

LEGISLATURE OF NEBRASKA  
ONE HUNDREDTH LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 255**

Introduced By: Rogert, 16  
Read first time: January 10, 2007  
Committee: Business and Labor

A BILL

1 FOR AN ACT relating to labor; to amend section 48-1229, Reissue  
2 Revised Statutes of Nebraska; to change provisions of the  
3 Nebraska Wage Payment and Collection Act; and to repeal the  
4 original section.

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

1           Section 1. Section 48-1229, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           48-1229. For purposes of the Nebraska Wage Payment and  
4 Collection Act, unless the context otherwise requires:

5           (1) Employer means the state or any individual, partnership,  
6 limited liability company, association, joint-stock company, trust,  
7 corporation, political subdivision, or personal representative of the  
8 estate of a deceased individual, or the receiver, trustee, or  
9 successor thereof, within or without the state, employing any person  
10 within the state as an employee;

11           (2) Employee means any individual permitted to work by an  
12 employer pursuant to an employment relationship or who has contracted  
13 to sell the goods of an employer and to be compensated by commission.  
14 Services performed by an individual for an employer shall be deemed to  
15 be employment, unless it is shown that (a) such individual has been  
16 and will continue to be free from control or direction over the  
17 performance of such services, both under his or her contract of  
18 service and in fact, (b) such service is either outside the usual  
19 course of business for which such service is performed or such service  
20 is performed outside of all the places of business of the enterprise  
21 for which such service is performed, and (c) such individual is  
22 customarily engaged in an independently established trade, occupation,  
23 profession, or business. This subdivision is not intended to be a  
24 codification of the common law and shall be considered complete as  
25 written;

26           (3) Fringe benefits includes sick and vacation leave plans,  
27 disability income protection plans, retirement, pension, or

1 profit-sharing plans, health and accident benefit plans, and any other  
2 employee benefit plans or benefit programs regardless of whether the  
3 employee participates in such plans or programs. Employers and  
4 employees may stipulate by policy or other agreement that paid leave  
5 plans, including but not limited to vacation and sick leave plans,  
6 may contain conditions and limitations for the use and payment for  
7 accrued but unused leave, including but not limited to providing that  
8 no wages will be owed or paid for accrued but unused leave during  
9 employment or upon termination; and

10 (4) Wages means compensation for labor or services rendered  
11 by an employee, including fringe benefits, when previously agreed to  
12 and conditions stipulated have been met by the employee, whether the  
13 amount is determined on a time, task, fee, commission, or other basis.  
14 Wages includes commissions on all orders delivered and all orders on  
15 file with the employer at the time of termination of employment less  
16 any orders returned or canceled at the time suit is filed.

17 Sec. 2. Original section 48-1229, Reissue Revised Statutes  
18 of Nebraska, is repealed.