

E AND R AMENDMENTS TO LB 921

Introduced by Guereca, 7, Chairman Enrollment and Review

1           1. Strike the original sections and all amendments thereto and  
2 insert the following new 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 one hundred 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 one hundred 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 one hundred 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 Contractor and Professional  
16 Employer Organization Registration Cash Fund.

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

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

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

1 organization-specific requirements;

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

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

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

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

31 (3) A health care staffing agency that ceases to engage in the

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

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

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

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

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

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

1 one or more of the following actions:

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

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

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

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

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

29 (5) In any civil action to enforce the Health Care Staffing Agency  
30 Registration Act, the commissioner and the state may be represented by  
31 any qualified attorney who is employed by the commissioner and is

1 designated by the commissioner for this purpose or, at the commissioner's  
2 request, by the Attorney General.

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

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

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

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

1 reasonable interpretation of applicable law. Any failure to obey the  
2 order of the court may be punished by the court as contempt.

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

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

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

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

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

16 **Sec. 16.** Section 48-628, Reissue Revised Statutes of Nebraska, is  
17 amended to read:

18 48-628 (1) An individual shall be disqualified for benefits for any  
19 week of unemployment in which the commissioner finds he or she has  
20 failed, without good cause, to apply for available, suitable work when so  
21 directed by the employment office or the commissioner, to respond to an  
22 offer for a job interview for suitable work within one week, to respond  
23 to an offer for a job for suitable work within one week, to appear for a  
24 previously scheduled job interview for suitable work without notifying  
25 the prospective employer of the need to cancel or reschedule the  
26 interview, to accept suitable work offered him or her, or to return to  
27 his or her customary self-employment, if any, and for the twelve weeks  
28 immediately thereafter. The total benefit amount to which he or she is  
29 then entitled shall be reduced by an amount equal to the number of weeks  
30 for which he or she has been disqualified by the commissioner. The  
31 commissioner may consider the manner of communication established between

1 the individual and the prospective employer about how the interview will  
2 be conducted or a job offer will be extended in determining if an  
3 individual failed to appear for a previously scheduled job interview  
4 without notifying the prospective employer of the need to cancel or  
5 reschedule the interview or failed to respond to an offer for a job.

6 (2) In determining whether or not any work is suitable for an  
7 individual, the commissioner shall consider the following:

8 (a) The degree of risk involved to the individual's health, safety,  
9 and morals;

10 (b) His or her physical fitness and prior training;

11 (c) His or her experience and prior earnings;

12 (d) His or her length of unemployment and prospects for securing  
13 local work in his or her customary occupation; and

14 (e) The distance of the available work from his or her residence.

15 (3) Notwithstanding any other provisions of the Employment Security  
16 Law, no work shall be deemed suitable and benefits shall not be denied  
17 under such law to any otherwise eligible individual for refusing to  
18 accept new work under any of the following conditions:

19 (a) If the position offered is vacant due directly to a strike,  
20 lockout, or other labor dispute;

21 (b) If the wages, hours, or other conditions of the work offered are  
22 substantially less favorable to the individual than those prevailing for  
23 similar work in the locality; or

24 (c) If, as a condition of being employed, the individual would be  
25 required to join a company union or to resign from or refrain from  
26 joining any bona fide labor organization.

27 (4) Notwithstanding any other provisions in this section relating to  
28 failure to apply for or a refusal to accept suitable work, no otherwise  
29 eligible individual shall be denied benefits with respect to any week in  
30 which he or she is in training with the approval of the commissioner.

31 (5) No individual shall be disqualified for refusing to apply for

1 available, full-time work or accept full-time work under subsection (1)  
2 of this section solely because such individual is seeking part-time work  
3 if the majority of the weeks of work in an individual's base period  
4 include part-time work. For purposes of this subsection, seeking only  
5 part-time work shall mean seeking less than full-time work having  
6 comparable hours to the individual's part-time work in the base period,  
7 except that the individual must be available for work at least twenty  
8 hours per week.

9 **Sec. 17.** Section 48-2209, Reissue Revised Statutes of Nebraska, is  
10 amended to read:

11 ~~48-2209 If an employer or a representative of an employer actively~~  
12 ~~recruits any non-English-speaking persons for employment in this state~~  
13 ~~and if more than five ten percent of the employees of an employer are~~  
14 ~~non-English-speaking employees who and speak the same non-English~~  
15 ~~language, the employer shall:~~

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

25 ~~(2) Employ an individual who shall serve as a referral agent to~~  
26 ~~community services for the non-English-speaking employees. The name of~~  
27 ~~the individual serving as the referral agent shall be provided at each~~  
28 ~~worksite. Such information shall be provided in the language of the non-~~  
29 ~~English-speaking employees. The primary responsibility of the referral~~  
30 ~~agent shall be to develop and maintain a list of contact persons and~~  
31 ~~agencies, telephone numbers, and addresses of the community services~~

1 provided within the community where the relevant worksite is located. The  
2 referral agent shall assist non-English-speaking employees in working  
3 with and through those services.

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

6 81-401 The Governor, through the agency of the Department of Labor  
7 created by section 81-101, shall have power:

8 (1) To foster, promote, and develop the welfare of wage earners;

9 (2) To improve working conditions;

10 (3) To advance opportunities for profitable employment;

11 (4) To collect, collate, assort, systematize, and report statistical  
12 details relating to all departments of labor, especially in its relation  
13 to commercial, industrial, social, economic, and educational conditions  
14 and to the permanent prosperity of the manufacturing and productive  
15 industries;

16 (5) To acquire and distribute useful information on subjects  
17 connected with labor in the most general and comprehensive sense of the  
18 word;

19 (6) To acquire and distribute useful information concerning the  
20 means of promoting the material, social, intellectual, and moral  
21 prosperity of laboring men and women;

22 (7) To acquire and distribute information as to the conditions of  
23 employment and such other facts as may be deemed of value to the  
24 industrial interests of the state;

25 (8) To acquire and distribute information in relation to the  
26 prevention of accidents, occupational diseases, and other related  
27 subjects;

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

31 (10) To administer and enforce all of the provisions of the

1 Employment Security Law, the Farm Labor Contractors Act, the Health Care  
2 Staffing Agency Registration Act, and the Wage and Hour Act and Chapter  
3 48, articles 2, 3, 4, and 5, and for that purpose there is imposed upon  
4 the Commissioner of Labor the duty of executing all of the provisions of  
5 such acts, law, and articles.

6 **Sec. 19.** Section 81-406, Reissue Revised Statutes of Nebraska, is  
7 amended to read:

8 81-406 The Contractor and Professional Employer Organization  
9 Registration Cash Fund is created. The fund shall be administered by the  
10 Department of Labor and shall consist of fees collected by the department  
11 pursuant to the Farm Labor Contractors Act, the Contractor Registration  
12 Act, the Health Care Staffing Agency Registration Act, and the  
13 Professional Employer Organization Registration Act and such sums as are  
14 appropriated to the fund by the Legislature. The fund shall be used for  
15 enforcing and administering the Farm Labor Contractors Act, the  
16 Contractor Registration Act, the Employee Classification Act, the Health  
17 Care Staffing Agency Registration Act, and the Professional Employer  
18 Organization Registration Act. Any money in the fund available for  
19 investment shall be invested by the state investment officer pursuant to  
20 the Nebraska Capital Expansion Act and the Nebraska State Funds  
21 Investment Act. Money in the Contractor and Professional Employer  
22 Organization Registration Cash Fund may be transferred to the General  
23 Fund at the direction of the Legislature.

24 The State Treasurer shall transfer one million seven hundred  
25 thousand dollars from the Contractor and Professional Employer  
26 Organization Registration Cash Fund to the General Fund on or before June  
27 15, 2018, on such dates and in such amounts as directed by the budget  
28 administrator of the budget division of the Department of Administrative  
29 Services.

30 **Sec. 20.** Section 81-8,236, Reissue Revised Statutes of Nebraska, is  
31 amended to read:

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

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

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

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

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

15 (2) A county may file a claim with the division to recover the costs  
16 of prosecution relating to a correctional institution incident that  
17 occurs within the county. The county may recover only those costs that  
18 exceed the threshold amount for such county. A county may file additional  
19 claims for a single correctional institution incident if the initial  
20 claim exceeds the threshold amount. Such additional claims shall not be  
21 filed more than once per calendar year unless the prosecution has  
22 resolved. No claim shall include prosecution costs for which the Risk  
23 Manager has issued a decision pursuant to section 81-8,300. Claims filed  
24 under this section that arise from the same correctional institution  
25 incident need not be aggregated unless directed to do so by the State  
26 Claims Board.

27 (3) The Risk Manager shall have the power and authority to receive  
28 claims, investigate claims, and otherwise carry out the responsibilities  
29 of this section. The division shall develop a claim form, publish claim  
30 procedures, and determine the supporting information required to perfect  
31 a claim.

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

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

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

10 81-8,300 (1) After investigation, the Risk Manager or State Claims  
11 Board shall either approve, approve with conditions or limitations, or  
12 disapprove of each claim or request and append to the claim or request a  
13 concise statement of the facts brought out in such investigation upon  
14 which its approval or disapproval is based. If any claim is approved in  
15 an amount of more than five thousand dollars, the approval of the board  
16 is required. Such claim or request, together with the original papers  
17 supporting it and the appended statement, shall be filed with the Risk  
18 Manager in the manner prescribed by the State Claims Board. The Risk  
19 Manager shall promptly notify each claimant of the decision by the Risk  
20 Manager or State Claims Board on his or her claim by regular mail. The  
21 notification shall include (a) the decision of the Risk Manager or State  
22 Claims Board, (b) a statement that a claimant dissatisfied with the  
23 decision of the Risk Manager may have his or her claim reviewed by the  
24 board or a statement that a claimant dissatisfied with the decision of  
25 the board may have his or her claim reviewed by the Legislature upon  
26 application, (c) the procedure for making an application for review, and  
27 (d) the time limit for making such application.

28 (2) If the claimant is dissatisfied with the decision of the Risk  
29 Manager, he or she may file an application for review by the board. If  
30 the claimant is dissatisfied with the decision of the board, he or she  
31 may file an application for review by the Legislature. The application

1 for review shall be filed with the Risk Manager in the manner prescribed  
2 by the board. The application for review shall be filed within sixty days  
3 after the date of the decision which is being reviewed.

4 (3) Each claim which has been approved or for which an application  
5 for review with the Legislature has been filed and each request referred  
6 to in section 81-8,297 shall be delivered electronically by the Risk  
7 Manager to the chairperson of the Business and Labor Committee of the  
8 Legislature at the next regular session of the Legislature convening  
9 after the date of the decision of the board. The Risk Manager may direct  
10 the payment by the state agency involved of any claim not in excess of  
11 five thousand dollars if such payment is agreed to by the head of the  
12 agency involved. The State Claims Board may direct payment by the state  
13 agency involved of any claim not in excess of fifty thousand dollars if  
14 such payment is agreed to by the head of the agency involved and the  
15 agency has sufficient funds to pay the claim. If claims approved by the  
16 Risk Manager or State Claims Board arise out of the same facts and  
17 circumstances, they shall be aggregated except when more than one claim  
18 has been filed pursuant to subsection (2) of section 81-8,236. If the  
19 Risk Manager or State Claims Board does not direct the payment of a claim  
20 as set forth in this section or the claim exceeds the dollar limitations  
21 set forth in this section, the claim shall be reviewed by the Legislature  
22 and an appropriation made therefor if appropriate. The Risk Manager shall  
23 report electronically all claims and judgments paid under the State  
24 Miscellaneous Claims Act to the Clerk of the Legislature and the  
25 chairperson of the Business and Labor Committee of the Legislature. The  
26 report shall include the name of the claimant, a statement of the amount  
27 claimed and paid, and a brief description of the claim including the  
28 agency and program or activity under which the claim arose. Any member of  
29 the Legislature may receive an electronic copy of the report by making a  
30 request to the Risk Manager.

31 **Sec. 22.** Section 81-8,316, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 81-8,316 For purposes of the In the Line of Duty Compensation Act:

3 (1) Firefighter means a member of a paid or volunteer fire  
4 department in Nebraska, including a member of a rescue squad associated  
5 with a paid or volunteer fire department in Nebraska;

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

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

15 (i) The injury or illness is a heart attack, stroke, or vascular  
16 rupture that occurred or the symptoms of such injury or illness  
17 manifested while the public safety officer was engaged in, or within  
18 twenty-four hours after, nonroutine stressful or strenuous activity in  
19 the line of duty;

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

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

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

30 (B) There is evidence that the public safety officer attempted to  
31 receive help, treatment, or diagnosis for an injury or illness related to

1 such exposure.

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

4 (A) Unrelated to the engagement or participation in activities in  
5 the line of duty; or

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

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

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

14 (3) Law enforcement officer has the same meaning as in section  
15 81-1401;

16 (4) Public safety officer means:

17 (a) A firefighter;

18 (b) A law enforcement officer;

19 (c) A member of an emergency medical services ambulance squad  
20 operated by a political subdivision or by a private, nonprofit ambulance  
21 service, but excluding any employee of a private, for-profit ambulance  
22 service; or

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

25 (5) Risk Manager means the Risk Manager appointed under section  
26 81-8,239.01; and

27 (6) State Claims Board means the board created under section  
28 81-8,220.

29 **Sec. 23.** Section 81-8,318, Reissue Revised Statutes of Nebraska, is  
30 amended to read:

31 81-8,318 (1) To receive compensation under the In the Line of Duty

1 Compensation Act, a claim for the compensation shall be filed with the  
2 Risk Manager within three years after the date of death of the public  
3 safety officer who was killed in the line of duty. Such claim shall be on  
4 a form prescribed by the Risk Manager and shall include:

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

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

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

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

15 (2) The Risk Manager shall send written notice to all claimants  
16 within two weeks after the initiation of a claim indicating whether or  
17 not the claim is complete. For purposes of this subsection, a claim is  
18 complete if a claimant has submitted to the Risk Manager all documents  
19 and information required under subsection (1) of this section. If a claim  
20 is incomplete, the Risk Manager shall include in the written notice a  
21 list of the documents or information which the claimant must submit in  
22 order for the claim to be complete. If a claim is complete, an  
23 investigation of the claim shall be made in the manner provided in the  
24 State Miscellaneous Tort Claims Act ~~in accordance with section 81-8,212.~~

25 Upon completion of such investigation, and no later than one hundred  
26 eighty days after receipt of a complete claim, the State Claims Board  
27 shall approve or deny such claim and the Risk Manager shall send written  
28 notice to the claimant stating whether the claim has been approved or  
29 denied. If a claim is denied, the notice shall include the reason or  
30 reasons for the denial. If a claimant is dissatisfied with a denial, he  
31 or she may file an application for review with the Risk Manager in

1 ~~accordance with subsection (2) of section 81-8,300 district court for~~  
2 ~~Lancaster County in accordance with sections 81-8,213 and 81-8,214.~~ If a  
3 claim is approved, compensation shall be paid to the claimants entitled  
4 to such compensation in accordance with section ~~81-8,300~~ 81-8,211.

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

7 **Sec. 24.** Sections 7, 8, 9, 10, 11, 12, 13, 14, and 15 of this act  
8 become operative on July 1, 2027. The other sections of this act become  
9 operative on their effective date.

10 **Sec. 25.** Original sections 48-628, 48-2209, 81-401, 81-406,  
11 81-8,236, 81-8,300, 81-8,316, and 81-8,318, Reissue Revised Statutes of  
12 Nebraska, are repealed.

13 2. On page 1, strike beginning with "labor" in line 1 through line 5  
14 and insert "law; to amend sections 48-628, 48-2209, 81-401, 81-406,  
15 81-8,236, 81-8,300, 81-8,316, and 81-8,318, Reissue Revised Statutes of  
16 Nebraska; to adopt the Nebraska Worker Adjustment and Retraining  
17 Notification Act and the Health Care Staffing Agency Registration Act; to  
18 disqualify certain individuals from receiving benefits under the  
19 Employment Security Law; to change certain employer duties under the Non-  
20 English-Speaking Workers Protection Act; to grant authority to the  
21 Governor; to change provisions relating to a cash fund; to allow counties  
22 to file multiple claims relating to correctional institution incidents;  
23 to redefine terms and change provisions relating to the investigation and  
24 appeal of claims under the In the Line of Duty Compensation Act; to  
25 harmonize provisions; to provide operative dates; and to repeal the  
26 original sections."