

LEGISLATIVE BILL 509

Approved by the Governor May 31, 1977

Introduced by Business and Labor Committee, R. Maresh, 32, Chmn.; Fitzgerald, 14; Brennan, 9; Murphy, 17; Lamb, 43; Rasmussen, 41

AN ACT to amend sections 48-602, 48-603, 48-604, 48-627, 48-628.02, 48-652, and 48-661, Reissue Revised Statutes of Nebraska, 1943, and sections 48-628 and 48-649, Revised Statutes Supplement, 1976, relating to the employment security law; to change certain provisions of the employment security law; to define terms; to provide employers coverage for certain employing units; to include certain services as services in employment; to amend the method of financing benefits paid to employees of the State of Nebraska; to provide for transition; to provide for a tax to meet increased costs; and to repeal the original sections.

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

Section 1. That section 48-602, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-602. As used in sections 48-601 to 48-669, unless the context otherwise requires:

(1) Base period shall mean the last four completed calendar quarters immediately preceding the first day of an individual's benefit year;

(2) Benefits shall mean the money payments payable to an individual with respect to his unemployment;

(3) Benefit unit shall mean a sum equal to one half of an individual's weekly benefit amount;

(4) Benefit year, with respect to any individual, shall mean the one-year period beginning with the first day of the first week with respect to which the individual first files a valid claim for benefits, and thereafter the one-year period beginning with the first day of the first week with respect to which the individual next files a valid claim for benefits after the termination of his last preceding benefit year. Any claim for benefits made in accordance with section 48-629 shall be deemed to be a valid claim for the purpose of this subdivision if the individual has been paid the

wages for insured work required under section 48-627. For the purposes of this subdivision a week with respect to which an individual files a valid claim shall be deemed to be in, within, or during that benefit year which includes the greater part of such week;

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

(6) Commissioner shall mean the Commissioner of Labor;

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

(8) Department shall mean the Department of Labor;

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

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

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

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

colleges and universities in this state are institutions of higher education for purposes of this section;

(13) Insured work shall mean employment for employers;

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

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

(16) Wages, except with respect to services performed in employment as provided in section 48-604, subdivisions (4) (c) and (d), shall mean all remuneration for personal services, including commissions and bonuses and the cash value of all remunerations in any medium other than cash. The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with rules prescribed by the commissioner. With respect to services performed in employment in agricultural labor as is provided in section 48-604, subdivision (4) (c), or in domestic service as is provided in section 48-604, subdivision (4) (d), wages shall mean cash remuneration for such services: Provided, as used in sections 48-648 and 48-649 only, prior to January 1, 1978, subsequent--to December-31-1974, the term wages shall not include that part of the remuneration which, after remuneration equal to four thousand two hundred dollars, and subsequent to December 31, 1977, after remuneration equal to six thousand dollars, has been paid to an individual by an employer or by the predecessor of such employer with respect to employment within this or any other state during any calendar year, is paid to such individual by such employer during such calendar year, unless that part of the remuneration is subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund. The term wages shall not include (a) the amount of any payment, including any amount paid by an employer for insurance or annuities, or into a fund, to provide for such payment, made to, or on behalf of, an individual in employment, or any of his dependents, under a plan or system established by an employer which makes provision for such individuals generally, or for a class or classes of such individuals, including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment, on account of

retirement, sickness or accident disability, or medical and hospitalization expenses in connection with sickness or accident disability, or death; (b) the payment by an employer, without deduction from the remuneration of the employee, of the tax imposed upon an employee under section 3101 of the Internal Revenue Code of 1954 as amended; (c) any payment made to an individual, including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment, on account of retirement; (d) any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an individual after the expiration of six calendar months following the last calendar month in which such individual worked for such employer; (e) any payment made to, or on behalf of, an individual or his beneficiary (i) from or to a trust described in section 401 (a) of the Internal Revenue Code of 1954 which is exempt from tax under section 501 (a) of the Internal Revenue Code of 1954 at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust, or (ii) under or to an annuity plan which, at the time of such payment, meets the requirements of section 401 of the Internal Revenue Code of 1954; (f) remuneration paid in any medium other than cash to an individual for service not in the course of the employer's trade or business; and (g) any payment, other than vacation or sick pay, made to an individual after the month in which he attains the age of sixty-five, if he did not work for the employer in the period for which such payment is made;

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

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

Sec. 2. That section 48-603, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

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

(1) Any individual or type of organization, including any partnership, association, trust, estate, joint-stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which is or was an employer as defined by sections 48-601 to 48-669 immediately prior to May 27, 1971, and after December 31, 1971, any such individual or employing concern which for some portion of a day but not necessarily simultaneously in each of twenty different calendar weeks, whether or not such weeks are or were consecutive, within either the current or preceding calendar year, and for the purpose of this definition, if any week includes both December 31 and January 1, the days up to January 1 shall be deemed one calendar week and the days beginning January 1 another such week, has or had in employment one or more individuals, irrespective of whether the same individuals are or were employed in each such day; all individuals performing services for any employer of any person in this state, who maintains two or more separate establishments within this state, shall be deemed to be employed by a single employer; any artifice or device, including any contract or subcontract, by an employer for the performance of work, which is a part of such employer's usual trade, occupation, profession, or business, entered into for the purpose or with the intent of evading the application of this section to such employer, is hereby prohibited and declared to be unlawful;

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

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

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

(5) Any employer of any person in this state which, having become an employer under any provision of sections 48-601 to 48-669 and which subdivision (1), (2), (3), (4), (7), or (9), has not, under section 48-661, ceased to be an employer subject to said sections;

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

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

(8) The state or any of its instrumentalities for which service in employment as defined in section 48-604 (4) (a), is performed after December 31, 1977; and which is or was an employer under the provisions of sections 48-601 to 48-669 immediately prior to the effective date of this act and after December 31, 1977, the state or any political subdivision thereof and any instrumentality of any one or more of the foregoing;

(9) Any organization for which service in employment as defined in section 48-604 (4) (b) is performed after December 31, 1977; :

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

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

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

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

Sec. 3. That section 48-604, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

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

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

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

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

(a) Services not covered under subdivision (2) of this section and performed entirely without this state, with respect to no part of which contributions are required under an unemployment compensation law of any other state or of the federal government, shall be deemed to be employment subject to sections 48-601 to 48-669 if the Commissioner of Labor approves the election of the

employer, for whom such services are performed, that the entire service of such individual shall be deemed to be employment subject to said sections;

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

(c) Services of an individual who is a citizen of the United States, performed outside the United States except in Canada or the Virgin Islands, after December 31, 1971 in the employ of an American employer, other than service which is deemed employment under the provisions of subsections (2) and (3) (a) and (b) of this section or the parallel provisions of another state's law, if: (1) The employer's principal place of business in the United States is located in this state; or (2) the employer has no place of business in the United States, but the employer is an individual who is a resident of this state; or the employer is a corporation which is organized under the laws of this state; or the employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any other state; or (3) none of the criteria of subdivisions (1) and (2) of this subsection is met, but the employer has elected coverage in this state or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service under the laws of this state; (4) an American employer, for the purposes of this subsection, shall mean: (i) an individual who is a resident of the United States; (ii) a partnership if two-thirds or more of the partners are residents of the United States; (iii) a trust if all the trustees are residents of the United States; or (iv) a corporation organized under the laws of the United States or of any state; (5) the term United States for the purpose of this section includes the states, the District of Columbia, and the Commonwealth of Puerto Rico;

(4) (a) Service performed prior to January 1, 1978 which is or was service in employment for this state or any instrumentality thereof immediately prior to the effective date of this act, including service performed after December 31, 1971 in the employ of this state or any of its instrumentalities, or in the employ of this state and one or more other states or their instrumentalities, for a hospital or institution of higher education located in this state; and service performed after December 31, 1977 in the employ of this

state or any political subdivision thereof or any instrumentality of any one or more of the foregoing or any instrumentality which is wholly owned by this state and one or more other states or political subdivisions, or any service performed in the employ of any instrumentality of this state or of any political subdivision thereof and one or more other states or political subdivisions; Provided, such service is excluded from employment as defined in the Federal Unemployment Tax Act solely by reason of section 3306 (c) (7) of that act and is not otherwise excluded under the provisions of this section;

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

(c) Service performed after December 31, 1974, by an individual in agricultural labor as defined in subdivision (6) (a) of this section when: (i) Such service is performed for a person who during any calendar quarter in either the current or preceding calendar year paid remuneration in cash of twenty thousand dollars, or more to individuals employed in agricultural labor, or for some portion of a day in each of twenty different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor ten or more individuals, regardless of whether they were employed at the same moment of time; (ii) such service is not performed in agricultural labor if performed before January 1, 1980, by an individual who is an alien admitted to the United States to perform service in agricultural labor pursuant to sections 214 (c) and 101 (a) (15) (H) of the Immigration and Nationality Act; (iii) for the purposes of this subdivision, any individual who is a member of a crew furnished by a crew leader to perform services in agricultural labor for any other person shall be treated as an employee of such crew leader if such crew leader holds a valid certificate of registration under the Farm Labor Contractor Registration Act of 1963; or substantially all the members of such crew operate or maintain tractors, mechanized harvesting

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

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

(b) Services performed by an individual for wages shall be deemed to be employment, unless it be shown to the satisfaction of the commissioner that (a) such individual has been and will continue to be free from control or direction over the performance of such services, both under his contract of service and in fact, (b) such service is either outside the usual course of the business for which such service is performed or such service is performed outside of all the places of business of the enterprise for which such service is performed, and (c) such individual is customarily engaged in an independently established trade, occupation, profession, or business;

(6) The term employment shall not include: (a) Agricultural labor, except as provided in subdivision (4) (c) of this section, including all services performed (1)

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

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

week; which is wholly owned by one or more states or political subdivisions; and any service performed in the employ of any instrumentality of one or more states or political subdivisions to the extent that the instrumentality is with respect to such service, immune under the Constitution of the United States from the tax imposed by section 3304 of the Internal Revenue Code of 1954, except service performed after December 31, 1974 for a hospital or institution of higher education as provided by section 48-604-44-1a; (g) for the purposes of subdivisions (4) (a) and (4) (b) of this section, service performed (1) in the employ of (i) a church or convention or association of churches; or (ii) an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches; (2) by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of the duties required by such order; (3) prior to January 1, 1978, in the employ of a school which is not an institution of higher education; (4) in a facility conducted for the purpose of carrying out a program of rehabilitation for an individual whose earning capacity is impaired by age or physical or mental deficiency or injury providing remunerative work for the individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market or by an individual receiving such rehabilitation or remunerative work; (5) as part of an unemployment work relief or work training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work relief or work training; or (6) prior to January 1, 1978, for a hospital in a state prison or other state correctional institution by an inmate of the prison or correctional institution and after December 31, 1977, by an inmate of a custodial or penal institution; (h) service with respect to which unemployment compensation is payable under an unemployment compensation system established by an Act of Congress; (i) service performed in any calendar quarter in the employ of any organization exempt from income tax under section 501 (a) of the Internal Revenue Code of 1954, other than an organization described in section 401 (a) of the Internal Revenue Code of 1954, or under section 521 thereof, if the remuneration for such service is less than fifty dollars; (j) service performed in the employ of a school, college, or university, if such service is performed (1) by a student who is enrolled and is regularly attending classes at such school, college, or university or (2) by the spouse of such student, if such spouse is advised, at the time such

spouse commences to perform such service, that (i) the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university, and (ii) such employment will not be covered by any program of unemployment insurance; (k) service performed as a student nurse in the employ of a hospital or nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law; and service performed as an intern in the employ of a hospital by an individual who has completed a four-year course in a medical school chartered or approved pursuant to state law; (l) service performed by an individual as a real estate salesman, as an insurance agent, or as an insurance solicitor, if all such service performed by such individual is performed for remuneration solely by way of commission; (m) service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution; (n) service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers and magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back; (o) service performed by an individual under the age of twenty-two who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this subdivision shall not apply to service performed in a program established for or on behalf of an employer or a group of employers; and (p) service performed in the employ of a hospital, if such service is performed by a patient of the hospital;

(7) If the services performed during one half or more of any pay period by an individual for the person employing him constitute employment, all the services of such individual for such period shall be deemed to be employment, but if the services performed during more than one half of any such pay period by an individual for

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

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

(9) Any extension of the definition of employment by this section to include services heretofore excluded shall not be effective until after December 31, 1974 1977, and section 48-604 as it existed prior to its amendments by this act shall be applicable to services performed prior to January 1, 1972 1978.

Sec. 4. That section 48-627, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

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

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

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

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

(d) He has been unemployed for a waiting period of one week; no week shall be counted as a week of unemployment for the purpose of this subdivision (1) unless it occurs within the benefit year, which includes the week with respect to which he claims payment of benefits; Provided, that this requirement shall not interrupt the payment of benefits for consecutive weeks of unemployment; and provided further, that the week immediately preceding a benefit year, if part of one uninterrupted period of unemployment which continued into such benefit year, shall be deemed, for the purposes of this subdivision only, to be within such benefit year as well as within the preceding benefit year, (2) if benefits have been paid with respect thereto, or (3) unless the individual was eligible for benefits with respect thereto, as provided in sections 48-627 and 48-628, except for the requirements of this subdivision and of subdivision (f) of section 48-628; and

(e) For any benefit year, he has, within his base period, been paid a total sum of wages for employment by employers equal to not less than six hundred dollars, of which sum at least two hundred dollars shall have been paid in each of two quarters in his base period. For the purposes of this subdivision, [1] wages shall be counted as wages for insured work for benefit purposes with respect to any benefit year only if such benefit year begins subsequent to the date on which the employer, by whom such wages were paid, has satisfied the conditions of section 48-603 or subsection (c) of section 48-661, with respect to becoming an employer; and (2) with respect to weeks of unemployment beginning on or after January 1, 1978, wages for insured work for benefit purposes with respect to any benefit year shall include wages paid for services as defined by section 48-604,

subdivision (4) (a), (b), (c), or (d), to the extent that such services were not services in employment under the provisions of section 48-604, subdivision (4) (a), or section 48-661 immediately prior to the effective date of this act, even though the employer by whom such wages were paid had not satisfied the conditions of section 48-603, subdivision (8), (9), (10), or (11), with respect to becoming an employer at the time such wages were paid except to the extent that assistance under Title II of the Emergency Jobs and Unemployment Assistance Act of 1974 was paid on the basis of such services.

Sec. 5. That section 48-628, Revised Statutes Supplement, 1976, be amended to read as follows:

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

(a) For the week in which he has left work voluntarily without good cause, if so found by the Commissioner of Labor, and for not less than seven weeks nor more than ten weeks which immediately follow such week, as determined by the commissioner according to the circumstances in each case;

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

(c) For any week of unemployment in which he has failed, without good cause, either to apply for available, suitable work when so directed by the employment office or the commissioner or to accept suitable work when offered him, or to return to his customary self-employment, if any, and the commissioner so finds, and for not less than seven weeks nor more than ten weeks which immediately follow such week, as determined by the commissioner, and his total benefit amount to which he is then entitled shall be reduced by an amount equal to the number of weeks for which he has been disqualified by the commissioner. (1) In determining whether or not any work is suitable for an individual, the commissioner shall consider the degree of risk involved to his health, safety, and morals, his physical fitness and prior training, his experience and

prior earnings, his length of unemployment and prospects for securing local work in his customary occupation, and the distance of the available work from his residence.

(2) Notwithstanding any other provisions of sections 48-601 to 48-669, no work shall be deemed suitable and benefits shall not be denied under said sections to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (i) If the position offered is vacant due directly to a strike, lockout, or other labor dispute; (ii) if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; or (iii) if, as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(3) Notwithstanding any other provisions in this subdivision, no otherwise eligible individual shall be denied benefits with respect to any week in which he is in training with the approval of the commissioner, by reason of the application of the provisions in this subdivision relating to failure to apply for or a refusal to accept suitable work;

(d) For any week with respect to which the commissioner finds that his total unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which he is or was last employed; Provided, that this subdivision shall not apply if it is shown to the satisfaction of the commissioner that (1) he is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work, and (2) he does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating, financing, or directly interested in the dispute; and provided further, that if in any case separate branches of work which are commonly conducted as separate businesses in separate premises, are conducted in separate departments of the same premises, each such department shall, for the purposes of this subdivision, be deemed to be a separate factory, establishment, or other premises;

(e) For any week with respect to which he is receiving or has received remuneration in the form of (1) wages in lieu of notice, or a dismissal or separation allowance, (2) compensation for temporary partial disability under the workmen's compensation law of any state or under a similar law of the United States, (3) primary insurance benefits under Title II of the Social

Security Act, as amended, or similar payments under any Act of Congress, or for which he has applied to receive such benefits or payments, or (4) retirement pension or other gratuity or bonus from an employer, paid after termination of employment, on account of prior length of service, or disability not compensated under the workmen's compensation law. If such remuneration is less than the benefits which would otherwise be due he shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration. In the case of lump sum payments as to items (1) and (4) of this subdivision, such payments shall be prorated by weeks on the basis of the most recent weekly wage of the individual; Provided, no payment by the United States to veterans (i) for service or nonservice connected disabilities, or (ii) for retirement in lieu of service connected disability compensation, shall be deemed to be disqualifying or deductible from the benefit amount; and provided further, no deduction shall be made for the part of any retirement pension which represents return of payments made by the individual;

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

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

(h) For any week of unemployment if benefits claimed are based on services performed (1) prior to December 31, 1977 in an instructional, research, or principal administrative capacity in an institution of higher education if such week of unemployment begins during the period between two successive academic years or during a similar period between two regular terms, whether or not successive, or during a period of paid

sabbatical leave provided for in the individual's contract, if the individual has a contract or contracts to perform services in any such capacity for any institution of higher education for both such academic years or both such terms; (2) after December 31, 1977, in an instructional, research, or principal administrative capacity for an educational institution if such week of unemployment begins during the period between two successive years, or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, to any individual if such individual performs such services in the first of such academic years or terms and if there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms; or after December 31, 1977, in any other capacity for an educational institution, other than an institution of higher education, if such week of unemployment begins during a period between two successive academic years or terms if such individual performs such services in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms; and

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

Sec. 6. That section 48-628.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

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

(1) Extended benefit period shall mean a period, subsequent to December 31, 1971, which (a) begins with the third week after whichever of the following weeks occurs first: (1) A week for which there is a national on indicator, or (2) a week for which there is a state on indicator; and (b) ends with either of the following weeks, whichever occurs later: (1) The third week after

the first week for which there is both a national off indicator and a state off indicator, or (2) the thirteenth consecutive week of such period; Provided, that no extended benefit period may begin by reason of a state on indicator before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to this state;

(2) There is a national on indicator for a week if, for the period consisting of such week and the immediately preceding twelve weeks, the--United--States Secretary of Labor determines that for each of the--three most-recent-completed-calendar-months-ending-before--such week, the rate of insured unemployment, seasonally adjusted, for all states equaled or exceeded four and one half per cent. The rate of insured unemployment for the purpose of this subdivision shall be determined by the Secretary of Labor by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the close of such period;

(3) There is a national off indicator for a week if, for the period consisting of such week and the immediately preceding twelve weeks, the--United--States Secretary of Labor determines that for each of the--three most-recent-completed-calendar-months-ending-before--such week, the rate of insured unemployment, seasonally adjusted, for all states was less than four and one half per cent. The rate of insured unemployment, for the purpose of this subdivision, shall be determined by the Secretary of Labor by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the close of such period;

(4) There is a state on indicator for this state for a week if the commissioner determines, in--accordance with the regulations of the United--States--Secretary--of Labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment, not seasonally adjusted, under the provisions of this act: (a) Equaled or exceeded one hundred twenty per cent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years, and (b) equaled or exceeded four per cent; Provided, that with respect to benefits for weeks of unemployment, beginning after March 30, 1977 the determination of whether there has been a state on or off indicator beginning or ending any extended benefit period shall be made under this section as if (i) this subdivision did not contain subdivision (a) thereof, and (ii) the four per cent contained in

subdivision (b) thereof were five per cent; except that, notwithstanding any such provision of this subdivision, any week for which there would otherwise be a state on indicator shall continue to be such a week and shall not be determined to be a week for which there is a state off indicator;

(5) There is a state off indicator for this state for a week if the commissioner determines, ~~in accordance with the regulations of the United States Secretary of Labor;~~ that, for the period consisting of such week and the immediately preceding twelve weeks, ~~the rate of insured unemployment, not seasonally adjusted, under this act: (a) was less than one hundred twenty per cent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years; or (b) was less than four per cent either~~ subdivision (4) (a) or (b) of this section was not satisfied;

(6) Rate of insured unemployment, for purposes of subdivisions (4) and (5) of this section, shall mean the percentage derived by dividing (a) the average weekly number of individuals filing claims in this state for weeks of unemployment with respect to the most recent thirteen consecutive week period, as determined by the commissioner on the basis of his reports to the United States Secretary of Labor, by (b) the average monthly employment covered under the provisions of this act for the first four of the most recent six completed calendar quarters ending before the end of such thirteen-week period;

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

(8) Extended benefits shall mean benefits, including benefits payable to federal civilian employees and to exservicemen pursuant to 5 U.S.C. Chapter 85, payable to an individual under the provisions of this section for weeks of unemployment in his eligibility period;

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

(10) Exhaustee shall mean an individual who, with respect to any week of unemployment in his eligibility period: (a) Has received, prior to such week, all of the regular benefits that were available to him under the Employment Security Law of this state or any other state law, including dependents' allowances and benefits payable to federal civilian employees and exservicemen under 5 U.S.C. Chapter 85, in his current benefit year that includes such week; Provided, for the purposes of this subdivision, an individual shall be deemed to have received all of the regular benefits that were available to him although as a result of a pending appeal with respect to wages or employment or both wages and employment that were not considered in the original monetary determination in his benefit year, he may subsequently be determined to be entitled to added regular benefits; or (b) his benefit year having expired prior to such week, has no, or insufficient, wages or employment or both wages and employment on the basis of which he could establish a new benefit year that would include such week; and (c) (1) has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965 and such other federal laws as are specified in regulations issued by the United States Secretary of Labor; and (2) has not received and is not seeking unemployment benefits under the unemployment compensation law of the Virgin Islands or of Canada, but if he is seeking such benefits and the appropriate agency finally determines that he is not entitled to benefits under such law he is considered an exhaustee;

(11) State law shall mean the unemployment insurance law of any state, approved by the United States Secretary of Labor under section 3304 of the Internal Revenue Code of 1954; (a) except when the result would be inconsistent with the other provisions of this section, as provided in the regulations of the commissioner, the provisions of this act which apply to claims for, or payment of, regular benefits shall apply to claims for, and the payment of, extended benefits; (b) an individual shall be eligible to receive extended benefits with respect to any week of unemployment in his eligibility period only if the commissioner finds that with respect to such week: (1) He is an exhaustee as defined in subdivision (10) of this section, and (2) he has satisfied the requirements of this act for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits; (c) the weekly extended benefit amount payable to an individual for a week of total unemployment in his

eligibility period shall be an amount equal to the weekly benefit amount payable to him during his applicable benefit year; and (d) the total extended benefit amount payable to any eligible individual with respect to his applicable benefit year shall be the least of the following amounts: (1) Fifty per cent of the total amount of regular benefits which were payable to him under the Employment Security Law of this state in his applicable benefit year; or (2) thirteen times his weekly benefit amount which was payable to him under the Employment Security Law of this state for a week of total unemployment in the applicable benefit year; (e) (1) Whenever an extended benefit period is to become effective in this state or in all states as a result of a state or a national on indicator, or an extended benefit period is to be terminated in this state as a result of state and national off indicators, the commissioner shall make an appropriate public announcement; (2) computations required by the provisions of subdivision (6) of this section shall be made by the commissioner, in accordance with regulations prescribed by the United States Secretary of Labor.

Sec. 7. That section 48-649, Revised Statutes Supplement, 1976, be amended to read as follows:

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

(1) An employer's rate shall be two and seven-tenths per cent unless and until (a) benefits have been payable from and chargeable to his experience account throughout the preceding one calendar year, and (b) contributions have been payable to the fund and credited to his experience account with respect to the two preceding calendar years. Subject to fair and reasonable general rules of the commissioner issued with due regard for the solvency of the fund, the contribution rate required of each employer who meets the requirements of this subsection shall be based directly on his contributions to and benefit experience of his experience account and shall be determined by the commissioner for each calendar year at its beginning; Provided, that in no event shall such rate be increased beyond two and seven-tenths per cent of his annual payroll if his experience account exhibits a positive balance as of the beginning of such calendar year, but commencing January 1, 1976, for any employer who has been subject to the payment of contributions for the two preceding calendar

years and whose experience account exhibits a negative balance as of the beginning of such calendar year, the rate shall be three and seven-tenths per cent of his annual payroll until such time as the experience account exhibits a positive balance, and thereafter the rate shall not be greater than two and seven-tenths per cent;

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

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

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

quarter that is attributable to service in employment of such electing employer prior to December 31, 1978, and in an amount equal to the full amount of regular benefits plus the full amount of extended benefits paid during each calendar quarter that is attributable to service in employment of such electing employer after January 1, 1979. The commissioner, after the end of each calendar quarter, shall notify any such employer that has so elected of the amount of benefits for which it is liable to pay pursuant to its election that have been paid that are attributable to service in its employment and the employer so notified shall reimburse the fund within thirty days after receipt of such notice; (c) any employer which makes an election in accordance with subdivision (b) to become liable for payments in lieu of contributions shall continue to be liable for payments in lieu of contributions for all benefits paid based upon wages paid for service in employment of such employer while such election is effective and such election shall continue until such employer files with the commissioner, not later than December 1 of any calendar year, a written notice terminating its election as of December 31 of that year and thereafter such employer shall again be liable for the payment of contributions and for the reimbursement of such benefits as may be paid based upon wages paid for services in employment of such employer while such election was effective.

Sec. 8. That section 48-652, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-652. (1) (a) A separate experience account shall be established for each employer who is liable for payment of contributions. Whenever and wherever in sections 48-601 to 48-669 the terms reserve account or experience account are used, unless the context clearly indicates otherwise, such terms shall be deemed interchangeable and synonymous and reference to either of such accounts shall refer to and also include the other; and (b) a separate reimbursement account shall be established for each employer who is liable for payments in lieu of contributions. All benefits paid with respect to service in employment for such employer shall be charged to his reimbursement account, and such employer shall be billed for and shall be liable for the payment of the amount charged when billed by the commissioner. Payments in lieu of contributions received by the commissioner on behalf of each such employer shall be credited to such employer's reimbursement account and two or more employers who are liable for payments in lieu of contributions may jointly apply to the commissioner for establishment of a group account for the purpose of

sharing the cost of benefits paid that are attributable to service in the employ of such employers. The commissioner shall prescribe such regulations as he deems necessary with respect to applications for establishment, maintenance and termination of group accounts authorized by this subdivision.

(2) All contributions paid by an employer shall be credited to the experience account of such employer. In addition to such credits, each employer's account shall be credited as of June 30 of each calendar year with interest at a rate determined by the commissioner based on the average annual interest rate paid by the Secretary of the Treasury of the United States of America upon the account of the Nebraska Unemployment Trust Fund for the preceding calendar year, multiplied by the balance in his experience account at the beginning of such calendar year; Provided, that should the total credits as of such date to all employers' experience accounts be equal to or greater than ninety per cent of the total amount in the Unemployment Compensation Fund, no interest shall be credited for that year to any employer's account. All voluntary contributions and contributions with respect to prior years which are received on or before January 31 of any year shall be considered as having been paid at the beginning of the calendar year.

(3) (a) Each experience account shall be charged only for benefits based upon wages paid by such employer; Provided, that no benefits shall be charged to the experience account of any employer, if such benefits were paid on the basis of a period of employment from which the claimant has left work voluntarily without good cause or employment from which he has been discharged for misconduct connected with his work and concerning which separation the employer has filed timely notice of the facts on which such exemption is claimed in accordance with regulations prescribed by the commissioner and no benefits shall be charged to the experience account of any employer if such benefits were paid on the basis of wages paid in the base period that are wages for insured work solely by reason of the provisions of section 48-627, subdivision (e) (2); (b) each reimbursement account shall be charged only for benefits paid that were based upon wages paid by such employer in the base period that were wages for insured work solely by reason of the provisions of section 48-627, subdivision (e) (1); and (c) benefits paid to an eligible individual shall be charged against the account of his most recent employers within his base period against whose accounts the maximum charges hereunder have not previously been made, in the inverse chronological order in which the employment of

such individual occurred. The maximum amount so charged against the account of any employer, other than an employer for which services in employment as provided in subdivision (4) (a) of section 48-604 are performed, shall not exceed the total number of benefit units to which such individual was entitled as set out in section 48-626 with respect to base period wages of such individual paid by such employer plus one half the amount of extended benefits paid to such eligible individual with respect to base period wages of such individual paid by such employer. The commissioner shall by general rules prescribe the manner in which benefits shall be charged against the account of several employers for whom an individual performed employment during the same quarter. Any benefit check duly issued and delivered or mailed to a claimant and not presented for payment within one year from the date of its issue may be invalidated and the amount thereof credited to the Unemployment Compensation Fund; provided, that a substitute check may be issued and charged to the fund on proper showing at any time within the year next following. Any charge made to an employer's account for any such invalidated check shall stand as originally made.

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

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

Sec. 9. That section 48-661, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-661. (a) Except as otherwise provided in subsections (b) and (c) of this section, any employer not otherwise subject to sections 48-601 to 48-669, who is or

becomes an employer subject to said sections within any calendar year, shall be subject to said sections during the whole of such calendar year.

(b) Except as otherwise provided in subsection (c) of this section, an employer, other than an employer subject by reason of subdivision (4) (a) of section 48-604, shall cease to be an employer subject to said sections only as of January 1 of any calendar year, if he files with the commissioner, on or before January 31 of such year, a written application for termination of coverage, and the commissioner finds: (1) that there were no twenty different days, each day being in a different calendar week, within the preceding calendar year within which such employer employed one or more individuals in employment subject to said sections and there was no calendar quarter within the preceding calendar year in which such employer paid wages for employment in the total sum of fifteen hundred dollars or more; or (2) if the employer is subject by reason of the provisions of section 48-603 (9), there were no twenty different days, each being in a different calendar week, within the preceding calendar year within which such employer employed four or more individuals in employment subject to that section; (3) if the employer is subject by reason of the provisions of section 48-603, subdivision (10), there were no twenty different days, each being in a different calendar week, within the preceding calendar year within which such employer employed ten or more individuals in employment subject to that section and there was no calendar quarter within the preceding calendar year in which such employer paid remuneration in cash for employment subject to that section in the total sum of twenty thousand dollars or more; or (4) if the employer is subject by reason of the provisions of section 48-603, subdivision (11), there was no calendar quarter within the preceding calendar year in which such employer paid cash remuneration in the total sum of one thousand dollars or more for services in employment subject to that section; Provided, the commissioner may on his motion terminate the coverage of any employer who has not made such written request, but is otherwise eligible to terminate; and provided further, any employer whose entire experience account has been transferred to another employer under the provisions of section 48-654 may request termination as of the date of such transfer if such request is made within thirty days after the determination is made allowing the transfer.

(c) An employer not otherwise subject to sections 48-601 to 48-669, who files with the commissioner his written election to become an employer subject thereto for not less than two calendar years, shall, with the

written approval of such election by the commissioner, become an employer subject thereto to the same extent as all other employers, as of the date stated in such approval, and shall cease to be subject thereto as of January 1 of any calendar year subsequent to such two calendar years, only if on or before January 31 of such year, he has filed with the commissioner a written notice to that effect. Any employer of any person in this state for whom services that do not constitute employment as defined in section 48-604 are performed, may file with the commissioner a written election that all such services performed by individuals in his employ in one or more distinct establishments or places of business shall be deemed to constitute employment for all the purposes of sections 48-601 to 48-669 for not less than two calendar years. Upon the written approval of such election by the commissioner, such services shall be deemed to constitute employment subject to said sections from and after the date stated in such approval. Such services shall cease to be deemed employment subject hereto as of January 1 of any calendar year subsequent to such two calendar years, only if on or before January 31 of such year such employer has filed with the commissioner a written notice to that effect. Any state administrative department or any state commission or board shall file with the commissioner a written election to become an employer for not less than two calendar years and may obligate its funds for the payment of benefits paid from the Unemployment Compensation Fund on its employment. Any political subdivision of the State of Nebraska, or any instrumentality thereof, may file with the commissioner a written election to become an employer for not less than two calendar years and may obligate its funds for the payment of benefits paid from the Unemployment Compensation Fund on its employment. Any election by a state administrative department, state commission or board shall be made by the head thereof with the approval of the Governor. The commissioner after the end of each calendar quarter shall notify the electing state administrative department, state commission or board, political subdivision or instrumentality of the amount of benefits paid on its employment, and the electing public employer shall reimburse the fund within thirty days after receipt of such notice. No other contribution shall be required of a public employer which so elects, if any political subdivision elects to cover service performed by employees of its hospitals and institutions of higher education operated by such political subdivision, such election shall include all services performed for its hospitals or institutions of higher education except services described in section 48-604 (6) (g). An election under this subdivision may be terminated by

~~filing with the commissioner--written--notice--not--later than thirty days preceding the last day of--the--calendar year in which the termination is to be effective.---Such termination becomes effective as of the first day of--the next ensuing--calendar--year--with--respect--to--services performed after that date.~~

Sec. 10. If Public Law 94-566 or the federal acts it amends is adjudged unconstitutional or invalid in its application or stayed pendente lite by any court of competent jurisdiction, then the coverage under this act of those employees of any political subdivision is automatically stayed or repealed.

Sec. 11. Any city or village of the state which makes any contributions or payments required to be made by this act shall levy a tax in order to defray the cost to such city or village in meeting the obligations arising by reason of this act. Such tax shall be in excess of and in addition to all other taxes now or hereafter authorized to be levied by such city. The revenue so raised shall be limited to the amount needed to defray the cost to such city or village in meeting the obligations arising by reason of this act, and shall be used for no other purpose.

Sec. 12. That original sections 48-602, 48-603, 48-604, 48-627, 48-628.02, 48-652, and 48-661, Reissue Revised Statutes of Nebraska, 1943, and sections 48-628 and 48-649, Revised Statutes Supplement, 1976, are repealed.