

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 271

Introduced By: Friend, 10
Read first time: January 10, 2007
Committee: Business and Labor

A BILL

1 FOR AN ACT relating to the Nebraska Wage Payment and Collection
2 Act; to amend sections 48-1228 and 48-1229, Reissue Revised
3 Statutes of Nebraska; to permit employers to determine the
4 terms and payment of fringe benefits; to harmonize
5 provisions; and to repeal the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-1228, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 48-1228. Sections 48-1228 to 48-1232 and section 3 of this
4 act shall be known and may be cited as the Nebraska Wage Payment and
5 Collection Act.

6 Sec. 2. Section 48-1229, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 48-1229. For purposes of the Nebraska Wage Payment and
9 Collection Act, unless the context otherwise requires:

10 (1) Employer means the state or any individual, partnership,
11 limited liability company, association, joint-stock company, trust,
12 corporation, political subdivision, or personal representative of the
13 estate of a deceased individual, or the receiver, trustee, or
14 successor thereof, within or without the state, employing any person
15 within the state as an employee;

16 (2) Employee means any individual permitted to work by an
17 employer pursuant to an employment relationship or who has contracted
18 to sell the goods of an employer and to be compensated by commission.
19 Services performed by an individual for an employer shall be deemed to
20 be employment, unless it is shown that (a) such individual has been
21 and will continue to be free from control or direction over the
22 performance of such services, both under his or her contract of
23 service and in fact, (b) such service is either outside the usual
24 course of business for which such service is performed or such service
25 is performed outside of all the places of business of the enterprise
26 for which such service is performed, and (c) such individual is
27 customarily engaged in an independently established trade, occupation,

1 profession, or business. This subdivision is not intended to be a
2 codification of the common law and shall be considered complete as
3 written;

4 (3) Fringe benefits includes sick and vacation leave plans,
5 disability income protection plans, retirement, pension, or
6 profit-sharing plans, health and accident benefit plans, and any other
7 employee benefit plans or benefit programs regardless of whether the
8 employee participates in such plans or programs; and

9 (4) Wages means compensation for labor or services rendered
10 by an employee, ~~including fringe benefits~~, when previously agreed to
11 and conditions stipulated have been met by the employee, whether the
12 amount is determined on a time, task, fee, commission, or other basis.
13 Wages includes commissions on all orders delivered and all orders on
14 file with the employer at the time of termination of employment less
15 any orders returned or canceled at the time suit is filed. Wages
16 includes fringe benefits if so determined by policy or by agreement of
17 the employer.

18 Sec. 3. (1) An employer may determine by policy or by
19 agreement:

20 (a) The terms, conditions, and limitations under which
21 fringe benefits are administered, including how fringe benefits are
22 provided, earned, or accrued; and

23 (b) Whether, or under what conditions or limitations,
24 fringe benefits may be payable to the employee upon termination of
25 employment.

26 (2) Fringe benefits may not be altered unless the employer
27 has given reasonable notice of the alteration to affected employees.

1 Sec. 4. Original sections 48-1228 and 48-1229, Reissue
2 Revised Statutes of Nebraska, are repealed.