

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1393**

FINAL READING

Introduced by Hansen, 16; at the request of the Governor.

Read first time January 17, 2024

Committee: Business and Labor

1 A BILL FOR AN ACT relating to labor; to amend sections 48-3602, 48-3603,  
2 48-3604, and 48-3606, Revised Statutes Cumulative Supplement, 2022,  
3 and section 48-649.03, Revised Statutes Supplement, 2023; to change  
4 provisions relating to the combined tax rate under the Employment  
5 Security Law; to change provisions relating to the Nebraska Student-  
6 Athlete Name, Image, or Likeness Rights Act; to provide  
7 severability; to repeal the original sections; and to declare an  
8 emergency.  
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-649.03, Revised Statutes Supplement, 2023, is  
2 amended to read:

3 48-649.03 (1) Once benefits have been payable from and chargeable to  
4 an employer's experience account throughout the preceding four calendar  
5 quarters and wages for employment have been paid by the employer in each  
6 of the two preceding four-calendar-quarter periods, the employer's  
7 combined tax rate shall be calculated according to this section. The  
8 combined tax rate shall be based upon the employer's experience rating  
9 record and determined from the employer's reserve ratio.

10 (2) The employer's reserve ratio is the percent obtained by dividing  
11 (a) the amount by which the employer's contributions credited from the  
12 time the employer first or most recently became an employer, whichever  
13 date is later, and up to and including September 30 of the year the rate  
14 computation is made, plus any part of the employer's contributions due  
15 for that year paid on or before October 31 of such year, exceed the  
16 employer's benefits charged during the same period, by (b) the employer's  
17 average annual taxable payroll for the sixteen-consecutive-calendar-  
18 quarter period ending September 30 of the year in which the rate  
19 computation is made. For an employer with less than sixteen consecutive  
20 calendar quarters of contribution experience, the employer's average  
21 taxable payroll shall be determined based upon the four-calendar-quarter  
22 periods for which contributions were payable.

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

26	Category	Experience Factor
27	1	0.00
28	2	0.25
29	3	0.40
30	4	0.45
31	5	0.50

1	6	0.60
2	7	0.65
3	8	0.70
4	9	0.80
5	10	0.90
6	11	0.95
7	12	1.00
8	13	1.05
9	14	1.10
10	15	1.20
11	16	1.35
12	17	1.55
13	18	1.80
14	19	2.15
15	20	2.60

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

22 (a) Any employer with a portion of its taxable wages falling into  
23 two consecutive categories shall be assigned to the lower category;

24 (b) No employer with a reserve ratio calculated to five decimal  
25 places equal to the similarly calculated reserve ratio of another  
26 employer shall be assigned to a higher rate than the employer to which it  
27 has the equal reserve ratio; and

28 (c) No employer with a positive experience account balance shall be  
29 assigned to category twenty.

30 (4) The state's reserve ratio shall be calculated annually by  
31 dividing the amount available to pay benefits in the Unemployment Trust

1 Fund and the State Unemployment Insurance Trust Fund as of September 30,  
2 plus any amount of combined tax owed by employers eligible for and  
3 electing annual payment status for the four most recent quarters ending  
4 on September 30 in accordance with rules and regulations adopted by the  
5 commissioner, by the state's total wages from the four calendar quarters  
6 ending on September 30. For purposes of this section, total wages means  
7 all remuneration paid by an employer in employment. The state's reserve  
8 ratio shall be applied to the table in this subsection to determine the  
9 yield factor for the upcoming rate year.

10 State's Reserve Ratio		Yield Factor
11 <u>1.75 percent and above</u>	≡	<u>0.50</u>
12 <u>1.60 percent up to but not including 1.75</u>	≡	<u>0.60</u>
13 <u>1.45 percent up to but not including 1.60</u>	≡	<u>0.70</u>
14 <del>1.45 percent and above</del>	=	<del>0.70</del>
15 1.30 percent up to but not including 1.45	=	0.75
16 1.15 percent up to but not including 1.30	=	0.80
17 1.00 percent up to but not including 1.15	=	0.90
18 0.85 percent up to but not including 1.00	=	1.00
19 0.70 percent up to but not including 0.85	=	1.10
20 0.60 percent up to but not including 0.70	=	1.20
21 0.50 percent up to but not including 0.60	=	1.25
22 0.45 percent up to but not including 0.50	=	1.30
23 0.40 percent up to but not including 0.45	=	1.35
24 0.35 percent up to but not including 0.40	=	1.40
25 0.30 percent up to but not including 0.35	=	1.45
26 Below 0.30 percent	=	1.50

27 The commissioner may adjust the yield factor determined pursuant to  
28 the preceding table to a lower scheduled yield factor if the state's  
29 reserve ratio is 1.00 percent or greater. Once the yield factor for the  
30 upcoming rate year has been determined, it is multiplied by the amount of  
31 unemployment benefits paid from combined tax during the four calendar

1 quarters ending September 30 of the preceding year. The resulting figure  
2 is the planned yield for the rate year. The planned yield is divided by  
3 the total taxable wages for the four calendar quarters ending September  
4 30 of the previous year and carried to four decimal places to create the  
5 average combined tax rate for the rate year. Beginning January 1, 2025,  
6 through December 31, 2029, the final average combined tax rate shall be  
7 reduced by five percent.

8 (5) The average combined tax rate is assigned to rate category  
9 twelve as established in subsection (3) of this section. Rates for each  
10 of the remaining nineteen categories are determined by multiplying the  
11 average combined tax rate by the experience factor associated with each  
12 category and carried to four decimal places. Employers who are delinquent  
13 in filing their combined tax reports as of October 31 of any year shall  
14 be assigned to category twenty for the following calendar year unless the  
15 delinquency is corrected prior to December 31 of the year of rate  
16 calculation.

17 (6) In addition to required contributions, an employer may make  
18 voluntary contributions to the fund to be credited to his or her account.  
19 Voluntary contributions by employers may be made up to the amount  
20 necessary to qualify for one rate category reduction. Voluntary  
21 contributions received after February 28 shall not be used in rate  
22 calculations for the same calendar year.

23 (7) As used in sections 48-648 to 48-654, the term payroll means the  
24 total amount of wages during a calendar year, except as otherwise  
25 provided in section 48-654, by which the combined tax was measured.

26 Sec. 2. Section 48-3602, Revised Statutes Cumulative Supplement,  
27 2022, is amended to read:

28 48-3602 For purposes of the Nebraska Student-Athlete Name, Image, or  
29 Likeness Rights Act:

30 (1) Athletic grant-in-aid means the money given to a student-athlete  
31 by a postsecondary institution for tuition, fees, room, board, and

1 textbooks as consideration for the student-athlete's participation in an  
2 intercollegiate sport for such postsecondary institution and does not  
3 include compensation for the use of the student-athlete's name, image, or  
4 likeness rights or athletic reputation;

5 (2) Collegiate athletic association means any athletic association,  
6 conference, or other group or organization with authority over  
7 intercollegiate sports;

8 (3) Compensation for the use of a student-athlete's name, image, or  
9 likeness rights or athletic reputation includes, but is not limited to,  
10 consideration received pursuant to an endorsement contract as defined in  
11 section 48-2602;

12 (4) Intercollegiate sport has the same meaning as in section  
13 48-2602;

14 (5) Name, image, or likeness activity means an activity that  
15 involves the use of an individual's name, image, or likeness for  
16 commercial or promotional purposes;

17 ~~(6) (5)~~ Postsecondary institution has the same meaning as in section  
18 85-2403;

19 ~~(7) (6)~~ Professional representation includes, but is not limited to,  
20 representation provided by an athlete agent holding a certificate of  
21 registration under the Nebraska Uniform Athlete Agents Act, a financial  
22 advisor registered under the Securities Act of Nebraska, or an attorney  
23 admitted to the bar by order of the Supreme Court of this state;

24 ~~(8) (7)~~ Sponsor means an individual or organization that pays money  
25 or provides goods or services in exchange for advertising rights;

26 ~~(9) (8)~~ Student-athlete has the same meaning as in section 48-2602;  
27 and

28 ~~(10) (9)~~ Team contract means a contract between a postsecondary  
29 institution or a postsecondary institution's athletic department and a  
30 sponsor.

31 Sec. 3. Section 48-3603, Revised Statutes Cumulative Supplement,

1 2022, is amended to read:

2 48-3603 (1) No postsecondary institution shall uphold any rule,  
3 requirement, standard, or limitation that prevents a student-athlete from  
4 fully participating in an intercollegiate sport for such postsecondary  
5 institution because such student-athlete earns or intends to earn  
6 compensation for the use of such student-athlete's name, image, or  
7 likeness rights or athletic reputation.

8 (2) No collegiate athletic association shall penalize a student-  
9 athlete or prevent a student-athlete from fully participating in an  
10 intercollegiate sport because such student-athlete earns or intends to  
11 earn compensation for the use of such student-athlete's name, image, or  
12 likeness rights or athletic reputation.

13 (3) No collegiate athletic association shall penalize a  
14 postsecondary institution or prevent a postsecondary institution from  
15 fully participating in an intercollegiate sport because a student-athlete  
16 participating in an intercollegiate sport for such postsecondary  
17 institution earns or intends to earn compensation for the use of such  
18 student-athlete's name, image, or likeness rights or athletic reputation.

19 (4) No postsecondary institution shall be prohibited from:

20 (a) Creating, identifying, facilitating, enabling, or supporting  
21 student-athlete name, image, or likeness activities; or

22 (b) Entering into agreements with a third-party entity to create,  
23 identify, facilitate, enable, or support name, image, or likeness  
24 activities.

25 (5) No third-party entity or individual shall be prohibited from:

26 (a) Communicating with a student-athlete to create, identify,  
27 facilitate, enable, or support name, image, or likeness activities;

28 (b) Compensating a student-athlete for the use of such student-  
29 athlete's name, image, or likeness rights or athletic reputation; or

30 (c) Compensating student-athletes for promoting:

31 (i) An athletics event in which the student-athlete may participate,

1 if the third-party entity or individual has an agreement to promote the  
2 athletics event; or

3 (ii) The postsecondary institution which the student-athlete  
4 attends.

5 ~~(6) (4)~~ No postsecondary institution shall allow compensation earned  
6 by a student-athlete for the use of such student-athlete's name, image,  
7 or likeness rights or athletic reputation to affect the duration, amount,  
8 or eligibility for or renewal of any athletic grant-in-aid or other  
9 institutional scholarship, except that compensation earned by a student-  
10 athlete for the use of such student-athlete's name, image, or likeness  
11 rights or athletic reputation may be used for the calculation of income  
12 for determining eligibility for need-based financial aid.

13 ~~(7)(a) (5)~~ The compensation a student-athlete earns for the use of  
14 the student-athlete's name, image, or likeness rights or athletic  
15 reputation must be for services actually performed. Student-athletes  
16 shall not be paid for contracts that ~~(i) (a)~~ extend beyond the student-  
17 athlete's participation in an athletic program at a postsecondary  
18 institution, ~~(ii) (b)~~ involve the sale or exchange of awards or other  
19 items received for athletic participation, ~~(c) involve compensation from~~  
20 ~~a postsecondary institution or a postsecondary institution's employees,~~  
21 or ~~(iii) (d)~~ provide compensation for work not performed.

22 (b) A postsecondary institution shall not compensate a student-  
23 athlete for the use of the student-athlete's name, image, or likeness  
24 rights or athletic reputation unless otherwise permitted or authorized  
25 by:

26 (i) A collegiate athletic association and postsecondary institution  
27 policy;

28 (ii) A court order; or

29 (iii) A settlement agreement.

30 ~~(8) (6)~~ Student-athletes may be prohibited from entering into  
31 contracts or agreements ~~or engaging in activity~~ related to the use of the



1 student-athlete's name, image, or likeness rights or athletic reputation  
2 or engaging in name, image, or likeness activities for products,  
3 services, entities, or activities reasonably deemed to be inconsistent  
4 with the educational mission of the postsecondary institution by such  
5 postsecondary institution.

6 (9) ~~(7)~~ Nothing in the Nebraska Student-Athlete Name, Image, or  
7 Likeness Rights Act shall limit the ability of a postsecondary  
8 institution to establish and enforce standards, requirements,  
9 regulations, or obligations for such postsecondary institution's students  
10 not inconsistent with the act.

11 (10) ~~(8)~~ Nothing in the Nebraska Student-Athlete Name, Image, or  
12 Likeness Rights Act grants to a student-athlete the right to use any  
13 name, trademark, service mark, logo, symbol, or other intellectual  
14 property that belongs to the postsecondary institution, regardless of  
15 whether the intellectual property is registered, to further the student-  
16 athlete's opportunities to earn compensation for the use of the student-  
17 athlete's name, image, or likeness rights or athletic reputation.

18 (11) Nothing in the Nebraska Student-Athlete Name, Image, or  
19 Likeness Rights Act shall be construed to qualify a student-athlete as an  
20 employee of a postsecondary institution based solely on the fact that the  
21 student-athlete earns compensation for the use of the student-athlete's  
22 name, image, or likeness rights or athletic reputation, or is engaged in  
23 name, image, or likeness activities pursuant to the act.

24 Sec. 4. Section 48-3604, Revised Statutes Cumulative Supplement,  
25 2022, is amended to read:

26 48-3604 (1) Any student-athlete who enters into a contract or  
27 agreement that provides compensation for the use of such student-  
28 athlete's name, image, or likeness rights or athletic reputation shall  
29 disclose such contract or agreement to an official of the postsecondary  
30 institution for which such student-athlete participates in an  
31 intercollegiate sport. The official to which such contract or agreement

1 shall be disclosed shall be designated by each postsecondary institution,  
2 and the designation shall be communicated in writing to each student-  
3 athlete participating in an intercollegiate sport for such postsecondary  
4 institution. Except as provided in subsection (2) of this section, or  
5 unless ~~Unless~~ otherwise required by law, each postsecondary institution  
6 shall be prohibited from disclosing any information written, produced,  
7 collected, assembled, or maintained by such postsecondary institution  
8 that includes or reveals any term of a contract or agreement or proposed  
9 contract or agreement for the use of a student-athlete's name, image, or  
10 likeness rights or athletic reputation ~~terms of such contract or~~  
11 ~~agreement that the student-athlete or the student-athlete's professional~~  
12 ~~representation deems to be a trade secret or otherwise nondisclosable.~~

13 (2) If any contract or agreement is entered into by an entity  
14 subject to sections 84-712 to 84-712.09 for the use of a student-  
15 athlete's name, image, or likeness rights or athletic reputation, such  
16 contract or agreement shall be considered a public record subject to  
17 sections 84-712 to 84-712.09.

18 Sec. 5. Section 48-3606, Revised Statutes Cumulative Supplement,  
19 2022, is amended to read:

20 48-3606 (1) No postsecondary institution or collegiate athletic  
21 association shall penalize a student-athlete or prevent a student-athlete  
22 from fully participating in an intercollegiate sport because such  
23 student-athlete obtains professional representation in relation to a  
24 contract or legal matter related to the use of the student-athlete's  
25 name, image, or likeness rights or athletic reputation.

26 (2) No collegiate athletic association shall penalize a  
27 postsecondary institution or prevent a postsecondary institution from  
28 fully participating in an intercollegiate sport because a student-athlete  
29 participating in an intercollegiate sport for such postsecondary  
30 institution obtains professional representation in relation to a contract  
31 or legal matter related to the use of the student-athlete's name, image,

1 or likeness rights or athletic reputation.

2 (3) A postsecondary institution may offer education and training to  
3 student-athletes to aid them in understanding the opportunities that may  
4 become available to them for the use of their name, image, or likeness  
5 rights or athletic reputation, including education in the areas of  
6 networking and communication, brand-building and management, financial  
7 literacy, and compliance.

8 Sec. 6. If any section in this act or any part of any section is  
9 declared invalid or unconstitutional, the declaration shall not affect  
10 the validity or constitutionality of the remaining portions.

11 Sec. 7. Original sections 48-3602, 48-3603, 48-3604, and 48-3606,  
12 Revised Statutes Cumulative Supplement, 2022, and section 48-649.03,  
13 Revised Statutes Supplement, 2023, are repealed.

14 Sec. 8. Since an emergency exists, this act takes effect when  
15 passed and approved according to law.