

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 448

Introduced by McDonnell, 5.

Read first time January 18, 2019

Committee: Business and Labor

- 1 A BILL FOR AN ACT relating to the Nebraska Workers' Compensation Act; to
- 2 amend section 48-122, Revised Statutes Cumulative Supplement, 2018;
- 3 to change provisions relating to compensation paid for burial
- 4 expenses; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-122, Revised Statutes Cumulative Supplement,
2 2018, is amended to read:

3 48-122 (1) If death results from injuries and the deceased employee
4 leaves one or more dependents dependent upon his or her earnings for
5 support at the time of injury, the compensation, subject to section
6 48-123, shall be not more than the maximum weekly income benefit
7 specified in section 48-121.01 nor less than the minimum weekly income
8 benefit specified in section 48-121.01, except that if at the time of
9 injury the employee receives wages of less than the minimum weekly income
10 benefit specified in section 48-121.01, then the compensation shall be
11 the full amount of such wages per week, payable in the amount and to the
12 persons enumerated in section 48-122.01 subject to the maximum limits
13 specified in this section and section 48-122.03.

14 (2) When death results from injuries suffered in employment, if
15 immediately prior to the accident the rate of wages was fixed by the day
16 or hour, or by the output of the employee, the weekly wages shall be
17 taken to be computed upon the basis of a workweek of a minimum of five
18 days, if the wages are paid by the day, or upon the basis of a workweek
19 of a minimum of forty hours, if the wages are paid by the hour, or upon
20 the basis of a workweek of a minimum of five days or forty hours,
21 whichever results in the higher weekly wage, if the wages are based on
22 the output of the employee.

23 (3) Upon the death of an employee, resulting through personal
24 injuries as defined in section 48-151, whether or not there are
25 dependents entitled to compensation, the reasonable expenses of burial,
26 not exceeding an amount equal to fourteen times the state average weekly
27 wage determined pursuant to section 48-121.02 for the calendar year in
28 which the death occurred ~~ten thousand dollars~~, without deduction of any
29 amount previously paid or to be paid for compensation or for medical
30 expenses, shall be paid to his or her dependents, or if there are no
31 dependents, then to his or her personal representative.

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

8 (5) The consul general, consul, vice consul general, or vice consul
9 of the nation of which the employee, whose injury results in death, is a
10 citizen, or the representative of such consul general, consul, vice
11 consul general, or vice consul residing within the State of Nebraska
12 shall be regarded as the sole legal representative of any alien
13 dependents of the employee residing outside of the United States and
14 representing the nationality of the employee. Such consular officer, or
15 his or her representative, residing in the State of Nebraska, shall have
16 in behalf of such nonresident dependents, the exclusive right to adjust
17 and settle all claims for compensation provided by the Nebraska Workers'
18 Compensation Act, and to receive the distribution to such nonresident
19 alien dependents of all compensation arising thereunder.

20 Sec. 2. Original section 48-122, Revised Statutes Cumulative
21 Supplement, 2018, is repealed.