



Ninety-Ninth Legislature - First Session - 2005
Committee Statement
LB 737

Hearing Date: March 15, 2005
Committee On: Business and Labor

Introducer(s): (Business and Labor Committee)
Title: Provide for payment of claims against the state

Roll Call Vote – Final Committee Action:

- Advanced to General File
 - X Advanced to General File with Amendments
 - Indefinitely Postponed
-

Vote Results:

6	Yes	Senators Cunningham, Combs, Preister, Kremer, Burling and Schimek
	No	
	Present, not voting	
1	Absent	Senator Chambers

Proponents:

Grace Honeywell
Laura Peterson

Mark Brohman
Allen Beermann
Jim Brebner
Danielle Nantkes
DeMaris Johnson

Representing:

Business & Labor Committee/Introducer
Department of Administrative Services & State Claims Board
NE Game & Parks Commission
NE Press Advertising Service
Self
Nebraska Appleseed Center

Opponents:

Representing:

Neutral:

Sharon Lindgren
Jeff Schmidt

Representing:

Dept. of Correctional Services
Health & Human Services System, Finance & Support

Summary of purpose and/or changes: LB 737 was introduced at the request of the Department of Administrative Services, Risk Management Division, pursuant to statute, to appropriate funds for the payment of certain claims and provide for the payment of such claims; to authorize certain write-offs and to declare an emergency.

SECTION 1: MISCELLANEOUS CLAIMS DESCRIPTIONS:

1. Claim No. **04-343** and **04-391**. ALR Claim. The Box Butte District Court Ordered attorney fees be paid to John Freudenberg of Smith, King & Freudenberg for representing the Department of Motor Vehicles in two separate cases.

General Fund

CLAIM AMOUNT: **\$2,943.60**

2. Claim Number **04-385** filed by Saint Elizabeth Regional Medical Center. This claim is a request for the payment of an invoice for medical care (cartilage transfer surgery) for a University of Nebraska student athlete. The hospital attempted to collect from the insurance provider and worked the claim through the insurance company's appeal process attempting to obtain payment approval. St. Elizabeth Hospital was unsuccessful in overturning the insurance company's denial of payment. The explanation for denial by the insurance company was that the procedure was new and therefore considered experimental. The University of Nebraska recommended the claim be approved.

[Unpaid Invoice]

University of Nebraska-Revolving Fund

CLAIM AMOUNT: **\$25,994.71**

3. Claim Number **04-759** filed by Ponderosa Ranch. This claim is a request for the reissuance of a warrant that the claimant did not cash prior to the expiration date. On April 8, 2003 a warrant was issued as payment for land that the State purchased from Ponderosa Ranch for a highway project along Highway 281 north of O'Neill. The check was originally stuck away in a file while the corporation was being established, and when the check was deposited, it was deemed expired. Evidence shows that the warrant was presented for deposit and was returned as expired. The Department of Roads recommended the claim be approved.

[Expired Warrant]

Department of Roads-Roads Operations Cash Fund CLAIM AMOUNT: **\$17,727.00**

4. Claim Number **05-100** filed by Nelson Brown Equities for Arrow Energy Inc. On June 27, 2003 a warrant for a corporate income tax refund was issued to Arrow Energy, Inc. The company waited beyond the one year statute of limitations, then signed an Agreement on July 23, 2004 with Nelson Brown Equities to act as Arrow's agent for collection. Arrow Energy Inc., on behalf of Nelson Brown Equities, states the check is lost and requests the reissuance of the warrant. Evidence indicates that the warrant has expired. The Department of Revenue recommended the claim be approved.

[Expired Warrant]

Department of Revenue-General Fund

CLAIM AMOUNT: **\$80,628.61**

5. Claim Number **05-130** filed by US West Communications. This claim is a request for reissuance of a warrant that the claimant did not cash prior to the expiration date. The Department of Revenue indicates that a warrant was issued to Media One Group, Inc. on March 14, 2003. But because the taxpayer changed its name to US West Communications, a new refund was issued on April 29, 2003. This refund warrant has never been cashed and is now beyond the one year statute of limitations for the Department of Revenue to issue a new refund warrant. The Department of Revenue recommended the claim be approved.

[Expired Warrant]

Department of Revenue-General Fund

CLAIM AMOUNT: **\$52,209.08**

6. Claim Number **05-218** filed by James Brebner. This claim is a request for reimbursement of moving expenses the claimant incurred when he moved to Nebraska to work for the Department of Correctional Services as Laundry Coordinator. The claimant received a letter of recruitment on or about May 17, 2001. The letter indicated the State would pay moving expenses, but did not establish a maximum amount it would pay. The claimant accepted the position based on the letter and sold his home and commenced working for the Department of Correctional Services on June 11, 2001. As required, he obtained the necessary estimates for moving his personal assets. There are emails that indicate the State was aware that the expense of moving Mr. Brebner and his family was approximately \$16,000 to \$17,000. On or about July 18, 2001, the Director sent a letter to claimant stating that the department would only pay a maximum of \$12,000 for moving expenses. The claimant was stuck paying the additional \$4,010.98. Mr. Brebner did not file his claim until September, 2004, as he was unaware of the claim process in Nebraska. The Department of Corrections asks the claim be denied; the State Claims Board approved the claim.

[Employee Expense]

Department of Correctional Services-Correctional Industries Revolving Fund

CLAIM AMOUNT: **\$4,010.98**

7. Claim Number **05-248** filed by Nebraska Press Advertising Service. This claim is for reimbursement of costs associated with printing of Constitutional Amendments for the General Election pursuant to Neb. Const. Art. XVI, Sec. 1; Neb. Rev. Sta. §§ 32-1413, 49-202. The Secretary of State recommended the claim be approved.

[Printing Costs – Constitutional Amendments]

Secretary of State of Nebraska-General Fund

CLAIM AMOUNT: **\$309,845.58**

8. Claim Number **05-270** filed by Nebraska Appleseed Center for Law. This claim is for payment of attorney's fees and costs awarded to the Nebraska Appleseed Center, the National Health Law Program and Woods & Aitken, LLP, for the representation of 10,700 Medicaid recipients in a class action lawsuit against the Nebraska Department of Health and Human Services to restore benefits. The Attorney General's office recommended the claim be approved.

[Attorney's Fees]

Attorney General-General Fund

AMENDED CLAIM AMOUNT: **\$153,332.58**

Section 4 - AGENCY WRITE-OFF DESCRIPTIONS

1. Request **04-426** is made by the Department of Education to write off, *as amended* **\$1,145.00** in uncollectible debts. This request involves bad checks from its teacher's certification area. Letters requesting payment were sent to no avail.
2. Request **04-781** is made by the Clerk of the Legislature to write off **\$8.66** in uncollectible debts. This request involves reproduction of legislative materials. Letters requesting payment were sent monthly to no avail.

3. Request **05-199** is made by the Commission for the Deaf and Hard of Hearing to write off an uncollectible debt of **\$45.00**. The Commission provided interpreter services at Lincoln Centre Clinic. The patient did not show and now the Clinic refuses to pay for the services as they state it is their policy that if the patient does not show, the patient must pay the bill. Letters and phone calls requesting payment were unsuccessful, and there is no contractual agreement between the patient and the Commission. The Commission has taken action to eliminate this occurrence in the future.
4. Request **05-204** is made by the Department of Insurance to write off two debts, one for \$30.00 and the other for \$9.00, for a total of **\$39.00** in uncollectible debts. Of the two debts, one is in bankruptcy and the other resulted in a denial of a renewed license. Letters and phone calls requesting payment were unsuccessful.
5. Request **05-205** is made by the Department of Health and Human Services–Finance and Support to write off uncollectible debts in the amount of **\$139,047.44**. This request involves various outstanding charges from 7/1/03-6/30/04 on patient accounts in the state’s regional facilities. Of the total, \$65,455.37 is due to bankruptcy, \$52,113.87 is due to residents who died with an outstanding balance, several debts totaling \$228.54 were determined as too small to pursue, and the remaining \$21,249.66 was identified as beyond the statute of limitations.
6. Request **05-206** is made by the Department of Health and Human Services – Norfolk Veterans Home to write off **\$6,940.057** in uncollectible debts. This request involves a bankrupt, deceased patient. The wife originally agreed to make payments for her spouse when he was in the Norfolk Veterans Home, but the wife is currently in an assisted living facility with Medicaid paying her bill. Additionally, part of this debt precedes a bankruptcy by the couple.
7. Request **05-207** is made by the Department of Health and Human Services-Regulation and Licensure to write off **\$332.91** in uncollectible debts. This request involves eight accounts of closed businesses and individuals the Department is unable to locate. Evidence indicates that statements, letters and phone calls were made demanding payment.
8. Request **05-208** is made by the Department of Health and Human Services-Finance and Support to write off **\$676.00** in bad checks written to Vital Statistics for records. This consists of forty-five entries for insufficient checks, ranging from \$12.00 to \$37.00 each. Seventeen of the forty-five entries are from out-of-state persons. The department has made several attempts to collect without success.
9. Request **05-209** is made by the Department of Health and Human Services – Grand Island Veteran’s Home to write off **\$12,751.96** in uncollectible debts. This request involves three patients who are deceased and/or have no assets. The first was for \$60.40, the second for \$882.35, and the third for \$11,809.21. As to the third debtor, there is insufficient evidence whether anything was filed against the estate.
10. Request **05-210** is made by the Game and Parks Commission to write off **\$24,377.74** in uncollectible debts. This request involves \$7,906.53 that represents 309 bad checks from multiple accounts, \$11,047.29 in thefts where police reports were filed and \$5,423.92 from 23 uncollectible accounts that were determined too small to pursue further. The Commission has made several attempts to collect.
11. Request **05-211** is made by the Game and Parks Commission to write off **\$42,199.42** in uncollectible debts. This request involves one account that sold permits where the individual made payments on his debt until he sold his business, became ill, lost his job, filed bankruptcy and eventually died. The debt was reviewed with the Attorney General’s office and was determined uncollectible.

TORT CLAIM DESCRIPTION:

CLAIMANT: 02-458 Joshua Smith **\$241,000.00**

This is the last claim against the Department of Roads relating to the Seward School bus accident. The claimant was the bus driver and sustained extensive injuries when the bus crashed. Settlement in the amount of \$291,000.00 has been agreed to by the parties and approved by the court. \$50,000.00 has been paid leaving the remaining amount of \$241,000.00 due.

WORKERS' COMPENSATION CLAIMS:

CLAIMANT: Alice Jones **\$116,285.76**

Ms. Jones was a former associate professor of the University of Nebraska-Lincoln, Department of Agronomy. Her claim is that allergy, sinus, asthmatic and respiratory symptoms were related to air quality in the office. Ms. Jones had substantial non-respiratory medical issues not related to the injury which complicated her disability rating and ability to work. The petition was filed on May 13, 2002. The medical bills were paid as they occurred, but the state contended, based on two separate medical reports, that this was not totally a work-related injury as she had pre-existing complications and that she should have responded to treatment, particularly since she was removed from the exposure. A trial was held on the issue of whether her asthma was pre-existing or related to her employment. The court found that Ms. Jones suffered an occupational illness of asthma related to her job. The court awarded judgment and interest in the sum of \$166,285.76 for past permanent total disability, of which \$50,000 pursuant to current statute has been paid.

The amendment shows a change in the attorney of record.

CLAIMANT: Cynthia Blodgett-McDeavitt **\$28,604.66 Max**

The Nebraska Workers' Compensation Court approved an award in favor of the claimant, a former employee of the University of Nebraska-Lincoln. The state has paid almost \$50,000 to date in medical bills, and the above sum is the maximum that should additionally be paid to the claimant.

The claimant contends that she received injuries from an electrical shock from touching metal components on her workstation cubicle. The injuries were primarily to her brain, but also to her neck and shoulders. Her injury resulted in seizure disorder, hypertension, memory loss, speech impediment, fibromyalgia, anxiety, depression, etc. The state offered three electrical experts that testified that it was not possible for claimant to have been shocked due to the fact that she was not grounded and because there was a lack of electrical potential near the area that she touched. But the court favored the employee's testimony and that of a co-worker.

CLAIMANT: Duane Saltz **\$35,000.00**

On May 21, 1985, a forklift fell on Mr. Saltz while he was working for the State of Nebraska as a Weight Control Specialist. He received neck and back injuries and was initially treated by a chiropractor. He underwent left shoulder surgery in 1985 and 1986. He underwent right shoulder surgery in 1987 and 1988. He also received extensive aqua therapy for relief of his symptoms. He had cervical fusion in 1989 and again in 1995. In 1990, he was awarded permanent total disability. Rather than continue with weekly benefits, the State and Mr. Saltz entered into a settlement of future disability benefits for the sum of \$85,000, of which \$35,000 must be approved by the Legislature. The state is currently seeking the approval of Medicaid.

Explanation of amendments, if any: The amended claims are noted above.

Senator Douglas Cunningham, Chairperson