

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 519

FINAL READING
(SECOND)

Introduced by Hansen, 26.

Read first time January 18, 2017

Committee: Business and Labor

- 1 A BILL FOR AN ACT relating to the Employment Security Law; to amend
- 2 section 48-652, Revised Statutes Cumulative Supplement, 2016; to
- 3 change provisions relating to employer experience accounts and
- 4 reimbursement accounts; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-652, Revised Statutes Cumulative Supplement,
2 2016, is amended to read:

3 48-652 (1)(a) A separate experience account shall be established for
4 each employer who is liable for payment of contributions. Whenever and
5 wherever in the Employment Security Law the terms reserve account or
6 experience account are used, unless the context clearly indicates
7 otherwise, such terms shall be deemed interchangeable and synonymous and
8 reference to either of such accounts shall refer to and also include the
9 other.

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

26 (2) All contributions paid by an employer shall be credited to the
27 experience account of such employer. State unemployment insurance tax
28 payments shall not be credited to the experience account of each
29 employer. Partial payments of combined tax shall be credited so that at
30 least eighty percent of the combined tax payment excluding interest and
31 penalty is credited first to contributions due. In addition to

1 contributions credited to the experience account, each employer's account
2 shall be credited as of June 30 of each calendar year with interest at a
3 rate determined by the commissioner based on the average annual interest
4 rate paid by the Secretary of the Treasury of the United States of
5 America upon the state's account in the Unemployment Trust Fund for the
6 preceding calendar year multiplied by the balance in his or her
7 experience account at the beginning of such calendar year. If the total
8 credits as of such date to all employers' experience accounts are equal
9 to or greater than ninety percent of the total amount in the Unemployment
10 Compensation Fund, no interest shall be credited for that year to any
11 employer's account. Contributions with respect to prior years which are
12 received on or before January 31 of any year shall be considered as
13 having been paid at the beginning of the calendar year. All voluntary
14 contributions which are received on or before January 10 of any year
15 shall be considered as having been paid at the beginning of the calendar
16 year.

17 (3)(a) Each experience account shall be charged only for benefits
18 based upon wages paid by such employer. No benefits shall be charged to
19 the experience account of any employer if (i) such benefits were paid on
20 the basis of a period of employment from which the claimant (A) left work
21 voluntarily without good cause, (B) left work voluntarily due to a
22 nonwork-connected illness or injury, (C) left work voluntarily with good
23 cause to escape abuse as defined in section 42-903 between household
24 members as provided in subdivision (1) of section 48-628.01, (D) left
25 work from which he or she was discharged for misconduct connected with
26 his or her work, (E) left work voluntarily and is entitled to
27 unemployment benefits without disqualification in accordance with
28 subdivision (3) or (5) of section 48-628.01, or (F) was involuntarily
29 separated from employment and such benefits were paid pursuant to section
30 48-628.05, and (ii) the employer has filed timely notice of the facts on
31 which such exemption is claimed in accordance with rules and regulations

1 prescribed by the commissioner. No benefits shall be charged to the
2 experience account of any employer if such benefits were paid on the
3 basis of wages paid in the base period that are wages for insured work
4 solely by reason of subdivision (5)(c)(iii) of section 48-627. No
5 benefits shall be charged to the experience account of any employer if
6 such benefits were paid during a week when the individual was
7 participating in training approved under section 236(a)(1) of the federal
8 Trade Act of 1974, 19 U.S.C. 2296(a)(1).

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

13 (c) Benefits paid to an eligible individual shall be charged against
14 the account of his or her most recent employers within his or her base
15 period against whose accounts the maximum charges hereunder have not
16 previously been made in the inverse chronological order in which the
17 employment of such individual occurred. The maximum amount so charged
18 against the account of any employer, other than an employer for which
19 services in employment as provided in subdivision (4)(a) of section
20 48-604 are performed, shall not exceed the total benefit amount to which
21 such individual was entitled as set out in section 48-626 with respect to
22 base period wages of such individual paid by such employer plus one-half
23 the amount of extended benefits paid to such eligible individual with
24 respect to base period wages of such individual paid by such employer.
25 The commissioner shall by rules and regulations prescribe the manner in
26 which benefits shall be charged against the account of several employers
27 for whom an individual performed employment during the same quarter or
28 during the same base period. Any benefit check duly issued and delivered
29 or mailed to a claimant and not presented for payment within one year
30 from the date of its issue may be invalidated and the amount thereof
31 credited to the Unemployment Compensation Fund, except that a substitute

1 check may be issued and charged to the fund on proper showing at any time
2 within the year next following. Any charge made to an employer's account
3 for any such invalidated check shall stand as originally made.

4 (4)(a) An employer's experience account shall be deemed to be
5 terminated one calendar year after such employer has ceased to be subject
6 to the Employment Security Law, except that if the commissioner finds
7 that an employer's business is closed solely because of the entrance of
8 one or more of the owners, officers, partners, or limited liability
9 company members or the majority stockholder into the armed forces of the
10 United States, or of any of its allies, after July 1, 1950, such
11 employer's account shall not be terminated and, if the business is
12 resumed within two years after the discharge or release from active duty
13 in the armed forces of such person or persons, the employer's experience
14 account shall be deemed to have been continuous throughout such period.

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

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

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

1 (7)(a) For benefit years beginning before September 3, 2017, if ~~(7)~~
2 ~~If~~ an individual's base period wage credits represent part-time
3 employment for a contributory employer and the contributory employer
4 continues to employ the individual to the same extent as during the base
5 period, then the contributory employer's experience account shall not be
6 charged if the contributory employer has filed timely notice of the facts
7 on which such exemption is claimed in accordance with rules and
8 regulations prescribed by the commissioner.

9 (b) For benefit years beginning on or after September 3, 2017, if an
10 individual's base period wage credits represent part-time employment for
11 an employer and the employer continues to employ the individual to the
12 same extent as during the base period, then the employer's experience
13 account, in the case of a contributory employer, or the employer's
14 reimbursement account, in the case of a reimbursable employer, shall not
15 be charged if the employer has filed timely notice of the facts on which
16 such exemption is claimed in accordance with rules and regulations
17 prescribed by the commissioner.

18 (8) If a contributory employer responds to the department's request
19 for information within the time period set forth in subsection (1) of
20 section 48-632 and provides accurate information as known to the employer
21 at the time of the response, the employer's experience account shall not
22 be charged if the individual's separation from employment is voluntary
23 and without good cause as determined under subdivision (1) of section
24 48-628.

25 Sec. 2. Original section 48-652, Revised Statutes Cumulative
26 Supplement, 2016, is repealed.