



Ninety-Ninth Legislature - First Session - 2005
Introducer's Statement of Intent
LB 545

Chairperson: Mick Mines
Committee: Banking, Commerce and Insurance
Date of Hearing: February 8, 2005

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

LB 545 would recognize the right of a health insurance or workers' compensation insurance carrier to recover under its right of subrogation in the same proportion as the amount received by a claimant or injured employee from all sources other than the health insurance or workers' compensation insurance coverage payments bear to the total loss suffered by the claimant. The bill would also provide that any settlement or judgment received by the claimant or injured employee that is less than the applicable liability insurance coverage policy limits shall be conclusively presumed to constitute complete recovery of total loss.

LB 545 is designed to establish a statutory modification of the recent Nebraska Supreme Court decision in the case of *Blue Cross Blue Shield of Nebraska v. Dailey*, 268 Neb. 733 (2005), which held that when an insurer seeks subrogation and the insured has not been "made whole" through his or her recovery, the insurer is denied the right to assert its subrogation right. LB 545 would modify the effect of the *Dailey* decision by providing that when a third party is responsible for injuries sustained by an individual, and the settlement or judgment obtained by such individual yields less than full compensation for such injuries, the injured individual and the subrogated health insurer or workers' compensation insurer would share the proceeds of such settlement or judgment on a pro-rata basis.

Principal Introducer: _____
Senator Mick Mines