

E AND R AMENDMENTS TO LB 957

Introduced by Wishart, 27, Chairman Enrollment and Review

1 1. Strike the original sections and all amendments thereto and
2 insert the following new sections:

3 Section 1. Section 48-125, Revised Statutes Cumulative Supplement,
4 2016, is amended to read:

5 48-125 (1) (1)(a) Except as hereinafter provided, all amounts of
6 compensation payable under the Nebraska Workers' Compensation Act shall
7 be payable periodically in accordance with the methods of payment of
8 wages of the employee at the time of the injury or death or by a method
9 of payment as provided in subsection (2) of this section. Such payments
10 shall be sent directly to the person entitled to compensation or his or
11 her designated representative except as otherwise provided in section
12 48-149 or subsection (2) of this section.

13 (2)(a) After an injury or death subject to the Nebraska Workers'
14 Compensation Act, the employer, workers' compensation insurer, or risk
15 management pool and the employee, other person entitled to compensation,
16 or a legal representative acting on behalf of such employee or other
17 person entitled to compensation may enter into a written or electronic
18 agreement that periodic or lump-sum payments to the employee or other
19 person entitled to compensation may be made by check or by direct
20 deposit, prepaid card, or similar electronic payment system. Payments
21 made by direct deposit, prepaid card, or similar electronic payment
22 system pursuant to this subsection shall not be subject to attachment or
23 garnishment or held liable in any way for any debts, except as provided
24 in section 48-149; and an agreement under this subdivision shall include
25 notice of this fact. Prior to entering into such an agreement for payment
26 by prepaid card, the employer, workers' compensation insurer, or risk
27 management pool shall provide information regarding the locations where

1 such card may be used to the employee or other person entitled to
2 compensation. Such compensation may be transferred by electronic funds
3 transfer or other electronic means to the trust account of an attorney
4 representing the employee or other person entitled to compensation, for
5 the benefit of such employee or other person. The payment or transfer
6 shall include or be accompanied by information sufficient to identify the
7 nature of the payment being made, including the employer, workers'
8 compensation insurer, or risk management pool and the employee or other
9 person entitled to compensation. If an amount is withheld pursuant to
10 section 48-149, sufficient information to identify the jurisdiction, the
11 case number or similar identifying information, and the amount withheld
12 shall be provided to the employee or other person entitled to
13 compensation or his or her legal representative at or near the time of
14 withholding.

15 (b) If an employer, workers' compensation insurer, or risk
16 management pool imposes any fees or other charges relating to payment by
17 direct deposit, prepaid card, or a similar electronic payment system,
18 prior to entering into an agreement pursuant to subdivision (2)(a) of
19 this section the employer, workers' compensation insurer, or risk
20 management pool shall disclose such fees or charges to the employee or
21 other person entitled to compensation.

22 (c) Any payment or transfer made pursuant to subdivision (2)(a) of
23 this section by direct deposit, prepaid card, or similar electronic
24 payment system shall be in the full amount of the lump-sum or periodic
25 payment awarded or paid pursuant to section 48-121 to the employee or
26 other person entitled to compensation.

27 (d) A prepaid card offered by the employer, workers' compensation
28 insurer, or risk management pool shall:

29 (i) Allow the employee or other person entitled to compensation to
30 apply, initiate, transfer, and load payments with no charge by the
31 employer, workers' compensation insurer, or risk management pool;

1 (ii) For the initial prepaid card, be distributed or delivered to
2 the employee or other person entitled to compensation with no charge by
3 the employer, workers' compensation insurer, or risk management pool; and

4 (iii) Provide the employee or other person entitled to compensation,
5 with respect to each payment made to the prepaid card in accordance with
6 this subsection, at least one method of accessing the full payment
7 without fees.

8 (e) An employee, another person entitled to compensation, or a legal
9 representative acting on behalf of such employee or other person entitled
10 to compensation may elect at any time to rescind the agreement under
11 subdivision (2)(a) of this section regarding the method of payment by
12 providing written notice of such rescission to the employer, workers'
13 compensation insurer, or risk management pool that is a party to such
14 agreement. If such election is made, the employer, workers' compensation
15 insurer, or risk management pool shall change the method of payment to
16 the method of payment of wages of the employee at the time of the injury
17 or death under subsection (1) of this section as soon as practicable
18 after receiving the information necessary to do so and in a manner that
19 allows the employer, workers' compensation insurer, or risk management
20 pool to comply with the requirements of subsection (3) of this section
21 without making a delinquent payment. The employer, workers' compensation
22 insurer, or risk management pool is not required to rescind any payment
23 transaction already made or made to comply with subsection (3) of this
24 section.

25 (f) An employer, a workers' compensation insurer, or a risk
26 management pool or an agent of any such entity shall not engage in
27 unfair, deceptive, or abusive practices in relation to the method of
28 payment. No employer, workers' compensation insurer, risk management
29 pool, or agent of any such entity shall discharge, penalize, or in any
30 other manner discriminate against any employee or other person entitled
31 to compensation because such employee or other person has not consented

1 to receive payments by check or by direct deposit, prepaid card, or a
2 similar electronic payment system.

3 (g) An employer, workers' compensation insurer, or risk management
4 pool that elects to make payment using a prepaid card shall comply with
5 the requirements of 12 C.F.R. part 1005, as such part existed on April 1,
6 2018.

7 (3) ~~(b)~~ Fifty percent shall be added for waiting time for all
8 delinquent payments after thirty days' notice has been given of
9 disability or after thirty days from the entry of a final order, award,
10 or judgment of the Nebraska Workers' Compensation Court, except that for
11 any award or judgment against the state in excess of one hundred thousand
12 dollars which must be reviewed by the Legislature as provided in section
13 48-1,102, fifty percent shall be added for waiting time for delinquent
14 payments thirty days after the effective date of the legislative bill
15 appropriating any funds necessary to pay the portion of the award or
16 judgment in excess of one hundred thousand dollars.

17 (4)(a) ~~(2)(a)~~ Whenever the employer refuses payment of compensation
18 or medical payments subject to section 48-120, or when the employer
19 neglects to pay compensation for thirty days after injury or neglects to
20 pay medical payments subject to such section after thirty days' notice
21 has been given of the obligation for medical payments, and proceedings
22 are held before the compensation court, a reasonable attorney's fee shall
23 be allowed the employee by the compensation court in all cases when the
24 employee receives an award. Attorney's fees allowed shall not be deducted
25 from the amounts ordered to be paid for medical services nor shall
26 attorney's fees be charged to the medical providers.

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

1 (c) If the employee files an appeal from an order of a judge of the
2 compensation court denying an award and obtains an award or if the
3 employee files an appeal from an award of a judge of the compensation
4 court when the amount of compensation due is disputed and obtains an
5 increase in the amount of such award, the Court of Appeals or Supreme
6 Court may allow the employee a reasonable attorney's fee to be taxed as
7 costs against the employer for such appeal.

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

10 (5) {3} When an attorney's fee is allowed pursuant to this section,
11 there shall further be assessed against the employer an amount of
12 interest on the final award obtained, computed from the date compensation
13 was payable, as provided in section 48-119, until the date payment is
14 made by the employer. For any injury occurring prior to August 30, 2015,
15 the interest rate shall be equal to the rate of interest allowed per
16 annum under section 45-104.01, as such rate may from time to time be
17 adjusted by the Legislature. For any injury occurring on or after August
18 30, 2015, the interest rate shall be equal to six percentage points above
19 the bond investment yield, as published by the Secretary of the Treasury
20 of the United States, of the average accepted auction price for the first
21 auction of each annual quarter of the twenty-six-week United States
22 Treasury bills in effect on the date of entry of the judgment. Interest
23 shall apply only to those weekly compensation benefits awarded which have
24 accrued as of the date payment is made by the employer. If the employer
25 pays or tenders payment of compensation, the amount of compensation due
26 is disputed, and the award obtained is greater than the amount paid or
27 tendered by the employer, the assessment of interest shall be determined
28 solely upon the difference between the amount awarded and the amount
29 tendered or paid.

30 (6) For purposes of this section:

31 (a) Direct deposit means the transfer of payments into an account of

1 a financial institution chosen by the employee or other person entitled
2 to compensation; and

3 (b) Prepaid card means a prepaid debit card that provides access to
4 an account with a financial institution established directly or
5 indirectly by the employer, workers' compensation insurer, or risk
6 management pool to which payments are transferred.

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

9 2. On page 1, line 1, after the first "to" insert "the".