

# One Hundred Second Legislature - First Session - 2011

## Introducer's Statement of Intent

### LB291

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**Chairperson: Senator Steve Lathrop**

**Committee: Business and Labor**

**Date of Hearing: March 14, 2011**

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

**LB 291** is designed, in part, to address the Court of Appeals decision in the case of *Daugherty v. County of Douglas* 18 Neb.App. 228 (2010), in which the Court confirmed that the modification of a workers' compensation award may not be applied retroactively. The legislation provides that a modification of a workers' compensation award in a case in which the parties cannot agree on the ground of increase or decrease in disability is effective as of the date that the increase or decrease actually occurred.

**LB 291** would provide greater flexibility and fairness for both employers and employees in cases in which an increase or decrease in compensation is warranted, but the filing of an application for modification is delayed. The bill would further grant the Workers' Compensation Court discretion to require repayment of an overpayment received by an employee when a retroactive modification reducing benefits is granted, but no further benefits are payable, but require mandatory reimbursement of the overpayment by the employee in cases in which future income benefits are due. In addition, under **LB 291**, an employer would be required to reimburse the employee for underpayments resulting from a retroactive modification increasing benefits, irrespective of whether future benefits are due.

**LB 291** would also eliminate the requirement that an application for modification, in cases in which the parties cannot agree, may only be filed after six months from the date of the original agreement or award of benefits.

**Principal Introducer:** \_\_\_\_\_

Senator John Nelson