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## News & Views

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**March LIBA Luncheon**  
Hosted by Club Pilates  
Featuring Guest Speaker:  
**Mike Foley - Nebraska State Auditor**

March 19th  
11:45 - 1 p.m.



The monthly LIBA LUNCHEON is open to all LIBA Members and their guests with advanced reservation required if you eat lunch. Lunch will be served beginning at 11:30 am, the meeting begins at noon and ends promptly at 1:00 pm.

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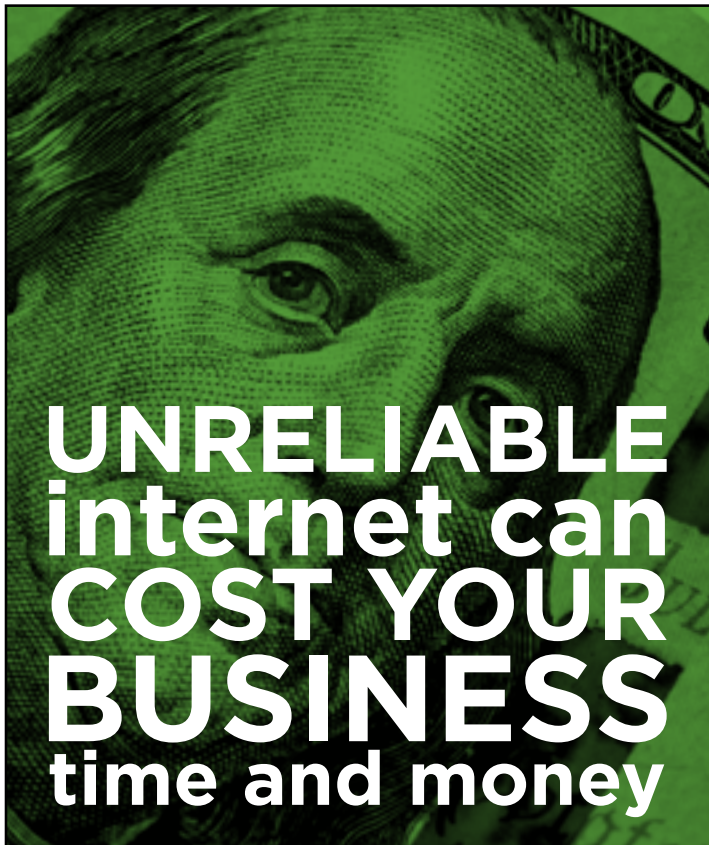
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# Free Enterprise Celebration

## 2024 Registration Information

Thursday, April 11, 2024

Business of Politics Reception	4:30 p.m.
Doors Open	5:15 p.m.
Dinner Served	6:00 p.m.
LIBA Awards Presentation	7:00 p.m.
Live Auction	7:30 p.m.

**Pinnacle Bank Arena**  
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Join LIBA and over 500 local business leaders for the annual Free Enterprise Celebration. Come for networking, dinner, awards, auction, and a celebration of Free Enterprise.

Proceeds provide resources for LIBA to support local, Lincoln Businesses! Your support will help LIBA provide resources to the business community throughout Lincoln.

### Complete the form below and mail your registration to:

**LIBA | 3601 Calvert Street | Lincoln, NE 68506**

\_\_\_\_\_ Ticket(s) at \$75 each (price increases to \$90 on March 22, 2024)

\_\_\_\_\_ Reserved Corporate table(s) of eight (8) tickets at \$750 including wine, signage (price increases to \$1,000 on March 22, 2024)

\_\_\_\_\_ I am unable to attend, please accept my enclosed contribution of \$ \_\_\_\_\_

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For more information contact the LIBA office 402-466-3419 or email [LIBAConvention@liba.org](mailto:LIBAConvention@liba.org)



# Free Enterprise Celebration

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Program Recognition

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### **Business of Politics Sponsor**

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Corporate table of 8

Corporate logo displayed during reception

Program Recognition

### **Dinner Sponsor**

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Corporate table of 8

Corporate logo on scoreboard slideshow

Program Recognition

# Message from the Executive Director

By Travis Filing

As I wrap up my first month in this position, I want to express my sincere gratitude to each and every one of you who took the time to complete our recent LIBA Member survey. Your participation is invaluable to the organization, and I am thrilled that we received over 200 responses!

As the new Executive Director, I made it a priority to personally review every single survey submission. Your feedback, ideas, and concerns are crucial to the success of our organization, and I want to assure you that your voices have been heard loud and clear.

I am pleased to inform you that your input is already making a significant impact on our decision-making process. The LIBA staff and I are diligently working to implement positive changes based on your suggestions, and we are excited about the progress we are making.

In the coming weeks and months, you can expect to see several initiatives and improvements aimed at enhancing the overall experience for our members. Whether it's addressing specific issues raised in the survey or implementing new programs to better serve your business and your employees, rest assured that your feedback is driving our actions.

I understand that change can sometimes be daunting, but I want to emphasize that our goal is to make LIBA an even stronger and more supportive community for all of our members. Your continued support and involvement are crucial as we embark on this journey together.

I encourage you to stay tuned for updates and announcements about the exciting developments taking place within our organization. Your participation and engagement are essential to our success, and I am confident that together, we can achieve great things.

If you were unable to participate in the survey, please don't hesitate to call, text or email your thoughts on how I can improve any facet of our organization.

Once again, thank you for your valuable feedback and for being an integral part of the LIBA community. Your dedication to our organization is truly appreciated, and I look forward to continuing to work together.



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# From the Top

## Signing off

By Mark Whitehead, CEO of Whitehead Oil

Several years ago, Bud Synhorst asked me if I would consider serving on the Board of LIBA. I had followed and participated in LIBA as a member for decades. I had always admired how LIBA fit into the landscape of helping its member businesses. I felt honored to be asked and eagerly accepted the opportunity to serve. It was just a little over a couple of years ago he came to me again and asked me to consider serving as second vice chair of the organization. Once again having the opportunity to serve and try to create value for member businesses appealed to me. Through a little bit of a shakeup in Board leadership, I was quickly elevated to a half year or so as vice chair then, before I knew it, chairman.

I determined early in the process that the involvement of a strong Executive Committee would benefit the direction of the organization. After having the opportunity to serve for 5 or 6 months, Bud handed me a sheet of paper, allowed me to read it then waited for my reaction. He decided it was in his best interest to move forward full-time doing consulting work. As a close friend, and working with him as I had, it was no surprise to me that he wanted the transition to be a smooth one. I respect the way he handled the transition.

The support of the Executive Committee through the transition process was nothing short of humbling. Many people put in long hours to facilitate the search for a new Executive Director and, as it turned out, the transition of most of the office staff.

Enough cannot be said of the effort of Carter in providing leadership and stability throughout the

transition process. He continues to be an incredible impact in furthering issues that are important to LIBA and its members.

The story of the complete transition has yet to be completely written, but we are headed in a positive direction. With Travis in place as our new Executive Director we can establish a fresh vision of new and creative ways to create value for our members.

Travis and Anne have already begun implementing a new CRM Program that will give us comprehensive advantages over where we were. We are looking at new and creative ways to create value for our membership which will yield a stronger membership base.

While LIBA has never been apologetic about being a watchdog for accountable governance, it is important to produce workable solutions to the problems we are trying to address. We continue to be involved in discussions that we hope will accomplish just that.

As I close out my final month of service to the organization that I deeply respect I am humbled by the support of so many people that made this transition as smooth as it could be. I am reminded of the strength of LIBA... It is its members who choose to get involved to make LIBA work, and ultimately make Lincoln a better place to build and run a business and to raise a family. I thank all those involved for the opportunity to serve.

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## March Events ...



March 14th

### Nebraska Small Business Day

Hosted at The Roman L. Hruska Law Center  
Featuring Governor Jim Pillen



March 19th

### LIBA Luncheon

Hosted by Club Pilates  
Featuring Nebraska State Auditor, Mike Foley



March 26th

### Coffee & Contacts

Hosted by Body Fit Training



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# **WELCOME OUR NEW MEMBERS TO LIBA!**

**Riley Tonkin**, *Highstreet Insurance*  
**Adam Roberts**, *Roberts Properties*  
**Jason Budd**, *Price Heneveld LLP*



## **Nebraska Small Business Day Thursday, March 14th 10 A.M. - 12 P.M.**

Come celebrate with fellow business owners and hear Governor Jim Pillen & other state lawmakers discuss important issues circulating the business community! Register by copying and pasting this link:

[https://engage.nfib.org/events/128c46e9-0e0b-4771-ac04-5148eb9eb005/?mkt\\_tok=NDgzLVNZTS0wNDkAAAGRIFfIR758Hy3WvRvT0DpY8vOzN-Q9OLE\\_906pLcfadwr57CNr0GnFWMHmMVkUrujWczquCECtvjOwdiLyLESw](https://engage.nfib.org/events/128c46e9-0e0b-4771-ac04-5148eb9eb005/?mkt_tok=NDgzLVNZTS0wNDkAAAGRIFfIR758Hy3WvRvT0DpY8vOzN-Q9OLE_906pLcfadwr57CNr0GnFWMHmMVkUrujWczquCECtvjOwdiLyLESw)

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# A Construction CEO's Perspective on LB 948: Why Mandates Won't Solve the Worker Shortage

By Scott Lockard, President of Hampton Construction

I was informed about LB 948 a couple weeks ago and wanted to share my perspective as the President of a construction company. It is my understanding that this initiative is looking to add a requirement of having 15% of the work on redevelopment projects be completed by qualified apprentices. I assume this is being proposed in order to encourage more workers to go into the trades and industry.

I am in complete support of anything that helps get more workers into the construction industry as we have had a shortage of workers for several years. However, mandates with apprenticeship programs are not what they appear. Oftentimes, the requirements of the apprentice programs are one sided and do not cover the broad range of programs that currently exist to help develop skilled workers, from institutions like community colleges to training programs utilized by groups like the Associated Builders and Contractors of Nebraska (ABC), Association of General Contractors (AGC), and more. Additionally, nothing teaches better than experience, and the on-the-job training that companies themselves provide to unskilled workers helps them grow in their careers as much as anything.

The argument that qualified apprenticeship programs need to be in place for the workforce to develop is very convenient when the qualifications for apprenticeship programs appear to only line up with companies and organizations that are unionized. This bill appears to be nothing more than an avenue to provide more work for a select group of the workforce, union members, and not an adequate solution to a real and existing problem.

There are more efficient ways out there to try to get workers into our industry such as supplementing

programs that already exist, incentivizing companies to offer more training, and providing ways to educate students on the pathway to the trades and the construction industry as well as the benefits of that career path. There are many existing groups that offer training and many companies that are doing a great job providing on-the-job skill development.

Additionally, what is often overlooked is that most projects require a certain number of skilled workers to keep the project on schedule, operate safely, and be completed with a high standard of quality while staying within the given budget. Setting a minimum threshold on the number of apprentices that must be utilized without knowing the complexity of any certain redevelopment project is a mistake.

Mandates such as this one don't do anything to provide more labor into the workforce. They don't solve the problem or even help it. They only provide another hurdle for our industry. Please tell your senators to vote against this proposal and look for better pathways to provide workforce development.



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# ***A Legislature Overextended***

**By Carter Thiele, LIBA Policy and Research Coordinator**

The senators on the Revenue Committee all featured a similar weary demeanor on the second to last day of committee hearings. That morning, like the day before it, the legislative floor debate focused solely on LB 1067, which would repeal the state's inheritance tax, without reaching a final vote. The expressions weren't related to opinions on the bill itself, but rather the looming concern that the legislature would be unable to have a productive session within the limited 60-day timeframe. It appeared to be increasingly setting in as a grim reality, as evidenced by the frustrated, despondent looks growing on the senator's faces.

The Nebraska State Legislature faces an overwhelming challenge to complete its work in the constitutionally mandated 60-day session in light of last week's limited progress and the many priority bills that remain unfinished with less than three weeks remaining. It may be foreshadowing a path like last year's session, which saw unprecedented dysfunction and a lumpsum of bills packed together like a snowball and passed at the last moment.

Senator Clements' inheritance tax repeal bill debated for two full days without a final vote signals a reoccurring phenomenon that has been highlighted in years past in the legislative debate over the legislative debate: Balancing thorough policy deliberations with productive policy creation.

While thorough policy discussion is important, the singular focus on the inheritance tax for two full days meant other pressing issues affecting Nebraskans went unaddressed. If similar productivity continues, priorities around property tax relief, education, healthcare, business development, and other important matters may not receive proper consideration before the deadline arrives. It brings to light an important question for our state's legislative process: How does it become more productive?

Governor Pillen has signaled openness to extending the current session should unfinished business demand it. At the current rate of progress, that will be tested. On one hand, to justify prolonging their service, senators must first demonstrate an ability to multi-task by scheduling multiple relevant bills for floor debate each day rather than bottling up progress. Options like holding evening-hour sessions and prioritizing bipartisan legislation could spur things along.

But to extend the legislative session is a different question, one that would be fairer to the senators if they were compensated just a tad bit more than the \$12,000 annual salary they currently receive, and which hasn't increased in over 30 years. By virtue of the pay – or lack thereof – senators rely on their personal careers for their financial well-being. Extending the session would impact their ability to maintain them.

It isn't right to ask lawmakers to extend their service for weeks when they're already sacrificing investment into other career opportunities in order to represent their constituents for next to nothing. The financial strain of the additional time commitment may discourage support from senators who have other jobs and responsibilities pulling them away.

Call me what you want, but adequate pay would allow senators to dedicate full attention to constituent priorities and to find more detailed, thorough legislative solutions. It could pave the way for longer sessions when important work exceeds 60 days by removing senators' disincentive against prolonging service. While there will always be opposition to government officials raising their own salaries, to do so for the sake of extending legislative sessions and increasing legislative productivity are to the benefit of all Nebraskans.

After last year's tumultuous 90-day session, Nebraskans deserve a legislature that can manage its time and finish critical work thoroughly and efficiently. But meaningful change requires addressing obstacles like underpayment that currently undermine full commitment to public service. With citizens facing many challenges, responsible governance demands no less from their elected representatives.

So how do we fix an overextended legislature? Turn the position of Nebraska State Senator into a full-time job, and, when necessary, make use of regularly extending the legislative session to get everything done.





||| Free Enterprise Celebration || 2024 ||| | Date: Thursday, April 11, 2024  
|| Location: Pinnacle Bank Arena || 400 Arena Drive, Lincoln, NE ||| |  
Schedule: || 4:30 p.m. - Doors Open || 5:15 p.m. - Dinner Served || 6:00  
p.m. - LIBA Awards || 7:00 p.m. - Business Reception || 7:30 p.m. - Live  
Auction ||| | Tickets: \$75 each || (Price increases to \$90 on || March 22,  
2024) ||| | Contact: 402-466-3419 || LIBAconvention@liba.org |||



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# COURT DENIES DISCRIMINATION CLAIM BY EMPLOYEE WITH TOURETTE SYNDROME

By Jerry L. Pigsley | WOODS AITKEN LLP | Lincoln, NE | LIBA General Counsel



The Sixth Circuit Court of Appeals on February 15, 2024, found an employer did not violate the Americans with Disabilities Act (ADA) in seeking to provide a reasonable accommodation to an individual with Tourette Syndrome. Cooper

v. Dolgencorp, LLC, Case 23-5397 (6th Cir. Feb. 15, 2024).

## **CURSE WORDS AND CUSTOMER SERVICE**

Cameron Cooper has a disability, Tourette Syndrome, causing him to involuntarily utter racist and profane words. Cooper's racist and profane language got in the way of him providing excellent service in delivering Coke products to his employer's customers throughout northeast Tennessee. Over the years, his employer provided Cooper with various accommodations for his disability. His employer's last accommodation required Cooper to transfer to a position with no contact with his employer's customers. That transfer led to Cooper suing his employer under the ADA for disability discrimination and constructive discharge. The district court granted summary judgment to his employer and the Sixth Circuit Court of Appeals affirmed.

## **FAILURE TO ACCOMMODATE CLAIM**

The appellate court found Cooper's employer identified "excellent customer services skills" in his written job description for Cooper's position and Cooper admitted that excellent customer service was an essential function of this position. The court found a reasonable jury could not find that Cooper could provide customer service to its customers without an accommodation. The Court found his employer provided Cooper with a reasonable accommodation by reassigning him to a warehouse position which had no customer interaction and caused a reduction in pay from \$20.38 per hour to

\$18.96 per hour. The Court cited to a prior holding that "an employer may reassign an employee to a lower grade and paid position if the employee cannot be accommodated in the current position and a comparable position is not available." The Court in rejecting Cooper's constructive discharge claim found Cooper was provided an accommodation each time he requested one and when he resigned he told his supervisor that he held nothing against his employer.

## **TAKEAWAYS**

This case provides for LIBA members what would a reasonable accommodation under the ADA look like if an individual's disability causes involuntary racist or profane utterances. This case underscores why good job descriptions are important. The employer was able to point to the job description that stated the job required "excellent customer service skills." In addition, the employer was able to demonstrate their numerous attempts to figure out any way to accommodate Cooper's disability.

Editor's Note: This article is not intended to provide legal advice to our readers. Rather, this article is intended to alert our readers to new and developing issues and to provide some common sense answers to complex legal questions. Readers are urged to consult their own legal counsel or the author of this article if the reader wishes to obtain a specific legal opinion regarding how these legal standards may apply to their particular circumstances. The author of this article, Jerry L. Pigsley, can be contacted at (402) 437-8500, [jpigsley@woodsaitken.com](mailto:jpigsley@woodsaitken.com), or at Woods Aitken LLP, 301 S. 13th Street, Suite 500, Lincoln, NE 68508-2578.

# Lincoln Independent Business Association


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## LIBA Calendar of Events

March - April

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
<b>11</b> Membership & Events, LIBA office, 11:45 a.m.	<b>12</b> LIBA Convention - The Calvert Venue Suite 33, 12:00pm	<b>13</b>	<b>14</b> Board of Directors The Calvert Venue Suite 33, 11:45 a.m.  BizNet 4:30-6:30pm, Hosted by Mosaic (5631 S 48th St)	<b>15</b>
<b>18</b>	<b>19</b> LIBA Luncheon, Grand Manse, 11:30 a.m.	<b>20</b> LIBA PAC - LIBA Conference Room, 11:45 a.m.	<b>21</b>	<b>22</b>
<b>25</b> Community Access, The Calvert Venue Ste 33 at 11:45 a.m.	<b>26</b> Coffee & Contacts - 7:30am-9am - <b>at BFT</b> <b>(1701 Pine Lake Rd #3)</b>	<b>27</b> PR & Branding Committee - LIBA Office 11:45 a.m.	<b>28</b> Advisory, The Calvert Venue Ste 33, 11:45 a.m.	<b>29</b>
<b>APRIL 1</b>	<b>2</b>	<b>3</b>	<b>4</b> Government Affairs, The Calvert Venue, Ste 33 11:45 a.m.  BizNet - 4:30-6:30pm	<b>5</b> GenLNK, Rock 'n' Joe's (5025 Lindberg St), 12:00 p.m.
<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b> LIBA Auction - Pinnacle Bank Arena, 4:30 p.m.	<b>12</b>
<b>15</b>	<b>16</b> LIBA Luncheon, Grand Manse, 11:30 a.m.	<b>17</b>	<b>18</b> Board of Directors - The Calvert Venue Suite 33, 11:45 a.m.	<b>19</b>
<b>22</b> Community Access Committee, The Calvert Venue, Ste 33, 11:45 a.m.	<b>23</b> Coffee & Contacts - 7:30am-9am - <b>at BFT</b> <b>(1701 Pine Lake Rd #3)</b>	<b>24</b> PR & Branding Committee - LIBA Office 11:45 a.m.	<b>25</b> Advisory, The Calvert Venue Ste 33, 11:45 a.m.	<b>26</b>



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