

# One Hundred Third Legislature - First Session - 2013

## Introducer's Statement of Intent

### LB324

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**Chairperson: Senator Steve Lathrop**

**Committee: Business and Labor**

**Date of Hearing: March 18, 2013**

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

LB 324 would revise the interest rate applicable to an award of workers' compensation benefits in cases in which an attorney's fee is allowed from the rate provided in section 45-104.01 (14%) to the rate provided in section 45-103 (judgment rate).

LB 324 is also designed to allow employees, prior to the time of sustaining an injury, to "opt-out" of having first injury reports relating to their workplace injuries made available for public inspection or copying. First injury reports for which an employee has made an election for confidentiality, would not be open to public inspection or copying except as necessary for the Compensation Court to administer and enforce other provisions of the Nebraska Workers' Compensation Act or unless: (a) the requestor is the employee who is the subject of the report or an attorney or authorized agent of the employee; (b) the requestor is the employer, workers' compensation insurer, risk management pool, or third-party administrator that is a party to the report or an attorney or authorized agent of such party; (c) the requestor is an authorized agent, authorized representative, attorney, investigator, consultant, or adjuster of an insurance carrier or a third-party administrator who is involved in administering any claim for insurance benefits related to any injury of the employee whose report is filed with the Compensation Court; (d) the report is used for the purpose of state or federal investigation or examinations or for the state or federal government to compile statistical information; (e) the report requested is sought for the purpose of identifying the number and nature of any injuries to employees of an employer identified in the request without revealing the identity of any employee; (f) ordered by a court of competent jurisdiction; and (g) the employee has made a revocation of the election.

LB 324 would reinstate the defense of employee misrepresentation for employers to avoid having to pay benefits resulting from an injury or condition resulting from misrepresentations made by the employee when applying for a position with the employer. These provisions would reinstate an affirmative defense that was established in favor of employers under the Hilt Truck Lines Inc. v. Rajean Jones Supreme Court decision.

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

**Senator Scott Lautenbaugh**