



## LB 553 – Require Uninsured Individual Independent Contractors to File a Non-Election of Workers’ Compensation Coverage

**Sponsor:** Senator John Lowe, Senator Mark Kolterman added

**Committee:** Business & Labor

**Date of Hearing:** To Be Scheduled

**IIAN Position:** Proactive Support

**Purpose:** Requires individual independent contractors with no employees (IC’s) who are not insured for workers’ compensation, to file a written non-election of workers’ compensation coverage with Nebraska Workers’ Compensation Court. The nonelection form shall include an acknowledgement stating that the individual signing the form understands that he or she is not electing workers’ compensation coverage. For purposes of the bill, the IC must be an individual employer, partner, limited liability company member, or self-employed person who is actually engaged in his/her business and does not elect to bring himself or herself under the Workers’ Compensation Act as currently prescribed in statute (48-115, Sec. 10). An IC could elect to be covered under the Act at any time by filing a written notice of termination with the Workers’ Compensation Court, and purchasing valid workers’ compensation coverage on him/herself.

**Background:** Today an IC is not required to insure him/herself for Workers’ Compensation losses, and is not automatically a covered employee of another employer. If an IC is injured while working for a third party, it is left to the Workers Compensation Court to determine, after the fact, whether or not the IC was actually a covered employee of the third party. If the court finds that the IC was an employee, the third party is liable for Workers Compensation losses. This creates much uncertainty, since the IC’s employment and this determination of liability may come long after the issuance of the third party’s Workers’ Compensation policy. **This exposes hiring general contractors/agents who choose to purchase Workers’ Compensation coverage, and their insurance carriers, to hundreds of thousands – if not millions – of dollars in unanticipated losses and premiums.**

**The Solution:** LB 553 will clear up this uncertainty by requiring independent contractors to file a written non-election of workers’ compensation coverage with Nebraska Workers’ Compensation Court.

**Advantages:** LB 553 will bring more clarity to the Workers’ Compensation Insurance market. It will create a more certain legal status for individual independent contractors (IC’s) in relation to Workers’ Compensation benefits. In addition, it will allow the IC to decide whether or not to secure Workers’ Compensation coverage in the future.

**The three main advantages to consumers will be:**

- 1) Hiring general contractors/agents that utilize the services offered by independent contractors will not have the uncertainty of unanticipated insurance claims/costs.
- 2) Individual independent contractors will be certain of his/her covered status and be in a position to decide whether or not to purchase Workers’ Compensation coverage in the future.
- 3) Consumers, insurance carriers, and those who utilize the services of independent contractors will have more certainty about Workers’ Compensation insurance cost and coverage.