

AMENDMENTS TO LB255

Introduced by Flood, 19.

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

3           Section 1. Sections 1 to 5 of this act shall be known and may be  
4 cited as the In the Line of Duty Compensation Act.

5           Sec. 2. For purposes of the In the Line of Duty Compensation Act:

6           (1) Firefighter means a member of a paid or volunteer fire  
7 department in Nebraska, including a member of a rescue squad associated  
8 with a paid or volunteer fire department in Nebraska;

9           (2)(a) Killed in the line of duty means losing one's life as a  
10 result of an injury or illness arising on or after the operative date of  
11 this act in connection with the active performance of duties as a public  
12 safety officer if the death occurs within three years from the date the  
13 injury was received or illness was diagnosed and if that injury or  
14 illness arose from violence or other accidental cause.

15           (b) Killed in the line of duty excludes death resulting from the  
16 willful misconduct or intoxication of the public safety officer;

17           (3) Law enforcement officer means any member of the Nebraska State  
18 Patrol, any county or deputy sheriff, or any member of the police force  
19 of any city or village;

20           (4) Public safety officer means:

21           (a) A firefighter;

22           (b) A law enforcement officer;

23           (c) A member of an emergency medical services ambulance squad  
24 operated by a political subdivision or by a private, nonprofit ambulance  
25 service, but excluding any employee of a private, for-profit ambulance  
26 service; or

27           (d) A correctional officer employed by a jail or by the Department

1 of Correctional Services;

2 (5) Risk Manager means the Risk Manager appointed under section  
3 81-8,239.01; and

4 (6) State Claims Board means the board created under section  
5 81-8,220.

6 Sec. 3. (1) If a public safety officer is killed in the line of  
7 duty, compensation shall be paid as provided in the In the Line of Duty  
8 Compensation Act to recognize the ultimate sacrifice made by such public  
9 safety officer.

10 (2) The amount of compensation to be paid under the act shall be as  
11 follows:

12 (a) For deaths occurring during calendar year 2022, the amount of  
13 such compensation shall be fifty thousand dollars; and

14 (b) For deaths occurring in calendar year 2023 and each calendar  
15 year thereafter, the amount of such compensation shall be equal to the  
16 compensation amount from the previous calendar year increased by the  
17 percentage increase, if any, in the Consumer Price Index for All Urban  
18 Consumers, as published by the United States Department of Labor, Bureau  
19 of Labor Statistics, for the twelve months ending on June 30 of such  
20 previous calendar year.

21 (3) The person entitled to receive such compensation shall be  
22 determined as follows:

23 (a) If the public safety officer designated a person to receive the  
24 compensation in accordance with subsection (4) of this section, the  
25 compensation shall be paid to the designated person; or

26 (b) If no person is designated by the public safety officer or if  
27 the designated person is not alive at the death of the public safety  
28 officer, the compensation shall be paid in accordance with the laws of  
29 this state regarding intestate succession.

30 (4) The Risk Manager shall prescribe a form that may be used by a  
31 public safety officer to designate a person to receive the compensation.

1 The public safety officer shall file such form with his or her employer  
2 or, if he or she is a volunteer, with the entity for which the volunteer  
3 service is provided.

4 (5) Amounts paid under the In the Line of Duty Compensation Act  
5 shall not be considered:

6 (a) Compensation under the County Employees Retirement Act, the  
7 Judges Retirement Act, the Nebraska State Patrol Retirement Act, the  
8 School Employees Retirement Act, the State Employees Retirement Act, or  
9 any other retirement plan administered by the Public Employees Retirement  
10 Board and shall not be eligible for deferral under any deferred  
11 compensation plan administered by the Public Employees Retirement Board;  
12 or

13 (b) Regular pay or salary under the Police Officers Retirement Act  
14 or sections 16-1020 to 16-1042.

15 (6) An employer of the public safety officer shall not have any  
16 right of subrogation under section 48-118 with respect to compensation  
17 paid under the In the Line of Duty Compensation Act.

18 Sec. 4. (1) To receive compensation under the In the Line of Duty  
19 Compensation Act, a claim for the compensation must be filed with the  
20 Risk Manager within one year after the date of death of the public safety  
21 officer who was killed in the line of duty. Such claim shall be on a form  
22 prescribed by the Risk Manager and shall include:

23 (a) The name, address, and title or position of the public safety  
24 officer who was killed in the line of duty;

25 (b) A copy of the form filed in accordance with subsection (4) of  
26 section 3 of this act, if any. If no such form has been filed, the claim  
27 shall include the name and address of the person or persons to whom  
28 compensation is payable under subdivision (3)(b) of section 3 of this  
29 act;

30 (c) A sworn statement providing a full factual account of the  
31 circumstances resulting in or the course of events causing the death of

1 the public safety officer; and

2 (d) Such other information as the Risk Manager reasonably requires.

3 (2) The Risk Manager shall send written notice to all claimants  
4 within two weeks after the initiation of a claim indicating whether or  
5 not the claim is complete. For purposes of this subsection, a claim is  
6 complete if a claimant has submitted to the Risk Manager all documents  
7 and information required under subsection (1) of this section. If a claim  
8 is incomplete, the Risk Manager shall include in the written notice a  
9 list of the documents or information which the claimant must submit in  
10 order for the claim to be complete. If a claim is complete, the State  
11 Claims Board shall make an investigation of the claim in the manner  
12 provided in the State Miscellaneous Claims Act. Upon completion of such  
13 investigation, and no later than forty-five days after receipt of a  
14 complete claim, the State Claims Board shall approve or deny such claim  
15 in accordance with section 81-8,300 and the Risk Manager shall send  
16 written notice to the claimant stating whether the claim has been  
17 approved or denied. If a claim is denied, the notice shall include the  
18 reason or reasons for the denial. If a claimant is dissatisfied with a  
19 denial, he or she may file an application for review with the Risk  
20 Manager in accordance with subsection (2) of section 81-8,300. If a claim  
21 is approved, compensation shall be paid to the claimants entitled to such  
22 compensation in accordance with subsection (3) of section 81-8,300.

23 Sec. 5. The State Claims Board may adopt and promulgate rules and  
24 regulations to carry out the In the Line of Duty Compensation Act.

25 Sec. 6. Section 81-8,297, Reissue Revised Statutes of Nebraska, is  
26 amended to read:

27 81-8,297 The State Claims Board shall have the power and authority  
28 to receive, investigate, and otherwise carry out its duties with regard  
29 to (1) all claims under the State Miscellaneous Claims Act, (2) all  
30 claims under sections 25-1802 to 25-1807, (3) all claims under the State  
31 Contract Claims Act, (4) all claims under the In the Line of Duty

1 Compensation Act, (5) all requests on behalf of any department, board, or  
2 commission of the state for waiver or cancellation of money or charges  
3 when necessary for fiscal or accounting procedures, and (6) ~~(5)~~ all  
4 claims filed under section 66-1531. All such claims or requests and  
5 supporting documents shall be filed with the Risk Manager and shall be  
6 designated by number, name of claimant as requester, and short title.  
7 Nothing in this section shall be construed to be a waiver of the  
8 sovereign immunity of the state beyond what is otherwise provided by law.

9 The board shall adopt and promulgate such rules and regulations as  
10 are necessary to carry out the powers granted in this section. The  
11 Attorney General shall be the legal advisor to the board for purposes of  
12 this section and may authorize the assistant attorney general in charge  
13 of the Claims Division to perform any of his or her duties under this  
14 section.

15 Sec. 7. Section 81-8,299, Reissue Revised Statutes of Nebraska, is  
16 amended to read:

17 81-8,299 The State Claims Board shall, for the purposes contemplated  
18 by the State Contract Claims Act, the State Miscellaneous Claims Act, the  
19 In the Line of Duty Compensation Act, and sections 25-1802 to 25-1807 and  
20 66-1531, have the right, power, and duty to (1) administer oaths, (2)  
21 compel the attendance of witnesses and the production of books, papers,  
22 and documents and issue subpoenas for such purposes, and (3) punish the  
23 disobedience of such a subpoena or subpoenas, the refusal of a witness to  
24 be sworn or testify, or the failure to produce books, papers, and  
25 documents, as required by such subpoena or subpoenas so issued, as  
26 contempt, in the same manner as are officers who are authorized to take  
27 depositions.

28 Sec. 8. Section 81-8,300.01, Reissue Revised Statutes of Nebraska,  
29 is amended to read:

30 81-8,300.01 Claims described in subdivision (4) of section 81-8,297  
31 shall be forever barred unless the claim is filed with the Risk Manager

1 within the time period prescribed in section 4 of this act. Claims  
2 described in subdivisions (5) ~~(4)~~ and (6) ~~(5)~~ of section 81-8,297 and  
3 claims relating to expiration of state warrants shall have no time bar to  
4 recovery. Except as provided in section 25-213, all other claims  
5 permitted under the State Miscellaneous Claims Act shall be forever  
6 barred unless the claim is filed with the Risk Manager within two years  
7 after the time the claim accrued.

8       Sec. 9. Section 81-8,301, Reissue Revised Statutes of Nebraska, is  
9 amended to read:

10       81-8,301 Any award made under the State Contract Claims Act, the  
11 State Miscellaneous Claims Act, the In the Line of Duty Compensation Act,  
12 or section 25-1806 or 66-1531 and accepted by the claimant shall be final  
13 and conclusive on all officers of the State of Nebraska except when  
14 procured by means of fraud. The acceptance by the claimant of such award  
15 shall be final and conclusive on the claimant and shall constitute a  
16 complete release by the claimant of any claim against the state and  
17 against the employee of the state whose act or omission gave rise to the  
18 claim by reason of the same subject matter.

19       Sec. 10. This act becomes operative on January 1, 2022.

20       Sec. 11. Original sections 81-8,297, 81-8,299, 81-8,300.01, and  
21 81-8,301, Reissue Revised Statutes of Nebraska, are repealed.