

E AND R AMENDMENTS TO LB560

Introduced by Murante, 49, Chairman Enrollment and Review

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

3 Section 1. Section 48-1228, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 48-1228 Sections 48-1228 to 48-1232 and sections 2 and 3
6 of this act shall be known and may be cited as the Nebraska Wage
7 Payment and Collection Act.

8 Sec. 2. The Commissioner of Labor shall have the
9 authority to subpoena records and witnesses related to the
10 enforcement of the Nebraska Wage Payment and Collection Act. The
11 commissioner or his or her agent may inspect all related records
12 and gather testimony on any matter relative to the enforcement
13 of the act when the information sought is relevant to a lawful
14 investigative purpose and is reasonable in scope.

15 Sec. 3. (1) The Commissioner of Labor shall issue a
16 citation to an employer when an investigation reveals that the
17 employer may have violated the Nebraska Wage Payment and Collection
18 Act, other than a violation of subsection (2) of section 48-1230.

19 (2) When a citation is issued, the commissioner shall
20 notify the employer of the proposed administrative penalty, if
21 any, by certified mail or any other manner of delivery by
22 which the United States Postal Service can verify delivery. The
23 administrative penalty shall be not more than five hundred dollars

1 in the case of a first violation and not more than five thousand
2 dollars in the case of a second or subsequent violation.

3 (3) The employer has fifteen working days after the date
4 of the citation or penalty to contest such citation or penalty.
5 Notice of contest shall be sent to the commissioner who shall
6 provide a hearing in accordance with the Administrative Procedure
7 Act.

8 Sec. 4. Section 48-1230, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 48-1230 (1) Except as otherwise provided in this section,
11 each employer shall pay all wages due its employees on regular
12 days designated by the employer or agreed upon by the employer and
13 employee. Thirty days' written notice shall be given to an employee
14 before regular paydays are altered by an employer. An employer
15 may deduct, withhold, or divert a portion of an employee's wages
16 only when the employer is required to or may do so by state or
17 federal law or by order of a court of competent jurisdiction or
18 the employer has written agreement with the employee to deduct,
19 withhold, or divert.

20 ~~(2) Within ten working days after a written request is~~
21 ~~made by an employee, an employer shall furnish such employee with~~
22 ~~an itemized statement listing the wages earned and the deductions~~
23 ~~made from the employee's wages under subsection (1) of this section~~
24 ~~for each pay period that earnings and deductions were made. The~~
25 ~~statement may be in print or electronic format.~~

26 (2) On each regular payday, the employer shall deliver
27 or make available to each employee, by mail or electronically, or

1 shall provide at the employee's normal place of employment during
2 employment hours for all shifts a wage statement showing, at a
3 minimum, the identity of the employer, the hours the employee
4 worked, the wages earned by the employee, and deductions made for
5 the employee. However, the employer need not provide information
6 on hours worked for employees who are exempt from overtime under
7 the federal Fair Labor Standards Act of 1938, under 29 C.F.R. part
8 541, unless the employer has established a policy or practice of
9 paying to or on behalf of exempt employees overtime, or bonus or a
10 payment based on hours worked, whereupon the employer shall send or
11 otherwise provide a statement to the exempt employees showing the
12 hours the employee worked or the payments made to the employee by
13 the employer, as applicable.

14 (3) Except as otherwise provided in section 48-1230.01:

15 (a) Whenever an employer, other than a political
16 subdivision, separates an employee from the payroll, the unpaid
17 wages shall become due on the next regular payday or within two
18 weeks of the date of termination, whichever is sooner; and

19 (b) Whenever a political subdivision separates an
20 employee from the payroll, the unpaid wages shall become due within
21 two weeks of the next regularly scheduled meeting of the governing
22 body of the political subdivision if such employee is separated
23 from the payroll at least one week prior to such meeting, or if an
24 employee of a political subdivision is separated from the payroll
25 less than one week prior to the next regularly scheduled meeting of
26 the governing body of the political subdivision, the unpaid wages
27 shall be due within two weeks of the following regularly scheduled

1 meeting of the governing body of the political subdivision.

2 Sec. 5. Section 48-1231, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 48-1231 (1) An employee having a claim for wages which
5 are not paid within thirty days of the regular payday designated or
6 agreed upon may institute suit for such unpaid wages in the proper
7 court. If an employee establishes a claim and secures judgment
8 on the claim, such employee shall be entitled to recover (a) the
9 full amount of the judgment and all costs of such suit and (b)
10 if such employee has employed an attorney in the case, an amount
11 for attorney's fees assessed by the court, which fees shall not be
12 less than twenty-five percent of the unpaid wages. If the cause is
13 taken to an appellate court and the plaintiff recovers a judgment,
14 the appellate court shall tax as costs in the action, to be paid
15 to the plaintiff, an additional amount for attorney's fees in such
16 appellate court, which fees shall not be less than twenty-five
17 percent of the unpaid wages. If the employee fails to recover a
18 judgment in excess of the amount that may have been tendered within
19 thirty days of the regular payday by an employer, such employee
20 shall not recover the attorney's fees provided by this section. If
21 the court finds that no reasonable dispute existed as to the fact
22 that wages were owed or as to the amount of such wages, the court
23 may order the employee to pay the employer's attorney's fees and
24 costs of the action as assessed by the court.

25 (2) An employer who fails to furnish an ~~itemized~~
26 ~~statement requested by an employee~~ a wage statement under
27 subsection (2) of section 48-1230 shall be guilty of an infraction

1 as defined in section 29-431 and shall be subject to a fine
2 pursuant to section 29-436.

3 Sec. 6. Original sections 48-1228, 48-1230, and 48-1231,
4 Reissue Revised Statutes of Nebraska, are repealed.

5 2. On page 1, strike beginning with "labor" in line 1
6 through line 9 and insert "the Nebraska Wage Payment and Collection
7 Act; to amend sections 48-1228, 48-1230, and 48-1231, Reissue
8 Revised Statutes of Nebraska; to provide powers and duties for the
9 Commissioner of Labor; to provide for enforcement of the Nebraska
10 Wage Payment and Collection Act; to change requirements for
11 employers to provide wage statements as prescribed; to harmonize
12 provisions; and to repeal the original sections."