

AMENDMENTS TO LB963

(Amendments to Standing Committee amendments, AM2523)

Introduced by McDonnell, 5.

1 1. Insert the following new section:

2 Sec. 2. Section 48-122, Revised Statutes Supplement, 2019, is
3 amended to read:

4 48-122 (1) If death results from injuries and the deceased employee
5 leaves one or more dependents dependent upon his or her earnings for
6 support at the time of injury, the compensation, subject to section
7 48-123, shall be not more than the maximum weekly income benefit
8 specified in section 48-121.01 nor less than the minimum weekly income
9 benefit specified in section 48-121.01, except that if at the time of
10 injury the employee receives wages of less than the minimum weekly income
11 benefit specified in section 48-121.01, then the compensation shall be
12 the full amount of such wages per week, payable in the amount and to the
13 persons 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 employment, if
16 immediately prior to the accident the rate of wages was fixed by the day
17 or hour, or by the output of the employee, the weekly wages shall be
18 taken to be computed upon the basis of a workweek of a minimum of five
19 days, if the wages are paid by the day, or upon the basis of a workweek
20 of a minimum of forty hours, if the wages are paid by the hour, or upon
21 the basis of a workweek of a minimum of five days or forty hours,
22 whichever results in the higher weekly wage, if the wages are based on
23 the output of the employee.

24 (3) Upon the death of an employee, resulting through personal
25 injuries as defined in section 48-151, whether or not there are
26 dependents entitled to compensation, the reasonable expenses of burial,

1 not exceeding ~~eleven~~ ten thousand dollars, without deduction of any
2 amount previously paid or to be paid for compensation or for medical
3 expenses, shall be paid to his or her dependents, or if there are no
4 dependents, then to his or her personal representative. Beginning in
5 2023, the Nebraska Workers' Compensation Court shall annually adjust the
6 dollar limitation in this subsection. The adjusted limitation shall be
7 equal to the then current limitation adjusted by the greater of one
8 percent or the percentage change, for the preceding year, in the Consumer
9 Price Index for All Urban Consumers, as prepared by the United States
10 Department of Labor, Bureau of Labor Statistics. Any adjustment shall be
11 effective on July 1. The adjustment shall not exceed two and three-
12 quarters percent per annum. If the amount so adjusted is not a multiple
13 of one hundred dollars, the amount shall be rounded to the nearest
14 multiple of one hundred dollars.

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

22 (5)(a)(i) Except as provided in subdivision (5)(a)(ii) of this
23 section, the consular officer of the nation of which the employee, whose
24 injury results in death, is a citizen shall be regarded as the sole legal
25 representative of any alien dependents of the employee residing outside
26 of the United States and representing the nationality of the employee.

27 (ii) At any time prior to the final settlement, a nonresident alien
28 dependent may file with the Nebraska Workers' Compensation Court a power
29 of attorney designating any suitable person residing in this state to act
30 as attorney in fact in proceedings under the Nebraska Workers'
31 Compensation Act. If the compensation court determines that the interests

1 of the nonresident alien dependent will be better served by such person
2 than by the consular officer, the compensation court shall appoint such
3 person to act as attorney in fact in such proceedings. In making such
4 determination the court shall consider, among other things, whether a
5 consular officer's jurisdiction includes Nebraska and the responsiveness
6 of the consular officer to attempts made by an attorney representing the
7 employee to engage such consular officer in the proceedings.

8 (b) Such consular officer or appointed person shall have in behalf
9 of such nonresident alien dependents the exclusive right to institute
10 proceedings for, adjust, and settle all claims for compensation provided
11 by the Nebraska Workers' Compensation Act and to receive the distribution
12 to such nonresident alien dependents of all compensation arising
13 thereunder.

14 (c) A person appointed under subdivision (5)(a)(ii) of this section
15 shall furnish a bond satisfactory to the compensation court conditioned
16 upon the proper application of any money received as compensation under
17 the Nebraska Workers' Compensation Act. Before the bond is discharged,
18 such appointed person shall file with the compensation court a verified
19 account of receipts and disbursements of such money.

20 (d) For purposes of this section, consular officer means a consul
21 general, vice consul general, or vice consul or the representative of any
22 such official residing within the State of Nebraska.

23 (6) The changes made to this section by Laws 2019, LB418, apply to
24 cases under the Nebraska Workers' Compensation Act that are pending on
25 September 1, 2019, and to cases filed on or after such date.

26 2. Renumber the remaining sections and correct the repealer
27 accordingly.