

LEGISLATIVE BILL 739

Approved by the Governor April 27, 2005

Introduced by Cunningham, 40; Burling, 33; Combs, 32; Kremer, 34; Redfield, 12

AN ACT relating to the Employment Security Law; to amend sections 48-601, 48-602, 48-603.01, 48-624, 48-625, 48-627, 48-628, 48-649, 48-652, and 48-669, Reissue Revised Statutes of Nebraska; to provide for an average combined tax rate and an emergency solvency surcharge; to change provisions relating to the average weekly wage, wages subject to tax, computation of benefits, eligibility conditions, and combined tax rate; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 48-601, Reissue Revised Statutes of Nebraska, is amended to read:

48-601. Sections 48-601 to 48-671 and sections 3, 6, and 7 of this act shall be known and may be cited as the Employment Security Law.

Sec. 2. Section 48-602, Reissue Revised Statutes of Nebraska, is amended to read:

48-602. For purposes of the Employment Security Law, 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, except that the commissioner may prescribe by rule and regulation that base period shall mean the first four of the last five 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 or her unemployment;

(3) 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 or her 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;

(4) 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 rule and regulation prescribe;

(5) Client shall mean any individual, partnership, limited liability company, corporation, or other legally recognized entity that contracts with a professional employer organization to obtain professional employer services relating to worksite employees through a professional employer agreement;

(6) Combined tax shall mean the employer liability consisting of contributions and ~~commencing January 1, 1996,~~ the state unemployment insurance tax;

(7) Combined tax rate shall mean the rate which is applied to wages to determine the combined taxes due;

(8) Commissioner shall mean the Commissioner of Labor;

(9) Contribution rate shall mean the percentage of the combined tax rate used to determine the contribution portion of the combined tax;

(10) Contributions shall mean that portion of the combined tax based upon the contribution rate portion of the combined tax rate which is deposited in the state Unemployment Compensation Fund as required by sections 48-648 and 48-649;

(11) Department shall mean the Department of Labor;

(12) 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;

(13) 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;

(14) Hospital shall mean an institution which has been licensed, certified, or approved by the Department of Health and Human Services Regulation and Licensure as a hospital;

(15) 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 subdivision, all colleges and universities in this state are institutions of higher education for purposes of this section;

(16) Insured work shall mean employment for employers;

(17) Leave of absence shall mean any absence from work: (a) Mutually and voluntarily agreed to by the employer and the employee; (b) mutually and voluntarily agreed to between the employer and the employee's bargaining agent; or (c) to which the employee is entitled to as a matter of state or federal law;

(18) Paid vacation leave shall mean a period of time while employed or following separation from employment in which the individual renders no services to the employer but is entitled to receive vacation pay equal to or exceeding his or her base weekly wage;

(19) 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;

(20) Professional employer agreement shall mean a written professional employer services contract whereby:

(a) A professional employer organization agrees to provide payroll services, employee benefit administration, or personnel services for a majority of the employees providing services to the client at a client worksite;

(b) The agreement is intended to be ongoing rather than temporary in nature; and

(c) Employer responsibilities for worksite employees, including those of hiring, firing, and disciplining, are shared between the professional employer organization and the client by contract. The term professional employer agreement shall not include a contract between a parent corporation, company, or other entity and a wholly owned subsidiary;

(21) Professional employer organization shall mean any individual, partnership, limited liability company, corporation, or other legally recognized entity that enters into a professional employer agreement with a client or clients for a majority of a client's workforce at a client worksite. The term professional employer organization shall not include an insurer as defined in section 44-103 or a temporary help firm;

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

(23) State unemployment insurance tax shall mean that portion of the combined tax ~~commencing January 1, 1996,~~ which is based upon the state unemployment insurance tax rate portion of the combined tax rate and which is deposited in the State Unemployment Insurance Trust Fund as required by sections 48-648 and 48-649;

(24) State unemployment insurance tax rate shall mean the percentage of the combined tax rate used to determine the state unemployment insurance tax portion of the combined tax;

(25) Temporary employee shall mean an employee of a temporary help firm assigned to work for the clients of such temporary help firm;

(26) Temporary help firm shall mean a firm that hires its own employees and assigns them to clients to support or supplement the client's work force in work situations such as employee absences, temporary skill shortages, seasonal workloads, and special assignments and projects;

(27) Unemployed shall mean an individual during any week in which the individual performs no service and with respect to which no wages are payable to the individual or any week of less than full-time work if the wages payable with respect to such week are less than the individual's weekly benefit amount, but shall not include any individual on a leave of absence or on paid vacation leave. When an agreement between the employer and a bargaining unit representative does not allocate vacation pay allowance or pay in lieu of vacation to a specified period of time during a period of temporary

layoff or plant shutdown, the payment by the employer or his or her designated representative will be deemed to be wages as defined in this section in the week or weeks the vacation is actually taken;

(28) Unemployment Trust Fund shall mean the trust fund in the Treasury of the United States of America established under section 904 of the federal Social Security Act, 42 U.S.C. 1104, as such section existed on March 2, 2001, which receives credit from the state Unemployment Compensation Fund;

(29) Wages, except with respect to services performed in employment as provided in subdivisions (4)(c) and (d) of section 48-604, shall mean all remuneration for personal services, including commissions and bonuses, remuneration for personal services paid under a contract of hire, 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 and regulations prescribed by the commissioner. After December 31, 1985, wages shall include tips which are received while performing services which constitute employment and which are included in a written statement furnished to the employer pursuant to section 6053(a) of the Internal Revenue Code as defined in section 49-801.01.

With respect to services performed in employment in agricultural labor as is provided in subdivision (4)(c) of section 48-604 or in domestic service as is provided in subdivision (4)(d) of section 48-604, wages shall mean cash remuneration for such services. ~~except that as used in sections 48-648 and 48-649 only, the term wages shall not include that part of the remuneration which, after remuneration equal to seven 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 or her 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 (i) sickness or accident disability, except, in the case of payments made to an employee or any of his or her dependents, this subdivision (i) shall exclude from wages only payments which are received under a workers' compensation law, (ii) medical and hospitalization expenses in connection with sickness or accident disability, or (iii) 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 as defined in section 49-801.01;

(c) 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;

(d) Any payment made to, or on behalf of, an individual or his or her beneficiary (i) from or to a trust described in section 401(a) of the Internal Revenue Code as defined in section 49-801.01 which is exempt from tax under section 501(a) of the Internal Revenue Code as defined in section 49-801.01 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 as defined in section 49-801.01;

(e) Any payment made to, or on behalf of, an employee or his or her beneficiary (i) under a simplified employee pension as defined by the commissioner, (ii) under or to an annuity contract as defined by the commissioner, other than a payment for the purchase of such contract which is made by reason of a salary reduction agreement, whether evidenced by a written instrument or otherwise, (iii) under or to an exempt governmental deferred compensation plan as defined by the commissioner, (iv) to supplement pension benefits under a plan or trust, as defined by the commissioner, to take into account some portion or all of the increase in the cost of living since retirement, but only if such supplemental payments are under a plan which is treated as a welfare plan, or (v) under a cafeteria benefits plan;

(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) Benefits paid under a supplemental unemployment benefit plan which satisfies the eight points set forth in Internal Revenue Service Revenue Ruling 56-249 as the ruling existed on March 2, 2001, and is in compliance with the standards set forth in Internal Revenue Service Revenue Rulings 58-128 and 60-330 as the rulings existed on March 2, 2001;

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

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

(32) Wholly owned subsidiary means a corporation, company, or other entity which has eighty percent or more of its outstanding voting stock or membership owned or controlled, directly or indirectly, by the parent entity; and

(33) Worksite employee shall mean a person receiving wages or benefits from a professional employer organization pursuant to the terms of a professional employer agreement for work performed at a client's worksite.

Sec. 3. If the state's reserve ratio on September 30, 2006, 2007, 2008, or 2009 is less than four-tenths percent, then the commissioner may, with due regard to the solvency of the Unemployment Trust Fund, after notice and public hearing, impose a combined tax emergency solvency surcharge of not more than one percent of taxable wages paid during the four calendar quarters ending on September 30 of the year that the emergency solvency surcharge is imposed. The public hearing as to whether an emergency solvency surcharge shall be imposed shall be held not later than December 15 of the year the emergency solvency surcharge is imposed. The provisions of the Administrative Procedure Act shall not apply to decisions made pursuant to this section, but the commissioner shall publish notice of the public hearing in a newspaper of general circulation in the state not less than seven calendar days prior to the public hearing. The commissioner shall calculate the emergency solvency surcharge due from each employer and bill the employer for such amount not later than December 31 of the year in which the emergency solvency surcharge is made. The amount of the emergency solvency surcharge shall not exceed that amount reasonably calculated to be necessary to generate revenue sufficient, when added to regular combined tax payments, to pay unemployment benefits for the year in which the emergency solvency surcharge is imposed. Payment of the emergency solvency surcharge shall be due on the last day of the month following billing. Emergency solvency surcharges unpaid on the date on which they are due and payable shall bear interest, at the rate prescribed in section 48-655 for interest upon unpaid combined tax, until payment, plus accrued interest, is received by the commissioner. If any employer defaults in any payment of an emergency solvency surcharge or interest, the commissioner may file a lien against such employer in accordance with the Uniform State Tax Lien Registration and Enforcement Act. Such liens shall set forth the amount of the emergency solvency surcharge and interest in default and shall be continued and enforced as provided in the Uniform State Tax Lien Registration and Enforcement Act. Emergency solvency surcharges shall be credited to the pool account and any interest collected thereon shall be deposited in the Employment Security Special Contingent Fund.

Sec. 4. Section 48-603.01, Reissue Revised Statutes of Nebraska, is amended to read:

48-603.01. (1) For purposes of the Employment Security Law, unless the context otherwise requires, the term employer shall include any Indian tribe for which services in employment as provided in subdivision (4)(a) of section 48-604 are performed.

(2) The term employment shall include service performed in the employ of an Indian tribe, as defined in 26 U.S.C. 3306(u), as such section existed on March 2, 2001, if such service is excluded from employment as defined in the Federal Unemployment Tax Act solely by reason of 26 U.S.C. 3306(c)(7), as such section existed on March 2, 2001, and is not otherwise excluded from employment under the Employment Security Law. For purposes of this section, the exclusions from employment in subdivisions (6)(f) and (6)(g) of section 48-604 shall be applicable to services performed in the employment of an Indian tribe.

(3) Benefits based on service in employment defined in this section shall be payable in the same amount, on the same terms, and subject to the same conditions as benefits payable on the basis of other covered employment under the Employment Security Law. Subdivision (8) of section 48-628 shall apply to services performed in an educational institution or educational service agency owned or operated by an Indian tribe.

(4) (a) Indian tribes or tribal units, subdivisions, subsidiaries, or business enterprises wholly owned by such Indian tribes, subject to the Employment Security Law, shall pay combined tax under the same terms and conditions as all other subject employers, unless they elect to make payments in lieu of contributions equal to the amount of benefits attributable to service in the employ of the Indian tribe.

(b) Indian tribes electing to make payments in lieu of contributions shall make such election in the same manner and under the same conditions as provided in subdivision ~~(6)~~ (7) of section 48-649 pertaining to state and local governments subject to the Employment Security Law. Indian tribes shall determine if reimbursement for benefits paid will be elected by the tribe as a whole, by individual tribal units, or by combinations of individual tribal units.

(c) Except as provided in subsection (7) of this section, Indian tribes or tribal units shall be billed for the full amount of benefits attributable to service in the employ of the Indian tribe or tribal unit on the same schedule as other employing units that have elected to make payments in lieu of contributions.

(d) At the discretion of the commissioner, any Indian tribe or tribal unit that elects to become liable for payments in lieu of contributions shall be required within thirty days after the effective date of its election to:

(i) Execute and file with the commissioner a surety bond approved by the commissioner; or

(ii) Deposit with the commissioner money or securities on the same basis as other employers with the same election option.

(5) (a) (i) Failure of the Indian tribe or tribal unit to make required payments, including assessments of interest and penalty, within ninety days of receipt of the bill will cause the Indian tribe to lose the option to make payments in lieu of contributions, as described in subsection (4) of this section, for the following tax year unless payment in full is received before combined tax rates for the next tax year are computed.

(ii) Any Indian tribe that loses the option to make payments in lieu of contributions due to late payment or nonpayment, as described in subdivision (5) (a) (i) of this section, shall have such option reinstated if, after a period of one year, all combined taxes have been paid timely and no combined tax, payments in lieu of contributions for benefits paid, penalties, or interest remain outstanding.

(b) (i) Failure of the Indian tribe or any tribal unit thereof to make required payments, including assessments of interest and penalty, after all collection activities deemed necessary by the commissioner have been exhausted will cause services performed for such tribe to not be treated as employment for purposes of subsection (2) of this section.

(ii) The commissioner may determine that any Indian tribe that loses coverage under subdivision (5) (b) (i) of this section may have services performed for such tribe again included as employment for purposes of subsection (2) of this section if all contributions, payments in lieu of contributions, penalties, and interest have been paid.

(6) Notices of payment and reporting delinquency to Indian tribes or their tribal units shall include information that failure to make full payment within the prescribed timeframe:

(a) Will cause the Indian tribe to be liable for taxes under the Federal Unemployment Tax Act, as the act existed on March 2, 2001;

(b) Will cause the Indian tribe to lose the option to make payments in lieu of contributions; and

(c) Could cause the Indian tribe to be excepted from the definition of employer, as provided in subsection (1) of this section, and services in the employ of the Indian tribe, as provided in subsection (2) of this section, to be excepted from employment.

(7) Extended benefits paid that are attributable to service in the employ of an Indian tribe and not reimbursed by the federal government shall be financed in their entirety by such Indian tribe.

(8) If an Indian tribe fails to make payments required under this section, including assessments of interest and penalty, within ninety days after a final notice of delinquency, the commissioner shall immediately notify the United States Internal Revenue Service and the United States Department of Labor.

Sec. 5. Section 48-624, Reissue Revised Statutes of Nebraska, is amended to read:

48-624. ~~(1) For any benefit year beginning on or after January 1, 1995, through December 31, 1998, an individual's weekly benefit amount shall be in the amount appearing in Column B in the table in this subsection on the~~

line on which, in Column A of such table, there appear the total wages paid to such individual for insured work, in that quarter, of his or her base period, in which such total wages were highest.

UNEMPLOYMENT BENEFIT TABLE

Column A Wages Paid in Highest Quarter Of Base Period	Column B Weekly Benefit Amount
\$ 400.01 through \$ 450.00	\$ 20.00
450.01 through 500.00	22.00
500.01 through 550.00	24.00
550.01 through 600.00	26.00
600.01 through 650.00	28.00
650.01 through 700.00	30.00
700.01 through 750.00	32.00
750.01 through 800.00	34.00
800.01 through 850.00	36.00
850.01 through 900.00	38.00
900.01 through 950.00	40.00
950.01 through 1,000.00	42.00
1,000.01 through 1,050.00	44.00
1,050.01 through 1,100.00	46.00
1,100.01 through 1,150.00	48.00
1,150.01 through 1,200.00	50.00
1,200.01 through 1,250.00	52.00
1,250.01 through 1,300.00	54.00
1,300.01 through 1,350.00	56.00
1,350.01 through 1,400.00	58.00
1,400.01 through 1,450.00	60.00
1,450.01 through 1,500.00	62.00
1,500.01 through 1,550.00	64.00
1,550.01 through 1,600.00	66.00
1,600.01 through 1,650.00	68.00
1,650.01 through 1,700.00	70.00
1,700.01 through 1,750.00	72.00
1,750.01 through 1,800.00	74.00
1,800.01 through 1,850.00	76.00
1,850.01 through 1,900.00	78.00
1,900.01 through 1,950.00	80.00
1,950.01 through 2,000.00	82.00
2,000.01 through 2,050.00	84.00
2,050.01 through 2,100.00	86.00
2,100.01 through 2,150.00	88.00
2,150.01 through 2,200.00	90.00
2,200.01 through 2,250.00	92.00
2,250.01 through 2,300.00	94.00
2,300.01 through 2,350.00	96.00
2,350.01 through 2,400.00	98.00
2,400.01 through 2,450.00	100.00
2,450.01 through 2,500.00	102.00
2,500.01 through 2,550.00	104.00
2,550.01 through 2,600.00	106.00
2,600.01 through 2,650.00	108.00
2,650.01 through 2,700.00	110.00
2,700.01 through 2,750.00	112.00
2,750.01 through 2,800.00	114.00
2,800.01 through 2,850.00	116.00
2,850.01 through 2,900.00	118.00
2,900.01 through 2,950.00	120.00
2,950.01 through 3,000.00	122.00
3,000.01 through 3,050.00	124.00
3,050.01 through 3,100.00	126.00
3,100.01 through 3,150.00	128.00
3,150.01 through 3,200.00	130.00
3,200.01 through 3,250.00	132.00
3,250.01 through 3,300.00	134.00
3,300.01 through 3,350.00	136.00
3,350.01 through 3,400.00	138.00
3,400.01 through 3,450.00	140.00
3,450.01 through 3,500.00	142.00
3,500.01 through 3,550.00	144.00
3,550.01 through 3,600.00	146.00

3,600.01 through 3,650.00	148.00
3,650.01 through 3,700.00	150.00
3,700.01 through 3,750.00	152.00
3,750.01 through 3,800.00	154.00
3,800.01 through 3,850.00	156.00
3,850.01 through 3,900.00	158.00
3,900.01 through 3,950.00	160.00
3,950.01 through 4,000.00	162.00
4,000.01 through 4,050.00	164.00
4,050.01 through 4,100.00	166.00
4,100.01 through 4,150.00	168.00
4,150.01 through 4,200.00	170.00
4,200.01 through 4,250.00	172.00
4,250.01 through 4,300.00	174.00
4,300.01 through 4,350.00	176.00
4,350.01 through 4,400.00	178.00
4,400.01 through 4,450.00	180.00
4,450.01 through 4,500.00	182.00
4,500.01 and over	184.00

(2) For any benefit year beginning on or after January 1, 1999, through December 31, 1999, an individual's weekly benefit amount shall be in the amount appearing in Column B in the table in this subsection on the line on which, in Column A of such table, there appear the total wages paid to such individual for insured work, in that quarter, of his or her base period, in which such total wages were highest.

UNEMPLOYMENT BENEFIT TABLE

Column A Wages Paid in Highest Quarter Of Base Period	Column B Weekly Benefit Amount
\$ 800.00 through \$ 850.00	\$ 36.00
850.01 through 900.00	38.00
900.01 through 950.00	40.00
950.01 through 1,000.00	42.00
1,000.01 through 1,050.00	44.00
1,050.01 through 1,100.00	46.00
1,100.01 through 1,150.00	48.00
1,150.01 through 1,200.00	50.00
1,200.01 through 1,250.00	52.00
1,250.01 through 1,300.00	54.00
1,300.01 through 1,350.00	56.00
1,350.01 through 1,400.00	58.00
1,400.01 through 1,450.00	60.00
1,450.01 through 1,500.00	62.00
1,500.01 through 1,550.00	64.00
1,550.01 through 1,600.00	66.00
1,600.01 through 1,650.00	68.00
1,650.01 through 1,700.00	70.00
1,700.01 through 1,750.00	72.00
1,750.01 through 1,800.00	74.00
1,800.01 through 1,850.00	76.00
1,850.01 through 1,900.00	78.00
1,900.01 through 1,950.00	80.00
1,950.01 through 2,000.00	82.00
2,000.01 through 2,050.00	84.00
2,050.01 through 2,100.00	86.00
2,100.01 through 2,150.00	88.00
2,150.01 through 2,200.00	90.00
2,200.01 through 2,250.00	92.00
2,250.01 through 2,300.00	94.00
2,300.01 through 2,350.00	96.00
2,350.01 through 2,400.00	98.00
2,400.01 through 2,450.00	100.00
2,450.01 through 2,500.00	102.00
2,500.01 through 2,550.00	104.00
2,550.01 through 2,600.00	106.00
2,600.01 through 2,650.00	108.00
2,650.01 through 2,700.00	110.00
2,700.01 through 2,750.00	112.00
2,750.01 through 2,800.00	114.00
2,800.01 through 2,850.00	116.00
2,850.01 through 2,900.00	118.00

2,900.01 through 2,950.00	120.00
2,950.01 through 3,000.00	122.00
3,000.01 through 3,050.00	124.00
3,050.01 through 3,100.00	126.00
3,100.01 through 3,150.00	128.00
3,150.01 through 3,200.00	130.00
3,200.01 through 3,250.00	132.00
3,250.01 through 3,300.00	134.00
3,300.01 through 3,350.00	136.00
3,350.01 through 3,400.00	138.00
3,400.01 through 3,450.00	140.00
3,450.01 through 3,500.00	142.00
3,500.01 through 3,550.00	144.00
3,550.01 through 3,600.00	146.00
3,600.01 through 3,650.00	148.00
3,650.01 through 3,700.00	150.00
3,700.01 through 3,750.00	152.00
3,750.01 through 3,800.00	154.00
3,800.01 through 3,850.00	156.00
3,850.01 through 3,900.00	158.00
3,900.01 through 3,950.00	160.00
3,950.01 through 4,000.00	162.00
4,000.01 through 4,050.00	164.00
4,050.01 through 4,100.00	166.00
4,100.01 through 4,150.00	168.00
4,150.01 through 4,200.00	170.00
4,200.01 through 4,250.00	172.00
4,250.01 through 4,300.00	174.00
4,300.01 through 4,350.00	176.00
4,350.01 through 4,400.00	178.00
4,400.01 through 4,450.00	180.00
4,450.01 through 4,500.00	182.00
4,500.01 through 4,550.00	184.00
4,550.01 through 4,600.00	186.00
4,600.01 through 4,650.00	188.00
4,650.01 through 4,700.00	190.00
4,700.01 through 4,750.00	192.00
4,750.01 through 4,800.00	194.00
4,800.01 through 4,850.00	196.00
4,850.01 through 4,900.00	198.00
4,900.01 through 4,950.00	200.00
4,950.01 through 5,000.00	202.00
5,000.01 through 5,050.00	204.00
5,050.01 and over	206.00

(3) For any benefit year beginning on or after January 1, 2000, through December 31, 2000, an individual's weekly benefit amount shall be in the amount appearing in Column B in the table in this subsection on the line on which, in Column A of such table, there appear the total wages paid to such individual for insured work, in that quarter, of his or her base period, in which such total wages were highest.

UNEMPLOYMENT BENEFIT TABLE

Column A Wages Paid in Highest Quarter Of Base Period	Column B Weekly Benefit Amount
\$ 800.00 through \$ 850.00	\$ 36.00
850.01 through 900.00	38.00
900.01 through 950.00	40.00
950.01 through 1,000.00	42.00
1,000.01 through 1,050.00	44.00
1,050.01 through 1,100.00	46.00
1,100.01 through 1,150.00	48.00
1,150.01 through 1,200.00	50.00
1,200.01 through 1,250.00	52.00
1,250.01 through 1,300.00	54.00
1,300.01 through 1,350.00	56.00
1,350.01 through 1,400.00	58.00
1,400.01 through 1,450.00	60.00
1,450.01 through 1,500.00	62.00
1,500.01 through 1,550.00	64.00
1,550.01 through 1,600.00	66.00
1,600.01 through 1,650.00	68.00

1,650.01 through 1,700.00	70.00
1,700.01 through 1,750.00	72.00
1,750.01 through 1,800.00	74.00
1,800.01 through 1,850.00	76.00
1,850.01 through 1,900.00	78.00
1,900.01 through 1,950.00	80.00
1,950.01 through 2,000.00	82.00
2,000.01 through 2,050.00	84.00
2,050.01 through 2,100.00	86.00
2,100.01 through 2,150.00	88.00
2,150.01 through 2,200.00	90.00
2,200.01 through 2,250.00	92.00
2,250.01 through 2,300.00	94.00
2,300.01 through 2,350.00	96.00
2,350.01 through 2,400.00	98.00
2,400.01 through 2,450.00	100.00
2,450.01 through 2,500.00	102.00
2,500.01 through 2,550.00	104.00
2,550.01 through 2,600.00	106.00
2,600.01 through 2,650.00	108.00
2,650.01 through 2,700.00	110.00
2,700.01 through 2,750.00	112.00
2,750.01 through 2,800.00	114.00
2,800.01 through 2,850.00	116.00
2,850.01 through 2,900.00	118.00
2,900.01 through 2,950.00	120.00
2,950.01 through 3,000.00	122.00
3,000.01 through 3,050.00	124.00
3,050.01 through 3,100.00	126.00
3,100.01 through 3,150.00	128.00
3,150.01 through 3,200.00	130.00
3,200.01 through 3,250.00	132.00
3,250.01 through 3,300.00	134.00
3,300.01 through 3,350.00	136.00
3,350.01 through 3,400.00	138.00
3,400.01 through 3,450.00	140.00
3,450.01 through 3,500.00	142.00
3,500.01 through 3,550.00	144.00
3,550.01 through 3,600.00	146.00
3,600.01 through 3,650.00	148.00
3,650.01 through 3,700.00	150.00
3,700.01 through 3,750.00	152.00
3,750.01 through 3,800.00	154.00
3,800.01 through 3,850.00	156.00
3,850.01 through 3,900.00	158.00
3,900.01 through 3,950.00	160.00
3,950.01 through 4,000.00	162.00
4,000.01 through 4,050.00	164.00
4,050.01 through 4,100.00	166.00
4,100.01 through 4,150.00	168.00
4,150.01 through 4,200.00	170.00
4,200.01 through 4,250.00	172.00
4,250.01 through 4,300.00	174.00
4,300.01 through 4,350.00	176.00
4,350.01 through 4,400.00	178.00
4,400.01 through 4,450.00	180.00
4,450.01 through 4,500.00	182.00
4,500.01 through 4,550.00	184.00
4,550.01 through 4,600.00	186.00
4,600.01 through 4,650.00	188.00
4,650.01 through 4,700.00	190.00
4,700.01 through 4,750.00	192.00
4,750.01 through 4,800.00	194.00
4,800.01 through 4,850.00	196.00
4,850.01 through 4,900.00	198.00
4,900.01 through 4,950.00	200.00
4,950.01 through 5,000.00	202.00
5,000.01 through 5,050.00	204.00
5,050.01 through 5,100.00	206.00
5,100.01 through 5,150.00	208.00
5,150.01 through 5,200.00	210.00
5,200.01 through 5,250.00	212.00

~~5,250.01 and over~~ ~~214.00~~

~~(4) (1) For any benefit year beginning on or after January 1, 2001, through December 31, 2005, an individual's weekly benefit amount shall be one-half his or her average weekly wage rounded down to the nearest even whole dollar amount, but shall not exceed one-half of the state average weekly wage as annually determined under section 48-121.02.~~

~~(2) For any benefit year beginning on or after January 1, 2006, through December 31, 2007, an individual's weekly benefit amount shall be one-half of his or her average weekly wage rounded down to the nearest even whole dollar amount, but shall not exceed two hundred eighty-eight dollars per week.~~

~~(3) For any benefit year beginning on or after January 1, 2008, through December 31, 2010, an individual's weekly benefit amount shall be one-half of his or her average weekly wage rounded down to the nearest even whole dollar amount, but shall not exceed the lesser of one-half of the state average weekly wage as annually determined under section 48-121.02 or the previous year's maximum weekly benefit amount plus ten dollars per week.~~

~~(4) For any benefit year beginning on or after January 1, 2011, an individual's weekly benefit amount shall be one-half of his or her average weekly wage rounded down to the nearest even whole dollar amount, but shall not exceed one-half of the state average weekly wage as annually determined under section 48-121.02.~~

~~(5) If the state's reserve ratio on September 30, 2008, or September 30, 2009, is less than four-tenths percent and an emergency solvency surcharge is imposed pursuant to section 3 of this act for such year, then the maximum weekly benefit amount for the following calendar year shall not be increased over the then current maximum weekly benefit amount.~~

~~(6) For purposes of this subsection section, an individual's average weekly wage shall equal the wages paid for insured work in the highest quarter of the base period divided by thirteen. An individual's weekly benefit amount shall not exceed one-half of the state average weekly wage as annually determined under section 48-121.02.~~

~~Sec. 6. As used in sections 48-648 and 48-649 only, the term wages shall not include that part of the remuneration 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 a calendar year which exceeds (1) seven thousand dollars in calendar year 2005, (2) eight thousand dollars in calendar year 2006, and (3) nine thousand dollars in calendar year 2007 and each calendar year thereafter 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.~~

~~Sec. 7. Good cause for voluntarily leaving employment shall include, but not be limited to, the following reasons:~~

~~(1) An individual has made all reasonable efforts to preserve the employment but voluntarily leaves his or her work for the necessary purpose of escaping abuse at the place of employment or abuse as defined in section 42-903 between household members;~~

~~(2) An individual left his or her employment voluntarily due to a bona fide non-work-connected illness or injury that prevented him or her from continuing the employment or from continuing the employment without undue risk of harm to the individual;~~

~~(3) An individual left his or her employment to accompany his or her spouse to the spouse's employment in a different city or new military duty station;~~

~~(4) An individual left his or her employment because his or her employer required the employee to relocate;~~

~~(5)(a) An individual is a construction worker and left his or her employment voluntarily for the purpose of accepting previously secured insured work in the construction industry if the commissioner finds that:~~

~~(i)(A) The quit occurred within thirty days immediately prior to the established termination date of the job which the individual voluntarily leaves, (B) the specific starting date of the new job is prior to the established termination date of the job which the worker quits, (C) the new job offered employment for a longer period of time than remained available on the job which the construction worker voluntarily quit, and (D) the worker had worked at least twenty days or more at the new job after the established termination date of the previous job unless the new job was terminated by a contract cancellation; or~~

~~(ii)(A) The construction worksite of the job which the worker quit was more than fifty miles from his or her place of residence, (B) the new construction job was fifty or more miles closer to his or her residence than the job which he or she quit, and (C) the worker actually worked twenty days~~

or more at the new job unless the new job was terminated by a contract cancellation.

(b) The provisions of this subdivision (5) shall not apply if the individual is separated from the new job under conditions resulting in a disqualification from benefits under subdivision (1) or (2) of section 48-628;

(6) An individual accepted a voluntary layoff to avoid bumping another worker;

(7) An individual left his or her employment as a result of being directed to perform an illegal act;

(8) An individual left his or her employment because of unlawful discrimination or workplace harassment on the basis of race, sex, or age;

(9) An individual left his or her employment because of unsafe working conditions; or

(10) Equity and good conscience demand a finding of good cause.

Sec. 8. Section 48-625, Reissue Revised Statutes of Nebraska, is amended to read:

48-625. (1) ~~Each~~ For benefit years beginning on or before September 30, 2006, each eligible individual who is unemployed in any week shall be paid with respect to such week a benefit in an amount equal to his or her full weekly benefit amount if he or she has wages payable to him or her with respect to such week equal to one-half of such benefit amount or less. In the event he or she has wages payable to him or her with respect to such week greater than one-half of such benefit amount but less than his or her full weekly benefit amount, he or she shall be paid an amount equal to one-half of such benefit amount. For any benefit beginning on or after October 1, 2006, each individual who is unemployed in any week shall be paid with respect to such week a benefit in an amount equal to his or her full weekly benefit amount if he or she has wages payable to him or her with respect to such week equal to one-fourth of such benefit amount or less. In the event he or she has wages payable to him or her with respect to such week greater than one-fourth of such benefit amount, he or she shall be paid with respect to that week an amount equal to the individual's weekly benefit amount less that part of wages payable to the individual with respect to that week in excess of one-fourth of the individual's weekly benefit amount. In the event there is any deduction from such individual's weekly benefit amount because of earned wages in excess of an amount equal to one-half of such benefit amount pursuant to this subsection or as a result of the application of subdivision (5) of section 48-628, the resulting benefit payment, if not an exact dollar amount, shall be computed to the next lower dollar amount.

Any amount of unemployment compensation payable to any individual for any week, if not an even dollar amount, shall be rounded to the next lower full dollar amount.

No deduction shall be made for any supplemental payments received by a claimant under the provisions of subsection (b) of section 408 of Title IV of the Veterans Readjustment Assistance Act of 1952.

The percentage of benefits and the percentage of extended benefits which are federally funded may be adjusted in accordance with the Balanced Budget and Emergency Deficit Control Act of 1985, Public Law 99-177.

(2) Vacation leave pay including that received in a lump sum or upon separation from employment shall be prorated in an amount reasonably attributable to each week claimed and considered payable with respect to such week.

Sec. 9. Section 48-627, Reissue Revised Statutes of Nebraska, is amended to read:

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

(1) He or she has registered for work at, and thereafter continued to report at, an employment office in accordance with such rules and regulations as the commissioner may prescribe, except that the commissioner may, by rule and 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 or she finds that compliance with such requirements, would be oppressive, or would be inconsistent with the purposes of the Employment Security Law, except that no such rule or regulation shall conflict with section 48-623;

(2) He or she has made a claim for benefits, in accordance with section 48-629;

(3) He or she is able to work and is available for work. No individual, who is otherwise eligible, shall be deemed ineligible, or unavailable for work, because he or she is on vacation without pay during such week, if such vacation is not the result of his or her own action as distinguished from any collective action by a collective-bargaining agent or

other action beyond his or her individual control, and regardless of whether he or she has not been notified of the vacation at the time of his or her hiring. Receipt of a non-service-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. An otherwise eligible individual while engaged in a training course approved for him or her by the commissioner shall be considered available for work for the purposes of this section;

(4) He or she 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 (a) unless it occurs within the benefit year, which includes the week with respect to which he or she claims payment of benefits, (b) if benefits have been paid with respect thereto, or (c) 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 (6) of section 48-628;

(5) For any benefit year beginning on or before ~~December 31, 1998,~~ ~~he or she has, within his or her base period, been paid a total sum of wages for employment by employers equal to not less than one thousand two hundred dollars, of which sum at least four hundred dollars has been paid in each of two quarters in his or her base period, and for any benefit year beginning on or after January 1, 1999~~ December 31, 2005, he or she has, within his or her base period, been paid a total sum of wages for employment by employers equal to not less than one thousand six hundred dollars, of which sum at least eight hundred dollars has been paid in each of two quarters in his or her base period, and subsequent to filing the claim which establishes the previous benefit year, the individual has insured work in at least four weeks. For any benefit year beginning on or after January 1, 2006, he or she has, within his or her base period, been paid a total sum of wages for employment by employers equal to not less than two thousand five hundred dollars, of which sum at least eight hundred dollars has been paid in each of two quarters in his or her base period, and subsequent to filing the claim which establishes the previous benefit year, the individual has earned wages in insured work in ~~at least four weeks~~ six times his or her weekly benefit amount for the previous benefit year. Commencing January 1, 2007, and each January 1 thereafter, the amount which an individual is required to earn within his or her base period shall be adjusted annually. The adjusted amount shall be equal to the then current amount adjusted by the cumulative percentage change in the Consumer Price Index for All Urban Consumers published by the Federal Bureau of Labor Statistics for the one-year period ending on the previous September 30. For the purposes of this subdivision, (a) 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 (3) of section 48-661, with respect to becoming an employer, and (b) 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 subdivision (4)(a), (b), (c), or (d) of section 48-604 to the extent that such services were not services in employment under subdivision (4)(a) of section 48-604 or section 48-661 immediately prior to September 2, 1977, even though the employer by whom such wages were paid had not satisfied the conditions of subdivision (8), (9), (10), or (11) of section 48-603 with respect to becoming an employer at the time such wages were paid except to the extent that assistance under Title II of the federal Emergency Jobs and Unemployment Assistance Act of 1974 was paid on the basis of such services; and

(6) He or she is participating in reemployment services at no cost to such individual as directed by the commissioner, such as job search assistance services, if the individual has been determined to be likely to exhaust regular benefits and to need reemployment services pursuant to a profiling system established by rule and regulation of the commissioner which is in compliance with section 303(j)(1) of the federal Social Security Act, unless the commissioner determines that: (a) The individual has completed such services; or (b) there is justifiable cause for the claimant's failure to participate in such services.

Sec. 10. Section 48-628, Reissue Revised Statutes of Nebraska, is amended to read:

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

(1)(a) For the week in which he or she has left work voluntarily without good cause, if so found by the commissioner, and for ~~not less than seven weeks nor more than ten~~ the twelve weeks which immediately follow such week. ~~as determined by the commissioner according to the circumstances in~~

~~each case.~~ A temporary employee of a temporary help firm has left work voluntarily without good cause if the temporary employee does not contact the temporary help firm for reassignment upon completion of an assignment and the temporary employee has been advised by the temporary help firm of his or her obligation to contact the temporary help firm upon completion of assignments and has been advised by the temporary help firm that the temporary employee may be denied benefits for failure to do so; ~~If an individual who has made all reasonable efforts to preserve the employment voluntarily leaves his or her work for the necessary purpose of escaping abuse, as defined in section 42-903, such individual shall be deemed to have left his or her employment for good cause and is not disqualified for benefits, or~~

(b) For the week in which he or she has left work voluntarily for the sole purpose of accepting previously secured, permanent, full-time, insured work, which he or she does accept, which offers a reasonable expectation of betterment of wages or working conditions, or both, and for which he or she earns wages payable to him or her, if so found by the commissioner, and for not more than one week which immediately follows such week;

(2) For the week in which he or she has been discharged for misconduct connected with his or her work, if so found by the commissioner, and for ~~not less than seven weeks nor more than ten~~ the twelve weeks which immediately follow such week. ~~as determined by the commissioner in each case according to the seriousness of the misconduct.~~ 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 discharge for such misconduct. In addition to the ~~seven-week to ten-week~~ twelve-week benefit disqualification assessed under this subdivision, the commissioner shall cancel all wage credits earned as a result of employment with the discharging employer if the commissioner finds that the individual was discharged for misconduct in connection with the work which was not gross, flagrant, and willful or unlawful but which included being under the influence of any intoxicating beverage or being under the influence of any controlled substance listed in section 28-405 not prescribed by a physician licensed to practice medicine or surgery when the individual is so under the influence on the worksite or while engaged in work for the employer;

(3) (a) For any week of unemployment in which he or she has failed, without good cause, to apply for available, suitable work when so directed by the employment office or the commissioner, to accept suitable work offered him or her, or to return to his or her customary self-employment, if any, and the commissioner so finds, and for ~~not less than seven weeks nor more than ten~~ the twelve weeks which immediately follow such week, ~~as determined by the commissioner,~~ and his or her total benefit amount to which he or she is then entitled shall be reduced by an amount equal to the number of weeks for which he or she has been disqualified by the commissioner.

(b) In determining whether or not any work is suitable for an individual, the commissioner shall consider the degree of risk involved to the individual's health, safety, and morals, his or her physical fitness and prior training, his or her experience and prior earnings, his or her length of unemployment and prospects for securing local work in his or her customary occupation, and the distance of the available work from his or her residence.

(c) Notwithstanding any other provisions of the Employment Security Law, no work shall be deemed suitable and benefits shall not be denied under such law 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.

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

(4) For any week with respect to which the commissioner finds that his or her 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 or she is or was last employed, except that this subdivision shall not apply if it is shown to the satisfaction of the commissioner that (a) the

individual is not participating in, financing, or directly interested in the labor dispute which caused the stoppage of work and (b) he or she 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. 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;

(5) For any week with respect to which he or she is receiving or has received remuneration in the form of (a) wages in lieu of notice, or a dismissal or separation allowance, (b) compensation for temporary disability under the workers' compensation law of any state or under a similar law of the United States, (c) primary insurance benefits under Title II of the Social Security Act, as amended, or similar payments under any act of Congress, (d) retirement or retired pay, pension, annuity, or other similar periodic payment under a plan maintained or contributed to by a base period or chargeable employer, or (e) a gratuity or bonus from an employer, paid after termination of employment, on account of prior length of service, or disability not compensated under the workers' compensation law. Such payments made in lump sums shall be prorated in an amount which is reasonably attributable to such week. If the prorated remuneration is less than the benefits which would otherwise be due, he or she shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration. The prorated remuneration shall be considered wages for the quarter to which it is attributable. Military service-connected disability compensation payable under 38 U.S.C. chapter 11 shall not be deemed to be disqualifying or deductible from the benefit amount. No deduction shall be made for the part of any retirement pension which represents return of payments made by the individual. In the case of a transfer by an individual or his or her employer of an amount from one retirement plan to a second qualified retirement plan under the Internal Revenue Code, the amount transferred shall not be deemed to be received by the claimant until actually paid from the second retirement plan to the claimant. No deduction shall be made for any benefit received under a supplemental unemployment benefit plan described in subdivision (29)(g) of section 48-602;

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

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

(8) For any week of unemployment if benefits claimed are based on services performed:

(a) In an instructional, research, or principal administrative capacity for an educational institution, if such week commences during the period between two successive academic years or terms, or when an agreement provides instead for a similar period between two regular, but not successive, terms during such period, if such individual performs such services in the first of such academic years or terms and if there is a contract or 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;

(b) In any other capacity for an educational institution, if such week commences 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 if there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms, except that if benefits are denied to any individual for any week under subdivision (8)(b) of this section and such individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of the benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of

subdivision (8)(b) of this section;

(c) In any capacity described in subdivision (8)(a) or (b) of this section if such week commences during an established and customary vacation period or holiday recess if such individual performs such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such vacation period or holiday recess;

(d) In any capacity described in subdivision (8)(a) or (b) of this section in an educational institution while in the employ of an educational service agency, and such individual shall be disqualified as specified in subdivisions (8)(a), (b), and (c) of this section. As used in this subdivision, educational service agency shall mean a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing services to one or more educational institutions; and

(e) In any capacity described in subdivision (8)(a) or (b) of this section in an educational institution if such services are provided to or on behalf of the educational institution while in the employ of an organization or entity described in section 3306(c)(7) or 3306(c)(8) of the Federal Unemployment Tax Act, 26 U.S.C. 3306(c)(7) or (8), and such individual shall be disqualified as specified in subdivisions (8)(a), (b), and (c) of this section;

(9) For any week of unemployment benefits if substantially all the services upon which such benefits are based consist 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 if there is a reasonable assurance that such individual will perform such services in the later of such seasons or similar periods;

(10) For any week of unemployment benefits if the services upon which such benefits are based are performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was permanently residing in the United States under color of law at the time such services were performed, including an alien who was lawfully present in the United States as a result of the application of section 212(d)(5) of the Immigration and Nationality Act, 8 U.S.C. 1182(d)(5), as the section existed on March 2, 2001. Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits. In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of his or her alien status shall be made except upon a preponderance of the evidence;

(11) Notwithstanding any other provisions of the Employment Security Law, no otherwise eligible individual shall be denied benefits for any week because he or she is in training approved under section 236(a)(1) of the federal Trade Act of 1974, 19 U.S.C. 2296(a)(1), as the section existed on March 2, 2001, nor shall such individual be denied benefits by reason of leaving work to enter such training, if the work left is not suitable employment, or because of the application to any such week in training of provisions of the Employment Security Law, or any applicable federal unemployment compensation law, relating to availability for work, active search for work, or refusal to accept work. For purposes of this subdivision, suitable employment shall mean, with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment, as defined for purposes of the federal Trade Act of 1974, as the act existed on March 2, 2001, and wages for such work at not less than eighty percent of the individual's average weekly wage as determined for purposes of such act; and

(12) For any week during which the individual is on a leave of absence.

Sec. 11. Section 48-649, Reissue Revised Statutes of Nebraska, 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~~ The commissioner shall, ~~in April or May, for by December 1~~ of 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;

~~(e)~~ (b) 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)~~ (c) 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 a combined tax rate of five and four-tenths percent combined tax rate or more. 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~~ In calendar year 2005, 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, in calendar year 2005 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 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~~ For calendar year 2005, 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)~~ (4)(a) Effective January 1, 2006, an employer's combined tax rate (i) for employers other than employers engaged in the construction industry shall be the lesser of the state's average combined tax rate as determined pursuant to subdivisions (4)(e) and (4)(f) of this section or two and five-tenths percent and (ii) for employers in the construction industry shall be the category twenty rate determined pursuant to subdivisions (4)(e) and (4)(f) of this section, unless and until:

(A) Benefits have been payable from and chargeable to his or her experience account throughout the preceding four calendar quarters; and

(B) Contributions have been payable to the fund and credited to his or her experience account with respect to each of the two preceding four-calendar-quarter periods.

For purposes of this subdivision (4)(a), employers engaged in the construction industry shall mean all employers primarily engaged in business activities classified as sector 23 business activities under the North American Industrial Classification System.

(b) In no event shall the combined tax rate for employers who fail to meet the requirements of subdivision (4)(a) of this section be less than one and twenty-five hundredths percent.

(c) For any employer who has been subject to the payment of contributions for any eight preceding calendar quarters, regardless of whether such calendar quarters are consecutive, and whose experience account exhibits a negative balance as of September 30 of the year of rate computation, the rate shall be equal to or greater than the highest combined tax rate for positive experience account balance rated employers on his or her annual payroll but not greater than the standard rate, until such time as the experience account exhibits a positive balance. As used in the rate under this subdivision, standard rate shall mean the rate assigned to category twenty for that year. For calendar years 2006 and thereafter, the standard rate shall be not less than five and four-tenths percent of the employer's annual payroll.

(d) Beginning with rate calculations for calendar year 2006 and each year thereafter, the combined tax rate for employers who meet the requirements of subdivision (4)(a) of this section shall be calculated according to subdivisions (4)(e) and (4)(f) of this section and shall be based upon the employer's experience rating record and determined from the employer's reserve ratio, which is the percent obtained by dividing the amount by which, if any, the employer's contributions credited from the time the employer first or most recently became an employer, whichever date is later, and up to and including September 30 of the year the rate computation is made, plus any part of the employer's contributions due for that year paid on or before October 31 of such year, exceed the employer's benefits charged during the same period, by the employer's average annual taxable payroll for the sixteen-consecutive-calendar-quarter period ending September 30 of the year in which the rate computation is made. For an employer with less than sixteen consecutive calendar quarters of contribution experience, the employer's average taxable payroll shall be determined based upon the four-calendar-quarter periods for which contributions are payable.

(e) Each eligible experience rated employer shall be assigned to one of twenty rate categories with a corresponding experience factor as follows:

Category	Experience Factor
1	0.15
2	0.25
3	0.40
4	0.45
5	0.50
6	0.60
7	0.65
8	0.70
9	0.80
10	0.90
11	0.95
12	1.00
13	1.05
14	1.10
15	1.15
16	1.30
17	1.50
18	1.80
19	2.15
20	2.60

Eligible experience rated employers shall be assigned to rate categories from highest to lowest according to their experience reserve ratio with category one being assigned to accounts with the highest reserve ratios and category twenty being assigned to accounts with the lowest reserve ratios. Each category shall be limited to no more than five percent of the state's total taxable payroll, except that:

(i) Any employer which has a portion of its taxable wages fall into one category and a portion into the next higher category shall be assigned to the lower category; and

(ii) No employer with a reserve ratio calculated to five decimal places equal to another employer similarly calculated shall be assigned to a higher rate than the employer to which it has the equal reserve ratio.

(f) The state's reserve ratio shall be calculated by dividing the amount available to pay benefits in the Unemployment Trust Fund and the State Unemployment Insurance Trust Fund as of September 30, 2005, and each September 30 thereafter, less any outstanding obligations and amounts appropriated therefrom by the state's total wages from the four calendar quarters ending on such September 30. For purposes of this section, total wages shall mean all remuneration paid by an employer in employment. The state's reserve ratio shall be applied to the table in this subdivision to determine the yield

factor for the upcoming rate year.

<u>State's Reserve Ratio</u>	<u>Yield Factor</u>
<u>1.45 percent and above</u>	<u>= 0.70</u>
<u>1.30 percent up to but not including 1.45</u>	<u>= 0.75</u>
<u>1.15 percent up to but not including 1.30</u>	<u>= 0.80</u>
<u>1.00 percent up to but not including 1.15</u>	<u>= 0.90</u>
<u>0.85 percent up to but not including 1.00</u>	<u>= 1.00</u>
<u>0.70 percent up to but not including 0.85</u>	<u>= 1.10</u>
<u>0.60 percent up to but not including 0.70</u>	<u>= 1.20</u>
<u>0.50 percent up to but not including 0.60</u>	<u>= 1.25</u>
<u>0.45 percent up to but not including 0.50</u>	<u>= 1.30</u>
<u>0.40 percent up to but not including 0.45</u>	<u>= 1.35</u>
<u>0.35 percent up to but not including 0.40</u>	<u>= 1.40</u>
<u>0.30 percent up to but not including 0.35</u>	<u>= 1.45</u>
<u>Below 0.30 percent</u>	<u>= 1.50</u>

Once the yield factor for the upcoming rate year has been determined, it is multiplied by the amount of unemployment benefits paid from combined tax during the four calendar quarters ending September 30 of the preceding year. The resulting figure is the planned yield for the rate year. The planned yield is divided by the total taxable wages for the four calendar quarters ending September 30 of the previous year and carried to three decimal places to create the average combined tax rate for the rate year.

(g) The average combined tax rate is assigned to rate category twelve as established in subdivision (4) (e) of this section. Rates for each of the remaining nineteen categories are determined by multiplying the average combined tax rate by the experience factor associated with each category. Employers who are delinquent in filing their combined tax reports as of the date of rate computation shall be assigned to category twenty;

(5) Any employer may at any time make voluntary contributions up to the amount necessary to qualify for one rate category reduction, additional to the required contributions, to the fund to be credited to his or her account. Voluntary contributions received after March 10, 2005, for rate year 2005 or January 10 for rate year 2006 and thereafter of any year shall not be used in rate calculations for the same calendar year;

(5) (6) 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) (7) (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. 12. Section 48-652, Reissue Revised Statutes of Nebraska, is amended to read:

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 the Employment Security Law 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.

(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 or her 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 rules and regulations as he or she 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. State unemployment insurance tax payments shall not be credited to the experience account of each employer. Partial payments of combined tax shall be credited so that at least eighty percent of the combined tax payment excluding interest and penalty is credited first to contributions due. In addition to contributions credited to the experience account, 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 state's account in the Unemployment Trust Fund for the preceding calendar year multiplied by the balance in his or her experience account at the beginning of such calendar year. If the total credits as of such date to all employers' experience accounts are equal to or greater than ninety percent of the total amount in the Unemployment Compensation Fund, no interest shall be credited for that year to any employer's account. 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. All voluntary contributions which are received on or before March 10 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. No benefits shall be charged to the experience account of any employer if (i) such benefits were paid on the basis of a period of employment from which the claimant (A) ~~has~~ left work voluntarily without good cause, (B) ~~has~~ left work voluntarily due to a nonwork-connected illness or injury, (C) ~~has~~ left work voluntarily with good cause to escape abuse as defined in section 42-903 between household members as provided in subdivision (1)(a) of section ~~48-628~~ 7 of this act, or (D) ~~has~~ left ~~employment~~ work from which he or she was discharged for misconduct connected with his or her work, or (E) left work voluntarily and is entitled to unemployment benefits without disqualification in accordance with subdivision (3) or (5) of section 7 of this act and (ii) the employer has filed timely notice of the facts on which such exemption is claimed in accordance with rules and regulations prescribed by the commissioner. 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 subdivision (5)(b) of section 48-627.

(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 subdivision (5) of section 48-627.

(c) Benefits paid to an eligible individual shall be charged against the account of his or her most recent employers within his or her 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 benefit amount 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 rules and regulations 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 or during the same base period. 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, except 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)(a) An employer's experience account shall be deemed to be terminated one calendar year after such employer has ceased to be subject to the Employment Security Law, except that 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 limited liability company members 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 account shall be deemed to have been continuous throughout such period.

(b) An experience account terminated pursuant to this subsection shall be reinstated if (i) the employer becomes subject again to the Employment Security Law within one calendar year after termination of such experience account and the employer makes a written application for reinstatement of such experience account to the commissioner within two calendar years after termination of such experience account and (ii) the commissioner finds that the employer is operating substantially the same business as prior to the termination of such experience account.

(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.

(6) A contributory or reimbursable employer shall be relieved of charges if the employer was previously charged for wages and the same wages are being used a second time to establish a new claim as a result of the October 1, 1988, change in the base period.

Sec. 13. Section 48-669, Reissue Revised Statutes of Nebraska, is amended to read:

48-669. (1) With respect to any claimant for whom there is current a benefit year, which has not expired prior to the effective date of any change in the weekly benefit amounts prescribed in section 48-624 or the maximum annual benefit amount prescribed in section 48-626, the weekly benefit amount and the maximum annual benefit amount shall be those amounts determined prior to the effective date of such change.

(2) After December 31, 1995, any changes in the weekly benefit amounts prescribed in section 48-624 or in the maximum annual benefit amount prescribed in section 48-626 shall become effective on January 1 of the year following such legislative enactment.

(3) After December 31, 2000, any change in the weekly benefit amounts prescribed in ~~subsection (4) of~~ section 48-624 or any change in the maximum annual benefit amount prescribed in section 48-626 shall be applicable for the calendar year following the annual determination made pursuant to section 48-121.02.

Sec. 14. Original sections 48-601, 48-602, 48-603.01, 48-624, 48-625, 48-627, 48-628, 48-649, 48-652, and 48-669, Reissue Revised Statutes of Nebraska, are repealed.