

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 738**

Introduced by Gloor, 35.

Read first time January 04, 2012

Committee: Business and Labor

A BILL

1 FOR AN ACT relating to the Nebraska Workers' Compensation Act; to  
2 amend section 48-122, Reissue Revised Statutes of  
3 Nebraska; to change burial expense benefits; to harmonize  
4 provisions; and to repeal the original section.  
5 Be it enacted by the people of the State of Nebraska,

1                   Section 1. Section 48-122, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   48-122 (1) If death results from injuries and the  
4 deceased employee leaves one or more dependents dependent upon his or  
5 her earnings for support at the time of injury, the compensation,  
6 subject to section 48-123, shall be not more than the maximum weekly  
7 income benefit specified in section 48-121.01 nor less than the  
8 minimum weekly income benefit specified in section 48-121.01;  
9 ~~Provided, except~~ that if at the time of injury the employee receives  
10 wages of less than the minimum weekly income benefit specified in  
11 section 48-121.01, then the compensation shall be the full amount of  
12 such wages per week, payable in the amount and to the persons  
13 enumerated in section 48-122.01 subject to the maximum limits  
14 specified in this section and section 48-122.03.

15                   (2) When death results from injuries suffered in  
16 employment, if immediately prior to the accident the rate of wages  
17 was fixed by the day or hour, or by the output of the employee, the  
18 weekly wages shall be taken to be computed upon the basis of a  
19 workweek of a minimum of five days, if the wages are paid by the day,  
20 or upon the basis of a workweek of a minimum of forty hours, if the  
21 wages are paid by the hour, or upon the basis of a workweek of a  
22 minimum of five days or forty hours, whichever results in the higher  
23 weekly wage, if the wages are based on the output of the employee.

24                   (3) Upon the death of an employee, resulting through  
25 personal injuries as ~~herein defined~~ in section 48-151, whether or not

1 there be dependents entitled to compensation, the reasonable expenses  
2 of burial, not exceeding ~~six~~-ten thousand dollars, without deduction  
3 of any amount previously paid or to be paid for compensation or for  
4 medical expenses, shall be paid to his or her dependents, or if there  
5 be no dependents, then to his or her personal representative.

6 (4) Compensation under the Nebraska Workers' Compensation  
7 Act to alien dependents who are not residents of the United States  
8 shall be the same in amount as is provided in each case for  
9 residents, except that at any time within one year after the death of  
10 the injured employee the employer may at his or her option commute  
11 all future installments of compensation to be paid to such alien  
12 dependents. The amount of the commuted payment shall be determined as  
13 provided in section 48-138.

14 (5) The consul general, consul, vice consul general, or  
15 vice consul of the nation of which the employee, whose injury results  
16 in death, is a citizen, or the representative of such consul general,  
17 consul, vice consul general, or vice consul residing within the State  
18 of Nebraska shall be regarded as the sole legal representative of any  
19 alien dependents of the employee residing outside of the United  
20 States and representing the nationality of the employee. Such  
21 consular officer, or his or her representative, residing in the State  
22 of Nebraska, shall have in behalf of such nonresident dependents, the  
23 exclusive right to adjust and settle all claims for compensation  
24 provided by the Nebraska Workers' Compensation Act, and to receive  
25 the distribution to such nonresident alien dependents of all

1 compensation arising thereunder.

2                   Sec. 2. Original section 48-122, Reissue Revised Statutes

3 of Nebraska, is repealed.