

## LEGISLATIVE BILL 1072

Approved by the Governor March 25, 1996

Introduced by Abboud, 12; Schimek, 27; Vrtiska, 1

AN ACT relating to the Employment Security Law; to amend section 48-638, Reissue Revised Statutes of Nebraska, section 48-601, Revised Statutes Supplement, 1994, and section 48-621, Revised Statutes Supplement, 1995; to change provisions relating to income tax withholding from unemployment compensation and appeals to district court; to change the use of a fund; to provide powers and duties for the Department of Labor; to harmonize provisions; to provide an operative date; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 48-601, Revised Statutes Supplement, 1994, is amended to read:

48-601. Sections 48-601 to 48-671 and section 2 of this act shall be known and may be cited as the Employment Security Law.

Sec. 2. (1) An individual filing a new claim for unemployment compensation shall, at the time of the filing of such claim, be advised that:

(a) Unemployment compensation is subject to federal and state income tax;

(b) Requirements exist pertaining to estimated tax payments;

(c) The individual may elect to have federal income tax withheld from the individual's payment of unemployment compensation at the amount specified in the Internal Revenue Code; and

(d) The individual shall be permitted to change a previously elected withholding status.

(2) Amounts deducted and withheld from unemployment compensation shall remain in the Unemployment Compensation Fund until transferred to the federal Internal Revenue Service as a payment of income tax.

(3) The commissioner shall follow all procedures specified by the United States Department of Labor and the federal Internal Revenue Service pertaining to the deducting and withholding of income tax.

(4) Amounts shall be deducted and withheld under this section only after amounts are deducted and withheld for any overpayments of unemployment compensation, child support obligations, or any other amounts required to be withheld under the Employment Security Law.

Sec. 3. Section 48-621, Revised Statutes Supplement, 1995, is amended to read:

48-621. The administrative fund shall consist of the Employment Security Administration Fund and the Employment Security Special Contingent Fund. Each fund shall be maintained as a separate and distinct account in all respects, as follows:

(1) There is hereby created in the state treasury a special fund to be known as the Employment Security Administration Fund. All money deposited or paid into this fund is hereby appropriated and made available to the Commissioner of Labor. All money in this fund shall be expended solely for the purposes and in the amounts found necessary as defined by the specific federal programs, state statutes, and contract obligations for the proper and efficient administration of all programs of the Department of Labor, by the Secretary of Labor of the United States for the proper and efficient administration of the Employment Security Law and for no other purpose whatsoever. The fund shall consist of all money appropriated by this state and all money received from the United States of America or any agency thereof, including the Department of Labor and the Railroad Retirement Board, or from any other source for such purpose. Money received from any agency of the United States or any other state as compensation for services or facilities supplied to such agency, any amounts received pursuant to any surety bond or insurance policy for losses sustained by the Employment Security Administration Fund or by reason of damage to equipment or supplies purchased from money in such fund, and any proceeds realized from the sale or disposition of any equipment or supplies which may no longer be necessary for the proper administration of such law shall also be paid into this fund. All money in this fund shall be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as is provided by law for other special funds in the state treasury. Any balances in this fund, except balances of money therein appropriated from the General Fund of this

state, shall not lapse at any time but shall be continuously available to the commissioner for expenditure consistent with the Employment Security Law. Notwithstanding any other provisions of this section, all money requisitioned and deposited in this fund pursuant to section 903 of the federal Social Security Act, as amended, shall remain part of the Unemployment Compensation Fund and shall be used only in accordance with the conditions specified in section 903 of the federal Social Security Act. Any money in the Employment Security Administration Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act; and

(2) There is hereby created in the state treasury a special fund to be known as the Employment Security Special Contingent Fund. Any money in the Employment Security Special Contingent Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. All money collected under section 48-655 as interest on delinquent contributions, less refunds, shall be paid into this fund from the clearing account of the Unemployment Compensation Fund at the end of each calendar quarter. Such money shall not be expended or available for expenditure in any manner which would permit its substitution for or a corresponding reduction in federal funds which would in the absence of such money be available to finance expenditures for the administration of the unemployment insurance law, but nothing in this section shall prevent the money from being used as a revolving fund to cover expenditures necessary and proper under the law for which federal funds have been duly requested but not yet received, subject to the charging of such expenditures against such federal funds when received. The money in this fund may be used by the Commissioner of Labor only as follows:

(a) To replace within a reasonable time any money received by this state pursuant to section 302 of the federal Social Security Act, as amended, and required to be paid under section 48-622;

(b) To meet special extraordinary and contingent expenses which are deemed essential for good administration but which are not provided in grants from the Secretary of Labor of the United States and, for this purpose, no expenditures shall be made from this fund except on written authorization by the Governor at the request of the Commissioner of Labor;

(c) To be transferred to the Nebraska Community College Aid Cash Fund; and

(d) To be transferred to the Job Training Cash Fund.

Sec. 4. Section 48-638, Reissue Revised Statutes of Nebraska, is amended to read:

48-638. Any party to the proceedings before the appeal tribunal may appeal the tribunal's decision by filing a petition (1) in the district court of the county in which the individual claiming benefits claims to have been last employed or in which such claimant resides, or (2) in any district court of this state upon which the parties may agree, or (3) if neither subdivision (1) or (2) of this section applies, then in the district court of Lancaster County. If the commissioner is not the petitioning party, he or she shall be a party defendant in every appeal. If the commissioner is a party defendant, the petition shall be served upon him or her by leaving with him or her, or such representative as he or she may designate for that purpose, as many copies of the petition as there are defendants. Upon the filing of a petition for review by the commissioner or upon the service of the petition on him or her, the commissioner shall immediately send by registered or certified mail to each other party to the proceeding a copy of such petition. Such mailing shall be deemed to be completed service upon all such parties. Such appeal shall otherwise be governed by the Administrative Procedure Act.

Sec. 5. This act becomes operative on July 1, 1996.

Sec. 6. Original section 48-638, Reissue Revised Statutes of Nebraska, section 48-601, Revised Statutes Supplement, 1994, and section 48-621, Revised Statutes Supplement, 1995, are repealed.

Sec. 7. Since an emergency exists, this act takes effect when passed and approved according to law.