

LEGISLATIVE BILL 334

Approved by the Governor March 29, 1995

Introduced by Abboud, 12

AN ACT relating to employment security; to amend section 48-649, Revised Statutes Supplement, 1994; to change provisions relating to an employer's contribution rate; and to repeal the original section.
Be it enacted by the people of the State of Nebraska,

Section 1. Section 48-649, Revised Statutes Supplement, 1994, is amended to read:

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

(1) Commencing January 1, 1996, the commissioner shall, in April or May, for each calendar year, and based upon information available through the department, determine the state unemployment insurance tax rate for the following year. The state unemployment insurance tax rate shall be zero percent if:

(a) The minimum reserve ratio for the lowest combined tax rate exceeds ten and five-tenths percent for the current year;

(b) The average balance in the State Unemployment Insurance Trust Fund at the end of any three months in the preceding calendar year is greater than one percent of state taxable wages for the same preceding year;

(c) The balance in the State Unemployment Insurance Trust Fund equals or exceeds thirty percent of the average month end balance of the state's account in the Unemployment Trust Fund for the three lowest calendar months in the preceding year; or

(d) The state advisory council determines that a zero percent state unemployment insurance tax rate is in the best interests of preserving the integrity of the state's account in the Unemployment Trust Fund;

(2) If the state unemployment insurance tax rate is not zero percent as determined in this section, the combined tax rate shall be divided so that eighty percent of the combined tax rate equals the contribution rate and twenty percent of the combined tax rate equals the state unemployment insurance tax rate except for employers who are assigned the five and four-tenths percent combined tax rate. For those employers, the state unemployment insurance tax rate shall equal zero and their combined tax rate shall equal their contribution rate. When the state unemployment insurance tax rate is determined to be zero percent pursuant to subdivision (1) of this section, the contribution rate for all employers shall equal one hundred percent of the combined tax rate;

(3) An employer's contribution rate shall be three and five-tenths percent of his or her annual payroll and for calendar years beginning 1996 an employer's combined tax rate shall be three and five-tenths percent of his or her annual payroll unless and until (a) benefits have been payable from and chargeable to his or her experience account throughout the preceding one calendar year and (b) contributions have been payable to the fund and credited to his or her experience account with respect to the two preceding calendar years. Subject to fair and reasonable rules and regulations of the commissioner issued with due regard for the solvency of the fund, the combined tax rate required of each employer who meets the requirements of subdivisions (a) and (b) of this subdivision shall be based directly on his or her contributions to and benefit experience of his or her experience account and shall be determined by the commissioner for each calendar year at its beginning. Such rate shall not be greater than three and five-tenths percent of his or her annual payroll if his or her experience account exhibits a positive balance as of the beginning of such calendar year, but for any employer who has been subject to the payment of contributions for the any two preceding calendar years, regardless of whether such years are consecutive, and whose experience account exhibits a negative balance as of the beginning of such calendar year, the rate shall be greater than three and five-tenths percent of his or her annual payroll but not greater than five and four-tenths percent of his or her annual payroll until such time as the experience account exhibits a positive balance, and thereafter the rate shall not be greater than three and five-tenths percent of his or her annual payroll. The standard rate shall be five and four-tenths percent of the employer's annual payroll. As

used in this subdivision, standard rate shall mean the rate from which all reduced rates are calculated;

(4) Any employer may at any time make voluntary contributions, additional to the required contributions, to the fund to be credited to his or her account. Voluntary contributions received after March 10 of any year shall not be used in rate calculations for the same calendar year;

(5) 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 the combined tax was measured; and

(6)(a) 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 subdivision (4)(a) of section 48-604 are performed shall be required to pay contributions and after December 31, 1996, combined tax 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 combined tax under the Employment Security Law, 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 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. Eligible employers electing to make payments in lieu of contributions shall not be liable for state unemployment insurance tax payments. 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; and (c) any employer which makes an election in accordance with subdivision (b) of this subdivision 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. 2. Original section 48-649, Revised Statutes Supplement, 1994, is repealed.