

**ONE HUNDRED FOURTH LEGISLATURE - SECOND SESSION - 2016**  
**COMMITTEE STATEMENT (CORRECTED)**  
**LB828**

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**Hearing Date:** Monday February 29, 2016  
**Committee On:** Business and Labor  
**Introducer:** Harr  
**One Liner:** Redefine terms under the Employment Security Law

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File with amendment(s)

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**Vote Results:**  
**Aye:** 6 Senators Bloomfield, Crawford, Harr, Howard, Johnson, Ebke  
**Nay:**  
**Absent:** 1 Senator Chambers  
**Present Not Voting:**

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**Verbal Testimony:**

**Proponents:**  
Jamison Wyatt  
John Albin

**Representing:**  
Introducer, District 8  
Nebraska Department of Labor

**Opponents:**

**Representing:**

**Neutral:**  
Ron Sedlacek

**Representing:**  
Nebraska Chamber of Commerce

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**Summary of purpose and/or changes:**

LB 828 would replace the word "prescribe" with "adopt and promulgate."

LB 828 was introduced at the request of the Department of Labor. It is a place holder bill for the substantive amendment which would revise Nebraska's Employment Security Law by eliminating obsolete language and clarifying provisions to make the law easier to understand for both claimants and employers. LB 828 has no policy changes to the Employment Security Law.

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**Explanation of amendments:**

Sec. 1. adds sections 64 to 67 of this act. Sections 64 to 67 now contain what was previously in section 48-649. In AM 2390, section 48-649 is separated into separate sections, what are now sections 64 to 67 of AM 2390.

Sec. 2. replaces references of section 48-641 with subdivision (4) of section 48-638 for consistency purposes since section 48-641 is repealed.

Sec. 3. adds sections 64 to 67 of this act to the definition of employment.

Sec. 4. adds sections 29, 31 to 47, and 64 to 67 of this act to the Employment Security Law.

Sec. 5. moves terms that were defined throughout the Employment Security Law and not included in 48-602 to this

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section. The definitions of agricultural labor, commodity, and farm are now contained in this section, which were previously listed in section 48-604(6). Crew leader is now defined in this section, which was previously listed in in section 48-604(4). Employers engaged in the construction industry and standard rate are now defined in this section, which was previously contained in section 48-649(4). The definition of institution of higher education is stricken as this is not used throughout the act. AM 2390 relocates subdivision (5) of section 48-627 to section 29 of this act, which causes references to subdivision (5) of section 48-627 to be replaced with section 29 of this act. It adds sections 64 to 67 of this act to the definitions of contributions, payments in lieu of contributions, and state unemployment insurance tax.

Sec. 6. replaces references to subdivision (8) of section 48-628 with Sec. 36 of this act since section 48-628(8) is now in Sec. 36. It also replaces references to subdivision (7) of section 48-649 with Sec. 67 of this act.

Sec. 7. moves definitions of agricultural labor, commodity, crew leader, and farm to Sec. 5. It also adds sections 64 to 67 of this act since section 48-649 is now repealed.

Sec. 8. changes the due date of the commissioner's report to the Governor from December 31 to January 1 of each year. It also strikes language directing the commissioner how to establish the reserve.

Sec. 9. amends section 48-606.01 for grammatical changes.

Sec.10. strikes language that permits the commissioner to examine the qualifications of applicants for positions of officers, accountants, attorneys and more as employed by the department as this is the current practice of the department. It requires the commissioner to follow State Personnel System rules, regulations, and contract requirements for staff changes. It also strikes outdated language relating to department employee's contributory retirement accounts.

Sec.11. replaces appeal tribunal with a hearing officer.

Sec.12. replaces appeal tribunal with a hearing officer.

Sec.13. replaces appeal tribunal with an impartial hearing officer.

Sec.14. replaces appeal tribunal with a hearing officer.

Sec.15. makes grammatical changes.

Sec. 16. makes grammatical changes.

Sec.17. strikes language from subsection (2) related to the Unemployment Trust Fund and creates new subdivisions (3) and (4) which contains the previously stricken language.

Sec.18. makes technical changes and incorporates references to the federal Social Security Act.

Sec.19. makes grammatical changes. It also moves subdivision (2) to section 48-618(4).

Sec.20. makes grammatical changes and eliminates obsolete language related to past dates.

Sec.21. adds sections 64 to 67 of this act to state unemployment insurance tax collection. It also eliminates language referencing past dates, and obsolete language related to the previous contributory retirement system that is no longer in place.

Sec.22. eliminates subdivision (1) of section 48-622.01 that creates the Nebraska Training and Support Trust Fund until July 1, 2015.

Sec.23. makes grammatical changes related to the Nebraska Worker Training Board and eliminates obsolete language

related to past dates.

Sec.24. makes grammatical changes.

Sec.25. eliminates obsolete language referencing past dates. It also moves all language from section 48-669 to be included within this section, and then section 48-669 is outright repealed.

Sec.26. replaces references to subdivision (5) of section 48-628 with section 32 of this act for consistency purposes. It also strikes language related to supplemental payments received under the Veterans Readjustment Assistance Act, which is now incorporated into Sec. 32. It also strikes subdivision (2) of this section related to vacation leave pay, which is incorporated in Sec. 32.

Sec.27. replaces references to subdivision (1) or (2) of section 48-628 with section 40 or 42 of this act.

Sec.28. makes grammatical changes. It also strikes obsolete language referencing past benefit years for the purpose of calculating base periods. In subdivisions (5)(b) and (c), the language referencing the current requirements for calculating an individual's base period is found in Sec. 29.

Sec.29. creates requirements to be eligible to receive benefits as was previously outlined in subdivisions (5)(b) and (c) of section 48-627.

Sec.30. relocates language found in section 48-628 to create new sections with the intent of allowing clearer understanding of the statutes. Subdivisions (1) and (2) are now found in Sec. 42 and Sec. 40, respectively. Subdivision (4) is now found in Sec. 39. Subdivision (5) is now found in Sec. 32. Subdivision (6) is now found in Sec. 31. Subdivision (7) is now found in Sec. 33. Subdivision (8) is now found in Sec. 36. Subdivision (9) is now found in Sec. 35. Subdivision (10) is now found in Sec. 34. Subdivision (11) is now found in Sec. 37. Subdivision (12) is now found in Sec. 38. Lastly, subdivision (13) is now found in Sec. 41.

Sec.31. outlines when an individual is disqualified for benefits if receiving unemployment benefits under any other state or the United States as was previously contained within subdivision (6) of section 48-628.

Sec.32. outlines when an individual is disqualified for benefits when receiving remuneration in the form of wages in lieu of notice, vacation leave pay, compensation for temporary disability under workers' compensation, retirement, pension, gratuity, and more. Payments described in this section made in lump sums shall be prorated. The language in this section was previously contained within subdivision (5) of section 48-628.

Sec.33. outlines when an individual is disqualified for benefits if the individual is a student, unless wages for insured work during the base period was for services performed while attending school. However, attendance at a school under a plan approved by the commissioner is not disqualifying. The language in this section was previously contained within subdivision (7) of section 48-628.

Sec.34. outlines when an individual is disqualified for benefits when such benefits are based on services performed by an alien, unless the individual was lawfully admitted for permanent residence, was lawfully present, was permanently residing in the U.S. The language in this section was previously contained within subdivision (10) of section 48-628.

Sec.35. outlines when an individual is disqualified for benefits when the services upon which the benefits are based consist of participating in sports or athletic events. This section was previously contained within subdivision (9) of section 48-628.

Sec.36. outlines when an individual is disqualified for benefits in an instructional, research, or administrative capacity for an educational institution. This section was previously contained within subdivision (8) of section 48-628.

Sec.37. outlines when an individual shall not be denied benefits because the individual is in a training approved under

the federal Trade Act of 1974. This section was previously contained within subdivision (11) of section 48-628.

Sec.38. outlines when an individual is disqualified for benefits for any week during which the individual is on a leave of absence. This section was previously contained within subdivision (12) of section 48-628.

Sec.39. outlines the disqualification of benefits in which such unemployment is due to a stoppage of work because of a labor dispute. This section was previously contained within subdivision (4) of section 48-628.

Sec.40. outlines when an individual is disqualified for benefits when discharged for misconduct. This section was previously contained within subdivision (2) of section 48-628.

Sec.41. outlines when an individual is disqualified for benefits if the individual has been disqualified two or more times in the five-year period immediately prior to filing the most recent claim. This section was previously contained within subdivision (13) of section 48-628.

Sec.42. outlines the disqualification of benefits in which an individual has left work voluntarily without good cause, as was previously contained within subdivision (1) of section 48-628.

Sec.43. makes technical changes.

Sec.44. makes technical changes.

Sec.45. makes technical changes.

Sec.46. makes technical changes.

Sec.47. makes technical changes. It also changes references to the federal Workforce Investment Act of 1998 to the Workforce Innovation and Opportunity Act.

Sec.48. makes grammatical changes.

Sec.49. states that the individual may elect to have state income tax withheld from his or her unemployment at 5%. This is an optional election to mirror the federal government option that individuals may withhold taxes up to 10% on the federal level.

Sec.50. replaces references to deputy with adjudicator. It also strikes language in subdivision (2) and creates a new subdivision (4) within this section.

Sec.51. replaces references to deputy with adjudicator and references to appeal tribunal with a hearing officer.

Sec.52. makes grammatical changes.

Sec.53. replaces references to appeal tribunal with a hearing officer. It also provides that the commissioner shall be a party entitled to notice in any proceeding involving a claim for benefits that is before a hearing officer.

Sec.54. makes grammatical changes.

Sec.55. replaces references to appeal tribunal with a hearing officer. It also replaces references to deputy with adjudicator.

Sec.56. moves all language from sections 48-640, 48-641, and 48-642 to be included within this section, and then sections 48-640, 48-641, and 48-642 are outright repealed.

Sec.57. makes grammatical changes.

Sec.58. makes technical changes.

Sec.59. makes technical changes.

Sec.60. makes grammatical changes.

Sec.61. makes grammatical changes. It also moves all language from section 48-648.01 and includes it within this section, then section 48-648.01 is outright repealed.

Sec.62. strikes outdated references.

Sec.63. relocates language found in section 48-649 to create new sections with the intent of allowing clearer understanding of the statutes. Subdivisions (1) and (2) are now found in Sec. 64. It strikes subdivision (3) as this section is outdated. Subdivision (4)(a) is now found in Sec. 65(1); subdivision (4)(b) is now found in Sec. 65(2); and subdivision (4)(c) is now found in Sec. 65(3). It also moves subdivision (4)(d) through (g), subdivisions (5) and (6) to Sec. 66. Subdivision (7) is now found in Sec. 67.

Sec.64. contains what was formerly outlined in section 48-649(1) and (2).

Sec.65. contains what was formerly outlined in section 48-649(4)(a) through (c).

Sec.66. contains what was formerly outlined in section 48-649(4)(d) through (g), and subdivisions (5) and (6).

Sec.67. contains what was formerly outlined in subdivision (7) of section 48-649.

Sec.68. adds sections 64 to 67 of this act to section 48-650. It states that an employer may file an appeal with the department in accordance with rules and regulations adopted by the commissioner to account for the way the process is currently administered. It also replaces appeal tribunal references with hearing officer.

Sec.69. makes technical changes.

Sec.70. makes technical changes. It strikes provisions in subdivision (2) of section 48-652 since the system outlined in Sec. 66 allows the department to control the amount in the fund to ensure the appropriate amount is available. It also strikes language in subdivision (3)(a)(ii) referencing a now obsolete section. Subdivision (6) is removed as this is an outdated provision.

Sec.71. makes grammatical changes.

Sec.72. adds sections 64 to 67 of this act to section 48-654.01.

Sec.73. makes a grammatical change.

Sec.74. replaces references to appeal tribunal with a hearing officer and removes outdated language.

Sec.75. adds sections 64 to 67 of this act to section 48-660.01.

Sec.76. makes a grammatical change.

Sec.77. adds sections 29 and 31 to 47 of this act to section 48-663.

Sec.78. adds section 29 of this act to section 48-663.01 and removes outdated language.

Sec.79. adds sections 64 to 67 of this act to section 48-664.

Sec.80. makes grammatical changes.

Sec.81. replaces a reference to subdivision (4)(a) of section 48-649 with Sec. 65 of this act.

Sec.82. replaces reference to the Workforce Investment Act of 1998 with the Workforce Innovation and Opportunity Act.

Sec.83. replaces reference of section 48-628.02 with section 44 of this act.

Sec.84. adds sections 64 to 67 of this act to section 48-2903.

Sec.85. clarifies language as such section existed prior to the operative date of this act since the reference 48-609 is repealed.

Sec.86. clarifies language as such section existed prior to the operative date of this act since the reference 48-609 is repealed.

Sec.87. operative date of January 1, 2018.

Sec.88. repealer.

Sec.89. outright repeals sections 48-640, 48-641, 48-642, 48-646, 48-648.01 and 48-669.

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Burke Harr, Chairperson