

Transcript Prepared by Clerk of the Legislature Transcribers Office
Business and Labor Committee March 21, 2024

IBACH: We probably don't need a quorum, do we?

RIEPE: No, we don't.

IBACH: OK.

RIEPE: Do you want to get the door?

LOGAN WALSH: Yes, sir.

RIEPE: Just make sure it's unlocked. We're going to go ahead and get started on a sunny day. This is the Business and Labor Committee. We do not-- are required-- we are not required to have a quorum for a hearing and, and we don't, but we are going to have the hearing. Today is Thursday, March 21. I am Merv Riepe, Chairman of the Business and Labor Committee. My District is 12, which is Omaha and the small town, the citizens of Ralston. I would introduce, rather than having self-introductions, Senator Teresa Ibach who is the Vice Chairman. We're glad to have her, and you're from?

IBACH: District 44, which is 8 counties in southwest Nebraska.

RIEPE: And she's a good one. Micah Chaffee is legal counsel and Logan Walsh is the committee clerk. And the rest of these are all ghosts. Cameron back here is our-- and you might be interested, Cameron is going to Temple University, he's about to graduate, and he's then going to go to law school in Italy, so. He's not being deported. Going there voluntarily. OK. I'd ask any of you that if you have your phones to please silence them. Today, before each hearing all bills are heard-- posted outside of the, the room here. On the table near the door you will find a green testifier sheet. If you intend to testify today, please fill out, legitimately, all of the information and hand it to Cameron over here, the page, when you come to testify. This will help us keep an accurate record of the hearing. If you're not testifying at the microphone but want to go on record-- by the way, I am required to read this in so I'm not trying to punish you-- OK-- on a position on a bill being heard, there are white signs-- sign-in sheets and each-- at the-- at the entrance where you may leave your name and other pertinent information. Also, I would note if you are not testifying but have a position letter to submit, the Legislature's policy is that all letters for the record must be received by the-- by the committee by 8 a.m. of the day of the hearing. The senator introducing, which today will be me, the proposed legislation will first present and will be given the time needed. For purposes of the recorded record, we ask each presenter to state one's name, spell it,

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and state who you represent. Senators who serve on the committee, which is-- Senator Ibach will be chairing the committee so, hopefully, she's going to be here, so.

IBACH: I will be here.

RIEPE: That's great. We also use the light system of 5 minutes of testifier. We will be very generous with that today because we won't have a lot of testifiers. We have a strict no-prop policy. And should you have handouts you wish to share, please provide us with copies or provide the original to Cameron and we'll see if he can make 10 copies for us for the committee members. The ones that aren't here, we make sure that they get their material after the-- following all proponents, opponents, and neutral testimony, the bill presenter is offered the opportunity to close with final remarks. As a committee, we will work to diligently provide a fair and full hearing. We will make every effort to accommodate special needs. Short of an emergency, this committee will not take action-- on the action of the bill on the day of the hearing. At this hearing, we ask you to be respectful in the process and to one another. With that, we will begin with my opening on AM318 [SIC] and Vice Chairman Ibach will run the meeting. So thank you, Chairman.

IBACH: Thank you, Mr. Chairman. Welcome, Senator Riepe. You're welcome to open.

RIEPE: Thank you, Vice Chairman Ibach and I was going to say-- and everyone in the room, I guess. And a hearing on LB1188 was held on February 11 and placed on General File on March 11. AM1380 [SIC] is a result of new state claims settled by the Attorney General's Office since the initial hearing on LB1188. AM3018 amends LB1188 by including two workers' compensation claim settlements and a State Insurance Fund tort claim. Finally, another amendment, AM3113, has recently been filed to LB1188 and AM3113 amends AM3018 by including two new State Insurance Fund tort claims recently settled by the Attorney General's Office. Here to speak today on those two amendments is Phoebe Lurz-- I hope I pronounced that right-- she'll correct me if I'm not-- Assistant Attorney General for the Nebraska Attorney General's Office. Thank you, Vice Chair.

IBACH: Thank you. I don't think we have any questions.

RIEPE: No questions. [INAUDIBLE]

PHOEBE LURZ: Oh, you're fine.

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IBACH: Welcome. If you would state your name as well and spell it for the record.

PHOEBE LURZ: Thank you, Vice Chair Ibach. My name is Phoebe Lurz, P-h-o-e-b-e L-u-r-z. I am an Assistant Attorney General for the Nebraska Attorney General's Office here to speak on AM3018 and AM3113, introduced by Senator Riepe. These represent recent settlements that the Attorney General's Office had entered into prior to when or after LB1188 was originally introduced. So there are a total of 5 new claims between the 2 bills. The clerk is passing out a copy of my testimony, as well as a letter of support written by the attorneys of one of the plaintiffs that we settled with. So I'll start with AM3018. It becomes the bill. There are no changes to Section 1. Section 2 includes two new workers' compensation claims. The first was entered into with former Nebraska state employee Christine Schmidt. She filed a workers' compensation suit after sustaining injury while working as an employee for the Nebraska Department of Veterans Affairs. The full amount of the settlement was \$335,164. This resolves all of her claims for indemnity and future medical expenses. The first \$100,000 has been paid, and the remaining-- excuse me. The total amount of the settlement is \$235,164. Excuse me. The remaining \$135,164 has been placed into AM3018. The second workers' compensation claim is a settlement with Santino Madut Akot. He also filed a workers' compensation claim against the state after he was injured while working for the Nebraska Department of Correctional Services. The total amount of that settlement was \$450,000. The first \$100,000 has been paid, and the remaining \$350,000 has been placed into AM3018 for approval and payment. Section 3 of AM3018 covers a tort claim to be paid from the State Insurance Fund. Claim Number 2020-20092 is a settlement entered into by the Attorney General's Office on behalf of the state with Miles and Christy Margritz, who filed a lawsuit after an alleged vehicular pursuit by the Nebraska State Patrol resulted in injury to Miles. This claim arose out of a motor vehicle accident that occurred on December 20, 2017 between Miles Margritz and Jose Ortiz [PHONETIC]. Mr. Margritz was driving a vehicle in connection with his employment, and Mr. Ortiz was driving a stolen Dodge Charger, traveling recklessly northbound on Highway 80-- Highway 281, outside of Grand Island at a high rate of speed when he collided with Mr. Margritz's vehicle. The collision caused Mr. Margritz's vehicle to spin out of control and he was ejected from the vehicle. Mr. and Mrs. Margritz brought suit against the state, alleging that because the Nebraska State Patrol had engaged in a pursuit of Mr. Ortiz and that the suit was a proximate cause of their injuries that the state was strictly liable to them. And that is pursuant to statute 81-8,215.01,

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subsection (1). The plaintiffs made a demand of \$14 million, alleging approximately \$1 million in past medical expenses, \$2.7 million in future medical expenses, \$1.09 million in past and future economic losses, including lost wages, as well as general damages for pain and suffering, as well as Mrs. Margritz's loss of consortium claim. Following a 10-hour mediation, the Attorney General's Office entered into a settlement for full and final resolution of all claims for \$7.5 million. The first \$50,000 of this settlement has been paid, and the remaining \$7.45 has been placed into the bill for approval and payment. The state did have excess auto liability insurance that provided coverage for this claim. Once full payment has been made by the Nebraska Legislature, our third-party administrator will submit claims for reimbursement to our excess carriers. We expect that those will be paid within approximately 30 days from the request. So out of the \$7.5 million, the state will be reimbursed for \$400,000 from our first layer of coverage and \$4 million from our second layer of coverage. So after reimbursement, we'll have paid about \$3.1 million on this claim, in addition to premiums paid for this policy period. For the Legislature's reference, due to rising premium costs, the Office of Risk Management did not renew the state's auto liability insurance policy that took effect on July 2 of last year. What this means for the Legislature is that the state is currently fully self-insured. And so for an accident like this that happens either today or in the future, the state would be responsible for the full \$7.5 million. I will move it along. AM3113 includes two State Insurance Fund tort claims. They arise out of the same accident, but they are two separate claims that were filed. The first is claim 2021-20575, which is a settlement with Abigail Comstock for claims that also arose out of an alleged police pursuit. This claim arose out of a motor vehicle accident that occurred on January 3 of 2019 in Papillion, Nebraska. Both Abigail and her mother, Amy, sued the state of Nebraska alleging that the Patrol had actively pursued a vehicle and that the pursuit was a proximate cause of their damages. Based on the evidence in that case, the state actually admitted that, that the Patrol was actively pursuing at the time of the accident and that it was a proximate cause of the accident. The main issue in both of these claims was the nature and extent of the plaintiff's injuries. Last Friday, the Attorney General's Office entered into a settlement for full and final resolution of Abigail's claims for \$150,000. The first \$50,000 of that settlement is in the process of being paid, and the remaining \$100,000 has been placed into AM3113 for approval and payment. Claim Number 2021-20576 is a settlement for the same accident, but for Amy Comstock. The same facts are relevant to this claim as the prior one. And based on the evidence and following

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mediation, the Attorney General's Office entered into a settlement for full and final resolution of Amy's claims for \$150,000. The first \$50,000 of that claim is also in the process of being paid, and the remaining \$100,000 is placed into this AM for approval and payment, so. Our office would recommend approval of each of these claims and I would be happy to answer any questions that you might have.

IBACH: Thank you. You were very thorough. I don't think we have any questions. So with that, we will thank you for your testimony.

PHOEBE LURZ: Thank you.

IBACH: Is there any proponents of this settlement? Are there any opponents? Anybody in the neutral? Seeing none, letters? No letters. OK, that will conclude our hearing on AM3018 which amends LB1188. Thank you.