

AMENDMENTS TO LB921

Introduced by Business and Labor.

1 1. Strike the original sections and insert the following new
2 sections:

3 **Section 1.** Sections 1 to 6 of this act shall be known and may be
4 cited as the Nebraska Worker Adjustment and Retraining Notification Act.

5 **Sec. 2.** For purposes of the Nebraska Worker Adjustment and
6 Retraining Notification Act:

7 (1) Business closing means the permanent or temporary shutdown of a
8 single site of employment of one or more facilities or operating units
9 that will result in an employment loss for twenty-five or more employees,
10 other than part-time employees;

11 (2) Department means the Department of Labor;

12 (3) Employee means a worker who may reasonably expect to experience
13 an employment loss as a consequence of a proposed business closing or
14 mass layoff by an employer;

15 (4) Employer means a person who employs twenty-five or more
16 employees, excluding part-time employees;

17 (5) Employment loss means an employment termination, other than a
18 discharge for cause, voluntary separation, or retirement; a layoff
19 exceeding six months; or a reduction in hours of more than fifty percent
20 of work of individual employees during each month of a six-month period.
21 Employment loss does not include instances when a business closing or
22 mass layoff is the result of the relocation or consolidation of part or
23 all of the employer's business and, before the business closing or mass
24 layoff, the employer offers to transfer the employee to a different site
25 of employment within a reasonable commuting distance with no more than a
26 six-month break in employment;

27 (6) Mass layoff means a reduction in employment force that is not

1 the result of a business closing and results in an employment loss at a
2 single site of employment during any thirty-day period of twenty-five or
3 more employees, other than part-time employees;

4 (7) Part-time employee means an employee who is employed for an
5 average of fewer than twenty hours per week or an employee, including a
6 full-time employee, who has been employed for fewer than six of the
7 twelve months preceding the date on which notice is required. However, if
8 an applicable collective bargaining agreement defines a part-time
9 employee, such definition shall supersede the definition in this
10 subdivision;

11 (8) Representative means an exclusive representative of employees
12 within the meaning of section 9(a) of the federal National Labor
13 Relations Act, 29 U.S.C. 151 et seq., and the federal Railway Labor Act,
14 45 U.S.C. 151 et seq.; and

15 (9) Single site of employment means a single location or a group of
16 contiguous locations, such as a group of structures that form a campus or
17 business park or separate facilities across the street from each other.

18 **Sec. 3.** (1)(a) An employer who plans a business closing or a mass
19 layoff shall not order such action until the end of a ninety-day period
20 which begins after the employer serves written notice of such action to
21 the affected employees or their representatives and to the department.
22 However, if an applicable collective bargaining agreement designates a
23 different notice period, the notice period in the collective bargaining
24 agreement shall govern. The employer shall provide notice to the
25 department if the worker is covered by a collective bargaining agreement.

26 (b) An employer who has previously announced and carried out a
27 short-term mass layoff of six months or less which is extended beyond six
28 months due to business circumstances not reasonably foreseeable at the
29 time of the initial mass layoff is required to give notice when it
30 becomes reasonably foreseeable that the extension is required. A mass
31 layoff extending beyond six months from the date the mass layoff

1 commenced for any other reason shall be treated as an employment loss
2 from the date of commencement of the mass layoff.

3 (c) In the case of the sale of part or all of a business, the seller
4 is responsible for providing notice of any business closing or mass
5 layoff which will take place up to and on the effective date of the sale.
6 The buyer is responsible for providing notice of any business closing or
7 mass layoff that will take place thereafter.

8 (2)(a) Notice from the employer to the affected employees or their
9 representatives and to the department shall be in written form and shall
10 contain the following:

11 (i) The name and address of the employment site where the business
12 closing or mass layoff will occur, and the name and telephone number of a
13 company official to contact for further information;

14 (ii) A statement as to whether the planned action is expected to be
15 permanent or temporary and, if the entire business is to be closed, a
16 statement to that effect;

17 (iii) The expected date of the first employment loss and the
18 anticipated schedule for employment losses;

19 (iv) The job titles of positions to be affected and the names of the
20 employees currently holding the affected jobs. The notice to the
21 department shall also include the addresses of the affected employees.
22 The department shall maintain the confidentiality of the names and
23 addresses of employees received by the department; and

24 (v) Copies of all employee handbooks, personnel policies, and
25 employment-related policies applicable to the affected employees, or a
26 written statement identifying the specific online location or locations
27 where such handbooks or policies may be accessed without restriction up
28 until the expected date of the first employment loss.

29 (b) The notice may include additional information useful to the
30 employees, such as information about available dislocated worker
31 assistance and, if the planned action is expected to be temporary, the

1 estimated duration, if known.

2 (3) Any reasonable method of delivery to the affected employees or
3 their representatives and the department which is designed to ensure
4 receipt of notice of at least ninety days before the planned action is
5 acceptable. In the case of notification directly to affected employees,
6 insertion of notice into pay envelopes is a viable option. The employer
7 must also post the notice in a conspicuous location in the languages
8 spoken by at least five percent of the employer's workforce.

9 **Sec. 4.** (1) If a business closing or mass layoff constitutes a
10 strike or constitutes a lockout not intended to evade the requirements of
11 the Nebraska Worker Adjustment and Retraining Notification Act, notice is
12 not required to be given by the employer. The Nebraska Worker Adjustment
13 and Retraining Notification Act does not require an employer to serve
14 written notice when permanently replacing an employee who is deemed to be
15 an economic striker under the federal National Labor Relations Act. The
16 Nebraska Worker Adjustment and Retraining Notification Act shall not be
17 deemed to validate or invalidate any judicial or administrative ruling
18 relating to the hiring of permanent replacements for economic strikers
19 under the federal National Labor Relations Act. If an employer hires
20 temporary workers to replace employees during the course of a strike or
21 lockout and later terminates these temporary workers at the conclusion of
22 the strike or lockout, the Nebraska Worker Adjustment and Retraining
23 Notification Act does not require an employer to serve written notice on
24 the terminated temporary workers.

25 (2)(a) When affected employees will not be terminated on the same
26 date, the date of the first individual employment loss within the ninety-
27 day notice period triggers the notice requirement. An employee's last day
28 of employment is considered the date of that employee's layoff. The first
29 and subsequent groups of terminated employees are entitled to a full
30 ninety days' notice.

31 (b) An employer shall give notice if the number of employment losses

1 of two or more actions in any ninety-day period triggers the notice
2 requirements in section 3 of this act for a business closing or a mass
3 layoff. An employer is not required to give notice if the number of
4 employment losses from one action in a thirty-day period does not meet
5 the requirements of section 3 of this act. All employment losses in any
6 ninety-day period shall be aggregated to trigger the notice requirement
7 unless the employer demonstrates to the department that the employment
8 losses during the ninety-day period are the result of separate and
9 distinct actions and causes.

10 (3)(a) Additional notice is required if the date or schedule of
11 dates of a planned business closing or mass layoff is extended beyond the
12 date or the ending date of any period announced in the original notice.

13 (b) If the postponement is for less than thirty days, the additional
14 notice shall be given as soon as possible to the affected employees or
15 their representatives and the department and shall include reference to
16 the earlier notice, the date to which the planned action is postponed,
17 and the reasons for the postponement. The notice shall be given in a
18 manner which will provide the information to all affected employees.

19 (c) If the postponement is for more than thirty days, the additional
20 notice shall be treated as new notice subject to the provisions of
21 section 3 of this act.

22 (4)(a) An exception to the ninety-day notice applies to business
23 closings, but not to mass layoffs, if the following requirements are met:

24 (i) An employer must have been actively seeking capital or business
25 at the time that the ninety-day notice would have been required by
26 seeking financing or refinancing through the arrangement of loans or the
27 issuance of stocks, bonds, or other methods of internally generated
28 financing, or by seeking additional money, credit, or business through
29 any other commercially reasonable method. The employer must identify
30 specific actions taken to obtain capital or business;

31 (ii) The employer must, at the time notice is actually given,

1 provide a statement of explanation for reducing the notice period in
2 addition to the other notice requirements in section 3 of this act;

3 (iii) There must have been a realistic opportunity to obtain the
4 financing or business sought;

5 (iv) The financing or business sought must have been sufficient, if
6 obtained, to have enabled the employer to avoid or postpone the shutdown.
7 The employer must be able to objectively demonstrate that the amount of
8 capital or the volume of new business sought would have enabled the
9 company to keep the facility, operating unit, or site open for a
10 reasonable period of time; and

11 (v) The employer reasonably and in good faith must have believed
12 that giving the required notice would have precluded the employer from
13 obtaining the needed capital or business. The employer must be able to
14 objectively demonstrate that the employer reasonably thought that a
15 potential customer or source of financing would have been unwilling to
16 provide the new business or capital if notice had been given. This
17 condition may be satisfied if the employer can show that the financing or
18 business source would not choose to do business with a troubled company
19 or with a company whose workforce would be looking for other jobs.

20 (b) The exception provided in subdivision (4)(a) of this section
21 shall be narrowly construed.

22 (5) An exception to the ninety-day notice applies to business
23 closings and to mass layoffs if the following requirements are met:

24 (a) Business circumstances occurred that were not reasonably
25 foreseeable at the time that the ninety-day notice would have been
26 required. An important indicator of a reasonably unforeseeable business
27 circumstance is that the circumstance is caused by some sudden, dramatic,
28 and unexpected action or condition outside the employer's control;

29 (b) The employer must, at the time notice is actually given, provide
30 a statement of explanation for reducing the notice period in addition to
31 the other notice requirements in section 3 of this act; and

1 (c) The employer must exercise commercially reasonable business
2 judgment as would a similarly situated employer in predicting the demands
3 of the employer's particular market. The employer is not required to
4 accurately predict general economic conditions that also may affect
5 demand for products or services.

6 (6)(a) An exception to the ninety-day notice applies to business
7 closings and to mass layoffs if the following requirements are met:

8 (i) A natural disaster occurred at the time that the ninety-day
9 notice would have been required. Floods, earthquakes, droughts, storms,
10 tornadoes, and similar effects of nature shall be considered natural
11 disasters for purposes of this subsection;

12 (ii) The employer must, at the time notice is actually given,
13 provide a statement of explanation for reducing the notice period in
14 addition to the other notice requirements in section 3 of this act; and

15 (iii) An employer must be able to demonstrate that the business
16 closing or mass layoff is a direct result of the natural disaster.

17 (b) If a business closing or mass layoff occurs as an indirect
18 result of a natural disaster, the exception provided in this subsection
19 does not apply but the unforeseeable business circumstance exception
20 provided in subsection (5) of this section may be applicable.

21 (7) The ninety-day notice requirement in section 3 of this act may
22 be reduced by the number of days for which severance payments or wages in
23 lieu of notice are paid by the employer to the employee for work days
24 occurring during the notice period. A severance payment or wages in lieu
25 of notice shall be at least an amount equivalent to the regular pay the
26 employee would earn for the work days occurring during the notice period.

27 **Sec. 5.** (1) The department shall enforce the Nebraska Worker
28 Adjustment and Retraining Notification Act.

29 (2) An employer who violates section 3 of this act shall be subject
30 to a civil penalty of not more than one hundred dollars for each day of
31 the violation.

1 (3) The civil penalty provided for in this section shall be the
2 exclusive remedy for any violation of the Nebraska Worker Adjustment and
3 Retraining Notification Act. Under the act, a court shall not have
4 authority to enjoin a business closing or mass layoff.

5 **Sec. 6.** The department may adopt and promulgate rules and
6 regulations to carry out the Nebraska Worker Adjustment and Retraining
7 Notification Act.

8 **Sec. 7.** Sections 7 to 15 of this act shall be known and may be
9 cited as the Health Care Staffing Agency Registration Act.

10 **Sec. 8.** For purposes of the Health Care Staffing Agency
11 Registration Act:

12 (1) Commissioner means the Commissioner of Labor;

13 (2) Department means the Department of Labor;

14 (3)(a) Direct services means nursing services or other services
15 provided to consumers through person-to-person contact; and

16 (b) Direct services does not mean:

17 (i) Services performed by an individual in a health care entity that
18 do not involve the provision of any direct service to a consumer of a
19 health care entity;

20 (ii) The practice of medicine and surgery or osteopathic medicine
21 and surgery by an individual licensed under the Medicine and Surgery
22 Practice Act; or

23 (iii) The practice of nursing by a nurse practitioner licensed under
24 the Nurse Practitioner Practice Act;

25 (4) Health care entity means a health care facility or a health care
26 service;

27 (5) Health care facility has the same meaning as in section 71-413;

28 (6) Health care service has the same meaning as in section 71-415;

29 (7) Health care staffing agency means an individual, a trust, a
30 partnership, a corporation, a limited liability partnership, a limited
31 liability company, or any other business entity that provides one or more

1 temporary workers to provide direct services in a separate, third-party
2 health care entity. Health care staffing agency includes a health care
3 technology platform;

4 (8) Health care technology platform means an individual, a trust, a
5 partnership, a corporation, a limited liability partnership, a limited
6 liability company, or any other business entity that developed and
7 operates, offers, or maintains a system or technology that provides a
8 marketplace, by means of the Internet or a software application, which
9 allows (a) a worker, in the sole discretion of such worker, to choose
10 when and how often to utilize the platform to bid on or select an open
11 shift posted by a health care entity and (b) a health care entity to set
12 rates with the platform that can only be changed by a contractual
13 amendment between the parties;

14 (9)(a) Nursing services means services that may be provided only by
15 or under the supervision of a nurse; and

16 (b) Nursing services does not mean the practice of nursing by a
17 nurse practitioner licensed under the Nurse Practitioner Practice Act;
18 and

19 (10) Worker means an individual who contracts with or is employed by
20 a health care staffing agency to provide direct services for a health
21 care entity.

22 **Sec. 9.** (1) A health care staffing agency operating in the state
23 shall register annually with the department. As a condition of
24 eligibility for registration, the applicant shall certify that the health
25 care staffing agency is in compliance with section 11 of this act.

26 (2) An applicant for registration and renewal of registration shall,
27 for each separate physical location at which the applicant intends to
28 operate as a health care staffing agency in Nebraska, file an application
29 in a form prescribed by the department and pay an annual registration fee
30 of one thousand five hundred dollars to the department, except that if
31 the applicant is a health care staffing agency operating in Nebraska that

1 does not maintain a physical location in Nebraska, the application shall
2 be for the state generally and the annual registration fee shall be one
3 thousand five hundred dollars for such application. An application for
4 the renewal of a registration shall be made at least sixty days prior to
5 the expiration of the then-current registration period. The department
6 shall issue the applicant a separate certification of registration for
7 each physical location at which the applicant intends to operate as a
8 health care staffing agency in Nebraska upon approval of registration and
9 payment of the fee, except that if the applicant is a health care
10 staffing agency operating in Nebraska that does not maintain a physical
11 location in Nebraska, the department shall issue one certificate of
12 registration to the applicant for the state generally. The application
13 shall include appropriate evidence of ability to comply with the
14 requirements of section 10 of this act. The department shall remit the
15 fees to the State Treasurer for credit to the General Fund.

16 (3) If the commissioner denies an application for registration or
17 renewal of registration of a health care staffing agency, the
18 commissioner shall issue a notice of denial. The health care staffing
19 agency may file an appeal with the commissioner within twenty days after
20 the date of mailing of the notice of denial. Except as otherwise provided
21 in the Health Care Staffing Agency Registration Act, an appeal under this
22 section shall be governed by the Administrative Procedure Act.

23 **Sec. 10.** (1) A health care staffing agency shall:

24 (a) Ensure that each worker complies with all applicable
25 requirements relating to the federal and state licensing, certification,
26 registration, and health care requirements and qualifications for
27 personnel providing direct services in a health care entity. Unless the
28 contract between the health care entity and the health care staffing
29 agency provides otherwise, the health care staffing agency shall not be
30 responsible for each worker's compliance with the health care entity's
31 organization-specific requirements;

1 (b) Document that each worker meets the minimum federal and state
2 licensing, certification, registration, and health care requirements as
3 applicable for the worker's position in the health care entity;

4 (c) Maintain a record for each worker and report, file, or otherwise
5 provide any required documentation to any external party or regulator if
6 such duties would otherwise be the responsibility of the health care
7 entity if the worker was an employee of the health care entity. A health
8 care technology platform shall make available records stored on the
9 platform for all workers, including documents required pursuant to
10 subdivisions (1)(b) and (d) and subsection (2) of this section; and

11 (d) Maintain or require each worker to maintain professional and
12 general liability insurance coverage with minimum per occurrence coverage
13 of one million dollars and aggregate coverage of three million dollars to
14 insure against loss, damage, or expense incident to a claim arising out
15 of the death or injury of any individual as the result of negligence or
16 malpractice in the provision of services by the health care staffing
17 agency or a worker of the agency.

18 (2) A health care staffing agency shall provide the department with
19 (a) proof of a certificate or policy of insurance written by an insurance
20 carrier duly authorized to do business in this state which gives the
21 effective dates of workers' compensation insurance coverage indicating
22 that it is in force, (b) proof of a certificate evidencing approval of
23 self-insurance privileges as provided by the Nebraska Workers'
24 Compensation Court pursuant to section 48-145, (c) a signed statement
25 indicating that the health care staffing agency is not required to carry
26 workers' compensation insurance pursuant to the Nebraska Workers'
27 Compensation Act, or (d) proof of a certificate evidencing occupational
28 accident coverage for all workers employed by the health care staffing
29 agency in the state.

30 (3) A health care staffing agency that ceases to engage in the
31 business of or act as a health care staffing agency shall notify the

1 department of such fact and maintain all files and other records relating
2 to its business as a health care staffing agency in Nebraska for a period
3 of two years. Such files and records shall be made available to the
4 department within fourteen calendar days after such files and records are
5 requested by the department.

6 **Sec. 11.** (1) A health care staffing agency shall not:

7 (a) Include in any contract with a worker or a health care entity a
8 noncompete clause restricting in any manner the employment opportunities
9 of a worker; or

10 (b) In any contract with a worker or a health care entity, require
11 payment of liquidated damages, employment fees, or other compensation if
12 the worker is subsequently hired as a permanent employee of the health
13 care entity, except that this subdivision (b) shall not apply to (i)
14 payments made solely by a health care entity pursuant to a contract with
15 a health care staffing agency which provides that the payment amount will
16 be reduced pro rata for each hour of service the worker performs for the
17 entity while on the payroll of such agency and that such amount will be
18 reduced to zero upon completion of no more than seven hundred twenty
19 hours of service for the entity or (ii) payments made by a foreign worker
20 whom the staffing agency assisted in obtaining authorization to work in
21 the United States and the worker was assigned to a single health care
22 entity for an initial term of not less than twenty-four months.

23 (2) Any clause of a contract that violates this section is void.

24 **Sec. 12.** (1) If the commissioner determines that a health care
25 staffing agency (a) failed to register as required by the Health Care
26 Staffing Agency Registration Act, (b) violated section 10 or 11 of this
27 act, (c) failed to provide documentation pursuant to section 13 of this
28 act, or (d) knowingly provided to a health care entity a worker who has
29 an illegally or fraudulently obtained or issued diploma, registration,
30 license, certification, or background check, the commissioner may take
31 one or more of the following actions:

1 (i) Assess a civil penalty of not more than five hundred dollars for
2 a first offense and five thousand dollars for each offense thereafter; or

3 (ii) Revoke the registration for a period of no more than one
4 calendar year. This revocation shall apply to all locations of the health
5 care staffing agency.

6 (2) If the commissioner determines that a civil penalty or
7 revocation is warranted under this section, the commissioner shall issue
8 a notice of citation that notifies the health care staffing agency of the
9 proposed civil penalty or revocation. The notice of citation shall be
10 sent by certified mail or any other manner of delivery by which the
11 United States Postal Service can verify delivery.

12 (3) A health care staffing agency may appeal any notice of citation
13 by filing an appeal with the commissioner within twenty days after the
14 date of mailing of the notice of citation. Except as otherwise provided
15 in the Health Care Staffing Agency Registration Act, an appeal under this
16 subsection shall be governed by the Administrative Procedure Act.

17 (4) No penalty or revocation shall become effective until the later
18 of the day following expiration of the appeal period or thirty days after
19 a decision on appeal has become final. Once a revocation becomes
20 effective, it is effective for one calendar year and applies to revoke
21 any then-current registration for all locations of the health care
22 staffing agency and to preclude the health care staffing agency from
23 applying for a new registration for any location during the revocation
24 period. A health care staffing agency that has substantially common
25 ownership or management as a health care staffing agency whose
26 registration has been revoked under this section shall not be eligible
27 for registration during the revocation period.

28 (5) In any civil action to enforce the Health Care Staffing Agency
29 Registration Act, the commissioner and the state may be represented by
30 any qualified attorney who is employed by the commissioner and is
31 designated by the commissioner for this purpose or, at the commissioner's

1 request, by the Attorney General.

2 **Sec. 13.** (1) The commissioner shall establish a system for the
3 public to report complaints against a health care staffing agency or
4 worker regarding compliance with the Health Care Staffing Agency
5 Registration Act. The commissioner shall investigate any complaint
6 received.

7 (2) The commissioner may investigate to determine if a health care
8 staffing agency is in compliance with the Health Care Staffing Agency
9 Registration Act and shall conduct random audits of health care staffing
10 agencies with workers in Nebraska. Any investigation or audit shall take
11 place at such times and places as the commissioner directs, with no fewer
12 than three business days' prior notice.

13 (3) For purposes of any investigation or audit under this section,
14 the commissioner or any officer designated by the commissioner may
15 administer oaths and affirmations, subpoena witnesses, compel their
16 attendance, take evidence, and require the production of any books,
17 papers, correspondence, memoranda, agreements, or other documents or
18 records that the commissioner deems relevant or material to the
19 investigation.

20 (4) In case of contumacy by or refusal to obey a subpoena issued to
21 any person, any court of competent jurisdiction, upon application by the
22 commissioner and determination that such refusal was not based on a
23 reasonable interpretation of applicable law, may issue to such person an
24 order requiring such person to appear before the commissioner or the
25 officer designated by the commissioner and produce documentary evidence,
26 if so ordered, or give evidence affecting the matter under investigation
27 or in question. Such person shall be afforded an opportunity to provide
28 the commissioner and, if an application is made to a court of competent
29 jurisdiction by the commissioner to enforce the subpoena, the court with
30 an analysis or argument as to why such contumacy or refusal is based on a
31 reasonable interpretation of applicable law. Any failure to obey the

1 order of the court may be punished by the court as contempt.

2 Sec. 14. (1) The department shall create a database of health care
3 staffing agencies registered under the Health Care Staffing Agency
4 Registration Act. The department shall make the database accessible to
5 the public on its website.

6 (2) The database shall include, but not be limited to, the following
7 information:

8 (a) The date of registration approval for the health care staffing
9 agency; and

10 (b) The date of expiration or revocation of the registration of the
11 health care staffing agency.

12 Sec. 15. The department may adopt and promulgate rules and
13 regulations to carry out the Health Care Staffing Agency Registration
14 Act.

15 Sec. 17. Section 48-2209, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 48-2209 If an employer or a representative of an employer actively
18 recruits any non-English-speaking persons for employment in this state
19 and if more than five ten percent of the employees of an employer are
20 non-English-speaking employees who and speak the same non-English
21 language, the employer shall:

22 (1) Make an interpreter provide a bilingual employee who is
23 conversant in the identified non-English language and available at the
24 worksite for each shift during which a non-English-speaking employee is
25 employed. If a Spanish-speaking interpreter is needed, the employer shall
26 select an interpreter from a list of interpreters developed by the
27 commissioner. If an interpreter is needed for a language other than
28 Spanish, the employer shall select an interpreter capable of explaining
29 and responding to (1) explain and respond to questions regarding the
30 terms, conditions, and daily responsibilities of employment; and

31 (2) Employ an individual who shall serve as a referral agent to

1 community services for the non-English-speaking employees. The name of
2 the individual serving as the referral agent shall be provided at each
3 worksite. Such information shall be provided in the language of the non-
4 English-speaking employees. The primary responsibility of the referral
5 agent shall be to develop and maintain a list of contact persons and
6 agencies, telephone numbers, and addresses of the community services
7 provided within the community where the relevant worksite is located. The
8 referral agent shall assist non-English-speaking employees in working
9 with and through those services.

10 **Sec. 18.** Section 81-401, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 81-401 The Governor, through the agency of the Department of Labor
13 created by section 81-101, shall have power:

- 14 (1) To foster, promote, and develop the welfare of wage earners;
- 15 (2) To improve working conditions;
- 16 (3) To advance opportunities for profitable employment;
- 17 (4) To collect, collate, assort, systematize, and report statistical
18 details relating to all departments of labor, especially in its relation
19 to commercial, industrial, social, economic, and educational conditions
20 and to the permanent prosperity of the manufacturing and productive
21 industries;
- 22 (5) To acquire and distribute useful information on subjects
23 connected with labor in the most general and comprehensive sense of the
24 word;
- 25 (6) To acquire and distribute useful information concerning the
26 means of promoting the material, social, intellectual, and moral
27 prosperity of laboring men and women;
- 28 (7) To acquire and distribute information as to the conditions of
29 employment and such other facts as may be deemed of value to the
30 industrial interests of the state;
- 31 (8) To acquire and distribute information in relation to the

1 prevention of accidents, occupational diseases, and other related
2 subjects;

3 (9) To acquire and distribute useful information regarding the role
4 of the part-time labor force and the manner in which such labor force
5 affects the economy and citizens of the state; and

6 (10) To administer and enforce all of the provisions of the
7 Employment Security Law, the Farm Labor Contractors Act, the Health Care
8 Staffing Agency Registration Act, and the Wage and Hour Act and Chapter
9 48, articles 2, 3, 4, and 5, and for that purpose there is imposed upon
10 the Commissioner of Labor the duty of executing all of the provisions of
11 such acts, law, and articles.

12 **Sec. 19.** Section 81-8,236, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 81-8,236 (1) For purposes of this section:

15 (a) Correctional institution incident means an incident in which a
16 crime or crimes are allegedly committed by one or more inmates confined
17 in a state correctional institution;

18 (b) Costs of prosecution includes, but is not limited to, the costs
19 of defense for indigent defendants, including attorney's fees and expert
20 witness fees;

21 (c) Division means the risk management and state claims division of
22 the Department of Administrative Services; and

23 (d) Threshold amount means the amount of property tax revenue raised
24 by a county from a levy of two and one-half cents per one hundred dollars
25 of taxable valuation of property subject to the levy. The threshold
26 amount shall be determined using valuations for the year in which the
27 correctional institution incident occurred.

28 (2) A county may file a claim with the division to recover the costs
29 of prosecution relating to a correctional institution incident that
30 occurs within the county. The county may recover only those costs that
31 exceed the threshold amount for such county. A county may file additional

1 claims for a single correctional institution incident if the initial
2 claim exceeds the threshold amount. Such additional claims shall not be
3 filed more than once per calendar year unless the prosecution has
4 resolved. No claim shall include prosecution costs for which the Risk
5 Manager has issued a decision pursuant to section 81-8,300. Claims filed
6 under this section that arise from the same correctional institution
7 incident need not be aggregated unless directed to do so by the State
8 Claims Board.

9 (3) The Risk Manager shall have the power and authority to receive
10 claims, investigate claims, and otherwise carry out the responsibilities
11 of this section. The division shall develop a claim form, publish claim
12 procedures, and determine the supporting information required to perfect
13 a claim.

14 (4) The Risk Manager shall submit claims received under this section
15 to the Legislature in the same manner as provided in the State
16 Miscellaneous Claims Act. The Legislature shall review the claim and make
17 an appropriation for the claim if appropriate.

18 (5) This section shall apply to any correctional institution
19 incident occurring on or after May 1, 2015. Claims described in this
20 section shall have no time bar to recovery.

21 **Sec. 20.** Section 81-8,300, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 81-8,300 (1) After investigation, the Risk Manager or State Claims
24 Board shall either approve, approve with conditions or limitations, or
25 disapprove of each claim or request and append to the claim or request a
26 concise statement of the facts brought out in such investigation upon
27 which its approval or disapproval is based. If any claim is approved in
28 an amount of more than five thousand dollars, the approval of the board
29 is required. Such claim or request, together with the original papers
30 supporting it and the appended statement, shall be filed with the Risk
31 Manager in the manner prescribed by the State Claims Board. The Risk

1 Manager shall promptly notify each claimant of the decision by the Risk
2 Manager or State Claims Board on his or her claim by regular mail. The
3 notification shall include (a) the decision of the Risk Manager or State
4 Claims Board, (b) a statement that a claimant dissatisfied with the
5 decision of the Risk Manager may have his or her claim reviewed by the
6 board or a statement that a claimant dissatisfied with the decision of
7 the board may have his or her claim reviewed by the Legislature upon
8 application, (c) the procedure for making an application for review, and
9 (d) the time limit for making such application.

10 (2) If the claimant is dissatisfied with the decision of the Risk
11 Manager, he or she may file an application for review by the board. If
12 the claimant is dissatisfied with the decision of the board, he or she
13 may file an application for review by the Legislature. The application
14 for review shall be filed with the Risk Manager in the manner prescribed
15 by the board. The application for review shall be filed within sixty days
16 after the date of the decision which is being reviewed.

17 (3) Each claim which has been approved or for which an application
18 for review with the Legislature has been filed and each request referred
19 to in section 81-8,297 shall be delivered electronically by the Risk
20 Manager to the chairperson of the Business and Labor Committee of the
21 Legislature at the next regular session of the Legislature convening
22 after the date of the decision of the board. The Risk Manager may direct
23 the payment by the state agency involved of any claim not in excess of
24 five thousand dollars if such payment is agreed to by the head of the
25 agency involved. The State Claims Board may direct payment by the state
26 agency involved of any claim not in excess of fifty thousand dollars if
27 such payment is agreed to by the head of the agency involved and the
28 agency has sufficient funds to pay the claim. If claims approved by the
29 Risk Manager or State Claims Board arise out of the same facts and
30 circumstances, they shall be aggregated except when more than one claim
31 has been filed pursuant to subsection (2) of section 81-8,236. If the

1 Risk Manager or State Claims Board does not direct the payment of a claim
2 as set forth in this section or the claim exceeds the dollar limitations
3 set forth in this section, the claim shall be reviewed by the Legislature
4 and an appropriation made therefor if appropriate. The Risk Manager shall
5 report electronically all claims and judgments paid under the State
6 Miscellaneous Claims Act to the Clerk of the Legislature and the
7 chairperson of the Business and Labor Committee of the Legislature. The
8 report shall include the name of the claimant, a statement of the amount
9 claimed and paid, and a brief description of the claim including the
10 agency and program or activity under which the claim arose. Any member of
11 the Legislature may receive an electronic copy of the report by making a
12 request to the Risk Manager.

13 **Sec. 21.** Section 81-8,316, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 81-8,316 For purposes of the In the Line of Duty Compensation Act:

16 (1) Firefighter means a member of a paid or volunteer fire
17 department in Nebraska, including a member of a rescue squad associated
18 with a paid or volunteer fire department in Nebraska;

19 (2)(a) Killed in the line of duty means losing one's life as a
20 result of an injury or illness arising on or after January 1, 2022, in
21 connection with the active performance of duties as a public safety
22 officer if the death occurs within three years from the date the injury
23 was received or illness was diagnosed and if that injury or illness arose
24 from violence or other accidental cause.

25 (b) An injury or illness shall be presumed to have arisen in
26 connection with the active performance of duties as a public safety
27 officer if:

28 (i) The injury or illness is a heart attack, stroke, or vascular
29 rupture that occurred or the symptoms of such injury or illness
30 manifested while the public safety officer was engaged in, or within
31 twenty-four hours after, nonroutine stressful or strenuous activity in

1 the line of duty;

2 (ii) The public safety officer was exposed to any toxin or
3 carcinogen while on duty and the public safety officer began service no
4 fewer than five years prior to the date of a diagnosis of an exposure-
5 related cancer; or

6 (iii) The public safety officer was exposed to cumulative traumatic
7 events while on duty, such exposure was a substantial contributing factor
8 in the death of the public safety officer, and either:

9 (A) The public safety officer was diagnosed by a licensed medical or
10 mental health professional with an injury or illness related to such
11 exposure; or

12 (B) There is evidence that the public safety officer attempted to
13 receive help, treatment, or diagnosis for an injury or illness related to
14 such exposure.

15 (c)(i) The presumption in subdivision (2)(b)(i) of this section may
16 be overcome by competent medical evidence that establishes the death was:

17 (A) Unrelated to the engagement or participation in activities in
18 the line of duty; or

19 (B) Caused by something other than such engagement or participation
20 or the mere presence of cardiovascular disease risk factors.

21 (ii) The presumption in subdivision (2)(b)(ii) of this section may
22 be overcome by competent medical evidence that establishes the exposure
23 to the toxin or carcinogen was not a substantial contributing factor in
24 the death of the public safety officer.

25 (d) ~~(b)~~ Killed in the line of duty excludes death resulting from the
26 willful misconduct or intoxication of the public safety officer;

27 (3) Law enforcement officer has the same meaning as in section
28 81-1401;

29 (4) Public safety officer means:

30 (a) A firefighter;

31 (b) A law enforcement officer;

1 (c) A member of an emergency medical services ambulance squad
2 operated by a political subdivision or by a private, nonprofit ambulance
3 service, but excluding any employee of a private, for-profit ambulance
4 service; or

5 (d) A correctional officer employed by a jail or by the Department
6 of Correctional Services;

7 (5) Risk Manager means the Risk Manager appointed under section
8 81-8,239.01; and

9 (6) State Claims Board means the board created under section
10 81-8,220.

11 **Sec. 22.** Section 81-8,318, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 81-8,318 (1) To receive compensation under the In the Line of Duty
14 Compensation Act, a claim for the compensation shall be filed with the
15 Risk Manager within three years after the date of death of the public
16 safety officer who was killed in the line of duty. Such claim shall be on
17 a form prescribed by the Risk Manager and shall include:

18 (a) The name, address, and title or position of the public safety
19 officer who was killed in the line of duty;

20 (b) A copy of the form filed in accordance with subsection (4) of
21 section 81-8,317, if any. If no such form has been filed, the claim shall
22 include the name and address of the person or persons to whom
23 compensation is payable under subdivision (3)(b) of section 81-8,317;

24 (c) A sworn statement providing a full factual account of the
25 circumstances resulting in or the course of events causing the death of
26 the public safety officer; and

27 (d) Such other information as the Risk Manager reasonably requires.

28 (2) The Risk Manager shall send written notice to all claimants
29 within two weeks after the initiation of a claim indicating whether or
30 not the claim is complete. For purposes of this subsection, a claim is
31 complete if a claimant has submitted to the Risk Manager all documents

1 and information required under subsection (1) of this section. If a claim
2 is incomplete, the Risk Manager shall include in the written notice a
3 list of the documents or information which the claimant must submit in
4 order for the claim to be complete. If a claim is complete, an
5 investigation of the claim shall be made in the manner provided in the
6 State Miscellaneous Tort Claims Act ~~in accordance with section 81-8,212.~~
7 Upon completion of such investigation, and no later than one hundred
8 eighty days after receipt of a complete claim, the State Claims Board
9 shall approve or deny such claim and the Risk Manager shall send written
10 notice to the claimant stating whether the claim has been approved or
11 denied. If a claim is denied, the notice shall include the reason or
12 reasons for the denial. If a claimant is dissatisfied with a denial, he
13 or she may file an application for review with the Risk Manager in
14 accordance with subsection (2) of section 81-8,300 ~~district court for~~
15 ~~Lancaster County in accordance with sections 81-8,213 and 81-8,214.~~ If a
16 claim is approved, compensation shall be paid to the claimants entitled
17 to such compensation in accordance with section 81-8,300 ~~81-8,211.~~

18 (3) This section shall apply to any claim arising on or after
19 January 1, 2022.

20 **Sec. 23.** Sections 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, and 25 of
21 this act become operative on January 1, 2027. The other sections of this
22 act become operative on their effective date.

23 **Sec. 24.** Original sections 48-628, 48-2209, 81-8,236, 81-8,300,
24 81-8,316, and 81-8,318, Reissue Revised Statutes of Nebraska, are
25 repealed.

26 **Sec. 25.** Original section 81-401, Reissue Revised Statutes of
27 Nebraska, is repealed.