

AMENDMENTS TO LB957

Introduced by Business and Labor.

1           1. Strike the original sections and insert the following new  
2 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) Upon agreement between the employer, workers' compensation  
14 insurer, or risk management pool and the employee or other person  
15 entitled to compensation, payment may be made periodically or in a lump  
16 sum to the employee or other person entitled to compensation by check or  
17 by direct deposit, prepaid card, or similar electronic payment system.  
18 Such agreement shall include notice that payment made by direct deposit  
19 or similar electronic payment system is subject to attachment or  
20 garnishment pursuant to section 48-149. Such compensation may be  
21 transferred by electronic funds transfer or other electronic means to the  
22 trust account of an attorney representing the employee or other person  
23 entitled to compensation, for the benefit of such employee or other  
24 person.

25           (b) If an employer, workers' compensation insurer, or risk  
26 management pool imposes any fees or other charges relating to payment by  
27 direct deposit, prepaid card, or a similar electronic payment system, the

1 employer, workers' compensation insurer, or risk management pool shall  
2 disclose such fees or charges to the employee or other person entitled to  
3 compensation.

4 (c) A prepaid card offered by the employer, workers' compensation  
5 insurer, or risk management pool shall:

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

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

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

16 (d) An employee or other person entitled to compensation may elect  
17 at any time to rescind the agreement under subdivision (2)(a) of this  
18 section regarding the method of payment. If such election is made and a  
19 new agreement under subdivision (2)(a) of this section is not reached,  
20 the employer, workers' compensation insurer, or risk management pool  
21 shall change the method of payment to the method of payment of wages of  
22 the employee at the time of the injury or death under subsection (1) of  
23 this section as soon as practicable and in a manner that allows the  
24 employer, workers' compensation insurer, or risk management pool to  
25 comply with the requirements of subsection (3) of this section without  
26 making a delinquent payment. The employer, workers' compensation insurer,  
27 or risk management pool is not required to rescind any payment  
28 transaction already made or made to comply with subsection (3) of this  
29 section.

30 (e) An employer, workers' compensation insurer, or risk management  
31 pool or its agent shall not engage in unfair, deceptive, or abusive

1 practices in relation to the method of payment. No employer, workers'  
2 compensation insurer, risk management pool, or agent shall discharge,  
3 penalize, or in any other manner discriminate against any employee or  
4 other person entitled to compensation because such employee or other  
5 person has not consented to receive payments by check or by direct  
6 deposit, prepaid card, or a similar electronic payment system.

7 (f) An employer, workers' compensation insurer, or risk management  
8 pool that elects to make payment using a prepaid card shall comply with  
9 the requirements of 12 C.F.R. part 1005, as such part existed on April 1,  
10 2018.

11 (3) ~~(b)~~ Fifty percent shall be added for waiting time for all  
12 delinquent payments after thirty days' notice has been given of  
13 disability or after thirty days from the entry of a final order, award,  
14 or judgment of the Nebraska Workers' Compensation Court, except that for  
15 any award or judgment against the state in excess of one hundred thousand  
16 dollars which must be reviewed by the Legislature as provided in section  
17 48-1,102, fifty percent shall be added for waiting time for delinquent  
18 payments thirty days after the effective date of the legislative bill  
19 appropriating any funds necessary to pay the portion of the award or  
20 judgment in excess of one hundred thousand dollars.

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

31 (b) If the employer files an appeal from an award of a judge of the

1 compensation court and fails to obtain any reduction in the amount of  
2 such award, the Court of Appeals or Supreme Court shall allow the  
3 employee a reasonable attorney's fee to be taxed as costs against the  
4 employer for such appeal.

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

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

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

1 solely upon the difference between the amount awarded and the amount  
2 tendered or paid.

3 (6) For purposes of this section:

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

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

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