

AMENDMENTS TO LB957

(Amendments to E & R amendments, ER148)

Introduced by Lowe, 37.

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, the other person entitled to  
16 compensation, or a legal representative acting on behalf of such employee  
17 or other person entitled to compensation may enter into a written or  
18 electronic agreement that periodic or lump-sum payments to the employee  
19 or other person entitled to compensation may be made by check or by  
20 direct deposit, prepaid card, or similar electronic payment system.

21           (b) Payments made by direct deposit, prepaid card, or similar  
22 electronic payment system pursuant to this subsection shall not be  
23 subject to attachment or garnishment or held liable in any way for any  
24 debts, except as provided in section 48-149; and an agreement pursuant to  
25 this subsection shall include notice of this fact. If an amount is  
26 withheld pursuant to section 48-149, sufficient information to identify

1 the jurisdiction, the case number or similar identifying information, and  
2 the amount withheld shall be provided to the employee or other person  
3 entitled to compensation or his or her legal representative at or near  
4 the time of withholding.

5 (c) Prior to entering into an agreement pursuant to this subsection  
6 for payment by prepaid card, the employer, workers' compensation insurer,  
7 or risk management pool shall provide to the employee or other person  
8 entitled to compensation information regarding the locations where such  
9 card may be used by the employee or other person.

10 (d) Pursuant to an agreement under this subsection, compensation may  
11 be transferred by electronic funds transfer or other electronic means to  
12 the trust account of an attorney representing the employee or other  
13 person entitled to compensation, for the benefit of such employee or  
14 other person. The payment or transfer shall include or be accompanied by  
15 information sufficient to identify the nature of the payment being made,  
16 including the employer, workers' compensation insurer, or risk management  
17 pool and the employee or other person entitled to compensation.

18 (e) If an employer, workers' compensation insurer, or risk  
19 management pool imposes any fees or other charges relating to payment by  
20 direct deposit, prepaid card, or a similar electronic payment system,  
21 prior to entering into an agreement pursuant to this subsection the  
22 employer, workers' compensation insurer, or risk management pool shall  
23 disclose such fees or charges to the employee or other person entitled to  
24 compensation.

25 (f) Any payment or transfer made pursuant to this subsection by  
26 direct deposit, prepaid card, or similar electronic payment system shall  
27 be in the full amount of the lump-sum or periodic payment awarded or paid  
28 pursuant to section 48-121 to the employee or other person entitled to  
29 compensation.

30 (g) A prepaid card offered by the employer, workers' compensation  
31 insurer, or risk management pool shall:

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

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

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

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

28       (i) An employer, a workers' compensation insurer, or a risk  
29 management pool or an agent of any such entity shall not engage in  
30 unfair, deceptive, or abusive practices in relation to the method of  
31 payment. No employer, workers' compensation insurer, risk management

1 pool, or agent of any such entity shall discharge, penalize, or in any  
2 other manner discriminate against any employee or other person entitled  
3 to compensation because such employee or other person has not consented  
4 to receive payments by check or by direct deposit, prepaid card, or a  
5 similar electronic payment system.

6 (j) An employer, workers' compensation insurer, or risk management  
7 pool that elects to make payment using a prepaid card shall comply with  
8 the requirements of 12 C.F.R. part 1005, as such part existed on April 1,  
9 2018.

10 (3) ~~(b)~~ Fifty percent shall be added for waiting time for all  
11 delinquent payments after thirty days' notice has been given of  
12 disability or after thirty days from the entry of a final order, award,  
13 or judgment of the Nebraska Workers' Compensation Court, except that for  
14 any award or judgment against the state in excess of one hundred thousand  
15 dollars 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.

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

30 (b) If the employer files an appeal from an award of a judge of the  
31 compensation court and fails to obtain any reduction in the amount of

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

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

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

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

1 tendered or paid.

2 (6) For purposes of this section:

3 (a) Direct deposit means the transfer of payments into an account of  
4 a financial institution chosen by the employee or other person entitled  
5 to compensation; and

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

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