) Vacation leave pay including that received in a lump sum or upon
14 separation from employment shall be prorated in an amount reasonably
15 attributable to each week claimed and considered payable with respect to
16 such week.

17 Sec. 6. Section 48-648, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 48-648 (1) Combined tax shall accrue and become payable by each
20 employer not otherwise entitled to make payments in lieu of contributions
21 for each calendar year in which he or she is subject to the Employment
22 Security Law, with respect to wages for employment. Such combined tax
23 shall become due and be paid by each employer to the commissioner for the
24 State Unemployment Insurance Trust Fund and the Unemployment Trust Fund
25 in such manner and at such times as the commissioner may, by rule and
26 regulation, prescribe and shall not be deducted, in whole or in part,
27 from the wages of individuals in such employer's employ. ~~The For all tax~~
28 ~~years beginning before January 1, 2010, the commissioner may require that~~
29 ~~any employer whose annual payroll for either of the two preceding~~
30 ~~calendar years has equaled or exceeded five hundred thousand dollars to~~
31 ~~file combined tax returns and pay combined taxes owed by an electronic~~

1 ~~method approved by the commissioner, except when the employer establishes~~
2 ~~to the satisfaction of the commissioner that filing the combined tax~~
3 ~~return or payment of the tax by an electronic method would work a~~
4 ~~hardship on the employer. For all tax years beginning on or after January~~
5 ~~1, 2010,~~ the commissioner may require any employer whose annual payroll
6 for either of the two preceding calendar years has equaled or exceeded
7 one hundred thousand dollars to file combined tax returns and pay
8 combined taxes owed by an electronic method approved by the commissioner,
9 except when the employer establishes to the satisfaction of the
10 commissioner that filing the combined tax return or payment of the tax by
11 an electronic method would work a hardship on the employer. In the
12 payment of any combined tax, a fractional part of a cent shall be
13 disregarded unless it amounts to one-half cent or more, in which case it
14 shall be increased to one cent. If the combined tax due for any reporting
15 period is less than five dollars, the employer need not remit the
16 combined tax.

17 (2) If two or more related corporations or limited liability
18 companies concurrently employ the same individual and compensate such
19 individual through a common paymaster which is one of such corporations
20 or limited liability companies, each such corporation or limited
21 liability company shall be considered to have paid as remuneration to
22 such individual only the amounts actually disbursed by it to such
23 individual and shall not be considered to have paid as remuneration to
24 such individual amounts actually disbursed to such individual by another
25 of such corporations or limited liability companies. An employee of a
26 wholly owned subsidiary shall be considered to be concurrently employed
27 by the parent corporation, company, or other entity and the wholly owned
28 subsidiary whether or not both companies separately provide remuneration.

29 (3) The professional employer organization shall report and pay
30 combined tax, penalties, and interest owed upon wages earned by worksite
31 employees under the client's employer account number using the client's

1 combined tax rate. The client is liable for the payment of unpaid
2 combined tax, penalties, and interest owed upon wages paid to worksite
3 employees, and the worksite employees shall be considered employees of
4 the client for purposes of the Employment Security Law.

5 Sec. 7. Section 48-648.01, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 48-648.01 The Commissioner of Labor may require by rule and
8 regulation that each employer subject to the Employment Security Law
9 shall submit to the commissioner quarterly wage reports on such forms and
10 in such manner as the commissioner may prescribe. ~~The For all tax years~~
11 ~~beginning before January 1, 2010, the commissioner may require that any~~
12 ~~employer whose annual payroll for either of the two preceding calendar~~
13 ~~years has equaled or exceeded five hundred thousand dollars to file wage~~
14 ~~reports by an electronic method approved by the commissioner, except when~~
15 ~~the employer establishes to the satisfaction of the commissioner that~~
16 ~~filing by an electronic method would work a hardship on the employer. For~~
17 ~~all tax years beginning on or after January 1, 2010, the commissioner may~~
18 ~~require any employer whose annual payroll for either of the two preceding~~
19 ~~calendar years has equaled or exceeded one hundred thousand dollars to~~
20 ~~file wage reports by an electronic method approved by the commissioner,~~
21 ~~except when the employer establishes to the satisfaction of the~~
22 ~~commissioner that filing by an electronic method would work a hardship on~~
23 ~~the employer. The quarterly wage reports shall be used by the~~
24 ~~commissioner to make monetary determinations of claims for benefits.~~

25 Sec. 8. Section 48-654, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 48-654 Subject to section 48-654.01, any employer that acquires the
28 organization, trade, or business, or substantially all the assets
29 thereof, of another employer shall immediately notify the commissioner
30 thereof, and ~~prior to September 6, 1985, shall, and on and after~~
31 ~~September 6, 1985,~~ may, pursuant to rules and regulations prescribed by

1 the commissioner, assume the position of such employer with respect to
2 the resources and liabilities of such employer's experience account as if
3 no change with respect to such employer's experience account has
4 occurred. The commissioner may provide by rule and regulation for partial
5 transfers of experience accounts, except that such partial transfers of
6 accounts shall be construed to allow computation and fixing of
7 contribution rates only ~~on and after January 1, 1953,~~ where an employer
8 has transferred at any time ~~subsequent to or on January 1, 1950,~~ a
9 definable and segregable portion of his or her payroll and business to a
10 transferee-employer. For an acquisition which occurs during either of the
11 first two calendar quarters of a calendar year or during the fourth
12 quarter of the preceding calendar year, a new rate of contributions,
13 payable by the transferee-employer with respect to wages paid by him or
14 her after midnight of the last day of the calendar quarter in which such
15 acquisition occurs and prior to midnight of the following September 30,
16 shall be computed in accordance with this section. For the purpose of
17 computing such new rate of contributions, the computation date with
18 respect to any such acquisition shall be September 30 of the preceding
19 calendar year and the term payroll shall mean the total amount of wages
20 by which contributions to the transferee's account and to the
21 transferor's account were measured for four calendar quarters ending
22 September 30 preceding the computation date.

23 Sec. 9. Section 48-660.01, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 48-660.01 (1) Benefits paid to employees of nonprofit organizations
26 shall be financed in accordance with this section. For the purpose of
27 this section, a nonprofit organization is an organization, or group of
28 organizations, described in subdivision (9) of section 48-603.

29 (2)(a) Any nonprofit organization which is, or becomes, subject to
30 the Employment Security Law ~~on or after January 1, 1972,~~ shall pay
31 ~~contributions under sections 48-648 to 48-661 and after December 31,~~

1 ~~1995,~~ shall pay combined tax under such sections unless it elects, in
2 accordance with this subsection ~~subdivision~~, to pay to the commissioner
3 for the unemployment fund an amount, equal to the amount of regular
4 benefits and of one-half of the extended benefits paid, that is
5 attributable to service in the employ of such nonprofit organization, to
6 individuals for weeks of unemployment which begin during the effective
7 period of such election.

8 (b) Any nonprofit organization which is, or becomes, subject to the
9 Employment Security Law ~~on January 1, 1972,~~ may ~~elect to become liable~~
10 ~~for payments in lieu of contributions for a period of not less than one~~
11 ~~taxable year beginning with January 1, 1972,~~ if it files with the
12 ~~commissioner a written notice of its election within the thirty-day~~
13 ~~period immediately following such date or within a like period~~
14 ~~immediately following the date of enactment of this subdivision,~~
15 ~~whichever occurs later. Any eligible employer electing to become liable~~
16 ~~for payments in lieu of contributions shall not be liable for state~~
17 ~~unemployment insurance tax.~~

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

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

31 (d ~~e~~) Any nonprofit organization which has been paying ~~contributions~~

1 ~~or~~ combined tax under the Employment Security Law ~~for a period subsequent~~
2 ~~to January 1, 1972,~~ may change to a reimbursable basis by filing with the
3 commissioner not later than thirty days prior to the beginning of any
4 taxable year a written notice of election to become liable for payments
5 in lieu of contributions. Such election shall not be terminable by the
6 organization for that and the next year.

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

11 (f g) The commissioner, in accordance with such rules and
12 regulations as he or she may adopt and promulgate, shall notify each
13 nonprofit organization of any determination which he or she may make of
14 its status as an employer and of the effective date of any election which
15 it makes and of any termination of such election. Such determinations
16 shall be subject to redetermination and appeal, and the appeal shall be
17 in accordance with the Administrative Procedure Act.

18 (3) Payments in lieu of contributions shall be made in accordance
19 with this subsection as follows:

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

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

1 subsection;

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

5 (d) The amount due specified in any bill from the commissioner shall
6 be conclusive on the organization unless, not later than thirty days
7 after the bill was mailed to its last-known address or otherwise
8 delivered to it, the organization files an application for
9 redetermination by the commissioner setting forth the grounds for such
10 application. The commissioner shall promptly review and reconsider the
11 amount due specified in the bill and shall thereafter issue a
12 redetermination in any case in which such application for redetermination
13 has been filed. Any such redetermination shall be conclusive on the
14 organization unless the organization appeals the redetermination, and the
15 appeal shall be in accordance with the Administrative Procedure Act; and

16 (e) Past-due payments of amounts in lieu of contributions shall be
17 subject to the same interest that, pursuant to section 48-655, applies to
18 past-due contributions, and the commissioner may file a lien against such
19 nonprofit organization in accordance with the Uniform State Tax Lien
20 Registration and Enforcement Act. Such liens shall set forth the amount
21 of payments in lieu of contributions and interest in default and shall be
22 enforced as provided in the Uniform State Tax Lien Registration and
23 Enforcement Act.

24 (4) If any nonprofit organization is delinquent in making payments
25 in lieu of contributions as required under subsection (3) of this
26 section, the commissioner may terminate such organization's election to
27 make payments in lieu of contributions as of the beginning of the next
28 taxable year, and such termination shall be effective for that and the
29 next taxable year.

30 (5) Each employer that is liable for payments in lieu of
31 contributions shall pay to the commissioner for the fund the amount of

1 regular benefits plus the amount of one-half of extended benefits paid
2 that are attributable to service in the employ of such employer. If
3 benefits paid to an individual are based on wages paid by more than one
4 employer and one or more of such employers are liable for payments in
5 lieu of contributions, the amount payable to the fund by each employer
6 that is liable for such payments shall be determined in accordance with
7 section 48-652.

8 Sec. 10. Section 48-663.01, Revised Statutes Cumulative Supplement,
9 2014, is amended to read:

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

19 (b) In addition to any benefits which he or she may be required to
20 repay pursuant to subdivision (1)(a) of this section, if an overpayment
21 is established pursuant to this section on or after October 1, 2013, an
22 individual shall be required to pay to the department a penalty equal to
23 fifteen percent of the amount of benefits received as a result of such
24 willful failure to disclose or falsification. All amounts collected
25 pursuant to this subdivision shall be remitted ~~to the State Treasurer~~ for
26 credit to the Unemployment Compensation Fund.

27 (c) An appeal may be taken from any determination made pursuant to
28 subdivision (1)(a) of this section in the manner provided in section
29 48-634.

30 (2)(a) If any person liable to repay an overpayment of unemployment
31 benefits resulting from a determination under subdivision (1)(a) of this

1 section and the penalty required under subdivision (1)(b) of this section
2 fails or refuses to repay such overpayment and any penalty assessed
3 within twelve months after the date the overpayment determination becomes
4 final, the commissioner may issue a levy on salary, wages, or other
5 regular payments due to or received by such person and such levy shall be
6 continuous from the date the levy is served until the amount of the levy
7 is satisfied. Notice of the levy shall be mailed to the person whose
8 salary, wages, or other regular payment is levied upon at his or her
9 last-known address not later than the date that the levy is served.
10 Exemptions or limitations on the amount of salary, wages, or other
11 regular payment that can be garnished or levied upon by a judgment
12 creditor shall apply to levies made pursuant to this section. Appeal of a
13 levy may be made in the manner provided in section 48-634, but such
14 appeal shall not act as a stay of the levy.

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

20 Sec. 11. Section 48-669, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 ~~48-669 (1) With respect to any claimant for whom there is current a~~
23 ~~benefit year, which has not expired prior to the effective date of any~~
24 ~~change in the weekly benefit amounts prescribed in section 48-624 or the~~
25 ~~maximum annual benefit amount prescribed in section 48-626, the weekly~~
26 ~~benefit amount and the maximum annual benefit amount shall be those~~
27 ~~amounts determined prior to the effective date of such change.~~

28 ~~(2) After December 31, 1995, any changes in the weekly benefit~~
29 ~~amounts prescribed in section 48-624 or in the maximum annual benefit~~
30 ~~amount prescribed in section 48-626 shall become effective on January 1~~
31 ~~of the year following such legislative enactment.~~

1 ~~Any (3) After December 31, 2000,~~ any change in the weekly benefit
2 amounts prescribed in section 48-624 or any change in the maximum annual
3 benefit amount prescribed in section 48-626 shall be applicable for the
4 calendar year following the annual determination made pursuant to section
5 48-121.02.

6 Sec. 12. Original sections 48-602, 48-603, 48-603.01, 48-605,
7 48-625, 48-648, 48-648.01, 48-654, 48-660.01, and 48-669, Reissue Revised
8 Statutes of Nebraska, and section 48-663.01, Revised Statutes Cumulative
9 Supplement, 2014, are repealed.