

AMENDMENTS TO LB 819

Introduced by Business and Labor.

1 1. Insert the following sections:

2 Sec. 5. Section 48-652, Revised Statutes Supplement,
3 2007, is amended to read:

4 48-652 (1)(a) A separate experience account shall be
5 established for each employer who is liable for payment of
6 contributions. Whenever and wherever in the Employment Security
7 Law the terms reserve account or experience account are used,
8 unless the context clearly indicates otherwise, such terms shall be
9 deemed interchangeable and synonymous and reference to either of
10 such accounts shall refer to and also include the other.

11 (b) A separate reimbursement account shall be established
12 for each employer who is liable for payments in lieu of
13 contributions. All benefits paid with respect to service in
14 employment for such employer shall be charged to his or her
15 reimbursement account and such employer shall be billed for and
16 shall be liable for the payment of the amount charged when billed
17 by the commissioner. Payments in lieu of contributions received
18 by the commissioner on behalf of each such employer shall be
19 credited to such employer's reimbursement account, and two or more
20 employers who are liable for payments in lieu of contributions may
21 jointly apply to the commissioner for establishment of a group
22 account for the purpose of sharing the cost of benefits paid that
23 are attributable to service in the employ of such employers. The

1 commissioner shall prescribe such rules and regulations as he or
2 she deems necessary with respect to applications for establishment,
3 maintenance, and termination of group accounts authorized by this
4 subdivision.

5 (2) All contributions paid by an employer shall be
6 credited to the experience account of such employer. State
7 unemployment insurance tax payments shall not be credited to
8 the experience account of each employer. Partial payments of
9 combined tax shall be credited so that at least eighty percent
10 of the combined tax payment excluding interest and penalty is
11 credited first to contributions due. In addition to contributions
12 credited to the experience account, each employer's account shall
13 be credited as of June 30 of each calendar year with interest
14 at a rate determined by the commissioner based on the average
15 annual interest rate paid by the Secretary of the Treasury of
16 the United States of America upon the state's account in the
17 Unemployment Trust Fund for the preceding calendar year multiplied
18 by the balance in his or her experience account at the beginning
19 of such calendar year. If the total credits as of such date to
20 all employers' experience accounts are equal to or greater than
21 ninety percent of the total amount in the Unemployment Compensation
22 Fund, no interest shall be credited for that year to any employer's
23 account. Contributions with respect to prior years which are
24 received on or before January 31 of any year shall be considered
25 as having been paid at the beginning of the calendar year. All
26 voluntary contributions which are received on or before January
27 10 of any year shall be considered as having been paid at the

1 beginning of the calendar year.

2 (3) (a) Each experience account shall be charged only
3 for benefits based upon wages paid by such employer. No benefits
4 shall be charged to the experience account of any employer if (i)
5 such benefits were paid on the basis of a period of employment
6 from which the claimant (A) left work voluntarily without good
7 cause, (B) left work voluntarily due to a nonwork-connected illness
8 or injury, (C) left work voluntarily with good cause to escape
9 abuse as defined in section 42-903 between household members as
10 provided in subdivision (1) of section 48-628.01, (D) left work
11 from which he or she was discharged for misconduct connected with
12 his or her work, or (E) left work voluntarily and is entitled to
13 unemployment benefits without disqualification in accordance with
14 subdivision (3) or (5) of section 48-628.01 and (ii) the employer
15 has filed timely notice of the facts on which such exemption is
16 claimed in accordance with rules and regulations prescribed by
17 the commissioner. No benefits shall be charged to the experience
18 account of any employer if such benefits were paid on the basis
19 of wages paid in the base period that are wages for insured work
20 solely by reason of subdivision (5) (b) of section 48-627.

21 (b) Each reimbursement account shall be charged only for
22 benefits paid that were based upon wages paid by such employer in
23 the base period that were wages for insured work solely by reason
24 of subdivision (5) of section 48-627.

25 (c) Benefits paid to an eligible individual shall be
26 charged against the account of his or her most recent employers
27 within his or her base period against whose accounts the maximum

1 charges hereunder have not previously been made in the inverse
2 chronological order in which the employment of such individual
3 occurred. The maximum amount so charged against the account of any
4 employer, other than an employer for which services in employment
5 as provided in subdivision (4) (a) of section 48-604 are performed,
6 shall not exceed the total benefit amount to which such individual
7 was entitled as set out in section 48-626 with respect to base
8 period wages of such individual paid by such employer plus one-half
9 the amount of extended benefits paid to such eligible individual
10 with respect to base period wages of such individual paid by
11 such employer. The commissioner shall by rules and regulations
12 prescribe the manner in which benefits shall be charged against
13 the account of several employers for whom an individual performed
14 employment during the same quarter or during the same base period.
15 Any benefit check duly issued and delivered or mailed to a claimant
16 and not presented for payment within one year from the date of its
17 issue may be invalidated and the amount thereof credited to the
18 Unemployment Compensation Fund, except that a substitute check may
19 be issued and charged to the fund on proper showing at any time
20 within the year next following. Any charge made to an employer's
21 account for any such invalidated check shall stand as originally
22 made.

23 (4) (a) An employer's experience account shall be deemed
24 to be terminated one calendar year after such employer has ceased
25 to be subject to the Employment Security Law, except that if the
26 commissioner finds that an employer's business is closed solely
27 because of the entrance of one or more of the owners, officers,

1 partners, or limited liability company members or the majority
2 stockholder into the armed forces of the United States, or of any
3 of its allies, after July 1, 1950, such employer's account shall
4 not be terminated and, if the business is resumed within two years
5 after the discharge or release from active duty in the armed forces
6 of such person or persons, the employer's experience account shall
7 be deemed to have been continuous throughout such period.

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

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

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

1 (7) If an individual's base period wage credits
2 represent part-time employment for a contributory employer and
3 the contributory employer continues to employ the individual to
4 the same extent as during the base period, then the contributory
5 employer's experience account shall not be charged if the
6 contributory employer has filed timely notice of the facts on which
7 such exemption is claimed in accordance with rules and regulations
8 prescribed by the commissioner.

9 Sec. 7. Section 48-668, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 48-668 (1) The commissioner is hereby authorized to enter
12 into arrangements with the appropriate and duly authorized agencies
13 of other states or the federal government, or both, whereby:

14 ~~(1)~~ (a) Services performed by an individual for a single
15 employer for which services are customarily performed by such
16 individual in more than one state shall be deemed to be services
17 performed entirely within any one of the states in which ~~(a)~~ (i)
18 any part of such individual's service is performed, ~~(b)~~ (ii) such
19 individual has his or her residence, or ~~(c)~~ (iii) the employer
20 maintains a place of business, if there is in effect, as to such
21 services, an election by an employer with the acquiescence of such
22 individual, approved by the agency charged with the administration
23 of such state's unemployment compensation law, pursuant to which
24 services performed by such individual for such employer are deemed
25 to be performed entirely within such state;

26 ~~(2)~~ (b) Service performed by not more than three
27 individuals, on any portion of a day but not necessarily

1 simultaneously, for a single employer which customarily operates
2 in more than one state shall be deemed to be service performed
3 entirely within the state in which such employer maintains the
4 headquarters of his or her business if there is in effect, as
5 to such service, an approved election by an employer with the
6 affirmative consent of each such individual, pursuant to which
7 service performed by such individual for such employer is deemed to
8 be performed entirely within such state;

9 ~~(3)~~ (c) Potential rights to benefits under the Employment
10 Security Law may constitute the basis for payment of benefits
11 by another state or the federal government and potential rights
12 to benefits accumulated under the law of another state or the
13 federal government may constitute the basis for the payment of
14 benefits by this state. Such benefits shall be paid under the
15 Employment Security Law or under the law of such state or the
16 federal government or under such combination of the provisions of
17 both laws, as may be agreed upon as being fair and reasonable
18 to all affected interests. No such arrangement shall be entered
19 into unless it contains provisions for reimbursement to the fund
20 for such benefits as are paid on the basis of wages and service
21 subject to the law of another state or the federal government,
22 and provision for reimbursement from the fund for such benefits
23 as are paid by another state or the federal government on the
24 basis of wages and service subject to the Employment Security Law.
25 Reimbursements paid from the fund pursuant to this section shall be
26 deemed to be benefits for the purposes of the Employment Security
27 Law; and

1 ~~(4)~~ (d) Wages, upon the basis of which an individual may
2 become entitled to benefits under an employment security law of
3 another state or of the federal government, shall be deemed to be
4 wages for insured work for the purpose of determining his or her
5 benefits under the Employment Security Law; and wages for insured
6 work, on the basis of which an individual may become entitled to
7 benefits under the Employment Security Law, shall be deemed to be
8 wages on the basis of which unemployment insurance is payable under
9 such law of another state or of the federal government. No such
10 arrangement shall be entered into unless it contains provisions
11 for reimbursement to the fund for such of the benefits paid under
12 the Employment Security Law upon the basis of such wages and
13 provision for reimbursement from the fund for such benefits paid
14 under such other law upon the basis of wages for insured work,
15 as the commissioner finds will be fair and reasonable to all
16 affected interests. Reimbursement paid from the fund pursuant to
17 this section shall be deemed to be benefits for the purposes of the
18 Employment Security Law.

19 (2) Notwithstanding any other provisions of this section,
20 the commissioner shall participate in any arrangements for the
21 payment of benefits on the basis of combining an individual's
22 wages and employment covered under the Employment Security Law with
23 his or her wages and employment covered under the unemployment
24 compensation laws of other states which are approved by the
25 United States Secretary of Labor in consultation with the state
26 unemployment compensation agencies as reasonably calculated to
27 assure the prompt and full payment of benefits in such situations

1 and which include provisions for (a) applying the base period
2 of a single state law to a claim involving the combining of an
3 individual's wages and employment covered under two or more state
4 unemployment compensation laws, and (b) avoiding the duplicate use
5 of wages and employment by reason of such combining. However, no
6 benefits paid pursuant to an agreement to combine wages entered
7 into under this subsection shall be charged against any employer's
8 experience account if the employer's experience account, under the
9 same or similar circumstances, would not be charged under the
10 Employment Security Law. Benefits received by a claimant pursuant
11 to an agreement entered into under this subsection to which he or
12 she is not entitled shall be credited to an employer's experience
13 account or reimbursement account in the same manner as claims paid
14 based solely upon the laws of this state.

15 Sec. 8. Section 48-668.02, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 48-668.02 Reimbursements paid from the fund pursuant to
18 ~~subsections (3) and (4)~~ subdivisions (1)(c) and (1)(d) of section
19 48-668 shall be deemed to be benefits for the purposes of the
20 Employment Security Law. The commissioner is authorized to make to
21 other state or federal agencies and to receive from such other
22 state or federal agencies reimbursements from or to the fund
23 in accordance with arrangements entered into pursuant to section
24 48-668.

25 Sec. 10. Since an emergency exists, this act takes effect
26 when passed and approved according to law.

27 2. On page 2, line 16, after "the" insert "Nebraska" and

1 after "Court" insert "which may use such information".

2 3. On page 15, line 9, strike "and" and show as stricken;

3 and in line 13 after "ratio" insert "; and

4 (iii) No employer with a positive experience account

5 balance shall be assigned to category 20".

6 4. On page 22, line 1, after "Original" insert "sections

7 48-668 and 48-668.02, Reissue Revised Statutes of Nebraska,"; and

8 in line 4 strike "and 48-649" and insert ", 48-649, and 48-652".

9 5. Renumber the remaining sections accordingly.