



NOTICE OF PUBLIC HEARING

Pursuant to *Neb. Rev. Stat.* §84-907, notice is given of a public hearing to be held before the Nebraska Department of Labor (NDOL) on August 31, 2018 at 10:00 a.m. at the Nebraska Department of Labor, 550 South 16th Street, Lincoln, NE 68508 in Room 311. The NDOL will receive testimony and evidence concerning the adoption of amendments and repeals of the following regulations pursuant to Governor Ricketts' Executive Order 17-04:

The following regulations are proposed for REPEAL in their entirety as they are either obsolete or are an unnecessary duplication of statute:

- 220 NAC 3 [Experience Rating Information and Voluntary Contributions]
- 220 NAC 10 [Effective Date of Election of Coverage]
- 220 NAC 15 [Transfer or Dissolution of SUIT Fund]
- 222 NAC 9 [Contributions by Employers for 1990]
- 222 NAC 10 [Contributions by Employers for 1991]
- 222 NAC 11 [Contributions by Employers for 1992]
- 222 NAC 12 [Contributions by Employers for 1993]
- 222 NAC 13 [Contributions by Employers for 1994]
- 222 NAC 14 [Contributions by Employers for 1995]
- 222 NAC 15 [Combined Tax Rate by Employers for 1996]
- 222 NAC 16 [Combined Tax Rate by Employers for 1997]
- 222 NAC 17 [Combined Tax by Employers for 1998]
- 222 NAC 18 [Combined Tax by Employers for 1999]
- 222 NAC 19 [Combined Tax by Employers for 2000]
- 222 NAC 20 [Combined Tax by Employers for 2001]
- 222 NAC 21 [Combined Tax by Employers for 2002]
- 222 NAC 22 [Combined Tax by Employers for 2003]
- 222 NAC 23 [Combined Tax by Employers for 2004]
- 222 NAC 24 [Combined Tax by Employers for 2005]
- 227 NAC 1 [Farm Labor Contractor's (FLC) Act - Definitions]
- 227 NAC 2 [FLC Exemptions from Licensing]
- 227 NAC 3 [FLC Issuance of License]
- 227 NAC 6 [FLC Procedure for Obtaining a License]
- 227 NAC 8 [FLC Procedure for Renewing License]
- 227 NAC 9 [FLC Proof of Financial Ability to Pay Wages and Advances]
- 227 NAC 11 [FLC Deposit the Equivalent of Cash]
- 227 NAC 13 [FLC Statement of Earnings]
- 227 NAC 16 [FLC Posting Requirements]
- 227 NAC 18 [FLC Determining a Criminal Penalty]

The following regulations are proposed for AMENDMENT:

- 218 NAC 1 [Electronic Documents]
- 220 NAC 1 [Filing of Quarterly Combined Tax and Wage Reports and Payment of Combined Tax]
- 220 NAC 12 [Determination of Liability]
- 223 NAC 1 [Rules for Administrative Tax Hearings]
- 223 NAC 2 [Regulations and Procedures Governing Declaratory Orders]
- 223 NAC 3 [Regulations Governing Petitioning for Rulemaking]
- 223 NAC 4 [Procedures for Negotiated Rulemaking]
- 223 NAC 5 [Rules of Practice and Procedure for Hearings on Contested Cases]

- 225 NAC 1 [Approval of Training Programs]
- 226 NAC 1 [Discontinuation of Services to Employers]
- 227 NAC 4 [Licensing Requirements]
- 227 NAC 7 [Procedure for Obtaining a Duplicate License]
- 227 NAC 12 [License Protests]
- 227 NAC 15 [Records Availability]
- 227 NAC 20 [Certificate of Exemption]

A draft of these regulations and their fiscal impact statements may be obtained at the office of the Secretary of State, Regulations Division, Room 343, State Capitol, Lincoln, Nebraska 68509, telephone number [402] 471-2385, or by contacting the NDOL at [402] 471-9912. Copies will also be available at the public hearing.

Interested persons may attend and testify at the hearing. Written comments may be submitted to the NDOL, Office of Legal Counsel, and P.O. Box 94600, Lincoln, NE 68509-4600 up to three days prior to the date of this hearing.

If auxiliary aids or reasonable accommodations are needed for attendance at this hearing, please call [402] 471-9912.

JOHN H. ALBIN
Nebraska Commissioner of Labor

FISCAL IMPACT STATEMENT

Agency:	Nebraska Department of Labor	Prepared by:	Katie S. Thurber
Title:	225	Date prepared:	June 11, 2018
Chapter:	01	Telephone:	402.471.9912
Subject:	Approval of Training Programs		

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Increased Costs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Decreased Costs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Increased Revenue	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Decreased Revenue	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Indeterminable	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Provide an Estimated Cost & Description of Impact:

State Agency: n/a

Political Subdivision: n/a

Regulated Public: n/a

If indeterminable, explain why: n/a

NEBRASKA ADMINISTRATIVE CODE

LAST UPDATED: October 10, 2015

TITLE 225 - DEPARTMENT OF LABOR

CHAPTER 1 - APPROVAL OF TRAINING PROGRAMS

001. This chapter is adopted pursuant to *Neb. Rev. Stat.* §§48-607, 48-627, 48-628 and 48-628.05.
002. Any claimant may request approval to receive benefits while attending school for training purposes. He or she shall make a written application on a form prescribed by the Commissioner. The claimant's application for approval of training shall be submitted to Nebraska Department of Labor, or an equivalent office in another state.
003. A. ~~For claim years beginning on or after July 1, 2011, the~~ The Commissioner shall approve a training program for a claimant if:
1. The claimant was involuntarily separated from employment as the result of a permanent reduction of operations at the claimant's place of employment or is unemployed as the result of a separation from a declining occupation and:
 - a. The training sought is training which is preparing the individual for entry into a high-demand occupation;
 - b. The claimant enrolls in training no later than the end of the benefit year established with respect to the separation that makes the individual eligible for the training benefit;
 - c. The claimant is not receiving similar stipends or other training allowances for nontraining costs. Similar stipend means an amount provided under a program with similar aims, such as providing training to increase employability, and in approximately the same amounts; and
 - d. The qualifying separation is from employment during the most recently completed five calendar quarters prior to the filing of the claim for benefits or from an employer during the quarter in which the original claim is filed; or
 2. The claimant is enrolled in a job training program authorized under the federal Workforce Innovation and Opportunity Act of 2014. The federal Workforce Innovation and Opportunity Act of 2014 is available for viewing at the Nebraska Department of Labor, 550 South 16th Street, Lincoln, Nebraska 68508.
- B. For purposes of this section, the determination of whether an occupation is a declining occupation for will be based upon generally accepted current labor market information, based on regional occupational projections provided by the Office of Labor Market Information.
004. No training program for affected workers administered by the Department of Labor under 20 CFR Part 617 shall be approved if the training program cannot be completed within one hundred four weeks of the date the training is commenced. 20 CFR Part 617 is available for viewing at the Nebraska Department of Labor, 550 South 16th Street, Lincoln, Nebraska 68508.

005. A. Except when approval is required under sections 003(A)(2) and 004 above or federal statute or regulation, the Commissioner shall only approve training programs under the following conditions:
1. Reasonable employment opportunities for which the claimant is qualified and can earn a living wage do not exist or have been substantially diminished making a change in occupation necessary for reemployment;
 2. The claimant must have the required qualifications or aptitudes to successfully complete the training program. Basic education programs which are a prerequisite for skilled training or other short term, vocationally directed academic courses may be approved;
 3. The training program must consist of a practical curriculum for development of vocational, rather than avocational, skills;
 4. The written description of the course of instruction relates to an occupation or skill for which there are, or are expected to be in the immediate future, reasonable employment opportunities in any labor market area of this state in which the individual intends to seek work; and
 5. The training program has been planned and scheduled so as to lead to the earliest feasible completion and readiness for reemployment.
- B. Other than those training programs identified under sections 003(A)(2) and 004 above, the Commissioner shall only approve applications for training approval in which the training program is designed to prepare participants for gainful employment in recognized or new occupations at which they can earn a living wage.
- C. An individual shall not be eligible for unemployment insurance benefits under this section for any week with respect to which he or she receives a subsistence allowance on account of participation in training. Subsistence allowances are direct or indirect payments to the claimant which are not made specifically to defray the costs associated with participation in training. Subsistence allowances specifically include any payments made or usable for routine living expense not directly associated with participation in training, such as room, board, utilities, or general transportation costs. Dependent's allowances, one time emergency payments, and reimbursements for any of the direct costs of training, which might include the cost of tuition, books, supplies, tools, transportation costs to and from training, and the cost of child care during time spent in training, shall have no bearing on the claimant's entitlement to benefits under this section.
- D. Except as otherwise allowed under the programs described in sections 003 and 004 above, the Commissioner shall not approve any application if the claimant's most recent separation, as adjudicated by the Department, is a "quit to attend school".
006. A. A claimant whose training program has been approved shall, as of the date of the Commissioner's approval, not be required to make an active search for work during actual participation in the training program.
- B. A break in training of thirty or more days requires an active work search for continued eligibility for regular state, extended state or federally funded unemployment benefits other than additional training benefits payable pursuant to *Neb. Rev. Stat. §48-628.05*.

- C. A claimant enrolled in approved training and receiving benefits pursuant to *Neb. Rev. Stat. §48-628.05*, shall be ineligible to receive additional training payments during the period of any break in training of thirty or more days. The claimant receiving additional training payments is not subject to work search requirements as required by regular or extended benefit compensation programs.
007. The Commissioner may disqualify a claimant's approved training program if the claimant does not regularly attend the classes of the program or receives notice of unsatisfactory progress from the training institution.
008. A claimant enrolled in an approved training program shall promptly notify his or her regular claims office in writing if he or she discontinues regular attendance of the training program or receives notice of unsatisfactory progress from the training institution.
009. At the time a course of training is approved, the training institution shall be notified by electronic mail or regular mail of the claimant's status under this chapter. This notification shall direct the training institution to promptly notify the claimant's regular claims reporting office in writing if the claimant's attendance or progress becomes unsatisfactory.
- ~~010. For benefit years beginning on or before June 30, 2011 approval of payment approved training and eligibility for continuing to receive unemployment benefits while enrolled in training shall be governed by the provisions in effect on June 30, 2011.~~