

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIFTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 147**

Introduced by Hansen, 26.

Read first time January 09, 2017

Committee: Business and Labor

- 1 A BILL FOR AN ACT relating to the Nebraska Workers' Compensation Act; to
- 2 amend section 48-125, Revised Statutes Cumulative Supplement, 2016;
- 3 to change provisions relating to additional compensation for waiting
- 4 time, termination of compensation, and awarding of attorney's fees;
- 5 and to repeal the original section.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-125, Revised Statutes Cumulative Supplement,  
2 2016, is amended to read:

3 48-125 (1)(a) Except as hereinafter provided, all amounts of  
4 compensation payable under the Nebraska Workers' Compensation Act shall  
5 be payable periodically in accordance with the methods of payment of  
6 wages of the employee at the time of the injury or death. Such payments  
7 shall be sent directly to the person entitled to compensation or his or  
8 her designated representative except as otherwise provided in section  
9 48-149.

10 (b) Fifty percent shall be added for waiting time for all delinquent  
11 payments after thirty days' notice has been given of disability or after  
12 thirty days from the entry of a final order, award, or judgment of the  
13 Nebraska Workers' Compensation Court, except that for any award or  
14 judgment against the state in excess of one hundred thousand dollars  
15 which must be reviewed by the Legislature as provided in section  
16 48-1,102, fifty percent shall be added for waiting time for delinquent  
17 payments thirty days after the effective date of the legislative bill  
18 appropriating any funds necessary to pay the portion of the award or  
19 judgment in excess of one hundred thousand dollars. No addition for  
20 waiting time shall be awarded pursuant to this subdivision if the  
21 employer or his or her workers' compensation insurer conducted a  
22 reasonable investigation into whether benefits were owed to the employee,  
23 the results of the reasonable investigation were the actual basis relied  
24 upon by the employer or his or her workers' compensation insurer to deny,  
25 delay payment of, or terminate benefits, and the employer or his or her  
26 workers' compensation insurer conveyed the basis for the denial, delay in  
27 payment, or termination of benefits to the employee contemporaneously  
28 with such denial, delay, or termination.

29 (c) If commenced, compensation payable under the Nebraska Workers'  
30 Compensation Act shall be terminated only when the employee has returned  
31 to work or upon thirty days' notice from the employer or his or her

1 workers' compensation insurer to the employee stating the reason for the  
2 termination and advising the employee of the right to file a claim with  
3 the Nebraska Workers' Compensation Court.

4 (2)(a) Whenever the employer refuses payment of compensation or  
5 medical payments subject to section 48-120, or when the employer neglects  
6 to pay compensation for thirty days after injury or neglects to pay  
7 medical payments subject to such section after thirty days' notice has  
8 been given of the obligation for medical payments, and proceedings are  
9 held before the compensation court, a reasonable attorney's fee shall be  
10 allowed the employee by the compensation court in all cases when the  
11 employee receives an award, except that attorney's fees shall not be  
12 allowed pursuant to this subdivision if the employer or his or her  
13 workers' compensation insurer conducted a reasonable investigation into  
14 whether benefits were owed to the employee, the results of the reasonable  
15 investigation were the actual basis relied upon by the employer or his or  
16 her workers' compensation insurer to deny, delay payment of, or terminate  
17 benefits, and the employer or his or her workers' compensation insurer  
18 conveyed the basis for the denial, delay in payment, or termination of  
19 benefits to the employee contemporaneously with such denial, delay, or  
20 termination. Attorney's fees allowed shall not be deducted from the  
21 amounts ordered to be paid for medical services nor shall attorney's fees  
22 be charged to the medical providers.

23 (b) If the employer files an appeal from an award of a judge of the  
24 compensation court and fails to obtain any reduction in the amount of  
25 such award, the Court of Appeals or Supreme Court shall allow the  
26 employee a reasonable attorney's fee to be taxed as costs against the  
27 employer for such appeal.

28 (c) If the employee files an appeal from an order of a judge of the  
29 compensation court denying an award and obtains an award or if the  
30 employee files an appeal from an award of a judge of the compensation  
31 court when the amount of compensation due is disputed and obtains an

1 increase in the amount of such award, the Court of Appeals or Supreme  
2 Court may allow the employee a reasonable attorney's fee to be taxed as  
3 costs against the employer for such appeal.

4 (d) A reasonable attorney's fee allowed pursuant to this subsection  
5 shall not affect or diminish the amount of the award.

6 (3) When an attorney's fee is allowed pursuant to this section,  
7 there shall further be assessed against the employer an amount of  
8 interest on the final award obtained, computed from the date compensation  
9 was payable, as provided in section 48-119, until the date payment is  
10 made by the employer. For any injury occurring prior to August 30, 2015,  
11 the interest rate shall be equal to the rate of interest allowed per  
12 annum under section 45-104.01, as such rate may from time to time be  
13 adjusted by the Legislature. For any injury occurring on or after August  
14 30, 2015, the interest rate shall be equal to six percentage points above  
15 the bond investment yield, as published by the Secretary of the Treasury  
16 of the United States, of the average accepted auction price for the first  
17 auction of each annual quarter of the twenty-six-week United States  
18 Treasury bills in effect on the date of entry of the judgment. Interest  
19 shall apply only to those weekly compensation benefits awarded which have  
20 accrued as of the date payment is made by the employer. If the employer  
21 pays or tenders payment of compensation, the amount of compensation due  
22 is disputed, and the award obtained is greater than the amount paid or  
23 tendered by the employer, the assessment of interest shall be determined  
24 solely upon the difference between the amount awarded and the amount  
25 tendered or paid.

26 Sec. 2. Original section 48-125, Revised Statutes Cumulative  
27 Supplement, 2016, is repealed.