

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 522

Introduced by Guereca, 7.

Read first time January 21, 2025

Committee:

- 1 A BILL FOR AN ACT relating to the Nebraska Workers' Compensation Act; to
- 2 amend sections 48-119 and 48-122.01, Reissue Revised Statutes of
- 3 Nebraska, and section 48-121, Revised Statutes Cumulative
- 4 Supplement, 2024; to change provisions relating to the date when
- 5 compensation begins; to provide for cost-of-living adjustments to
- 6 weekly income benefits as prescribed; and to repeal the original
- 7 sections.
- 8 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 48-119, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 48-119 No compensation shall be allowed for the first three ~~seven~~
4 calendar days of disability, except as provided in section 48-120, but if
5 disability extends beyond the period of three ~~seven~~ calendar days,
6 compensation shall begin on the fourth ~~eighth~~ calendar day of disability,
7 except that if such disability continues for two ~~six~~ weeks or longer,
8 compensation shall be computed from the date disability began. For
9 purposes of this section, a partial day of disability shall be deemed a
10 calendar day of disability.

11 **Sec. 2.** Section 48-121, Revised Statutes Cumulative Supplement,
12 2024, is amended to read:

13 48-121 The following schedule of compensation is hereby established
14 for injuries resulting in disability:

15 (1) For total disability, the compensation during such disability
16 shall be sixty-six and two-thirds percent of the wages received at the
17 time of injury, but such compensation shall not be more than the maximum
18 weekly income benefit specified in section 48-121.01 nor less than the
19 minimum weekly income benefit specified in section 48-121.01, except that
20 if at the time of injury the employee receives wages of less than the
21 minimum weekly income benefit specified in section 48-121.01, then he or
22 she shall receive the full amount of such wages per week as compensation.
23 Nothing in this subdivision shall require payment of compensation after
24 disability shall cease;

25 (2) For disability partial in character, except the particular cases
26 mentioned in subdivision (3) of this section, the compensation shall be
27 sixty-six and two-thirds percent of the difference between the wages
28 received at the time of the injury and the earning power of the employee
29 thereafter, but such compensation shall not be more than the maximum
30 weekly income benefit specified in section 48-121.01. This compensation
31 shall be paid during the period of such partial disability but not beyond

1 three hundred weeks. Should total disability be followed by partial
2 disability, the period of three hundred weeks mentioned in this
3 subdivision shall be reduced by the number of weeks during which
4 compensation was paid for such total disability;

5 (3) For disability resulting from permanent injury of the classes
6 listed in this subdivision, the compensation shall be in addition to the
7 amount paid for temporary disability, except that the compensation for
8 temporary disability shall cease as soon as the extent of the permanent
9 disability is ascertainable. For disability resulting from permanent
10 injury of the following classes, compensation shall be: For the loss of a
11 thumb, sixty-six and two-thirds percent of daily wages during sixty
12 weeks. For the loss of a first finger, commonly called the index finger,
13 sixty-six and two-thirds percent of daily wages during thirty-five weeks.
14 For the loss of a second finger, sixty-six and two-thirds percent of
15 daily wages during thirty weeks. For the loss of a third finger, sixty-
16 six and two-thirds percent of daily wages during twenty weeks. For the
17 loss of a fourth finger, commonly called the little finger, sixty-six and
18 two-thirds percent of daily wages during fifteen weeks. The loss of the
19 first phalange of the thumb or of any finger shall be considered to be
20 equal to the loss of one-half of such thumb or finger and compensation
21 shall be for one-half of the periods of time above specified, and the
22 compensation for the loss of one-half of the first phalange shall be for
23 one-fourth of the periods of time above specified. The loss of more than
24 one phalange shall be considered as the loss of the entire finger or
25 thumb, except that in no case shall the amount received for more than one
26 finger exceed the amount provided in this schedule for the loss of a
27 hand. For the loss of a great toe, sixty-six and two-thirds percent of
28 daily wages during thirty weeks. For the loss of one of the toes other
29 than the great toe, sixty-six and two-thirds percent of daily wages
30 during ten weeks. The loss of the first phalange of any toe shall be
31 considered equal to the loss of one-half of such toe, and compensation

1 shall be for one-half of the periods of time above specified. The loss of
2 more than one phalange shall be considered as the loss of the entire toe.
3 For the loss of a hand, sixty-six and two-thirds percent of daily wages
4 during one hundred seventy-five weeks. For the loss of an arm, sixty-six
5 and two-thirds percent of daily wages during two hundred twenty-five
6 weeks. For the loss of a foot, sixty-six and two-thirds percent of daily
7 wages during one hundred fifty weeks. For the loss of a leg, sixty-six
8 and two-thirds percent of daily wages during two hundred fifteen weeks.
9 For the loss of an eye, sixty-six and two-thirds percent of daily wages
10 during one hundred twenty-five weeks. For the loss of an ear, sixty-six
11 and two-thirds percent of daily wages during twenty-five weeks. For the
12 loss of hearing in one ear, sixty-six and two-thirds percent of daily
13 wages during fifty weeks. For the loss of the nose, sixty-six and two-
14 thirds percent of daily wages during fifty weeks.

15 In any case in which there is a loss or loss of use of more than one
16 member or parts of more than one member set forth in this subdivision,
17 but not amounting to total and permanent disability, compensation
18 benefits shall be paid for the loss or loss of use of each such member or
19 part thereof, with the periods of benefits to run consecutively. The
20 total loss or permanent total loss of use of both hands, or both arms, or
21 both feet, or both legs, or both eyes, or hearing in both ears, or of any
22 two thereof, in one accident, shall constitute total and permanent
23 disability and be compensated for according to subdivision (1) of this
24 section. In all other cases involving a loss or loss of use of both
25 hands, both arms, both feet, both legs, both eyes, or hearing in both
26 ears, or of any two thereof, total and permanent disability shall be
27 determined in accordance with the facts. Amputation between the elbow and
28 the wrist shall be considered as the equivalent of the loss of a hand,
29 and amputation between the knee and the ankle shall be considered as the
30 equivalent of the loss of a foot. Amputation at or above the elbow shall
31 be considered as the loss of an arm, and amputation at or above the knee

1 shall be considered as the loss of a leg. Permanent total loss of the use
2 of a finger, hand, arm, foot, leg, or eye shall be considered as the
3 equivalent of the loss of such finger, hand, arm, foot, leg, or eye. In
4 all cases involving a permanent partial loss of the use or function of
5 any of the members mentioned in this subdivision, the compensation shall
6 bear such relation to the amounts named in such subdivision as the
7 disabilities bear to those produced by the injuries named therein.

8 If, in the compensation court's discretion, compensation benefits
9 payable for a loss or loss of use of more than one hand, arm, foot, or
10 leg, or any combination thereof, resulting from the same accident or
11 illness, do not adequately compensate the employee for such loss or loss
12 of use and such loss or loss of use results in at least a thirty percent
13 loss of earning capacity, the compensation court shall, upon request of
14 the employee, determine the employee's loss of earning capacity
15 consistent with the process for such determination under subdivision (1)
16 or (2) of this section, and in such a case the employee shall not be
17 entitled to compensation under this subdivision. Loss or loss of use of
18 multiple parts of the same arm, including the hand and fingers, or loss
19 or loss of use of multiple parts of the same leg, including the foot and
20 toes, resulting from the same accident or illness shall not entitle the
21 employee to compensation under subdivision (1) or (2) of this section.

22 If the employer and the employee are unable to agree upon the amount
23 of compensation to be paid in cases not covered by the schedule, the
24 amount of compensation shall be settled according to sections 48-173 to
25 48-185. Compensation under this subdivision shall not be more than the
26 maximum weekly income benefit specified in section 48-121.01 nor less
27 than the minimum weekly income benefit specified in section 48-121.01,
28 except that if at the time of the injury the employee received wages of
29 less than the minimum weekly income benefit specified in section
30 48-121.01, then he or she shall receive the full amount of such wages per
31 week as compensation;

1 (4) For disability resulting from permanent disability, if
2 immediately prior to the accident the rate of wages was fixed by the day
3 or hour, or by the output of the employee, the weekly wages shall be
4 taken to be computed upon the basis of a workweek of a minimum of five
5 days, if the wages are paid by the day, or upon the basis of a workweek
6 of a minimum of forty hours, if the wages are paid by the hour, or upon
7 the basis of a workweek of a minimum of five days or forty hours,
8 whichever results in the higher weekly wage, if the wages are based on
9 the output of the employee; ~~and~~

10 (5) The employee shall be entitled to compensation from his or her
11 employer for temporary disability while undergoing physical or medical
12 rehabilitation and while undergoing vocational rehabilitation whether
13 such vocational rehabilitation is voluntarily offered by the employer and
14 accepted by the employee or is ordered by the Nebraska Workers'
15 Compensation Court or any judge of the compensation court; and -

16 (6)(a) Beginning in 2026, weekly income benefits under this section
17 lasting longer than twelve months shall be adjusted to account for
18 increases in the cost of living.

19 (b) For purposes of this subdivision (6), COLA percentage means the
20 greater of:

21 (i) One percent; or

22 (ii) The percentage change, for the most recent twelve-month period
23 for which information is available, in the Consumer Price Index for Urban
24 Wage Earners and Clerical Workers, as prepared by the United States
25 Department of Labor, Bureau of Labor Statistics.

26 (c) On January 1, 2026, and on each January 1 thereafter, the
27 Nebraska Workers' Compensation Court shall determine the COLA percentage
28 that will apply for such calendar year.

29 (d) If a person receives a weekly income benefit under this section
30 that lasts longer than twelve months, the person's weekly income benefit
31 shall be automatically adjusted at the end of each twelve-month period.

1 The adjusted amount shall equal the then-current weekly income benefit
2 amount multiplied by the COLA percentage in effect for that calendar
3 year. The adjusted amount shall be computed to the next higher whole
4 dollar amount. Such adjusted amount shall apply for the next twelve-month
5 period.

6 (e) The cost-of-living adjustment provided for in this subdivision
7 (6) shall not result in a weekly income benefit that is more than the
8 maximum weekly income benefit specified in section 48-121.01 that is in
9 effect at the time the adjustment is made.

10 **Sec. 3.** Section 48-122.01, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 48-122.01 Compensation under section 48-122 shall be payable in the
13 amount and to the following persons subject to the maximum limits
14 specified in sections 48-122 and 48-122.03:

15 (1) If there is a widow or widower and no children of the deceased,
16 as defined in section 48-124, to such widow or widower, sixty-six and
17 two-thirds percent of the average weekly wage of the deceased, during
18 widowhood or widowerhood;

19 (2) To the widow or widower, if there is a child or children living
20 with the widow or widower, sixty percent of the average weekly wage of
21 the deceased, or fifty-five percent, if such child is not or such
22 children are not living with a widow or widower, and, in addition
23 thereto, fifteen percent for each child. When there are two or more such
24 children, the indemnity benefits payable on account of such children
25 shall be divided among such children, share and share alike;

26 (3) Two years' indemnity benefits in one lump sum shall be payable
27 to a widow or widower upon remarriage;

28 (4) To the children, if there is no widow or widower, sixty-six and
29 two-thirds percent of such wage for one child, and fifteen percent for
30 each additional child, divided among such children, share and share
31 alike;

1 (5) The income benefits payable on account of any child under this
2 section shall cease when he or she dies, marries, or reaches the age of
3 nineteen, or when a child over such age ceases to be physically or
4 mentally incapable of self-support, or if actually dependent ceases to be
5 actually dependent, or, if enrolled as a full-time student in any
6 accredited educational institution, ceases to be so enrolled or reaches
7 the age of twenty-five. A child who originally qualified as a dependent
8 by virtue of being less than nineteen years of age may, upon reaching age
9 nineteen, continue to qualify if he or she satisfies the tests of being
10 physically or mentally incapable of self-support, actual dependency, or
11 enrollment in an educational institution;

12 (6) To each parent, if actually dependent, twenty-five percent;

13 (7) To the brothers, sisters, grandparents, and grandchildren, if
14 actually dependent, twenty-five percent to each such dependent. If there
15 should be more than one of such dependents, the total income benefits
16 payable on account of such dependents shall be divided share and share
17 alike;

18 (8) The income benefits of each beneficiary under subdivisions (6)
19 and (7) of this section shall be paid until he or she, if a parent or
20 grandparent, dies, marries, or ceases to be actually dependent, or, if a
21 brother, sister, or grandchild, dies, marries, or reaches the age of
22 nineteen or if over that age ceases to be physically or mentally
23 incapable of self-support, or ceases to be actually dependent; ~~and~~

24 (9) A person ceases to be actually dependent when his or her income
25 from all sources exclusive of workers' compensation income benefits is
26 such that, if it had existed at the time as of which the original
27 determination of actual dependency was made, it would not have supported
28 a finding of dependency. In any event, if the present annual income of an
29 actual dependent person including workers' compensation income benefits
30 at any time exceeds the total annual support received by the person from
31 the deceased employee, the workers' compensation benefits shall be

1 reduced so that the total annual income is no greater than such amount of
2 annual support received from the deceased employee. In all cases, a
3 person found to be actually dependent shall be presumed to be no longer
4 actually dependent three years after each time as of which the person was
5 found to be actually dependent. This presumption may be overcome by proof
6 of continued actual dependency as defined in this subdivision and section
7 48-124; and -

8 (10)(a) Beginning in 2026, weekly income benefits under this section
9 lasting longer than twelve months shall be adjusted to account for
10 increases in the cost of living.

11 (b) For purposes of this subdivision (10), COLA percentage means the
12 greater of:

13 (i) One percent; or

14 (ii) The percentage change, for the most recent twelve-month period
15 for which information is available, in the Consumer Price Index for Urban
16 Wage Earners and Clerical Workers, as prepared by the United States
17 Department of Labor, Bureau of Labor Statistics.

18 (c) On January 1, 2026, and on each January 1 thereafter, the
19 Nebraska Workers' Compensation Court shall determine the COLA percentage
20 that will apply for such calendar year.

21 (d) If a person receives a weekly income benefit under this section
22 that lasts longer than twelve months, the person's weekly income benefit
23 shall be automatically adjusted at the end of each twelve-month period.
24 The adjusted amount shall equal the then-current weekly income benefit
25 amount multiplied by the COLA percentage in effect for that calendar
26 year. The adjusted amount shall be computed to the next higher whole
27 dollar amount. Such adjusted amount shall apply for the next twelve-month
28 period.

29 (e) The cost-of-living adjustment provided for in this subdivision
30 (10) shall not result in a weekly income benefit that is more than the
31 maximum weekly income benefit specified in section 48-122 that is in

1 effect at the time the adjustment is made.

2 (f) The maximum limitation in section 48-122.03 shall not limit
3 increases in the weekly income benefit resulting from the cost-of-living
4 adjustment provided for in this subdivision (10).

5 **Sec. 4.** Original sections 48-119 and 48-122.01, Reissue Revised
6 Statutes of Nebraska, and section 48-121, Revised Statutes Cumulative
7 Supplement, 2024, are repealed.