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Judiciary Committee
February 18, 2009

[LB34 LB403 LR9]

The Committee on Judiciary met at 1:30 p.m. on Wednesday, February 18, 2009, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB34, LB403, and LR9. Senators present: Brad Ashford, Chairperson; Steve Lathrop, Vice Chairperson; Mark Christensen; Colby Coash; Brenda Council; Scott Lautenbaugh; Amanda McGill; and Kent Rogert. Senators absent: None.

SENATOR ASHFORD: Start to wind down just a little and get going here, please. We're going to just get started a little early with some preliminary information about the hearing. My name is Brad Ashford. I represent Legislative District 20, and we have two bills today and one resolution. There is an overflow room. I assume many of you are aware of that. One of the first things is when we have the testimony, when anyone comes up and talks, we'd ask that you go to the overflow room and let the people in the overflow room come here, just so we have a flow of people and people get an opportunity. This is the Ernie Chambers Judiciary Hearing Room. It is one of the smaller and older hearing rooms, so we don't have a lot of room, as you can tell, but we will try to flow people through as best we can. Senator Amanda McGill is here to my right and I'm certain the other members will be coming in. I know Senator Lathrop is going to be a little late because he has a bill to introduce. There are two bills and one resolution, as I mentioned. LB34 is a bill that I have introduced on E-Verify, and LB403 is a bill introduced by Senator Karpisek dealing with another technology and certain benefits, that provided checking on benefits. And so those two bills are both involving new technology; they'll be heard together. I'm going to introduce LB34. Senator Karpisek is going to introduce LB403 after me. After we, both Senator Karpisek and I, introduce our bills, the clock will start and I'm going to...we're going to have an hour of proponents, an hour of opponents. I will have some discretion at the end of the hour to see if we should go on a bit. If we do, for example, if there's...if I determine that there needs to be additional time on the proponent side, the opponents' group will have the same additional time, so there will be the same time for both. Neutral testimony is possible. I would ask, though, that if anyone is here testifying in a neutral capacity that it be neutral; that it really be primarily informational testimony on issues presented by the bills but not necessarily, not at all really, taking positions on the bills. If there is neutral testimony, obviously we'll allocate some time for neutral testimony; however, it will not be the same hour for neutral testimony. Stacey Trout is here today and Stacey is my legal counsel. She has spent really the entire year working on the issue of immigration in Nebraska and has done an excellent job in analyzing these issues. Christina Case is here and she is my committee clerk. I see Senator Schimek is here and I understand she's going to be talking about these bills as well, so welcome to Senator Schimek. We all know about her and her incredible service to our state. I'm going to see if anybody else comes. (Laugh) I think they will come, don't get me wrong. (Laugh) []

SENATOR MCGILL: Well, you started talking...you started talking a little early, so... []

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SENATOR ASHFORD: Did I? Well, I thought I had more people to talk to, so I wanted to get started early. There is a light system here. We would...other than the introducers, we would ask that the testifiers mind the lights. Those that were at some of the hearings this summer, I don't believe we had the light system but we use it here. The yellow light will indicate that there's around, what, a minute or so or 30 seconds to go, to ask you to sum up. And then the red light we would ask you to stop, and we won't eject you from the seat but...or the seat won't eject you, but we will...we'd ask you kind of to sum up. There are a lot of people here. I'm sure many want to testify so we'll try to get as many. Now there are proponents. I know Mr. Kagan has indicated that he has to leave early and so I'm going to, when it's the appropriate time he's going to come up first to testify, and there may be other, I'm sure, other proponents to the bills. I don't have a list but we can work through it. I do have a list provided to me of opponents. There are 18 people on the list. We'll try to get through as many of those 18 people as humanly possible. It may be helpful that you talk amongst yourselves and if there are redundancies in the testimony, meaning you're repeating something, it's not that what you're repeating is not important to us but if we're getting the information from a previous testifier maybe you can...we can go to someone else that has new information. I know that's difficult to do or plan for but just be conscious of the fact that we will have time constraints. Senator McGill, would you take over the committee while I introduce the bill? []

SENATOR MCGILL: Can we do that without more members here? [LB34 LB403]

SENATOR LATHROP: Yeah. []

SENATOR ASHFORD: Yeah, we can. []

SENATOR MCGILL: Okay. []

SENATOR LATHROP: We've got a quorum. []

SENATOR MCGILL: We don't have a quorum, Brad. []

SENATOR ASHFORD: I think I can introduce the bill and then we'll wait for the testimony after that. I think I can do the introduction, I believe. []

SENATOR MCGILL: Can you? []

SENATOR ASHFORD: What's the rule on that? []

STACEY TROUT: I don't know the rule. []

SENATOR ASHFORD: I think I can introduce a bill. []

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SENATOR MCGILL: I don't think...I don't... []

SENATOR ASHFORD: Where are the members, by the way? []

SENATOR MCGILL: I just want to ask Senator Schimek. (Laugh) []

SENATOR ASHFORD: Senator Schimek. Senator Schimek, would you like to (laugh) join us? []

SENATOR MCGILL: We're having trouble getting a quorum. (Laugh) []

SENATOR ASHFORD: Actually, I think I'm being...it's being suggested to me that I should just wait, so I will do that. Can we call somebody and see if they'll come? []

CHRISTINA CASE: Yeah, we're calling. []

SENATOR MCGILL: Apparently they all knew it would be a long hearing and decided to get out of Dodge. (Laugh) []

SENATOR ASHFORD: Right. Well, yeah, it's going to be a lot longer hearing if they don't come. How many is a quorum? []

STACEY TROUT: Four. []

SENATOR ASHFORD: Not yet. Not yet. []

SENATOR MCGILL: Yeah, we need one more. []

SENATOR ASHFORD: All right, Senator Rogert is here. []

SENATOR MCGILL: Okay. []

SENATOR ROBERT: Yeah, but I got to leave. I got a bill up, Brad. []

SENATOR MCGILL: Well, at least now you're here and we can... []

SENATOR ASHFORD: As long as we have a quorum. If you leave and we have no quorum, we have to stop. []

SENATOR MCGILL: Now we have a quorum. []

SENATOR LAUTENBAUGH: (Inaudible). []

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SENATOR ASHFORD: Senator Lautenbaugh is here to my left from Blair in northwest Omaha. Senator Rogert... []

SENATOR MCGILL: He has a bill to introduce. []

SENATOR ASHFORD: ...is...was here so... []

SENATOR MCGILL: But good enough. []

SENATOR ASHFORD: Is that good enough? Is that a quorum? I think you have to actually be here to have a quorum. []

SENATOR MCGILL: Well, we had it for 10 seconds. []

SENATOR ASHFORD: I think I can proceed to the table, though. []

SENATOR MCGILL: Yeah, go ahead. Senator Coash is joining us. He represents part of Lincoln. And with that, we'll open the hearing on LB34. Senator Ashford. []

SENATOR ASHFORD: Thank you, Senator McGill and members of the committee. I'd like to introduce LB34. LB34 was introduced in response to the failure of the federal government to enforce its immigration laws and the public demand for legislative action to address the significant population of undocumented immigrants living in Nebraska. The federal government has very tightly controlled immigration laws but has failed to enforce them consistently for over two decades. As a result, the states and local communities have largely been left alone to handle the social and economic consequences of undocumented persons living in this country. So far, Congress has been unable to make the necessary adjustments to the broken immigration system by allowing adequate numbers of immigrant workers to enter the country legally to fill labor demands and creating a pathway to citizenship, if appropriate for those immigrants. Therefore, it is incumbent upon states to address these issues at the state and local level; however, federal law preempts most state and local action in this area. The U.S. Constitution specifically vests with Congress the power to regulate matters relating to immigration. It is critical for state and local lawmakers to understand the federal preemption framework and realize that most action taken in this area will be vulnerable to a challenge on preemption grounds. LB34 would require Nebraska employers to utilize the E-Verify system. E-Verify is a free Internet-based service that allows employers to electronically verify the employment eligibility of new employees after they have been hired and have filled out an I-9 form. The employer enters (high-pitched sound) the...that's very excruciating. Who...what do we have back here? That's not you, Andrew, is it? Okay. Let me start again. E-Verify is a free Internet-based service that allows employers to electronically verify the employment eligibility of new employees

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after they have been hired and have filled out the I-9 form. The employer enters the information from the I-9 form into the E-Verify system where it is compared against 425 million records in the Social Security Administration, SSA database, and 60 million records in the Department of Homeland Security's immigration databases. Results are returned in a matter of seconds in most cases. If not immediately confirmed, the employee must be given an opportunity under federal law to resolve the problem by visiting an SSA office or call the Department of Homeland Security directly. Twelve states require the use of E-Verify for public and/or private employers--nine through legislation and three through executive orders--and there are a number of other states that are considering legislation in this area. The provisions of LB34, the bill that is before you, was drafted like a similar law in Arizona because the Arizona law has been upheld against a federal preemption challenge by the Ninth Circuit Court of Appeals in a 2008 decision. We are aware of no other federal court decision dispositive, at least at the level of the Ninth Circuit, where there's been a full trial of the matter, where there's been a, at least on the circuit court level, a decision on E-Verify, mandatory E-Verify. We are talking now and have been for several months with many groups impacted by legislation of this kind and to other members of the Legislature who have introduced similar bills. For example, Senator Friend has introduced a bill regarding E-Verify. Senator Karpisek has a bill regarding another technology, LB403, at the request of the Governor, which will be discussed after me. Senator Friend's bill regarding E-Verify was introduced at the request of the Governor. It was clear after the hearing before this committee last February at about a year ago this time that more information was needed before legislation on immigration could move forward in a reasoned way. The Judiciary Committee, and again I want to give special thanks to Stacey Trout, our legal counsel, who literally has spent a year on this issue, that more information was needed before legislation could move forward. The committee paid close attention to events in Fremont, Nebraska, that occurred last summer as the community debated proposals to address the impact of undocumented immigrant workers living and working there. The committee toured the state to listen to community leaders discuss the impact of immigration in different areas. We spoke to mayors, business groups, teachers, doctors, law enforcement officers, and many advocacy groups. A report of the findings was issued in December and a hearing on the report was held on December 12, 2008. There have been...this is the sixth hearing within one-year period of time on the issue of immigration and regulation of immigration on the state level. It is difficult, if not impossible, to identify the costs and benefits associated with undocumented immigrants in the state because there are no useful statistics indicating how many persons are living here in an undocumented status. Clearly, the growing immigrant population has contributed to the economic prosperity of the state and has revitalized communities across Nebraska. However, there is significant discrimination, in my view and our study concluded, against Latinos and other ethnic groups in stores, on the street, and by government institutions which is affecting citizens and foreign-born legal residents perceived to be undocumented. The broad brush of racial discrimination is present in Nebraska throughout the state. Due to the failure of the federal government to enforce

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immigration laws over the past two decades, there are thousands of undocumented workers and their families living in Nebraska, millions across the country that have no prospects for advancement in our society. They represent, in my view, a permanent underclass of people living and working in our communities. That, members of the committee, is absolutely and totally unacceptable in a free society to have what has become a subservient class of workers in a free democracy. The state is increasingly responsible for allowing this situation to continue. Doing nothing only perpetuates the situation. It will result in more backlash and more discrimination, more young people who are unable to find work because they are undocumented, young people who have been educated in our schools and, unlike their fellow students, cannot find a job and have a difficult time of paying for or going to college. Available jobs, in my view, are the primary reason for growth of the undocumented immigrant population and so employment, to me, is the most obvious place to increase enforcement. The state should establish a policy that says if you...that in order to work here that you simply must be documented to do so. Nebraska communities do not want to be enforcers of immigration law, but we want employers, simply put, to verify employment status. They already are required to do the background work to gather the information on employment. The E-Verify system would simply be a simple, fast, inexpensive, in fact no-cost way to make certain that the records that are being checked, that the people that are asking to be employed are, in fact, documented. It is clear to me that efforts of any kind to counteract the existence of an underclass of undocumented workers and their families may result in an outward migration of workers, families, and businesses from our state. This state must be prepared for the reality of labor shortages, broken families, lost jobs, and lost revenue. If the federal government, despite certainly in the campaign promises by both presidential candidates, both Senator McCain and now President Obama, that something would be done to address federal immigration policy, nothing seems to be on the horizon. Without any federal intervention in this area, with the continued failure of the federal government to act, we will have in Nebraska, as will be the case in many other states as this becomes a deeper and deeper problem, there will be broken families. There are many children who have been born in Nebraska who are legally here whose parents are not. It is a tragedy of significant proportions. The federal government has created this environment and it is, in my view, in my lifetime I can think of nothing more cruel than what has occurred. The Legislature needs to merge proposals on immigration issues into one bill. We need to present to the Legislature our best work. We need to present to the Legislature what we believe as a committee is the best way to deal with the issue of immigration and to present the Legislature with our findings in the form of a comprehensive piece of legislation. I've discussed this with the Governor and others and will continue to work with the Governor's Office to work...and this committee to determine whether or not that kind of comprehensive legislation can and will be advanced to the floor of the Legislature. Again, I want to thank the committee and certainly especially those members, Senator McGill and Senator Lathrop and others who were here throughout last year's time, for their patience, their willingness to work on this issue, to the staff, to the Legislature who

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was here last year and went through what we went through last year. I think we are ready to have a prudent, responsible view of this issue. Thank you, Senator McGill. [LB34]

SENATOR MCGILL: Thank you, Senator Ashford. Are there any questions for the senator? I don't see any. [LB34]

SENATOR ASHFORD: The only other thing, I think do we have copies of the study, Stacey? [LB34]

STACEY TROUT: Well, they're on the desk in the office, on the table in the office. Can you go down and get them? [LB34]

SENATOR ASHFORD: We have a few copies. Are they on-line as well? [LB34]

STACEY TROUT: They are on-line, yes, on the Nebraska Legislature Web site. [LB34]

SENATOR ASHFORD: Okay. [LB34]

SENATOR MCGILL: And at this point I believe we're going to open on LB403. Think I saw Senator Karpisek. [LB34]

SENATOR KARPISEK: Good afternoon, Chairman Ashford and members of the Judiciary Committee. My name is Russ Karpisek, for the record, spelled R-u-s-s K-a-r-p-i-s-e-k, and I represent the 32nd Legislative District. I'm here this afternoon to introduce LB403 on behalf of Governor Heineman. We share a common belief that public benefits should not be awarded to individuals who are not legally in the United States. LB403 is an attempt to establish a uniform process across state and local government that will verify that individuals who apply for public benefits are legally in the United States. The legislation prohibits state agencies and political subdivisions from providing federal, state or local benefits to individuals who are not lawfully present in the United States. The definition of public benefits is taken from federal law. It includes grants, contracts, licenses provided to individuals, and welfare, health, disability, housing, food assistance, unemployment, and other similar benefits including postsecondary education. Postsecondary education means payments of assistance or financial aid. I would like to point out that this bill does not deal with the in-state tuition provided now in state statute. Verification of legal status is not mandated by federal law, but it is allowed. LB403 establishes a uniform verification process throughout state and local government. All citizens that apply for public benefits must execute an affidavit saying that he or she is either a citizen or an alien. If an individual indicates that they are a citizen, that is the end of verification. If they are not being truthful, it may be caught somewhere else down the line. This system, if the individual is an alien, then the state agency or governmental entity would be required to verify the alien's immigration status

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through the Department of Homeland Security's Systematic Alien Verification for Entitlements Program, also known as SAVE. This program has been used by the Nebraska Department of Labor, which is required by the federal rules governing the unemployment insurance program for over 20 years. This is not a new program. It is just, this bill would be expanding the program. SAVE is a Web-based program available to governmental entities that can verify whether or not an alien is lawfully present in the United States. Verification under LB403 will not be required for emergency medical benefits, in-kind emergency disaster relief, immunizations and treatment of communicable diseases, and programs, services or assistance necessary for the protection of life and safety. If federal law requires the granting of a benefit to an individual not lawfully present, then a state agency or public subdivision will not have to verify lawful presence. LB403 also places a duty on state agencies to file an annual report to the Legislature and to the Governor on the number of applicants for benefits and the number of applications rejected pursuant to LB403. I would like to reiterate that this is a state program. None of the private programs would be affected by this. It's only our food stamp program. We're already doing it on unemployment insurance, so it is only the state benefits. There was a demonstration of the SAVE Program this morning in the Capitol. The number of an alien ID is entered into the computer system and within seconds the results come up. If they are legally here, the benefits are granted, end of story. If there is a question on the status, more information may be needed. These transactions cost the state roughly 50 cents each, and there will be testimony behind me on the cost of this program and the savings. Many people that are here illegally have overstayed a work or student visa, not always the stereotypical person crossing the border. This is not a gotcha bill or a bill to deport people. This is just a way for the state to save money by not paying benefits to people who are not here legally. There are other numbers that I have that I will use in closing if they are not used by other people testifying today. I would also like to point out the fiscal note from the university. There was a little bit of a misunderstanding and they thought that they would have to enter everyone that came to the university. That is not the case. Again, if an individual checks or if they indicate that they are a citizen of the United States, that is the end of the verification. So that should change the fiscal note considerably. With that, I would be willing to take any questions that you have. [LB403]

SENATOR MCGILL: Are there any questions? Senator Lautenbaugh. [LB403]

SENATOR LAUTENBAUGH: Thank you, Madam Chair. Thank you, Senator, for bringing this bill. You pointed out that this does not cover the instate tuition issue. [LB403]

SENATOR KARPISEK: Correct. [LB403]

SENATOR LAUTENBAUGH: How did you make the determination not to include that? [LB403]

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SENATOR KARPISEK: Again, I have this on behalf of the Governor. He had a similar bill last year that had the instate tuition in it and felt that that was a major sticking point of the bill. I think that that is a very emotional issue and I think that that does bring a lot of other things to the bill. I expected a bill to be brought on that whole part of the whole situation. It was not. I also did not want to carry a bill that had that in it just because of the whole nature of that, that animal. [LB403]

SENATOR LAUTENBAUGH: Understood. [LB403]

SENATOR MCGILL: There any other questions? Senator Council [LB403]

SENATOR COUNCIL: Yes, I have a couple of questions, Senator Karpisek. Number one, I'm going to follow up on Senator Lautenbaugh. If it's not the intent, when using the term "postsecondary education benefit," to include instate tuition that was the result of previous legislation, would it be your testimony that you would not be adverse to specifically excluding instate tuition from any such bill that's being considered? [LB403]

SENATOR KARPISEK: That is correct, Senator, I would not be adverse to that. And I think that we may need a little cleanup language in there to indicate that. Again, the postsecondary education is only means payments of assistance and financial aid. [LB403]

SENATOR COUNCIL: Okay. And with regard to payments of assistance and financial aid, and correct me if I'm wrong, the bulk of financial aid available through the university and the state college system are in the form of Pell Grants. [LB403]

SENATOR KARPISEK: There's others, but, yes, the Pell Grants. [LB403]

SENATOR COUNCIL: And that's the basic source of financial aid for most students at the university or state colleges. [LB403]

SENATOR KARPISEK: There are also other loan programs there set up, but, yes, that probably is the biggest part. [LB403]

SENATOR COUNCIL: Okay. Now I think reasonable minds would disagree over whether a loan is a benefit but (laugh)... [LB403]

SENATOR KARPISEK: (Laugh) Correct. [LB403]

SENATOR COUNCIL: ...let's talk about the Pell Grant in particular. That is a federally funded program, correct? [LB403]

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SENATOR KARPISEK: Correct. [LB403]

SENATOR COUNCIL: And so it would be subject to any federal requirements or provisions. [LB403]

SENATOR KARPISEK: Correct. [LB403]

SENATOR COUNCIL: Okay. So are you able or are any of the witnesses able to testify as to what specific state-sponsored, postsecondary education benefit has been identified as being the subject of abuse by individuals who are not legally in the country? [LB403]

SENATOR KARPISEK: I cannot, but if someone behind me does not have that, I will get it for my closing. [LB403]

SENATOR COUNCIL: And in regards to your statement with regard to numbers, and I'm curious, when you responded or you directed our attention to the fiscal note for the university, because that did raise an eyebrow for me, you indicated, and again I don't want to misstate what you said, was that the university developed its costs on the basis of subjecting every student or every applicant to the SAVE Program. [LB403]

SENATOR KARPISEK: Correct. [LB403]

SENATOR COUNCIL: And so what exempts the university from doing that? [LB403]

SENATOR KARPISEK: They have an affidavit. Every student has an affidavit to fill out. If they indicate that they are a citizen, verification over. [LB403]

SENATOR COUNCIL: So why won't that work for all of the other benefits? [LB403]

SENATOR KARPISEK: It will but they may have...they may say that they are an alien and, as you see, there is not much of a fiscal note for the other agencies. But if someone does come in and indicates they are a citizen, that's the end of the questioning. There may be other times that there is a discrepancy, say if you apply for unemployment benefits, they would go back...the unemployment division would go back and check your record of employment, make sure that you have the amount of quarters in that you need to and that you were actually employed there. So that is what they are doing now. But this is on top of that to say, yes, I am a citizen, end of questions; or to say, no, I am an alien, here is my alien ID. They type in the ID number. Within a second, maybe two seconds it comes on the screen to say, yes, they are here legally or we need more information. [LB403]

SENATOR COUNCIL: So is it your testimony the Department of Labor is not currently

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determining citizenship status on unemployment insurance claimants? [LB403]

SENATOR KARPISEK: They are. They have been doing that for about 20 years. [LB403]

SENATOR COUNCIL: Right. [LB403]

SENATOR KARPISEK: And this is the system that we want to use in this bill, just to expand to the other state agencies. [LB403]

SENATOR COUNCIL: I'll withhold questions till... [LB403]

SENATOR MCGILL: All right. Any other questions? I don't see any. Thank you, Senator Karpisek. [LB403]

SENATOR KARPISEK: Thank you, Senator McGill. [LB403]

SENATOR MCGILL: Okay. At this point, we're going to start the one hour on testimony from proponents, so we're starting here at 2:00. I think there are a couple people lined up to go first. [LB403]

DOUG KAGAN: (Exhibit 1) Good afternoon. My name is Doug Kagan, K-a-g-a-n. I represent Nebraska Taxpayers for Freedom. We're testifying in favor of these bills and resolution. During this recession, illegal aliens have taken jobs from legal citizens who have a stake in our communities and pay taxes. Passing LB34 will produce a great incentive for self-repatriating illegal aliens. They could no longer sufficiently support themselves or their families. In Arizona, passage of E-Verify immediately witnessed a mass exodus from the state of illegal aliens and saw public schools reporting enrollment drops of illegal immigrant children, as ESL costs will drop for our public schools. Relief was immediate as illegals had placed a tremendous burden on public services; fewer illegal immigrants using hospital emergency rooms, decreasing waiting times for legal citizens. Nebraska taxpayers immediately would see a drop in tax pressure for education and welfare costs. Immigration and Customs Enforcement would see a drop in costs. Nebraska employers who pay corporate taxes would find protection from discrimination lawsuits. A photo feature in E-Verify would reduce costs stemming from personal ID theft crimes, as in Arizona. Kris Kobach, a leading legal advisor for state and local government immigration reduction efforts, in his article in the Georgetown Immigration Law Journal, contends that state and local governments can act constitutionally on immigration matters without preemption by federal law. He states that preemption does not occur if a state statute is not expressly barred by federal law, does not attempt to create state-level standards regarding which aliens may enter the U.S., and does not pose an obstacle to objectives of Congress. Kobach defines eight kinds of actions states or local governments can take, including prohibiting employment of

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illegals. He cautions that a statute must not attempt to authorize state officials to independently determine an alien's immigration status without verification by the federal government, which LB34 mandates. Other states passing E-Verify will only encourage illegals to flee to states like Nebraska that have no similar law. Scrutinizing aliens who work in labor-intensive occupations, there exist high injury rates that often require medical care. Fewer illegal aliens carry medical insurance and some of their employers carry none for them. In our recessive economy, we do not believe it fair to allow illegal aliens to compete with citizens in need of social and medical services. Workers paid surreptitiously means unemployment and other taxes not paid, placing extra burden on taxpayers and businessmen. Illegals working with fraudulently obtained but valid SS numbers cost lawful Nebraskans large sums to repair financial reputations stemming from ID theft. When companies employ illegals, their costs drop. Competitors must lower their costs to remain competitive in the same market, thus encouraging them to hire illegal labor, which further deepens the dependence on illegal workers. Just two more sentences: Finally, we suggest this legislation should take effect under an emergency clause, which would begin enforcement this summer, and apply the law to existing employees also, as the verification process is speedy. Thank you. [LB34 LB403]

SENATOR MCGILL: Thank you, Mr. Kagan. Are there any questions? Nope. Thank you for your testimony. [LB34 LB403]

DOUG KAGAN: Okay. Thank you. [LB34 LB403]

SENATOR MCGILL: Take the next proponent. [LB34 LB403]

CATHERINE LANG: Senator McGill and members of the Judiciary Committee, for the record, my name is Catherine Lang, Catherine, C-a-t-h-e-r-i-n-e, Lang, L-a-n-g, and I'm the Commissioner of Labor. I appear before you today in support of LB403 and I want to thank Senator Karpisek for introducing it on behalf of the Governor. The Department of Labor has been utilizing the Systematic Alien Verification for Entitlement system, SAVE, contemplated by LB403 for about 25 years. Since the passage of the Federal Immigration Reform and Control Act in 1986, all state employment programs have been required to verify legal working status of noncitizen claimants. We also verify the Social Security numbers, all Social Security numbers, through an agreement with the Social Security Administration. The requirement has been effective. In 2008, we had a total verification of about 3,318 claimants for the cost of about \$1,182. Of the claimants that we verified, the noncitizens were 3,145. Of those not eligible after a verification through SAVE, the number was 58. Of the claimants not eligible after SAVE, 23 would have qualified for the maximum weekly benefit amount of \$298, and 20 of the 23 would have also qualified for the maximum duration of benefits, 26 weeks; 19 would have qualified for over \$200 a week; 14 would have qualified between \$100 and \$200 per week; and 2 would have qualified for under \$100 per week. The total employer wages paid on these

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58 claimants was \$1.33 million and we were dealing with a pool of employers of 95. The maximum potential payable amount on these 58 claimants would have been approximately \$322,448. In order to help you understand how SAVE is utilized for unemployment benefits, I would like to quickly describe how an unemployment benefit is processed. All of them are filed electronically, either by telephone or over the Internet. If in the initial claim a person claims that he or she is a U.S. citizen then no verification through the SAVE Program is done; however, if the person indicates that they are not a U.S. citizen then we go through the SAVE verification. It is very quick, it is very efficient, and it is very speedy. If through the first verification we receive information back from the Immigration Service that additional work needs to be done then we do send documentation to them. We request it from the claimant. We provide it then through and additional verification is done. So there's an initial verification, a secondary verification, and sometimes there are three verifications that are done. Under federal law, the department cannot pay unemployment benefits unless and until legal authorization to work is established. In conclusion, I would like to thank the committee in advance for advancing LB403 for consideration by the Legislature, and I would be happy to answer any questions. Dr. Joann Schaefer will be following me and she will be testifying on behalf of HHS. [LB34 LB403]

SENATOR MCGILL: Thank you, Commissioner. Any questions? Senator Council. [LB34 LB403]

SENATOR COUNCIL: Ms. Lang, just for clarification, the system as employed by the Department of Labor is basically triggered by self-reporting. [LB34 LB403]

CATHERINE LANG: That is correct. [LB34 LB403]

SENATOR COUNCIL: So if I indicate that I'm a citizen what, if anything, do you do to determine my legal status? [LB34 LB403]

CATHERINE LANG: Okay. When you file you provide us with your name, your address and your Social Security number, and we then batch verify all Social Security numbers through the Social Security Administration. If we find an invalid number, we do not pay benefits. If we find the number is valid and all the other information is verified, in that you had wages, you appear in the wage records of employers of Nebraska, we will pay benefits to the extent that you are entitled. [LB34 LB403]

SENATOR COUNCIL: So the 58 people who you identified in 2008 as not eligible for benefits indicated that they were not citizens. [LB34 LB403]

CATHERINE LANG: That is correct. [LB34 LB403]

SENATOR COUNCIL: So my question, so what would have prevented the Department

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of Labor from ceasing to do anything at that point in time and simply denying benefits because the individuals indicated they were not citizens? [LB34 LB403]

CATHERINE LANG: Those 58 persons were not paid benefits.. [LB34 LB403]

SENATOR COUNCIL: Okay. [LB34 LB403]

CATHERINE LANG: ...through this process, through the verification of SAVE. But of the others that...of the claimants that were noncitizens, 3,145, minus 58, would have qualified for benefits, would have been in a legal work status within the United States and would have been paid benefits to the extent they were entitled. [LB34 LB403]

SENATOR COUNCIL: Okay. Now let's go over that figure again. [LB34 LB403]

CATHERINE LANG: You bet. [LB34 LB403]

SENATOR COUNCIL: You had 3,345 individual claimants who reported that they were not citizens. [LB34 LB403]

CATHERINE LANG: Three thousand one hundred and forty-five claimants filed as noncitizens. [LB34 LB403]

SENATOR COUNCIL: And of that 3,145, you determined that only 58 would have been eligible for benefits under... [LB34 LB403]

CATHERINE LANG: Would not have been eligible. [LB34 LB403]

SENATOR COUNCIL: Would not have been eligible. [LB34 LB403]

CATHERINE LANG: That is correct. [LB34 LB403]

SENATOR COUNCIL: And they were not eligible by virtue of? [LB34 LB403]

CATHERINE LANG: Verification through SAVE. [LB34 LB403]

SENATOR COUNCIL: Okay. So then there were 3,077...87... [LB34 LB403]

CATHERINE LANG: That's correct. [LB34 LB403]

SENATOR COUNCIL: ...who, after you verified, even though they reported that they were not citizens, they were determined to be citizens. [LB34 LB403]

CATHERINE LANG: They were determined to be in a legal work status. [LB34 LB403]

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SENATOR COUNCIL: Legal work status. Okay. [LB34 LB403]

CATHERINE LANG: That is correct. [LB34 LB403]

SENATOR COUNCIL: And of the 58 who were determined not to be in a legal work status, you determined that employers had paid into the system \$322,448? [LB34 LB403]

CATHERINE LANG: No, that would have been their potential benefit payment... [LB34 LB403]

SENATOR COUNCIL: That's their potential benefit payment. [LB34 LB403]

CATHERINE LANG: ...had they been paid. [LB34 LB403]

SENATOR COUNCIL: For the entire term of eligibility. [LB34 LB403]

CATHERINE LANG: Yes. [LB34 LB403]

SENATOR COUNCIL: Did you have a number that represented what the employers had paid in for those 58? [LB34 LB403]

CATHERINE LANG: I do not have that and could work to provide that to you. [LB34 LB403]

SENATOR COUNCIL: Okay, but you gave us a figure of \$1.3 million for 95 employers? [LB34 LB403]

CATHERINE LANG: There were 95 employers involved. In other words, these 58 claimants worked collectively for 95 employers in Nebraska and the total employer wages paid, the amount of wages paid to these 58 persons for those 95 employers, was \$1.3 million. [LB34 LB403]

SENATOR COUNCIL: Okay. Thank you. [LB34 LB403]

SENATOR MCGILL: All right. Thank you, Senator Council. [LB34 LB403]

SENATOR ASHFORD: Senator McGill, could I just... [LB34 LB403]

SENATOR MCGILL: Yes, Senator Ashford. [LB34 LB403]

SENATOR ASHFORD: Yeah, could I just, Cathy, and I think this brings up a good point.

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I mean you had individuals that were quickly approved through the SAVE system, correct? [LB34 LB403]

CATHERINE LANG: That is correct. [LB34 LB403]

SENATOR ASHFORD: I mean so, in effect, they were not citizens, but they did have status. They were eligible to receive benefits and the system that you utilize confirmed that. They were paid benefits quickly, which seems to be a good thing. [LB34 LB403]

CATHERINE LANG: Yes. Our experience with SAVE has been extraordinarily positive. [LB34 LB403]

SENATOR ASHFORD: Thank you. [LB34 LB403]

SENATOR MCGILL: All right. Thank you. And thank you, Commissioner. [LB34 LB403]

CATHERINE LANG: Thank you. [LB34 LB403]

JOANN SCHAEFER, M.D.: (Exhibit 2) Good afternoon, Senator Ashford and members of the Judiciary Committee. I am Dr. Joann Schaefer, that's J-o-a-n-n S-c-h-a-e-f-e-r, M.D. I'm the chief medical officer and the director of the Division of Public Health, Department of Health and Human Services. I'm here to provide support for LB403. LB403 would require the Division of Public Health to utilize a more rigorous verification of legal status process, including use of the SAVE Program for public benefits. The definition of a public benefit includes professional licenses that our division issues. I want to provide information on how the issue of lawful status in the United States is currently being handled, and how LB403 would improve the process. In 2007, the Legislature passed and the Governor signed into law LB463, otherwise known as the Uniform Credentialing Act. It became effective December 1 of 2008 and requires that any person issued a credential under this act to furnish evidence that he or she is, quote, a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the act, or a nonimmigrant whose visa for entry or application for visa for entry is related to employment in the United States. Since the act became effective less than three months ago, the licensure unit which is housed in the Division of Public Health has had and issued 13 credentials to persons whose legal status in the United States was demonstrated by means other than U.S. citizenship. The proof of legal status is maintained in the licensure unit's licensing information system, or LIS, and shown as, for an example, an alien registration number, a certificate of naturalization, etcetera. The 13 persons have been granted credentials to practice in the following areas, which include nursing, physical therapy, pharmacy, massage therapy, and occupational therapy. Applicants under the Uniform Credentialing Act must provide 1 of 14 types of documents proving...providing proof of either citizenship or some other form of legal status in the United States. LB403 would add a layer of verification to this

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process. Applicants will now have to state that they are either a citizen or an alien. If the applicant is an alien, then we will run an applicant through the SAVE Program. This will allow us to verify that the information provided to the division was correct and that the license was issued pursuant to law. I'll be happy to answer any questions. [LB34 LB403]

SENATOR MCGILL: There any questions for Dr. Schaefer? I don't see any. Thank you very much. [LB34 LB403]

JOANN SCHAEFER, M.D.: Okay. Great. Thank you. [LB34 LB403]

SENATOR MCGILL: We'll take the next proponent. [LB34 LB403]

ROBERT HARTWIG: (Exhibit 3) Chairman Ashford and members of the Judiciary Committee, thank you for permitting me to speak today. My name is Bob Hartwig. I serve as the city administrator of Fremont. I'm speaking on behalf of Mayor Skip Edwards and the city council. We are here to express our support for the state's efforts relating to illegal immigration. Mayor Edwards appointed an Immigration Task Force to address the issue. Its report is included in a "Final Recommendations" document. We've made copies available for the Judiciary Committee. Senator...or, I'm sorry, well, Senator Ashford is already aware of the task force recommendations. Our task force recommendations and the accompanying report are useful in many respects. One important aspect is that the report includes hard data from a wide variety of organizations. Many times immigration debates are based on hearsay rather than facts. In Fremont's case, data sources are documented throughout the report. These sources include articles from many sources, interviews with Immigration and Customs Enforcement officials, information from the Internal Revenue Service, and discussions with immigration lawyers. The issues were also discussed with the county sheriff's office, the city's police department, the Fremont Area Medical Center, and representatives of Fremont Public Schools. As can be seen throughout the report, the task force did its work thoroughly. There is a real interest in immigration legislation in cities and towns throughout our state. Based on our task force findings, Fremont is currently developing an ordinance concerning hiring illegal aliens. This ordinance proposes the use of E-Verify to check immigration status. E-Verify is a database established by the federal government. We understand that the system is not 100 percent accurate, but it is more accurate than no verification system at all. As we develop our ordinance, the mayor and two of our city council members are keeping in contact with Senator Ashford's and Janssen's offices, as well as the Governor's Office. It is important to Fremont that we keep our ordinance in step with developments at the State Legislature. In that regard, we are here today to speak on behalf of LB34 and LB403. As you know, LB34 is proposed by Senator Ashford and LB403 by Senator Karpisek at the Governor's request. We're glad to see proposed action at the state level to deal with the tremendous interest expressed by many of our citizens at the local level. We ask that you include local business licensing authority in any bill that ultimately

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passes. This will give the cities and towns the authority needed to enforce the legislation. We hope that Senator Ashford's office will work with the Governor's Office to ensure that these two bills are compatible with each other. We would be happy to participate in those discussions, if needed. There is a third piece of legislation relating to this issue. LR9, proposed by Senator Fulton, encourages governments to enter into Section 287(g) agreements with ICE. While we are not opposed to this legislation, we ask that you contact ICE officials before passing the bill. Our task force interviews with ICE officials led us to believe that they are already overwhelmed with existing 287(g) agreements. We want to work cooperatively with U.S. Immigration and Customs Enforcement, and we are not sure if they would consider LR9 to be in their best interests. Mr. Chairman, thank you for permitting us to speak with you today. The city of Fremont looks forward to meaningful statewide immigration legislation. We encourage your committee to support LB34 and LB403, and we encourage you to work with ICE before deciding on LR9. Thank you, Mr. Chairman. If there are any questions... [LB34 LB403]

SENATOR MCGILL: You have any questions for Mr. Hartwig? Don't see any. Thank you very much. [LB34 LB403]

ROBERT HARTWIG: Thank you. That was on behalf of all three pieces of legislation. [LB34 LB403]

SENATOR MCGILL: All right. Thank you. [LB34 LB403]

LANCE HEDQUIST: Members of the Judiciary Committee, my name is Lance, L-a-n-c-e, Hedquist, H-e-d-q-u-i-s-t. I'm the city administrator of the city of South Sioux City. I'm here in support of LB34. We feel that the E-Verification System is a good system to use throughout the state of Nebraska. Last year approximately 60 people from our Siouxland area, representing our local units of government, the Siouxland Chamber of Commerce, met in Washington, D.C., and discussed ways in which we could find a system that was simple to use, a system that was reliable, a system that was accurate, a system that was inexpensive in terms of verification of persons for employment within our particular areas, our three state areas, I should add. We found that the E-Verification System was a good system. We feel that other states have passed this and this would be good legislation for the state of Nebraska to pass. There's tens of thousands of employers that already use the system. There's millions of employment requests that are made annually within this particular system and, again, it would make sense for the state of Nebraska to follow suit. I'd also like to add, in the efforts of time, I'm a member of the League of Nebraska Municipalities' Legislative Committee and they want to express their support for LB34 as well, but to save your time I'll do that on their behalf and answer any questions you might have. [LB34 LB403]

SENATOR MCGILL: All right. Do we have any questions? Doesn't look like it. Thank

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you, Mr. Hedquist. [LB34 LB403]

LANCE HEDQUIST: Thank you. [LB34 LB403]

SENATOR MCGILL: The next proponent. [LB34 LB403]

SUSAN SMITH: My name is Susan Smith, that's S-u-s-a-n S-m-i-t-h. I'm here to speak on behalf of Nebraskan's Advisory Group, a group of concerned citizens who volunteer their time to the issues of concern to our communities in our state. The Nebraskan's Advisory Group has provided some studies and reports that is in Chairman Ashford's office. There are many reasons why we support LB34 and LB403 and request it be advanced to the floor. On LB34 we would like to see the effective date moved up and to include existing employees. On LB403 we would like to see a time requirement included on verifying the affidavits. Americans breaking laws, when Americans break laws, they're incarcerated. Their families are torn apart, too, but that's the choice that that lawbreaker made. And I don't know why, if we won't give Americans that same concern about their families being torn apart, why we would be so concerned because it's illegal aliens. The losers, if the bills passed, would be illegal aliens, the businesses who hire them, and the churches who will lose tithing membership. Now the beneficiaries of this bill would be Americans, legal citizens, legal immigrants, and Nebraska tax coffers. I come from an area where our unemployment rate is 19 percent and so by using E-Verify we can make sure that it's Nebraska citizens who are getting those jobs. Now I just have just a couple references to some quotes I want to share with you. After an ICE raid that netted 1,282 illegal aliens, Chertoff said this not only is a case about illegal immigration, which is bad enough, but it's a case about identity theft and violations of the privacy rights and the economic rights of innocent Americans. The Federal Trade Commission reports identity theft is the biggest concern to American consumers. The medical community said what's most dangerous about medical identity theft is that doctors might make an incorrect diagnosis based on data from the identity thief's medical history. The Council on Foreign Relations, Thomas McClarty said, I think we need to well understand, acknowledge and appreciate that many of the concerns, feelings and even fears about illegal immigration are real and palpable in our country and you can't be dismissive of that or ignore them. They have to be addressed and dealt with. And I would ask that the committee please advance these bills to the floor. Thank you. [LB34 LB403]

SENATOR MCGILL: Thank you, Ms. Smith. Any questions? Doesn't look like it. Thank you very much. Next proponent. And this time I'm going to remind the folks who are in the overflow room that if you would like to testify as a proponent on this bill that now might be a good time to make your way over to the hearing room. [LB34 LB403]

CRAIG HALVERSON: Hi. I'm Craig Halverson and I'm representing my sister who's handicapped and so I'm here to speak for her. [LB34 LB403]

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SENATOR MCGILL: Can you please say and spell your name for us? [LB34 LB403]

CRAIG HALVERSON: My name is Craig Halverson, C-r-a-i-g H-a-l-v-e-r-s-o-n. My sister's name is Lydia, L-y-d-i-a, and her last name is also Halverson, H-a-l-v-e-r-s-o-n. She's a Bellevue resident. [LB34 LB403]

SENATOR MCGILL: Thank you. [LB34 LB403]

CRAIG HALVERSON: All right. I am for the LB34 and I'm for the LB403. As you heard on the news the other night on channel...on the world news on the 11th of February, where they said Phoenix is second only to Mexico City in kidnappings, torture and murder. And if we don't enforce laws like this, that is coming up this way. It's headed north. The gangs and all that kind of stuff are headed up this way. A lot of us already hear we've got a lot of crime and so on. So that's one area to think about in making these bills. And I heard mention about the 287(g). According to Senator Grassley from over in Iowa, that is a fully funded thing for you to use and get in there. It is actually funded so it shouldn't cost hardly any money, according to Senator Grassley. Now I am an Iowa resident so I'm going to reference something in Iowa. All right. In Iowa, in 2007, the taxpayers paid \$241 million on illegal aliens, on benefits and so on, keeping the interpreters open in three shifts at the hospital, saving the hospitals from closing down because of the influx and so on. That's a lot of money and by not supporting all these benefits for the illegal aliens, we'll be able to save the taxpayers of Nebraska many dollars, and we have to look in that aspect. Also, the unemployment is up everywhere. And we all know that when NAFTA came into being all the businesses were sucked out like a giant vacuum cleaner, the manufacturing business, out of the country. So there we have the American people fighting for their jobs and the illegal aliens fighting for the jobs, and with the unemployment up I'm glad to see that you all are doing something constructive. And I'll just let it go at that and leave a little bit for somebody else to talk about. [LB34 LB403]

SENATOR MCGILL: All right. Thank you, Craig. Any questions? One from Senator Council. [LB34 LB403]

SENATOR COUNCIL: Yes, Mr. Halverson, you referenced some news report regarding Phoenix. Is that correct? [LB34 LB403]

CRAIG HALVERSON: Right, it was on the 11th of February. It was on...I believe it was on channel 7, on the world news, and they... [LB34 LB403]

SENATOR COUNCIL: And this is Phoenix, Arizona. [LB34 LB403]

CRAIG HALVERSON: Right. [LB34 LB403]

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SENATOR COUNCIL: The same Phoenix, the same Arizona that Mr. Kagan testified that as a result of passage of a bill similar to the one we're considering, all of the illegals left Arizona. So... [LB34 LB403]

CRAIG HALVERSON: Most of them left. You've still got the drug cartel and stuff like that, that are down there selling drugs and they've got in there and got such a hold that it's hard to get out. Even along the border now, according to Paul Harvey on Tuesday, the day before, which was on the 10th of February, he said that the drug cartels are calling all our police stations along the border and telling them that a police officer by such and such name is going to be killed, and by the end of the day normally that body is found. [LB34 LB403]

SENATOR COUNCIL: So what we need is a drug cartel bill. [LB34 LB403]

CRAIG HALVERSON: That would be a good idea. And a good idea...unfortunately all the businesses that abetted the illegal aliens up here are getting away with crimes and not being fined and not serving prison terms, as they should be. [LB34 LB403]

SENATOR COUNCIL: Thank you. [LB34 LB403]

SENATOR MCGILL: Thank you for the question. [LB34 LB403]

CRAIG HALVERSON: Example: Denison, Iowa, the packing houses there, there's four of them, they shut the doors on the American people, closed them out, and then they bussed up illegal aliens from down from Mexico. Those companies, we have the proof on them and we're still working it. And I'm also the director of the Minutemen in Iowa also, and, I'm also establishing a Minutemen Patriots over here, so I'm on the move. [LB34 LB403]

SENATOR MCGILL: Thank you, Craig, for coming in and testifying on behalf of your sister too. Thank you very much. [LB34 LB403]

CRAIG HALVERSON: You're welcome. You all have a good day. [LB34 LB403]

SENATOR MCGILL: Next proponent. Do we have other proponents? We've got a couple there in the back. How many more proponents do we have here to testify on these bills? A couple more and three outside? Okay, thank you. We should be able to fit everybody in, in that one hour. [LB34 LB403]

DIMITRIJ KRYNSKY: To whom I should give it? [LB34 LB403]

SENATOR ROBERT: Just put it on the corner there. [LB34 LB403]

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SENATOR MCGILL: Just go ahead and stick it on the corner and the page will (inaudible). Okay, I think we have them outside that are going to come in. [LB34 LB403]

DIMITRIJ KRYNSKY: Members of the committee, I am coming to testify in favor of this bill. I am actually in favor of... [LB34 LB403]

SENATOR MCGILL: Can you make sure you say and spell your name? [LB34 LB403]

DIMITRIJ KRYNSKY: Oh. My name is Dimitrij Krynsky, K-r-y-n-s-k-y. I support actually all these bills which today are before this committee. I feel that those provisions are good steps in the right direction because they help protect Nebraska citizens from the mortal danger coming from the community of illegal aliens and help save American jobs for American workers. It is indisputable that illegal aliens are working for meat packing and construction industry, and they replaced there American workers which worked in those jobs before. Especially now, when unemployment is going high, it is essential that Americans' jobs should be reserved for American workers. The mortal danger I mention is a danger connected to the Latino criminal gangs connected to drugs and sexual slaves trafficking mostly across our southern border. According to information from Lincoln Journal Star, violence connected to those activities is spreading across the border, not only to the border states as Arizona or Texas, but also across the whole United States. Those criminal organizations are so powerful that according to article printed in today's Lincoln Journal Star in Mexico already exists enclaves where the Mexican government lost all control. So I hope that the mentioned bill will become first step in the effort to protect Nebraska citizens and American way of life from the horrible situation Mexico is already in. Thank you for your patience. [LB34 LB403]

SENATOR MCGILL: Any questions for Dimitrij? Doesn't look like it. Thank you. Our next proponent. [LB34 LB403]

RICHARD MILLER: (Exhibit 4) Thanks for allowing me to speak. I'm Richard, R-i-c-h-a-r-d, Miller, M-i-l-l-e-r. I support all three, the two bills and the resolution. Central Nebraska has a history of having illegal aliens living and working in our area. I'm from St. Paul, Nebraska. In December 2006, ICE had an enforcement operation at the Swift meat packing plant in Grand Island. According to the reports in the newspaper and from Appleseed, between 200 and 260 illegal aliens were deported out of that operation; another 50 to 60 were released because they had children in Grand Island that needed their care. The number of workers at the plant at the time was about 2,700 on two shifts, which makes about 1,350 on the shift that ICE got the 200 to 260 illegals from. That was about 15 percent of the work force being illegal. In September of '07, another 19 illegals were found working for a lawn care service in Grand Island. In October of '07, another 80 to 85 illegals were found at the Swift plant in Grand Island. Who knows how many more illegals have been deported from central Nebraska? We're

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lucky Grand Island has an ICE office in Grand Island. Last year when you were looking at a bill to require the verification of people receiving government welfare assistance, the lady in charge of the office in Grand Island said that everyone receiving any state assistance were legal to do so because they were required to have a Social Security card and that they all did. The law only required a Social Security card. It doesn't mean that it has to be a real Social Security card. How many illegals will say, in the bill that you've got, that they are alien? You think any of them is going to lie when it comes to saying that they're a citizen? If they cross the border illegally and obtain illegal Social Security cards, what's going to keep them from saying on the form that, yes, I'm a citizen? I don't think they'd hesitate. Every illegal that was caught working in Grand Island had to have a Social Security card to be able to work and they ended up being fake cards. So what would keep illegal aliens from fake Social Security cards applying for welfare and assistance? The E-Verify is stated on the news over and over to be 99-plus percent accurate, so why would any employer not want to be sure they were not hiring illegals? The only reason would be if they wanted to hire illegals. It's free, takes about three minutes, and they know if it's...if they're legal. It seems to me to be a no-brainer. Require employers and state offices to verify Social Security numbers, or is Nebraska going to be another sanctuary city or state? [LB34 LB403]

SENATOR MCGILL: I'm going to have to ask you to wrap up with the red light. [LB34 LB403]

RICHARD MILLER: That's it. [LB34 LB403]

SENATOR MCGILL: You got it all in? [LB34 LB403]

RICHARD MILLER: That's it. [LB34 LB403]

SENATOR MCGILL: Any questions for Mr. Miller? Thank you for making the drive from St. Paul. Next proponent. [LB34 LB403]

DENNIS MURPHY: Good afternoon. My name is Dennis Murphy from Omaha. Senators, there are three legislative proposals before this committee today pertaining to different aspects of illegal immigration, and they're all interrelated. And as importantly, they do not come before this body in a political or an economic vacuum. The issues surrounding the matter of illegal immigration must be understood and approached within the context of the current economic and political realities. It will be difficult, as all of you know, to overestimate the severity of the current economic crisis. We just had housing numbers come out this morning, unemployment continues to rise, plant closings, layoffs, etcetera. In light of these factors, frankly, the specious notion and the statement that's been frequently made that illegals are here "doing those jobs that Americans will not do" is more disingenuous and invalid today than ever before. Now in my business in Omaha, I interact on a daily basis with seniors, retirees and those who are approaching

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retirement, and one reality has become painfully clear to all of them. The current retirees are finding out that they need to reenter the work force in many cases because their 401(k)s are no longer able to provide the income that they need to survive on a month-to-month basis, and those who are approaching retirement are coming to grips with the reality that they're going to have to work extra years beyond what they planned because their nest eggs have been so severely reduced that they don't have the income necessary to meet their expected financial requirements. So it's become more and more incumbent that this body protect the interest of the citizens of this state, first and foremost, and what that means, quite frankly, is that they need to do so above the clamorous demands of those who are in our state and in our nation illegally and, by the same token, the righteous indignation of those corporations that frequently, all too frequently exploit this very same group of people. Now I would say that, Senators, that the state of Nebraska does need to be commended by virtue of the fact that they are not amongst the growing list of states that have turned up with their hat in hand seeking a government bailout, but at the same time we need to recognize and be cognizant that many of our neighboring states are enacting and enforcing legislation similar to what's before you here today in a rightful effort to protect their citizens. And if we fail to enact similar protective legislation, we run the risk of becoming a de facto sanctuary state as a result of such inaction. So the bottom line is we implore you, as representatives that we the citizens have elected, to simply enforce the existing laws that we have, protect the citizens of this state, and approve all three measures that are here before you today. Thank you. [LB34 LB403]

SENATOR MCGILL: Thank you. Any questions from the committee? No. Thank you, Mr. Murphy. Next proponent. And how many more proponents do we have? A couple more and one more outside, five total. [LB34 LB403]

JAN REAM: Senator Ashford and members of the Judiciary Committee, my name is Jan Ream, that's spelled J-a-n R-e-a-m. In my testimony given at Senator Ashford's immigration hearing in December, I stated that a number of Nebraska companies had trimmed their payrolls or were closing plants and others will be laying off employees. I hold the more recent ones here in my hands and they would include the ADC in Sidney, affecting 142 workers; First National Bank, 350; Thermo King in Hastings, which is 70 workers; the Oilgear plant in Fremont, 13; and Prince Hydraulics in Hartington, 27 employees. For the most part, the jobs that are being affected are those of the blue collar worker, the middle class, not those of the service industry, landscaping, construction, and meat packing, which are now filled by illegal aliens who are paid substandard wages and whose documentation is not checked by E-Verify. Each worker that has been laid off was a taxpayer. Those workers who are undocumented are not, unless they are provided...they have provided the employer with a fraudulent Social Security number. His income and that of his family is usually at the poverty level, in which case he receives WIC and food stamps for his children born in this country, assistance from various organizations and law firms. As Senator Ashford has correctly

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stated, the illegal worker has very little opportunity to rise above the poverty level. These were once jobs that paid a living wage and are no longer an option for laid off workers. They find that the unemployment benefits pay almost as well and, therefore, they remain on the rolls. The representative from Lutheran Services stated in his testimony at the Judiciary hearing that if all those working in Nebraska without documentation were to be sent back to their homeland, 78,000 jobs would be lost. I contend that those 78,000 jobs would be filled quickly by the 200,000-plus unemployed workers currently making benefit claims. I see my light is almost on, but I do want to make another point. An Omaha World-Herald article written February 16 by Cindy Gonzalez, Archbishop Enden Curtiss, Bishops Fabian Bruskwitz and William Dendinger stated that to enact legislation at the local or state level could become a basis for profiling or other forms of intimidation or discrimination. When someone comes into your home and steals from you, that person is arrested and charged accordingly. There is no profiling, intimidation or discrimination involved. When illegal aliens come into our country and take jobs and benefits that do not legally belong to them, should they be given a pass simply on humane grounds or are they required to follow the rule of law? I submit that you advance these three bills--LB34, LB403, and LR9--to the floor for consideration. Thank you. [LB34 LB403]

SENATOR MCGILL: Thank you, Jan. Any questions. No. Thank you very much. Next proponent. [LB34 LB403]

TERRI STREETER: (Exhibit 5) My name is Terri Streeter and I live in Hastings, Nebraska. And this is what I have to say. I'd like to say thank you to everyone for letting me have a chance to speak. As we all know, our country is in trouble. We all must do what we have to do to save her. Our part is to take responsibility for Nebraska and to do the best we can for our citizens and for all those who abide by law. It is my understanding that it is the rule of law and blind justice that must be enforced to keep this great state from chaos and corruption. For some time now it is our federal laws not being enforced that has brought me here this day. I have and my family as well, as many families, have lost a great deal due to the federal immigration laws not being enforced. I worked for many years in the beef industry doing various jobs for the same company, these same jobs that illegal immigrants have stood in protest in this very state saying, we do the jobs that Americans won't do. Well, I and many Americans and Nebraskans were doing those jobs and were forced out by illegal cheap labor. For the last four years of my employment in the beef industry, I witnessed many firsthand experiences that should never have happened in the United States. Illegal labor was hired and working while ill, illegal workers with various diseases, such as TB and other skin ulcers. And in one case I worked next to someone that had leprosy and I was told it was psoriasis. I was concerned for the worker. That is why I complained. Extortion of money by...from the illegal laborer by the employer and others that they rented from. Intimidation rapes within the illegal community and the illegal workers at work and in the parking area. In the job...on the job intentional stabbings, beatings, threats, fights were

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committed on all workers. And I've also seen the same hiring tactics used in the beef industry carried over through temp services, for which I brought an article that it's happening across this country where they're extorting monies from illegal workers. And I have also seen the same hiring tactics used in the beef industry carried over to the temp services that many employers use to staff their factories, assembly lines, and numerous other positions, yet again squeezing out the American from a job in favor of cheap labor, essentially creating a slave labor market. The use of stolen and made-up Social Security card numbers to gain employment was rampant where I worked. My point being that none of these things would be tolerated if this was a legal work force and the federal laws enforced. This puzzles me how and why this was able to happen. There's... [LB34 LB403]

SENATOR MCGILL: I'm going to have to ask you to wrap up or summarize that last bit. We have it written here in front of us too. [LB34 LB403]

TERRI STREETER: Okay. Okay. All right. Thank you. [LB34 LB403]

SENATOR MCGILL: Uh-huh. [LB34 LB403]

TERRI STREETER: That's pretty much what I have to say. [LB34 LB403]

SENATOR MCGILL: Well, we appreciate you sharing your personal experience with us. Are there any questions? Thank you very much, Terri. [LB34 LB403]

JEROME WARNER: My name is Jerome Warner. I am retired and have been with the Minutemen. I ask you, does the federal government have a law on the books which charges itself to rid this nation of illegal aliens? If not, should not the feds be very busy doing it? Is it not a fact that the feds are derelict in doing so in any reasonable degree of time? Would not the federal government be compelled if it were not exercising due diligence of ridding illegal aliens to prohibit the states from doing what it, the federal government, has already neglected to keep the states from entertaining laws which would water down immigration laws or, in plain English, illegal immigration? Would the foregoing render the states from even considering amnesty or any such action which would tend to favor illegal aliens? I, as a humble citizen, interpret these considerations to mean that any consideration of this meeting to entertain talk of amnesty is moot or, in plain English, a total waste of what is precious to everyone, which is time. It has been amply and logically seen that illegal aliens and some other supporters are harming this country. Therefore, it is logical that this meeting discuss not amnesty but should only discuss how to rid this country of illegal aliens the fastest within the parameters of humane treatment. There has been very little news about the illegal aliens helping the recession--very curious. Franklin Delano Roosevelt, and I shall paraphrase, we have nothing to fear but stupidity itself. I yield. Any questions? [LB34 LB403]

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SENATOR MCGILL: Any questions for Jerome? Thank you very much. [LB34 LB403]

JEROME WARNER: You're welcome. [LB34 LB403]

SENATOR MCGILL: Next proponent. [LB34 LB403]

DONALD SCHLEIGER: My name is Don Schleiger, last name is S-c-h-l-e-i-g-e-r. I'm a citizen of Omaha, Nebraska. First, I'd like to thank Senator Ashford and Senator Karpisek... [LB34 LB403]

SENATOR MCGILL: Karpisek. [LB34 LB403]

DON SCHLEIGER: ...Karpisek, sorry, and Governor Heineman for putting forth these bills, I think E-Verify is very crucial to the economy of Nebraska. I lived out in California during the eighties and nineties and participated in the construction industry and got my general contractor's license out there and returned to Nebraska. Also worked in Colorado in the construction industry recently and I am very experienced in the illegal immigration issues. And I think there's something that obviously devastated the state of California, trying to keep up with the tsunami of illegals that have entered their state. I don't think that this issue should be judged on an emotional basis. I think you ought to deal with the facts and figures, and if you can still justify looking beyond that then maybe look to the emotional issues. Citizens in Nebraska should be able to have the expectations to be protected in open and legal commerce through a free economy. That's not happening. The citizens are being displaced by illegal aliens who are entering the state. The idea and the mantra from Hispanic groups are that they're taking jobs...they're doing jobs that Americans don't want to do, and my reply is who did them before they came. It's ludicrous to try to justify that they're doing jobs that Americans won't do. I'm also surprised that the black community hasn't been more outspoken on this issue since it disproportionately affects them more, because they're taking unskilled entry-level jobs and the black community in Omaha is supposed to have between 25 and 30 percent unemployment. The black leadership in Omaha says that their employment issues are the reason for the increase in violence in north Omaha. And Hispanics and other illegals that come into the United States are taking jobs that are low-skilled, entry-level jobs and I think it's having a devastating effect and has had. And I don't have time to get into all the health issues and other things that... [LB34 LB403]

SENATOR MCGILL: Can you go ahead and wrap up, if you don't mind? [LB34 LB403]

DON SCHLEIGER: And one thing I would like to say is I'd like to see this reporting be quarterly from the departments to the Governor, and that E-Verify start immediately. And also something that's very important is that you need to have the subcontractors alert in writing to the general contractors and the state agencies involved that they are on the job--that's something that has to happen in California--so that you know who the

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people are that are working on these jobs, not leaving it up to a contractor and then finding out later that he omitted to tell you. It should be the responsibility of the subcontractors and they should have to alert you that they're on the job. [LB34 LB403]

SENATOR MCGILL: Okay, thank you, Don. Are there any questions? One from Senator Council. [LB34 LB403]

SENATOR COUNCIL: Mr. Schleiger, you've testified with regard to concerns that African-Americans in Omaha have with regard to the immigration issue. Did I understand that to be your testimony? [LB34 LB403]

DONALD SCHLEIGER: That they don't have. [LB34 LB403]

SENATOR COUNCIL: Pardon? [LB34 LB403]

DONALD SCHLEIGER: Did you say that they do have regard? [LB34 LB403]

SENATOR COUNCIL: Yes. Was that your testimony... [LB34 LB403]

DONALD SCHLEIGER: No. [LB34 LB403]

SENATOR COUNCIL: ...that African-Americans do have concerns in Omaha with regard...? [LB34 LB403]

DONALD SCHLEIGER: That I'm surprised that there's...I've talked to Senator Nelson and Congressman Lee Terry and other friends of mine that are... [LB34 LB403]

SENATOR COUNCIL: Last I checked they weren't African-American. [LB34 LB403]

DONALD SCHLEIGER: Well, they're... [LB34 LB403]

SENATOR COUNCIL: I'm talking about last I checked Nelson and Terry weren't African-American. [LB34 LB403]

DONALD SCHLEIGER: Okay. Well,... [LB34 LB403]

SENATOR COUNCIL: You made a statement with regard to African-American leadership in Omaha. I want to know what African-American leadership you've spoken to and what they said to you. [LB34 LB403]

DONALD SCHLEIGER: Well, you tell me the African-American...any African-American leaders in Omaha that have spoke up against it. [LB34 LB403]

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SENATOR COUNCIL: My question is to you, Mr. Schleiger. Which African-American leaders have you discussed this issue with? [LB34 LB403]

DONALD SCHLEIGER: I've discussed it with Lee Terry's assistant, Jim...I can't think of his last name. I've discussed it with a friend of mine, Paul Bryant (phonetic), who does a lot of work in the black community, is black himself; I went to high school with him. [LB34 LB403]

SENATOR COUNCIL: So what did Mr. Bryant (phonetic) say? [LB34 LB403]

DONALD SCHLEIGER: That they don't really have a comment on that issue, and I'm really surprised. I mean, it affects the blue-collar workers, which I'm one. But it disproportionately, out of that, affects the black community. And I think it has to be taken into consideration, the jobs that are...the people that are being displaced. Take for example, Omaha has less than four...what's reported, less than 4 percent unemployment. The only people that are on the unemployment figures are people who are currently getting paid to be on unemployment. Once you run through your 26 weeks, you're then either unemployable or not actively looking for employment according to statistics, which it should be. But if you are unemployed after that point in time, you're not on the statistics. Tell me how could the black community have 25-30 percent unemployment and Omaha have only 4 percent? [LB34 LB403]

SENATOR COUNCIL: Oh, we could have a tremendously long discussion of that, Mr. Schleiger, and much of which has nothing to do with illegal immigration. [LB34 LB403]

DONALD SCHLEIGER: I think it does. [LB34 LB403]

SENATOR COUNCIL: But I'm going to tell I have difficulty and I quite frankly resent testimony being attributed to the African-American community for which you have not been authorized to speak on behalf of,... [LB34 LB403]

DONALD SCHLEIGER: Do I have to be? [LB34 LB403]

SENATOR COUNCIL: ...nor have you, when you're representing that you're...that this is how African-Americans should feel, you haven't spoken to any African-American leadership of any significance, and so if that is your...if that is...if that... [LB34 LB403]

DONALD SCHLEIGER: I went to Benson High School. Thirty-five percent of it was black. [LB34 LB403]

SENATOR COUNCIL: ...if that is your opinion, state it as your opinion. [LB34 LB403]

DONALD SCHLEIGER: Okay. It's my opinion. In addition to being my opinion, any

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testimony that I've given anybody concerning the construction industry or anything else is obviously my opinion, and I think it's through my evaluation and my experience in this industry in multiple states, and I don't know exactly how anyone testifying here could not go under the same attack that you're presenting. I don't think I have to be...you know, you want credentials from me for making an observation. I challenge you to dispute what I'm saying. [LB34 LB403]

SENATOR COUNCIL: You make your observations based on your opinion. What I took issue with is your suggestion that African-American leadership has somehow communicated to you their concern about this issue. Now if you want to state...now if you want to state that you think they should, then fine. [LB34 LB403]

DONALD SCHLEIGER: I've watched and read in the media that what...that there are...that there's a lack of concern. I've brought it up--I'm very involved with this--I've brought it up several times at things, and I've talked, when I talk to other people I'm concerned what's going on in the black community. I have black friends. And if...this issue affects me, but it disproportionately affects them even more. I'm not on an entry level. I've been... [LB34 LB403]

SENATOR COUNCIL: Well, Mr. Schleiger, I haven't seen you at one north Omaha economic development project meeting. I haven't seen you at one community forum in north Omaha with regard to economic development issues. So how do you evidence this concern? [LB34 LB403]

DONALD SCHLEIGER: Through my observation of high unemployment, people in a entry level and low-skilled job level that is void of the black community. And I guess I'm mostly guilty of being concerned for the black community and trying to eliminate some of the problems, particularly the violence that according to the black leadership is...it's not part of some kind of education problem. They haven't stated any education problems. They've stated that there's high unemployment in those areas. And I'm sorry that I've witnessed everyone from city councilmen to other people that have stated those facts. I think they're true. I've lived in the black community. I lived on 48th and Miami for five years. [LB34 LB403]

SENATOR COUNCIL: What's the dropout rate in the African-American community, Mr. Schleiger? [LB34 LB403]

DONALD SCHLEIGER: From high school? [LB34 LB403]

SENATOR COUNCIL: Yes. [LB34 LB403]

DONALD SCHLEIGER: I would say it's probably 40 percent, just guessing. [LB34 LB403]

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SENATOR COUNCIL: Well, it's 60 percent. [LB34 LB403]

DONALD SCHLEIGER: Okay. [LB34 LB403]

SENATOR COUNCIL: For African-American males, okay? So now that certainly isn't the result of their employment. That's an education issue. That is not an immigration issue. It is an education issue. And when I see that same level of concern expressed about keeping these young people in school, then you and I can have a conversation. [LB34 LB403]

DONALD SCHLEIGER: Do you want me to come back and... [LB34 LB403]

SENATOR COUNCIL: Certainly. [LB34 LB403]

DONALD SCHLEIGER: ...and talk about education? We're not talking about education here. [LB34 LB403]

SENATOR COUNCIL: Oh. [LB34 LB403]

DONALD SCHLEIGER: You know, I'm sorry that I'm sympathetic and concerned with the black community. I don't know why I'm taking such a lashing. I still haven't heard you dispute that there...that...what do you think... [LB34 LB403]

SENATOR COUNCIL: I'm not here to testify, Mr. Schleiger;... [LB34 LB403]

SENATOR MCGILL: Okay. [LB34 LB403]

SENATOR COUNCIL: ...you are. [LB34 LB403]

DONALD SCHLEIGER: What's your evaluation of why there is high unemployment in the black community? [LB34 LB403]

SENATOR COUNCIL: Education,... [LB34 LB403]

SENATOR MCGILL: Okay, we're going to... [LB34 LB403]

SENATOR COUNCIL: ...Mr. Schleiger. [LB34 LB403]

SENATOR MCGILL: We're going to move on to the next question, and I'd also like to remind the audience to keep your personal conversations to a minimum. Senator Lautenbaugh. [LB34 LB403]

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SENATOR LAUTENBAUGH: Thank you, Madam Chair. And sir, rightly or wrongly, I just want to clarify this. I understood you to say you believed illegal immigration causes higher unemployment in the African-American community, and you had not heard African-American leaders speak out on the issue. [LB34 LB403]

DONALD SCHLEIGER: That's correct, surprisingly. [LB34 LB403]

SENATOR LAUTENBAUGH: That was the point you were trying to make. [LB34 LB403]

DONALD SCHLEIGER: Surprisingly, yes. [LB34 LB403]

SENATOR LAUTENBAUGH: That you were surprised by the fact that you hadn't heard something. [LB34 LB403]

DONALD SCHLEIGER: Correct. [LB34 LB403]

SENATOR LAUTENBAUGH: And whether or not I agree with you, that's what I understood was the point you were trying to make. [LB34 LB403]

DONALD SCHLEIGER: Correct. [LB34 LB403]

SENATOR LAUTENBAUGH: Thank you. [LB34 LB403]

SENATOR MCGILL: Okay. Thank you. And with that we are unfortunately out of time for the proponent side of the testimony, so we are going to move now to opposition testimony. Can I get a general show of hands, to start with, for how many folks...whew. We were able to get through 14 people during the proponents. We do apparently have a list of testifiers that will be starting here. We'll get through as many of them as we can. Like I said, we got through 14 folks on the proponent side. So the first person we have is Pastor Chuck...yes. We'll get through as many folks as possible, and if again you could try not to repeat testimony so we can get through folks, not necessarily taking up the whole three minutes, unless you have to, so that we can hear from as many people as we possibly can this afternoon. [LB34 LB403]

CHUCK BENTJEN: Senator McGill, members of the Judiciary Committee, my name is Reverend Doctor Chuck Bentjen, and that is spelled C-h-u-c-k B-e-n-t-j-e-n. My official title is director of justice and advocacy ministries for the Evangelical Lutheran Church in America, and I'm here today representing a faith perspective from the Evangelical Lutheran Church in America. We are the largest Protestant organization in the state of Nebraska, with approximately 225,000 members. I, like all of you, I've heard the testimony today, and some things really jump out at me from a faith perspective. First of all, I must say that from a faith perspective that God does not consider anyone an alien. God does not consider anyone illegal. So when we constantly refer to people, who are

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here without proper documentation in our country, as illegal aliens, I think we're speaking contrary to the values that we hold so dear. Indeed, there is a problem in our country with illegal immigration, but there's also a problem with fear. And I think a wave of fear is sweeping our nation, that's insidious and that is calling for people to do things that they normally would not do. It calls for people to really stand in opposition to their brothers and sisters in Christ; their brothers and sisters who God calls them to love. I have carefully researched the E-Verify system, and according to the organization that operates the E-Verify system, it's only 92 percent accurate. Well, you may say that's pretty accurate, but if you use the figures that Senator Ashford gave us, the number of names that are in that are checked, that means that there are 38 million errors in that system--38 million errors. I can also speak that as an attorney who has practiced in this state for over 20 years, that I've worked with a lot of people who seek public benefits and a lot of people who are working in employment areas. I can tell you that in every instance there are already systems in place that people can use, and employers can use and should use and are required by law to use. Adding another layer only creates more administrative costs, and I think it is a response to fear rather than good, sound public policy. And so I would urge you on behalf of the church and myself to vote not to advance these bills to the full Legislature. Thank you. [LB34 LB403]

SENATOR MCGILL: Thank you very much. Any questions? No. Thank you. We'll take the next opponent which is going to be Senator Schimek. Welcome back to the Judiciary Committee. [LB34 LB403]

DIANNA SCHIMEK: Thank you very much, Madam Chair. It's a delight to be here. It's my first day back in the Capitol, and so it's been fun to see everybody. For the record, my name is DiAnna Schimek, D-i-A-n-n-a S-c-h-i-m-e-k. And I come in opposition to both of the bills that we are hearing at this point in time, and I want to do it in a very general way from more of a philosophical, perhaps, bent than anything else, first; and then I want to address specifically the language in Senator Karpisek's bill dealing with postsecondary education benefits. First and foremost, I believe that these are federal issues, and I believe that there are some reasons to believe that the federal government preempts the states in doing some of these kinds of things. Now you heard from Senator Ashford...and incidentally, I have to tell you Senator Ashford has done a fabulous job in working on this issue, and it was a great experience going across the state to those different communities, Senator Ashford, and I thank you for all your work. But I think that Senator Ashford mentioned, in passing, the preemption issue, and to my knowledge--and that's not necessarily complete--those laws have not been challenged in very many states, but in Arizona they have. And I don't know that that's finished in Arizona. That is very possibly going to be appealed to a higher court. So I think there's a question about that. And I think that this whole immigration issue is so emotional and so difficult for everybody, but I think it just continues to foster negative attitudes towards immigrants, whether they're legal or illegal, and it's that...does that mean I only have one minute left? [LB34 LB403]

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SENATOR MCGILL: We'll give you a little extra time, Senator. [LB34 LB403]

DIANNA SCHIMEK: We heard, for instance out in Scottsbluff, from a woman who had been...whose family had been in Scottsbluff for five generations. And yet, because of all of this, she would walk into a store with a friend and either wouldn't get waited on or would be watched the entire time she was in the store. She felt that she was definitely being profiled. And I could tell you lots of other stories that we heard out there. Another thing that I believe and I don't know if Senator Ashford would agree with this or not, but I didn't believe any of the five communities that we visited were clamoring for this kind of legislation. In most of the communities, we heard from local businesses who were already voluntarily doing E-Verify, and they were the big businesses. We also heard on at least one occasion that it could be a very difficult proposition for small businesses. We also heard from several of these communities not to repeal instate tuition, and indeed most of the communities said we need to educate these young people because we need bilingual teachers, we need bilingual doctors, we need bilingual interpreters for every possible conceivable situation. I also believe that the provisions of LB403 could be handled by executive order. And, in fact, when we heard the bill last year that's much like LB403 this year, except there's no instate tuition provision...or, no, I'm thinking of the E-Verify...we were told and I had believed that the Governor can do it by executive order. In fact, I believe I've seen his public statements to that effect, that it could be done by executive order. And, in fact, some states are handling it that way, specifically Minnesota and Idaho. What I think would be helpful to this whole immigration problem is that this Legislature would go on record and would actively talk to their federal representatives and strongly encourage that the federal government get off its backside and do something about this. Just one... [LB34 LB403]

SENATOR MCGILL: I will ask you to sum up pretty quickly here. [LB34 LB403]

DIANNA SCHIMEK: Okay. Two more points if I might and I'll make them brief. [LB34 LB403]

SENATOR MCGILL: Real quick. Yes. [LB34 LB403]

DIANNA SCHIMEK: One of them is about all of this...this is about illegal immigrants, if you will, taking jobs from citizens. And I want to tell you that when we were Schuyler, the head of the economic development department in Schuyler told us that on that given day, within a 50-mile radius, there were 500 jobs available and there were no takers. So I...you know, that may not be true today because this was a couple of months ago, but there...I would not necessarily buy into that. The last thing that I wanted to mention, and this is really the specific thing, is the language--and I was glad that Senator Karpisek mentioned that he's willing to look at some changes in that language. And think it...we should either delete the language altogether regarding postsecondary benefits or we

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should add specific language that says those benefits apply only to financial aid and scholarships. And actually it's already federal law that you don't give benefits, so again it may not even be necessary to do, because I don't know that any aid is even being given right now. So with that, thank you for your indulgence. [LB34 LB403]

SENATOR MCGILL: Thank you. And questions? From Senator Ashford. [LB34 LB403]

SENATOR ASHFORD: Well, I do want to just to also mention, Senator Schimek, that we did learn a lot this summer and I...and you were at each one of these hearings, and I absolutely agree with you. We heard quite a bit of comment about the DREAM Act, and that if you don't have hope for the kids, what is there? And I think there is a conscious decision made by the Governor, obviously, and others, that the DREAM Act issue not be before us. One of the other points that I would also comment on is that it is a federal issue. It always has been a federal issue. Unless the constitution is changed, it will remain a federal issue. And I...and you and I both have talked to federal officials, and said, at least clarify. There have been three efforts in the federal level to deal with the DREAM Act, which would have...it not only deals with education, but deals with this whole problem of young people in the country--some documented, some not documented--and how do you treat those children. It is a tragedy... [LB34 LB403]

DIANNE SCHIMEK: It is. [LB34 LB403]

SENATOR ASHFORD: ...of immense proportions, which is one of the most heartrending things I have ever been involved in. And you are absolutely correct, that as we traveled around the state, of all the issues...and clearly, I remember the woman from Scottsbluff, five generations: stopped on the interstate. There is discrimination. But the tragedy of those children is immense. The federal government has not, is not, will not act. [LB34 LB403]

DIANNA SCHIMEK: We ought to shame them into doing that, Senator Ashford. [LB34 LB403]

SENATOR ASHFORD: They are not going to do it. And they are not going to act. They will not act. There is no indication from any...at least nobody representing anybody here, no federal representatives in Nebraska that even...that even...that even suggests or makes any public statement...we've been doing this a year and there isn't one congressman, one senator that has said, gee, we've got broken families in Nebraska; let's do something; let's introduce some legislation in the--no, because they're afraid to do it. [LB34 LB403]

DIANNA SCHIMEK: Exactly. [LB34 LB403]

SENATOR ASHFORD: It's not going to change. And we agree on that. [LB34 LB403]

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DIANNA SCHIMEK: Yes, we do--and many other things, as well, Senator Ashford. [LB34 LB403]

SENATOR ASHFORD: And at some point it gets to the point where there's the rule of law, and the law is what the law is. And I...your heart is bigger than mine. You may have the biggest heart I know. But I don't know how else to deal with something when you have an absolute absence of will. And I don't know what the federal change should be. But the one last point I would make, and this is where I really get...where I come down on this is the children are the ones that are being punished for this by the failure of the federal government to act. And I realize adults are having hardships, but it's the children that is...and it is a cruel, cruel situation. You know, comment, but... [LB34 LB403]

DIANNA SCHIMEK: My only comment would be, Senator Ashford, that I believe that it is our responsibility to keep trying. And, you know, some things don't occur overnight and some things take years. [LB34 LB403]

SENATOR ASHFORD: Or generations. [LB34 LB403]

DIANNA SCHIMEK: Or generations. But we have to keep trying. [LB34 LB403]

SENATOR ASHFORD: But how do you get rid of discrimination, DiAnna, if you have a situation where people who are legally here, who are working and are contributing, and the Latino communities we talked to that are clearly legal, that have been here longer than my family has been in Nebraska which is a long time, they have made tremendous contributions to our state--and they feel discriminated against. You've got...we can't let it go on. [LB34 LB403]

DIANNA SCHIMEK: And I really want to have these people who are sitting here waiting have a chance to speak, so. [LB34 LB403]

SENATOR ASHFORD: And I'll give them three more minutes because I shouldn't have gone on, but I... [LB34 LB403]

DIANNA SCHIMEK: Oh, no, no. I meant... [LB34 LB403]

SENATOR ASHFORD: But we spent this time together and it was quite an amazing thing. [LB34 LB403]

SENATOR MCGILL: We do have a question from Senator Lautenbaugh. Oh, no longer? [LB34 LB403]

SENATOR LAUTENBAUGH: Actually Senator Ashford covered it. I would say that it is

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nice to see you, Senator Schimek,... [LB34 LB403]

DIANNA SCHIMEK: Thank you. [LB34 LB403]

SENATOR LAUTENBAUGH: ..and I agree it's nice to see you. So see, we finally agree on something. (Laughter) [LB34 LB403]

DIANNA SCHIMEK: (Laugh) That's great. I'll keep that in mind. [LB34 LB403]

SENATOR LAUTENBAUGH: It took long enough. [LB34 LB403]

SENATOR MCGILL: Thank you, Senator. Next on the list is Father Jose Mendoza. [LB34 LB403]

JOSE MENDOZA: Thank you and good afternoon. And my name is Jose Mendoza, J-o-s-e M-e-n-d-o-z-a. I am a Catholic priest in a church in south Omaha. And today I want to testify as an opponent to the bills, especially the bill LB34 for the following reasons. And when the people cannot work, they come to the church to ask for help, and we are a church in south Omaha with mostly immigrants, and we can't turn anybody away that comes to us for help. This goes against the divine principles of the Holy Scriptures. It is because we cannot say no. Also we cannot, as church, support that which goes against human dignity, and if these bills are passed it is opposite with the work that we do for dignity and quality. It also divides families. What are the children supposed to do when they are separated from their mothers? It is not (inaudible) to the vow of the family. And also when anybody comes to me asking for help because they can't work, always I remember in the Scriptures in the Bible, the Beatitudes. When they say I am hungry, I am thirsty, why do I need to say I cannot? I need to provide help. Jesus is not asking for documents. God is not asking for any paper, but is asking me for the faith of the people. He's asking me how do we help to the one another, the people in need? It is most important for us and I can't say no when the people need support. This is why, as church, in my position, as a member of the church and also men of faith, a special feeling, thinking, we cannot support a law that goes against our faith principle. Thank you. [LB34 LB403]

SENATOR LATHROP: Thank you, Father. Before you leave, are there any questions from the committee? Seeing none, thank you for your testimony. [LB34 LB403]

JOSE MENDOZA: Thank you. [LB34 LB403]

SENATOR LATHROP: Next we are going to take up Sam Franco. [LB34 LB403]

SEVERIANO FRANCO: (Exhibit 6) Thank you very much. I have some copies of the testimony I'm going to present here, Senator. Mr. Chairman, members of the committee,

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thank you very, very much for this opportunity to testify in opposition to LB403. And I know we have time and last year they shut me off, so I'm going to go fast. I want to give you a little bit of information by way of background, to establish the point and direction that I'm going with my testimony. First of all, I'm a first generation citizen born to immigrant Mexican parents in the city of Minatare located in Scotts Bluff County. I specifically point this out because my hometown was and might still be one of the most racist communities in the state. In 1943, the Minatare city council passed an ordinance that restricted home purchases by Mexicans to the undeveloped areas of the city. In addition to the segregated cemetery that still exists today and my parents are buried there, they also had a segregated K-6 school for Mexicans, blacks and Native Americans. I attended this school with as many as 100 other students who were taught by one teacher. Undocumented residents have been denied benefits, legally, since the adoption of the 1996 federal Welfare Reform Act. And what is today before is duplicitous. State employees charged with the administration of social programs are exceptionally qualified, both by education, temperament, and experience. Is the suggestion here that these people are not doing their job? Those of us who have experienced state-sanctioned discrimination are weary of laws and lawmakers purporting to protect us from further discrimination by supporting laws that are proven to promote it. We can't help but wonder what the real motivation behind such bills is. Obviously, the facts don't support this. We see these proposals more as anti-Latino. Why should these Nebraska high school graduates be denied the right to instate tuition? The Southern Poverty Law Center is a much respected group that has established a considerable amount of case law in defense of individuals that have been subjected to racism and bigoted acts. The SPLC has identified groups such as FAIR, CIS, the KKK, Neo-Nazis, and other similar groups of anti-immigrants, anti-Latino legislation, and have been pursuing these legislative changes both at the city and the state level. Much of what is presented by these groups suggests that immigrants are terrorists, criminals, sexual deviants, child molesters, social service parasites who have contributed greatly to the ruination of our schools and bankrupted hospitals. These allegations put forth are just not true. What is true is that in the state of Nebraska we have approximately 160,000 Latino residents. These Latinos, daily buy groceries, clothes, gasoline, furniture, medication, and they pay utility bills every month, and buy between 15,000 and 20,000 vehicles every year. They pay every tax that is collected in this state. They contribute millions to the Nebraska economy and help create hundreds of thousands of jobs every year. They do all that with little or no access to public benefits... [LB34 LB403]

SENATOR LATHROP: Mr. Franco, we're going to have to have you summarize, please. [LB34 LB403]

SEVERIANO FRANCO: I've just got one paragraph and I'm done. I could go on. Suffice it to say that I have lived through the continuous acts of discrimination. I would just tell you that I would like to believe that in 2009 that this state and this nation have matured

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to the point that we no longer have to condone these acts, and it should be time to cease and desist from perpetuating discriminatory acts against people simply because of their color and ethnicity. And I will thank you very much and I would welcome any questions that anybody might have. [LB34 LB403]

SENATOR LATHROP: Anybody have any questions? [LB34 LB403]

SEVERIANO FRANCO: Did you get the message? [LB34 LB403]

SENATOR LATHROP: We did, and thank you for bringing it to us. I should introduce myself. I'm Steve Lathrop. I was over in Natural Resources introducing a bill, and because one of the bills was sponsored by the Chair, since I'm the Vice Chair I'll sit here and preside over the rest of the hearings. Our next opponent and I think our next testifier is going to be Jose Ramirez. [LB34 LB403]

JOSEPH RAMIREZ: Good afternoon to all of you. Thank you for letting me speak today. My name is Joe Ramirez. I'm an attorney in Omaha, Nebraska,... [LB34 LB403]

SENATOR LATHROP: Sorry; forgive me. [LB34 LB403]

JOSEPH RAMIREZ: ...born and raised in North Platte, Nebraska. University of Nebraska, both undergraduate and graduate. Senator Ashford, I'm one of your constituents. This Judiciary Committee made an investigative report pursuant to LR362--you have it in front of you--dealing with these issues. In the demographics portion of this report this committee states that, "The biggest challenge in developing immigration policy is the lack of useful data distinguishing between documented and undocumented immigrants." Furthermore, the study concludes that "Without better data on undocumented immigrants, it is difficult, if not impossible, to determine the costs or benefits associated with this population within Nebraska." What a remarkable finding, committee. If you follow the natural logic of that, obviously any action by this committee is something meant just simply for the purpose of giving the appearance of doing something with respect to immigration without really knowing what we're doing. It's akin to a surgeon doing a surgery on the head or on the colon or not all. We don't need to be speculative with respect to what to do with respect to the immigration problem here in Nebraska, because LR362 gives us two problem areas. One is with respect to the...as it...vis-a-vis the immigration problem. One of them is with respect to the school districts. Does LB34 address that? No, it does not. First of all, it doesn't generate any kind of revenue for us. Secondly, as noted in the demographics section of your report, this committee's report, simply because there is one parent that may be illegal, undocumented, does not mean everybody else is. In fact, I think you're going to find that most of these students are American citizens, frankly. Third, again pursuant to LR362, the "Supreme Court has ruled that public schools must provide education to all children from K-12 regardless of their immigration status." Therefore, LB34 does not address

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the, as you defined it, the strain on school districts' budget problems because it doesn't generate property taxes, nor does it cut back costs by reducing the number of students involved. The second thing that LR362, your finding again, said that we have a problem which is unreimbursed medical care. However, if you look at the intent of LB34, the purpose of it is to cut off people from employment. How do most of us get our insurance? Through our employment. Thus LB34, the unintended consequence of LB34 is to, in fact, increase the rolls of people who don't have insurance. LB403 has the same types of problems. There is little evidence, according to your study again, that there's any people applying for benefits for which they are ineligible to receive. The testimony of Dr. Catherine Lang, Dr. Schaefer today, supports that. So as a result, I would tell you it's a solution looking for a problem. It's a national debate. I'd ask that we simply defer. We need to pressure our national leaders with respect to it. Thank you. [LB34 LB403]

SENATOR LATHROP: Thanks, Joe. We'll make sure no one has any...let's see if anybody has any questions. Seeing none, thank you. [LB34 LB403]

JOSEPH RAMIREZ: Thank you. [LB34 LB403]

SENATOR LATHROP: Our next testifier is going to be Anita Maddali. And as she approaches, I'm going to remind you that we have a light system, and I'm told this was an arrangement reached before I came, that the opponents have until five minutes after four. And because I have 21 names on this list, I'll ask you to...really, after that light turns red, we'll ask you to stop your testimony so that we can get as many people up here and get as many points of view as we possibly can. Thank you. And with that, we'll ask you to start with your name. [LB34 LB403]

ANITA MADDALI: (Exhibit 7) Hi. My name is Anita, A-n-i-t-a, Maddali, M-a-d-d-a-l-i. Thank you for allowing me to testify today. I am a staff attorney with the Mexican American Legal Defense and Educational Fund, also known as MALDEF. We are a national civil rights organization dedicated to protecting the civil rights of Latinos throughout the United States. We do this through advocacy and litigation. I'm here on behalf of MALDEF to express our strong opposition to LB34. First, immigration is an area of federal concern, and the federal government is charged with enforcing immigration laws. As a national organization, MALDEF stays abreast of constitutional challenges to legislation that is similar to the one proposed here today. The Arizona case was mentioned and it should be noted that the Ninth Circuit is considering a motion for rehearing en banc, so that case is not fully litigated. And there have also been lawsuits brought in other states, such as Oklahoma and Pennsylvania. In a similar bill that was passed in Hazleton, Pennsylvania, the court struck down a law that banned unauthorized employment of illegal immigrants, explaining that federal law preempted the city's attempt to enforce immigration laws. This was the same situation in Oklahoma, so there are other lawsuits that have been brought and upheld or...and declared unconstitutional by the courts. This legislation could be potentially found to be

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unconstitutional. Second, there's a potential for discrimination. Rather than run the risk of being sanctioned by the state of Nebraska, an employer may choose not to hire anyone who looks foreign or speaks with an accent. That could include legal permanent residents and citizens. Third, the E-Verify system has many flaws, which the Department of Homeland Security and the Social Security Administration admit to. People who may be legally authorized to work may be found ineligible to work because of the flaws with the system. In this economy, not being allowed to work because of a glitch in the system causes significant hardship on hardworking individuals. And finally, using E-Verify imposes great time and financial burden on employers who may be struggling in this economic downturn. Many small businesses do not have the HR departments or administrative staff to navigate the process. Some companies have outsourced it at a cost of \$40,000 a year--a significant amount in this economic climate. And finally I would just like to note that the Arizona Republic reported that after Arizona implemented the mandatory E-Verify, it has resulted in workers and businesses moving off the books into the cash economy. This has deprived the state of Arizona income tax revenue. So it does have financial implications, as well. [LB34 LB403]

SENATOR LATHROP: Thank you for your testimony. Are there any questions? Seeing none, appreciate you coming down today. Next, will be Becky Gould from Appleseed. [LB34 LB403]

BECKY GOULD: (Exhibits 8 and 9) Good afternoon. My name is Becky Gould, B-e-c-k-y G-o-u-l-d. I'm an attorney and the executive director of the Nebraska Appleseed Center. And Nebraska Appleseed is a law and policy center that works for equal justice and full opportunity for all Nebraskans. And I'm here today to testify in opposition to LB403 and LB34. I've brought with me a number of postcards for the committee from constituents all across the state, and there is over 1,800 postcards here from folks who are expressing their opposition to these two...to the three bills, actually, that are up today. So I wanted to share those with the committee. I just want to make a few brief points. A lot of the things that have been said, we echo. The first thing I would say is a lot of my background has been spent dealing with issues around public benefits. And one of the concerns that we have about LB403, in particular, is that it's going to be costly and duplicate a lot of what's already in place. The programs that most people think of when you say public benefits, things like food stamps, Medicaid, cash assistance, already require screening. Food stamps already requires what's asked for in LB403, and a number of the other programs actually go beyond these requirements and do additional types of screening. And so I think this bill does actually duplicate what's already happening. And to the extent that it doesn't, in Colorado a similar effort was put in place and they spent \$2 million implementing the law there, and showed no savings: not identifying any folks who are receiving benefits that shouldn't have been. I think the other concern that we have with LB403 is that the language is extremely broad. In some cases it mirrors the federal statutes related to defining what federal public benefits are. And I think the problem is that the federal law is confusing. It required the federal

agencies to actually provide guidance to what actually consisted of being a federal public benefit. And I think adopting similar language in Nebraska is going to create additional confusion. People are not going to know necessarily what all fits under the broad definition of public benefits. And so I think, you know, again, that we're talking about implementing something that's not necessary. There is no evidence that we have a problem here. We're going to spend a lot of money trying to do it, and at the end of the day we may create a lot of confusion. Just a couple things on E-Verify. It's very costly also for employers, and I think we ought to keep that in mind. The Intel Corporation was using E-Verify, and 13 percent of its employees were not confirmed after they used the E-Verify system. All of them were eventually cleared but, in that process, Intel had to spend the time clearing their employees, and that was very costly for them. So I think we need to keep in mind that the E-Verify system isn't really up to speed and effective in the ways that maybe it needs to be, and we're going to have unintended consequences on the employers in our state. And I would just say one more thing, back to Senator Ashford's discussion with Senator Schimek about federal reform. We're more optimistic that it's going to come up at the federal level, and while you're right that Nebraska's leadership has not been vocal on this, other folks have, and I think it's our job to start putting pressure on our elected officials at the federal level to say this is something we need. And if we all work on that, we can demand accountability and make sure that our federal representatives do what we hope they'll do. [LB34 LB403]

SENATOR LATHROP: Thank you, Ms. Gould. Senator Council has a question for you. [LB34 LB403]

SENATOR COUNCIL: Yes. Thank you, Ms. Gould. I'm particularly appreciative of the documentary evidence that you've submitted along with your testimony, but it raises some questions. On the first page of the document you've provided to the committee, it speaks to "It creates an expensive new layer of bureaucracy," and you make reference to Kansas and what you've determined from your examination of Kansas. The additional costs discovered only one immigrant ineligible due to citizenship. But the statement that I question caused 20,000 eligible Kansans to lose their coverage? Can you explain that for me, please? [LB34 LB403]

BECKY GOULD: Sure. And what happened in Kansas was actually an even stronger enforcement mechanism in which documentation was actually required of anyone who applied. And what they found was that in some cases folks didn't have birth certificates, didn't have documentation to verify that they were actually citizens even though there was really no question. But under the enhanced federal regulations, those folks had to be denied Medicaid because they couldn't verify their citizenship. And so I think any time you're placing these kinds of additional barriers and requirements on folks who are applying for public assistance, you end up with unintended consequences: people who are eligible for programs but end up not accessing them because they don't have the proper paperwork. They can't jump through the proper hoops, and as a result go without

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needed assistance. [LB34 LB403]

SENATOR COUNCIL: Okay. So and the short answer to that, there were 20,000 Kansans who didn't have the documentation to establish that they were citizens. [LB34 LB403]

BECKY GOULD: Citizens. Yes. [LB34 LB403]

SENATOR COUNCIL: On the next page, there is a statement that "It is more complicated than it first appears." And the statement that I want to question you regarding is "it would be up to the user agency to interpret whether or not the immigration status or circumstances verified by SAVE constitute lawful presence." What do you mean by that? [LB34 LB403]

BECKY GOULD: What SAVE does is send you back a response saying either it's verified or it's not verified. And not verified doesn't mean that the person doesn't have status. It just means that the initial run of their information doesn't verify their status. And so at that point, if the person is actually eligible, there's got to be a process for them to go through to kind of appeal that decision, and that requires time, energy, and costs money, and so that's what we're referring there. The SAVE system isn't 100 percent. So if you get back a not verified, it's possible that that person actually should be verified. [LB34 LB403]

SENATOR COUNCIL: Okay. So a not verified doesn't necessarily mean undocumented immigrant. [LB34 LB403]

BECKY GOULD: Right. [LB34 LB403]

SENATOR COUNCIL: Okay. Thank you. [LB34 LB403]

SENATOR LATHROP: Senator Ashford. [LB34 LB403]

SENATOR ASHFORD: I know we're going to try to be quick here, and I appreciate all the work you do on all these issues, but let me just ask you a hypothetical. Let's assume, very quickly, that the Congress passed the DREAM Act and that it was the federal DREAM Act which expands the eligibility of young people who have come here, even if they didn't enter legally. Would you support E-Verify if the federal government expanded or...and let's say I add work permits to that. If they expanded the work permit and they expanded the DREAM Act, at that point would it be...at what point does...are you able to verify becomes a legitimate thing to do? [LB34 LB403]

BECKY GOULD: I think it's not the verification that's the problem. [LB34 LB403]

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SENATOR ASHFORD: But the law is to become a...you have to be legal, under the law, to work. [LB34 LB403]

BECKY GOULD: Correct. [LB34 LB403]

SENATOR ASHFORD: Or to go...okay. [LB34 LB403]

BECKY GOULD: I guess I am seeing a distinction between those two issues. To me, what the DREAM Act and what you're talking about... [LB34 LB403]

SENATOR ASHFORD: No, I'm just giving you...it's not so much the DREAM Act. I'm just throwing out hypotheticals of if something passed. If the Congress, because they voted on that three times and turned it down three times, if that--or some number--if that passed, there's more eligibility then. At that point, would you object to having some sort of verification? [LB34 LB403]

BECKY GOULD: I think there's two things I would say. The first is that there are problems with E-Verify right now that caused senators to not go deeper. [LB34 LB403]

SENATOR ASHFORD: It's getting better though. [LB34 LB403]

BECKY GOULD: And until those...or caused employers to not necessarily go deeper and sometimes avoid hiring folks because they're just questioning. [LB34 LB403]

SENATOR ASHFORD: But is there data? I just don't agree with you. I just don't agree with you that...here's where I disagree; it's not an argument. Here's where I don't see it. I don't...they have to be hired first; the person has to be hired first. E-Verify occurs. It comes back a negative or basically they can't...they don't...they're not eligible to work. There's an additional process required under federal law to allow this person to come in and bring documentation and to show that they are eligible to work, correct? Isn't that generally it? [LB34 LB403]

BECKY GOULD: Um-hum. [LB34 LB403]

SENATOR ASHFORD: And most...in most cases, you know, either...if they don't have the document...if a person does not have the proper documentation, they will not come back. If they do have the proper documentation, they will come back. I mean, maybe that's...you know, there's anecdotal evidence that suggests maybe that doesn't happen in all cases, but in my conversations with HR people in major companies, that's what happens. But you're suggesting that isn't what happens. [LB34 LB403]

BECKY GOULD: No, I think I'm speaking to a slightly different issue which is that our problem with endorsing E-Verify as a verification solution is that it's not a perfect system

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right now. [LB34 LB403]

SENATOR ASHFORD: I'll give you that. But at what point can we verify...do we justify some kind of utilizing technology which actually protects employers, because when they use E-Verify they're protected because there is a number that comes back and so forth. So at what point is it okay and does it not become discriminatory to use technology to enforce federal law? [LB34 LB403]

BECKY GOULD: I don't think it's the using of technology that's discriminatory. [LB34 LB403]

SENATOR ASHFORD: What's the discrimination? [LB34 LB403]

BECKY GOULD: I think the GAO actually did a survey of employers, and this was related to when there were employer sanctions attached, and the GAO study says that when there were sanctions...when they established employer sanctions, 10 percent of the employers admitted--so these are the folks even willing to admit it--that fear of sanctions led them to discriminate against U.S.-born and other legal workers because they were foreign sounding or foreign looking. And so I think it's just one of those things that... [LB34 LB403]

SENATOR ASHFORD: I mean, you might be right; you might be right. You know, you might be right. But I just don't know at what point we can say that if we expand eligibility. DREAM Act, I support it; we expand eligibility. [LB34 LB403]

BECKY GOULD: Sure. And I think we're not opposed to verification. I think we just need a better verification than what E-Verify does. [LB34 LB403]

SENATOR ASHFORD: Okay. That's all I have. Thanks. [LB34 LB403]

SENATOR LATHROP: Very good. Thank you. No other questions. [LB34 LB403]

SENATOR ASHFORD: Don't allow me to ask any more questions. (Laughter) [LB34 LB403]

SENATOR LATHROP: I just want everybody to know that that's not Senator Rogert sitting over there and I'm not Senator Ashford. The next one up is going to be Ricardo Castro, and after that we're going to do Marta Sonia. And what I'll ask you to do is that if I tell you you're on deck, let's have you move up here to the front row so you can be in a position. So Ricardo Castro will be next, and Marta...oh, Londono. Pardon me. Londono. We'll have you move up to the front and you can sit up here by Senator Schimek and be ready to go next. Good afternoon. [LB34 LB403]

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RICARDO CASTRO: (Exhibit 10) Good afternoon. My name is Ricardo Castro, R-i-c-a-r-d-o C-a-s-t-r-o. I'm the executive director with the Nebraska Hispanic Chamber of Commerce. I would like to thank you for the opportunity to talk about this issue, and also I would like to thank my fellow small business owners who are right behind me. Many you see down there behind me: bakery owners, grocery store owners, business people from magazines, people from sales? The Nebraska Hispanic Chamber of Commerce represents the Hispanic micro and small businesses and the businesses trying to reach the growing Latino market. We are primarily dealing with Latino small business owners who keep us up-to-date with all the daily issues affecting the development of their businesses. The number of Latino new businesses or businesses targeting the Latino market has increased tremendously. Giving you an example, south Omaha business district went from 95 percent commercial real estate vacancies to 95 percent occupancy in about only six years. Latino small businesses are family businesses which feed a whole family, and normally face challenges such as language barriers, finding time to understand a new system, lack of access to business financing, business education, and recently, the toughest market conditions due to the economic crisis affecting all of us. On top of this, if LB34 is approved, we will have to find new employees who will do our work so we find a time to learn how to use a computer. We also are going to have to purchase a computer and add an efficient Internet service, which means another bill to our deeply hurt budget. We want to keep growing in a steady and formal way, and at this time the E-Verify program will hurt us perhaps in a way we will never recover, raising unemployment rates, decreasing tax collections, and increasing informality and delinquency. We are eternally grateful to the Nebraska community which hosts us and we want to give back as much as we can to the land which gave us the opportunity to raise and feed our families. We are hardworking people who want to get immersed in the Nebraska community as the Polish, Bohemians, Germans, Irish, and so many others who were blessed with great opportunities before we came. We are aware we are getting a lot from this great state of Nebraska, but please be aware that we are bringing a lot too. Thank you for your time and patience, and please feel free to contact us if you need firsthand information or feedback from the Latino business owners in Nebraska. [LB34 LB403]

SENATOR LATHROP: Thank you, Mr. Castro. Are there any questions? We appreciate it. [LB34 LB403]

RICARDO CASTRO: I'm also going to...give me the opportunity. I don't know if I can leave these cards that many business people signed. [LB34 LB403]

SENATOR LATHROP: Sure. You can give them to the page. [LB34 LB403]

RICARDO CASTRO: We've got 2,000 here. [LB34 LB403]

SENATOR LATHROP: Thank you. We appreciate that. Next will be Ms. Londono, and

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after that Alan Potash. [LB34 LB403]

MARTA SONIA LONDONO MEJIA: Good afternoon, Senators. My name is Marta Sonia M-a-r-t-a S-o-n-i-a, and my last name, Londono Mejia, but I think it's not necessary, no? Only Marta. [LB34 LB403]

SENATOR LATHROP: Why don't you spell the...you're going to have to spell the last name for the record. Yes. [LB34 LB403]

MARTA SONIA LONDONO MEJIA: Last name is L-o-n-d-o-n-o M-e-j-i-a. [LB34 LB403]

SENATOR LATHROP: Very good. Thank you. [LB34 LB403]

MARTA SONIA LONDONO MEJIA: (Exhibit 11) You are welcome. Important facts to consider in my testimony are that 86 percent--145,522--of all businesses in Nebraska are micro businesses. And one out of every six Nebraska employees work for a micro business, according to the Department of Commerce and U.S. Census Bureau 2006. Nebraska micro businesses generate income, contribute to the tax base, purchase and hire locally, help to stabilize the economy, build assets, and create jobs. Right now, we have around 3,000 Latino businesses in the state of Nebraska. The problem that we will expose in my letter, are not only for Latino businesses. It will be for small businesses in the state. We have the statistics for Latino businesses because we are helping Latino business to start and grow. This is our work in the organization where I am the executive director of the Midlands Latino Community Development Corporation. But what happened right now is that our people have a lot of the skills but the level of education is not very high. We are trying to do the (inaudible). You can see in my essay that is not easy and I have a lot of illiteracy in my county, no? But we are clearly developing. We are paying taxes. And the client that we have in our office, around 80 percent of our clients don't have computers in their business. They don't know how on the computer. We need to call them to invite them to our meetings, for example. My question is, how is it possible these people will be connected with E-Verify if they don't know about that? As Ricardo mentioned, they have families that are working very hard. They start early in the morning until probably 10 p.m., all the family working together. They don't have time to study, no? We invited them to study but they don't have time. How this situation will affect these businesses? We want to contribute more to economic development of the state. The situation right now is very difficult. Right now, they are managing the crisis and this is all an additional problem that they need to assume. For these reasons we are opposed completely to these laws. [LB34 LB403]

SENATOR LATHROP: Okay. Thank you for your testimony.

MARTA SONIA LONDONO MEJIA: Okay. [LB34 LB403]

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SENATOR LATHROP: And I see no questions. Thank you. [LB34 LB403]

MARTA SONIA LONDONO MEJIA: Okay. [LB34 LB403]

SENATOR LATHROP: The next will be Alan Potash, and after that Robert Dorton from Lutheran Family Services. You're on deck. [LB34 LB403]

ALAN POTASH: (Exhibit 12) Good afternoon and thank you for allowing me to be here today. I'm Alan Potash, A-l-a-n P-o-t-a-s-h, Potash. I'm with the Anti-Defamation League. We are a civil rights and human relations organization that combats hate, bigotry, discrimination, anti-Semitism around the country. I'm the original director here in Omaha and I also work with Iowa, Nebraska, and Kansas. I have a copy of John F. Kennedy's essay, A Nation of Immigrants, for you as a gift. It's under the allowed amount of money that you're allowed to receive as gifts. Unless you go golfing, I think you're okay. He wrote that in 1958 as a reminder to us as Americans that we are a nation of immigrants and a proud nation of immigrants. In December, I was here when Senator Ashford presented his report on the state of immigration in Nebraska. And one of the things that stood out for me was his acknowledgement that there's significant discrimination and racial profiling that exists in our state, and that challenges me. It should challenge all of us. In the work that I do, I've been contacted by people across our state who have been subjected to discrimination, whether it's in the workplace or in the community, based on their race and religion and ethnicity. By implementing E-Verify, it's going to increase, in my opinion, discrimination across the state. In the workplace, even before the employer gets an opportunity to check the individual out through E-Verify, he's going to set up or she will have his radar set up to prevent the person from even applying for the job, in my opinion, based on the essence of the discrimination. The language that we've heard today from people and the language that was used by those testifying in December should share with us and remind us that there is a significant level of discrimination that exists in our state, and it's above and below the surface. And by implementing E-Verify, I think it's going to create a greater sense of discrimination in our state, and I urge you not to move it forward. I agree with Senator Schimek's view that the federal government should take a more significant role, and I think that we will see a significant role played by the federal government in the near future, and I think that we should follow their lead. Thank you very much. [LB34 LB403]

SENATOR LATHROP: Thank you, Alan. Any questions? Senator Christensen. [LB34 LB403]

SENATOR CHRISTENSEN: Thank you. Down here in your testimony it says our system has its problems. The only problems are going to get worse if we address them with hateful words, actions, instead of positive solutions. What's the hateful words and...? [LB34 LB403]

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ALAN POTASH: Well, I don't know if you've been a part of some of the community hearings, as well as some of the testimony that was given here in December when the first report came out, but there are people in our state that do not know how to be respectful to other individuals, and that's what I'm making reference to in that paragraph. [LB34 LB403]

SENATOR CHRISTENSEN: Okay. I thought maybe you was going to the bill, and that's why I asked you. [LB34 LB403]

ALAN POTASH: No, no, no. Not to the bill. No. It's to the human nature of people that aren't able to be respectful of others, and I think that Nebraska has a history of being a respectful and very understanding state, and I'd like to keep it that way. [LB34 LB403]

SENATOR CHRISTENSEN: Okay. I agree with what you said. Thanks. [LB34 LB403]

ALAN POTASH: Okay. Thank you. [LB34 LB403]

SENATOR LATHROP: Thank you. We appreciate the testimony. [LB34 LB403]

ALAN POTASH: Enjoy the book, by the way. [LB34 LB403]

SENATOR LATHROP: Pardon me? [LB34 LB403]

ALAN POTASH: Enjoy the book. [LB34 LB403]

SENATOR LATHROP: Oh. I will, thank you. Robert Dorton is up, and after that Ben Salazar, so Mr. Salazar, you're on deck. Mr. Dorton. [LB34 LB403]

ROBERT DORTON: (Exhibit 13) Good afternoon. My name is Robert Dorton, R-o-b-e-r-t D-o-r-t-o-n. To the honorable members of the senate Judiciary Committee, I'm speaking this afternoon on behalf of Lutheran Immigration Services. We provide immigration legal services to immigrants, refugees, and asylees throughout the state. And we thank you for the opportunity to present our comments this afternoon. Right off the bat, I would like to acknowledge that immigration remains a divisive and controversial issue in our state, however despite one's personal views of immigration, whatever they may be--and we've heard several opinions today--we oppose the measures being considered by the Judiciary Committee this afternoon because they are not good for Nebraska and they're not good because they are not equitable or rational public policy. And just real quickly, without repeating some of the things that have already been said, regarding LB403 this proposal essentially mandates what would be an expensive and duplicative bureaucracy without any real evidence that would have a positive impact on state finances. As has been pointed out, receipt of most public benefits by undocumented people is already prohibited by federal law. Citizenship

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status is already verified for all major public benefits. There is virtually no evidence that undocumented folks are accessing any benefits to which they are not entitled. We don't have to look far for examples from other states where similar proposals have created serious negative unintended consequences. Utah recently enacted a similar bill and local government officials have been suffering there, wondering where they're going to find personnel and financial resources to carry out what is essentially an unfunded mandate. The Colorado example has been brought up. Two million dollars a year in additional administrative costs; no one identified, receiving benefits that they shouldn't be receiving. Real quickly, regarding LB34, this proposal also has the probability of costing the state in several negative ways. E-Verify is going to create a severe drag on the Nebraska economy, particularly for small business owners. I would also like to point out this could stress the Social Security Administration to the breaking point. SSA should be spending its time and resources on its core mission of administering benefits to our elderly and our disabled, not enforcing immigration law. What we respectfully ask the members of the Judiciary Committee is to carefully consider the unintended negative consequences of this legislation. We urge committee members not to repeat the mistakes made in other states. We acknowledge that you are in a difficult position and face a lot of pressure to do something regarding immigration in light of the federal government's failure to address the system. However, we respectfully urge you to have the courage to reject these divisive and ineffective measures. Thank you. [LB34 LB403]

SENATOR LATHROP: Thank you very much, Mr. Dorton, for your testimony. Any questions? Seeing none, we appreciate it. Mr. Salazar. And after that we'll take Angel Freytez with the Mexican-American Commission. Good afternoon. [LB34 LB403]

BEN SALAZAR: Good afternoon. My name is Ben Salazar, S-a-l-a-z-a-r. I had a prepared speech but unfortunately Sam Franco stole it. (Laughter) Actually Sam and I go back a long way. Sam is...I'm one of Sam's proteges, if you will. I also am from west Nebraska: Scottsbluff. And one of the things--I don't want to get into the details on these legal issues because it would take more than three minutes, honestly--but one of the observations that I have initially is that the reason that we're so pressed for time here today and limited to three minutes is because one of the first questions I raised a couple of months ago with Senator Ashford is why there had been no Omaha meeting on this listening tour, when in fact Omaha is home to the majority of the Latino immigrants in the state of Nebraska. Omaha is home to some of the most knowledgeable expert advocates for the Latino immigrant community. It is home to many of the agencies that serve the Latino immigrant community. So much of the information that you have before you I think is either biased or missing, because you didn't have and include Omaha as part of your listening tour. Another observation that I have is this. I grew up in west Nebraska. One of my grandparents was here as an illegal alien, but from that grandfather has come veterans of World War II, veterans of Korea, veterans of Vietnam. I am a veteran. My son is a veteran. When Latinos get called to service, we report. Many of the Latinos that are serving today from Nebraska are undocumented. We don't

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run from confrontation; we don't run from duty. That is one of the things we take particular pride in as Latinos, so that when you need us most of all, in times of war, you will call us. But these actions, these laws that will spew more hatred, more discrimination, will cause more of our people to shake their heads and turn and say, well, maybe not this time; maybe not this time. One of the other observations that I want to make that I'm actually pleased with and at the same time saddened by is that among the proponents that were here earlier, you will note that, as I noticed, that the majority of them were old white men, and that pleased me because that said to me that the younger generation of Nebraskans were not here to support legislation that I think is spiteful, hateful, and intimidating. I think what you saw before us, among the proponents, was a legacy of hatred that has spanned generations in Nebraska, unfortunately, sadly. And I'm particularly astonished by the observation made by Senator Ashford earlier when he expressed astonishment, his own astonishment, that after five generations of Latinos living in Nebraska, we still felt racial discrimination, ethnic discrimination. It is true that it exists. This legislative package will make it worse. Thank you for your time. [LB34 LB403]

SENATOR LATHROP: Thank you, Mr. Salazar. I don't see any questions. We're going to do Angel and then our last testifier is going to be David Brown. I know, while Angel is getting situated, many of you wanted to testify. If you have brought written testimony with you, please give it to a page. It will be considered, I assure you. But in order for us to move it along and be done at a reasonable hour, it's necessary that we end it after two more. Go ahead. [LB34 LB403]

ANGEL FREYTEZ: Good afternoon, Senator Lathrop and members of the Judiciary Committee. For the record, my name is Angel Freytez; it's spelled F-r-e-y-t-e-z. And I'm currently the acting director of the Mexican-American Commission. I encourage you today to not advance LB34 and LB403 out of the committee for two reasons: uncertainty and cost. As stated in a previous testimony, the future of the federal E-Verify program is uncertain. First, federal funding for the program is due to expire on March 6, 2009. Second, the implementation of the E-Verify requirement for the federal contractor has been postponed until May 21. This is the second postponement, by the way. Third, a similar requirement for federal contractors to use E-Verify was stripped from the final stimulus bill that was just signed yesterday by President Obama. At the moment there is no funding beyond next month for a program that has been postponed twice for policy review, and that Congress just voted to not expand. These uncertainties should give you pause. Another thing to consider is the expenses associated with E-Verify. The fiscal note to LB34 estimates a fiscal impact of about \$587,000 through 2011, while the fiscal note for LB403 estimates a fiscal impact of \$4.4 million through 2011. I think Senator Karpisek made some amendments or is planning on making some amendments regarding...I think...or they're planning on resubmitting a new fiscal note regarding the University of Nebraska and their fiscal note. We are still awaiting the fiscal note from DAS, the Department of Administrative Services, which will provide...should

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provide a base, if this law were to pass, should provide training associated with passing of this law. Economically speaking, Nebraska businesses will also suffer due to the consequences of a passing of such a law. In Arizona, we have seen the same results with the passing of a similar law. On a federal law, the Congressional Budget Office has estimated that it will cost more than \$500,000 to fund E-Verify for the next five years. Given the uncertainties and the country's economic condition, it is questionable whether funding will be granted. I urge you to not advance these bills from committee, given the cost and uncertainties. I encourage you to consider an alternative course of action. Let's all work together and press our Congress and the new administration to pursue comprehensive immigration reform. Thank you for your time, Senators, and I'll be glad to answer any questions. [LB34 LB403]

SENATOR LATHROP: Thank you, Angel. Any questions? I don't see any. Our last testifier will be Mr. Brown. I again apologize that we're not able to have everyone provided an opportunity. If you have written information or documents you'd like us to consider, share them with the page and they will be provided to committee members. Mr. David Brown, welcome. [LB34 LB403]

DAVID BROWN: (Exhibit 14) Thank you, Mr. Chairman and Mr. Vice Chairman, for giving me this opportunity to testify. I am myself an immigrant, originally from Canada. I became a U.S. citizen in October of last year. I'm also an immigration attorney by practice, and I've got ten years of immigration experience, advising corporate clients and individual clients on how to maintain status here in the U.S. So I come to you, not at the behest of any individual corporate client or individual, but as a private citizen and someone who's concerned about the tack that's taken with LB34, specifically. I've got a lot of background here and I wrote a number of things in my testimony. I think I'm going to stray a little bit from the point and answer a few questions that came up earlier, with a few responses of my own. I know that there was a concern expressed earlier about sort of when are we going to move forward with something that is going to fix this problem, and I think that was expressed by Senator Ashford earlier on. And I guess my big concern with E-Verify is that in 1996 the law was passed that created an allowance that we could create E-Verify, and it wasn't until after the attacks of September 11 that the feds really got serious about this. And since about 2002, they've been trying to work on this. And as an employer myself, I decided to sign up for E-Verify so I can counsel my clients a little bit better. I don't employ a lot of folks myself, so I use E-Verify on a quarterly or twice annual basis. And to be honest with you, as an immigration attorney who knows the law backwards and forwards, using E-Verify is not that easy. It's not that easy to use and it's something that you forget to use if you haven't used it for awhile. I think another thing that was raised was the concern about individuals checking status before hire. I did pass out one copy of an IPC report, that just came out yesterday, where they indicate that the Westat study--and this was a study that was commissioned by the Department of Homeland Security in 2007. In that particular study, they indicated that 47 percent of enrolled employers at that time used E-Verify before hiring an

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individual, to determine whether they should hire that individual, and that is an immediate concern, especially obviously to the Latino community and anyone who may be legal but may not look legal. I've had situations where I've been advising employers who have been raided by ICE, and they've been raised by ICE because someone on their payroll gave them false documents. There was a bench warrant out for arrest for an individual on a rape charge. That individual gave false documents. On the payroll they had a different name than the name they provided. The employer had no idea this person was undocumented, and they did everything they were supposed to do; and we showed that to ICE. Under the conditions of this bill, that person is an undocumented worker, and it requires a county attorney to then charge that company and go into court so that that employer can then prove that they didn't knowingly employ that individual. I think that's problematic. There's no discretion in that. I think the other problem, as well, is just the idea that an individual employer may have this situation come up despite their best attempts at using all the systems that are in place there. And I think that that is, you know, a situation that we just cannot...E-Verify does not fix, unfortunately. One of the questions you had before had to do with when will this system actually work. And I think, quite honestly, the system is only going to work when you add photo IDs from all the states into it. All they've added at this point is they've added photo IDs for employment authorization cards and for green cards that have been issued within a certain period of time. Until you actually have photographic evidence that an employer can look at to determine someone's eligibility, and if that person right there is the same person on their screen, I don't know how E-Verify gets around good fraudulent documents, and so I don't see it solving the problem. [LB34 LB403]

SENATOR LATHROP: Okay. Very good. Senator Ashford. [LB34 LB403]

SENATOR ASHFORD: Just a very brief question. If that were to happen and we had the photo ID system in place, would you object to E-Verify at that point? Would that be discriminatory at that point? [LB34 LB403]

DAVID BROWN: You know, I don't know about the privacy concerns, and... [LB34 LB403]

SENATOR ASHFORD: Of just is it discriminatory? I mean, in your view. [LB34 LB403]

DAVID BROWN: I don't view it as discriminatory as long as there's some mechanism in place to go after employers who use it as a screening tool. That would be my biggest concern. [LB34 LB403]

SENATOR ASHFORD: Okay. But at some point, I guess the question I keep asking is at some point, if everybody does it and every American, every person goes through an E-Verify system and it's a good system and it gets to the point where all sort of generally agree it's a good system, at what point is it not discriminatory if everybody goes through

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an E-Verify system? [LB34 LB403]

DAVID BROWN: I think from a procedural standpoint it's not discriminatory. But it could have discriminatory consequences based on... [LB34 LB403]

SENATOR ASHFORD: And also...I think you make good points and I'm not arguing, but at some point it also helps Latinos who are here legally with documentation. They come, they do E-Verify; yes...and if they don't hire you because you're Latino, there are other laws and causes of action that one can bring to defend your rights. I mean, at some point it becomes a defense...it becomes a protection, doesn't it, to protect people against discrimination the other way. [LB34 LB403]

DAVID BROWN: It should be at some point. I guess my concern is that until there's enough resources put into it, it's an ineffective tool. [LB34 LB403]

SENATOR ASHFORD: I get your point and if I give you that point at some point it becomes effective--Obama talks about making it an effective tool, he ran on that--at some point it becomes effective, when is it a help and not a hindrance, I guess is the... [LB34 LB403]

DAVID BROWN: And I'll tell you the last four Senate House bills on immigration reform have all included E-Verify in some way,... [LB34 LB403]

SENATOR ASHFORD: Right. [LB34 LB403]

DAVID BROWN: ...so it's going to be there. I think it's going to happen. [LB34 LB403]

SENATOR ASHFORD: And I'm not trying to catch you with the question. I just...I'm wondering. When is this...okay, when do the Latino people in this room who are fabulous people, who have contributed to society, benefit from being able to have an employer say you're fine, here's your job? I don't know. [LB34 LB403]

SENATOR LATHROP: Senator Council. [LB34 LB403]

SENATOR COUNCIL: Yes, Mr. Brown. Thank you for testifying, but I just...you made reference to a document that I don't think was distributed. [LB34 LB403]

DAVID BROWN: I'm sorry. I only had one copy of the IPC, so I think a copy needs to be made before you can see it. But on page 2 they mention the 47 percent early nonconfirmation rate. [LB34 LB403]

SENATOR COUNCIL: Thank you. [LB34 LB403]

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SENATOR LATHROP: Any other questions? I see none. [LB34 LB403]

DAVID BROWN: Thank you. [LB34 LB403]

SENATOR LATHROP: Senator Ashford, do you wish to close? [LB34 LB403]

SENATOR ASHFORD: Yes, I'm going to close just a little briefly and I'll make a few comments. [LB34 LB403]

SENATOR MCGILL: Do we have any neutral? [LB34 LB403]

SENATOR LATHROP: Oh, I'm sorry. Is there anybody here in a neutral capacity? Neutral capacity. Forgive me. I was instructed to have this hearing over by five after. [LB34 LB403]

SENATOR CHRISTENSEN: You're close. [LB34 LB403]

LYNN SAMSEL: (Exhibit 15) Good afternoon, Senators. My name is Lynn Samsel; that's L-y-n-n S-a-m-s-e-l. I'm here as a private citizen to address some discrepancies I see in LB34, particular Section 12. I think Section 12 of LB34 goes against federal law concerning E-Verify. This belief is based on a reading of the memorandum of understanding or the MOU between the Department of Homeland Security and employers. I refer you to Article II, Section C and D of that MOU: E-Verify.com. They have copies. Employers are to use E-Verify for new employees only except in the case of companies with federal contracts over \$100,000 or subcontracts over \$3,000. These federal contractors must also verify any existing employees who will work on a federal contract. There are no exceptions in the MOU for state contracts. They are not covered. The MOU specifically forbids employers from using E-Verify on any employees who were hired prior to the date of a signed MOU. This holds whether there's a federal contract involved or not. If Vanguard Plumbing, say, hires Henry Cooper in 1999, then the company signs an MOU with DHS in 2003, Henry and any other employees hired before 2003 would not be covered under E-Verify, and cannot be verified through E-Verify. So any employer, like Vanguard, who had employees prior to signing an MOU, would be excluded from bidding on Nebraska state contracts under this bill, the way it reads in Section 12, because they could not both fulfill your requirements to report on all employees and comply with the terms of their agreement with DHS. So the bidding process would be restricted to brand-new companies only, as it reads right now. The other important discrepancy I see is that Section 12 of LB34 takes an extraordinary step in requiring confidential employee information during the bid process before a contract is awarded. This asks employers to potentially expose confidential employee information in public record if the bids are not sealed, and they are responsible if that information gets out. The federal government says verification must take place only after hire and after contract award. These and the other inconsistencies in LB34 need to

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be clarified, in my opinion. Thank you. I'll be happy to answer any questions. [LB34 LB403]

SENATOR LATHROP: Thank you for your testimony and your thoughtful review of the bill. Any questions? I don't see any. Thank you. Is there anyone else here in a neutral capacity? Seeing none, Senator Ashford, you're free to close. [LB34 LB403]

SENATOR ASHFORD: Briefly. Thank you, Senator Lathrop and members of the committee. Just very brief. First of all, I'd like to compliment those who testified. We've come a long way since last year, and, quite frankly, I thought the discussion was quite good. And the...a couple things are clear to me. I believe, in contrast to some of the testimony on the opponent side, that an E-Verify system that is appropriately designed and put into place prevents discrimination. I think that's why President Obama, in his campaign, and Senator McCain as well, supported E-Verify. Obviously, if E-Verify doesn't work and it clearly can become discriminatory. There's no question about that, that you don't require a system that doesn't work and hope that it somehow gets rid of discrimination. My sense of it is that E-Verify is on the road to being a successful system; that it's my understanding that the Obama administration, the President is committed to E-Verify; that he is going to fund it and that it will be part of the federal immigration policy. The bill doesn't take effect as a mandatory bill until 2011, until January 2011 I believe. Stacey, am I correct? Prior to that time, it encourages employers to utilize E-Verify and to get used to it. There may be...I thought Mr. Brown made some excellent points at the end about some of the legal issues. You know, there may be other ways, and I've discussed with the Governor other ways to deal with what happens if someone doesn't use E-Verify. I mean, we can look at all the options. The only option we could find in looking at it for a year was the loss of license issue, which is in the bill now, which does give the county attorneys the responsibility to enforce the law, and it does...there's a fiscal note because of the Attorney General's involvement. We're open, I'm open to any discussion about how to rectify that situation. I also understand, as a small businessperson for 20 years in downtown Omaha and for 100 years before that, I fully agree that there are burdens on small businesses--not me 100 years but my family. But there are...I'm aware of those burdens and we can discuss that. But I can't...my conclusion, from working on this for a year, is that a well-maintained and effective system of determining eligibility to be employed in our country, in our state, is, quite frankly, an obstacle to discrimination. And if utilized effectively, it's going to stop discrimination. One last point is this: In my tour around Nebraska, and I've talked to Ben several times about we didn't have a hearing in Omaha and we had lots of hearings--we had one here--and I'm going to meet with Ben and some other people later in the month or the first part of March. But there is no question that the vast majority of Latinos in this state are clearly legally here. They have made significant contributions to the state of Nebraska for many, many generations, and they will continue to do so. Nothing in my bill and I'm sure nothing in Senator Karpisek's bill or any bill is designed to promote discrimination against Latinos or any other

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immigrant group. It is designed to do exactly the opposite. It's to encourage immigration of people who are legally...who have the legal right to be here and work, and that's the intent. But thank you, Mr. Vice Chair, for the opportunity to close. [LB34 LB403]

SENATOR LATHROP: Thank you, Senator Ashford. Senator Karpisek, you are free to close. [LB34 LB403]

SENATOR KARPISEK: Thank you, members of the committee and everyone that's been here on both sides of this issue. I think it was a very good hearing. Senator Council, I did get a little bit of education. On the secondary education would include state-funded grants, such as Regent scholarships, other scholarships that Regents provide or the university provides. If it would make the committee happy, and I listened to Senator Schimek, I would be more than happy to make sure that the in-state tuition is not included in the bill--however, that could be written up. I do not, again, want to get that involved in this issue. I know some testifiers assumed again that it was there. It is not my intention in this bill to do that. There were also many questions about how this will work, how the SAVE Program will work, what it will cost, all of those types of questions. Again, the unemployment division has been using this method for over 20 years. The federal government mandates it. We are just trying to make that SAVE Program a little bit bigger. Right now it costs 50 cents per transaction, and the cost in 2008 was \$1,182. The federal government allotted one-tenth of one employee to do that work. This is a very fast, quick, inexpensive way to check legal status. And it is, again, only state agencies. I listened to the father and some of the church members, this does not have anything to do with them. They don't have to make sure that the people are here legally or documented. Again, not the intention. The intention is that the state is luckily in an all right financial situation, but it does cost money to pay benefits when they are not...when they're really not earned. We try to do the best we can on everything else too. People who don't earn the benefits should not get them legal, otherwise. Fraud is a big part. I'd like to say that this bill is not geared toward any nationality. I said in my opening that there are many undocumented people who are here on student or work visas that just disappear into society. There are many different nationalities that blend into society and I don't think that any of them should be getting benefits unless they are legal. I agree also that the feds do need to step up. Senator Schimek in all her wisdom again is right. They do need to, but my good friend Senator Dierks has often told me the story of Bob Kerrey coming and testifying on one of his bills. And Bob Kerrey told Senator Dierks most ideas that come up in the federal government come from the states. It works its way up. On that note, we only have a maximum of eight years here and maybe it might only be four. I don't feel that I can sit and wait for the feds to do something while I'm here. If we can help push this, then push this. The long wait for citizenship is ridiculous. We've all heard the stories of people waiting 10 and 15 years. I will not say that I am for total amnesty, but the feds do have to step up and people want to be citizens of this country, then let's get the balls rolling and let them be. That's another reason I want to agree with Senator Ashford why these bills are brought. They

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are not to try to do anything harmful, but to try to help the state. On that, I think that's why I brought the bill, how it works. I appreciate your attention, and if there is any questions, I'd be happy to try to answer them. [LB34 LB403]

SENATOR LATHROP: Thanks, Senator. Senator Council, you're recognized. [LB34 LB403]

SENATOR COUNCIL: And thank you, Senator Karpisek, for securing that information for me. And I don't know whether you were present during Ms. Gould's testimony or not as to what the SAVE system actually does. It doesn't necessarily determine or advise whether or not an individual status is legal or not. It either verifies or doesn't verify. Is that your understanding? [LB34 LB403]

SENATOR KARPISEK: That is correct. And on the schools we would have...it seems to me that the university thought it was everyone. Well, it isn't everyone. It's only those who would apply for financial aid, and then of those who would indicate that they are an alien status which would much more narrow that pool. So that's the way I understand it and I've talked to the Governor's office and if there's any more that we do need to get, well, we will get it to make it completely understood. And again I'd be more than willing to work with the committee if there is any language that needs to make it more clear. [LB34 LB403]

SENATOR COUNCIL: And I want to take my expression of gratitude a little further, you did arrange for a demonstration of the SAVE system this morning. Unfortunately my schedule wouldn't allow me to be there, but I want to thank you for making that exhibition available to us. But the bill talks about benefits, and we heard from the director of labor, you know, specifically with regard to unemployment insurance claims. Now, we heard from HHS only with regard to licensure. So, you know, my question is with regard to the other benefits that are listed in the bill that are administered or handled by HHS, HHS currently uses the SAVE system. Correct? [LB34 LB403]

SENATOR KARPISEK: Correct. [LB34 LB403]

SENATOR COUNCIL: Okay. So what is it that is being accomplished under this bill that isn't currently being done with Health and Human Services? And the reason I'm asking the question because I think a lot of the emotion that surrounds this issue is how this legislation is advertised to individuals, (1) including postsecondary education benefits without a definition was going to raise the ire of a number of individuals, myself included, and I appreciate your clarifying that. But the reference to benefits and accessing benefits that individuals aren't entitled to, and the implication out there is that there's no system in place right now to address that. So what will occur differently under this legislation with regard to what have been identified as the key benefits that we want to protect from abuse by individuals who are not documented immigrants? [LB34

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LB403]

SENATOR KARPISEK: I think it's that all of the state agencies would use it, and use it more frequently, make sure that it's done. Is part of this to make sure that we're shoring everything up? I think so. To make sure that just the people that are getting it. When we...I do not have the figures on HHS, what they have found, but what the Department of Insurance or unemployment insurance, when we figured that we should have saved about \$300,000 last year to me is enough to make sure that everything is covered in the state system, that any benefits that are state tax dollars are going to the appropriate place. [LB34 LB403]

SENATOR COUNCIL: Okay. But if the system is using SAVE now and you identified \$300,000 lost under utilizing SAVE, what occurs now that prevents the loss of that \$300,000 if they're still using the same system? [LB34 LB403]

SENATOR KARPISEK: I'm sorry. I didn't follow that. Let me see if I can... [LB34 LB403]

SENATOR COUNCIL: Okay, okay. Maybe...I thought I heard, and please correct me if I'm wrong, that \$300,000 of benefits were paid out that shouldn't have been paid out, and if that's not what you were saying, then tell me what... [LB34 LB403]

SENATOR KARPISEK: No, no. There was roughly \$300,000 saved that SAVE...I don't want to use the word "caught," but flagged. So the 58 people that were flagged last year saved about \$300,000. So it's... [LB34 LB403]

SENATOR ASHFORD: That's if the law passes... [LB34 LB403]

SENATOR COUNCIL: Then I'm going to ask a question because, Senator Rogert, the fiscal note states that the Department of Health and Human Services indicates that currently the division of Medicaid and long-term care and the Division of Children and Family Services uses the SAVE Program to verify qualified alien status for Medicaid, food stamps, and Aid to Dependent Children programs. So what is occurring that requires us to implement this legislation if the agencies where benefits are most likely to be accessed already use SAVE? What agency is there that's not using SAVE that there's a reason to have this legislation? [LB34 LB403]

SENATOR KARPISEK: There is the university system, there is...any state or local benefits, grants, contracts, anyone that is licensed to...if you would be a real estate agent, an insurance agent, the welfare system, disability, housing, unemployment we already have and the food assistance is already there. Again, Senator, this is a very small...it's 50 cents a time to go through and we have flagged last year those 58 people. So that is not what we said got away with it, but what we saved by flagging those people. [LB34 LB403]

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SENATOR COUNCIL: Okay. But the 50 cents flagged it. The director of labor said it took more time after the flagging to ultimately determine that those individuals were not eligible and the cost associated with that hasn't been quantified. And the director of labor said, yup, the 50 cents transaction said this individual is not verified. And her testimony was then you take that information and do this additional verification work. What's the cost associated with that? [LB34 LB403]

SENATOR KARPISEK: What you do, Senator, is they have to take a fax, get the identification card, anything else and fax it in. That's the second step. Again, it's probably 50 cents. If it goes to the third step, it may be around \$2 or \$3. And we will work with...if anyone wants to see the SAVE Program work, again, we'd be more than happy to set it up for you again. I wish we could have done it sooner. This morning was the only time that it worked, and I apologize for that. I'm very glad that I saw it because I have some trepidation on parts of the bill also. But I think that, you know, we need to bring bills that we can work with. Is it perfect? No. But I am more than happy to work with the committee and especially you, Senator Council, if you would like to. [LB34 LB403]

SENATOR COUNCIL: And I appreciate that extension. [LB34 LB403]

SENATOR KARPISEK: And I should have had...I meant to have an amendment to clarify the secondary education ready. My fault. I should have had that ready, and I think we could have avoided some of those problems. But that...when I read the bill over the first time, that jumped out at me and I went and made sure, I made double and triple sure this morning that... [LB34 LB403]

SENATOR COUNCIL: I appreciate all of your efforts to address concerns that have been presented to you prior to the hearing on this bill, Senator Karpisek. Thank you [LB34 LB403]

SENATOR KARPISEK: Thank you. [LB34 LB403]

SENATOR LATHROP: I see no other questions. Thanks for joining us in Judiciary, Senator Karpisek. It's always a pleasure. [LB34 LB403]

SENATOR KARPISEK: Thank you, Senator Lathrop. [LB34 LB403]

SENATOR LATHROP: (See also Exhibit 18, 20-41) Yeah. [LB34 LB403]

SENATOR ASHFORD: Okay, everyone. We have a legislative resolution coming up now. Hello! We have one last matter. This is a legislative resolution. This is not a bill. This is not a bill that's proposing a law change. This is a resolution. It's a different kind

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of matter. Usually legislative resolutions are taken up at the end of the session. So it will be treated differently, obviously the committee will consider it, but it will be treated differently than a bill. So with that preamble, we are going to take about 20 minutes on each side of this matter. I spoke with Senator Fulton about that and he's fine with that, so at about 5:00 we'll have the proponents after Senator Fulton starts. We'll give 15-20 minutes, and then after that 20 minutes or so of the opponents. So Senator Fulton has introduced LR9. Tony. []

SENATOR FULTON: Thank you, Mr. Chairman, members of the Judiciary Committee. For the record, my name is Tony Fulton, T-o-n-y F-u-l-t-o-n, and I bring to you LR9. I preface my remarks on LR9 by stating that I bring this measure in the form of a resolution rather than a bill in order to allow local law enforcement to act of their own volition rather than by mandate. It is not my intent to alter the particular duties of any law enforcement agency. LR9 proposes that the Legislature encourage state and local law enforcement agencies to enter into respective memoranda of agreement with the secretary of the U.S. Department of Homeland Security in order to allow state and local law enforcement officers in Nebraska to cooperate fully with federal immigration enforcement functions. The authority to enter into such agreements is derived from Section 287(g) under the Immigration and Nationality Act created by the Illegal Immigration Reform and Immigrant Responsibility Act signed by President Clinton in 1996. Section 287(g) agreements require four to five weeks of officer training at the direction of ICE, the cost of which is incurred by ICE. Under these agreements, officers in participating agencies receive cost designation by ICE to enforce immigration laws to the degree desired by the state or local agency. For example, the state of Florida has limited its agreement to officers with at least three years of experience that are also part of a security or counterterrorism operation that is supervised by ICE officers. To date, approximately 50 state and local law enforcement agencies, including some of the nation's largest, have entered into 287(g) agreements, training hundreds of officers. Should local law enforcement be involved with federal immigration enforcement? To some degree, yes. Local taxpayers are burdened when paying for the incarceration and rehabilitation of criminals who happen also to be illegally in our country. I believe it a reasonable expectation of Nebraskans that such criminals be deported back to their rightful nations, not housed in our already overcrowded prisons. Concluding, this resolution seeks to encourage state and local agencies to enter into agreements with the federal government as authorized by federal law. It is evident that the issues we face as a state with regard to illegal immigration are largely a matter of a lack of resources. The 287(g) program allows for state and local agencies to receive full federal authority to enforce immigration law to the decree specified under each respective agreement, while shifting liability to the federal government. As evidenced, such agreements are an effective tool in enforcing our nation's immigration laws to the benefit of our state and political subdivisions. I respectfully request the committee's advancement. If there are any questions, I will try to answer them. [LR9]

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SENATOR ASHFORD: Any questions of Tony? Thank you, Tony. Again, we have the rest of the session to deal with this resolution, so we always can take additional information if it doesn't come in today on this matter. So with that, any proponents? Sorry, Tony. Any opponents? How many opponents do we have? Come on up. I'm sorry. We're just... [LR9]

LUIS LUCAR: (Exhibit 16) I've got some copies here. [LR9]

SENATOR ASHFORD: Good afternoon. [LR9]

LUIS LUCAR: Good afternoon. My name is Luis Lucar, L-u-i-s L-u-c-a-r, come from Schuyler, Nebraska. I live in Nebraska for about 15 years. [LR9]

SENATOR ASHFORD: Which is, by the way, we went to Schuyler on our tour around. What a great place, up at the monastery we were. Yeah. [LR9]

LUIS LUCAR: And I missed that. Yes, yes, yes. And Schuyler has been changing a lot in a very positive way. We've been working with many in the neighborhood community to get our community stronger. And put... [LR9]

SENATOR ASHFORD: Well, it's obvious, yeah. [LR9]

LUIS LUCAR: ...and do many positive things. I would like to share the story about and involving a young immigrant, Guatemalan single mother with three children, and employed at that time at a meat packing plant in a Nebraska town. This happened approximately three years ago, and she shared this horrifying experience with me about a year later when this happened. And weeks later, she moved out of town and lost contact with her so I do not know where she move at. I'm going to call this woman Carmen. As every afternoon, Carmen was at work performing her regular duties at the meat packing plant, until the assembly machine line where she was assigned to work had some mechanical problems. In the meantime, the machine was repaired. Carmen was asked to bring some more boxes and materials needed for the assembly line. She walked to the storage area for this purpose. At that time, approximately at 9:00 p.m., Carmen realized that this area was unusually darker now than other days and she couldn't see anybody else around. This was strange for her but she got to get the supplies as soon as possible for the line to start working. As soon as Carmen walk into a darker spot in this storage area, suddenly a man approached her from the back in a not-very-respectful way. When she tried to walk away from this man, the stranger grabbed her on the neck and pushed Carmen to a darker area and tried to rape her. She screamed and yelled, but nobody heard. Seconds later, a distant sound of a coming forklift got this man's attention and that helped Carmen to run away from him. Later, she reported the incident to her immediate supervisor, but he did not believe her. I could see on Carmen's face--frustration, tears, and sorrow. When I asked her if she

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reported this to the law enforcement, she responded, no she did not. And the reason that she did not because she was afraid that because of her immigrant status she could probably be facing even deportation against her and be away from her seven, ten, and nine-years-old children who were U.S. citizens. Carmen said that this man told her that no one would believe her if she would report the incident. She also heard from other immigrants that many times the local law enforcement work in conjunction with ICE officers that may turn them in because of their legal status regardless she was a victim or not. Carmen's story show us that we all deserve to live not only in a safe community, but to feel free, safe, and not afraid of our law enforcement. If this kind of incident is already happening, imagine if any other woman or child being a victim of domestic abuse, sexual abuse, or robbery and not reporting to the police because of the fear of being deported to the home country. This incident marked Carmen's life forever. We cannot let this happen to any more women or Carmens in our country, and not any in our state. Her story also show the potential risk we face when some members of the community fear the police. Word spreads quickly that police are serving as immigration agents. The police lose the ability to communicate with many of the members of the community--documented or undocumented--and those, they lose important information that can prevent future crimes. It makes the town less safe. Thank you. [LR9]

SENATOR ASHFORD: Any questions? I just want to comment on one thing. As we toured the state, we found this over and over again, two points you make. One is the domestic violence issue, and I know we already fund efforts by Legal Aid to help women who are victims of domestic violence no matter what their immigrant status is. That's the federal law, and I think we've been forced or we funded those things and we have additional bills to fund additional, you know, lawyers to help with those issues, and it's not just lawyers. I understand that. The second piece of information I think we found also consistently, and that is there is not one police officer we talked to across the state that wanted to become an immigration officer because of their inability then to enforce other laws, and that was a consistent message. The one question I do have though and what we did hear was that law enforcement really almost desperately wants better coordination with ICE because there are occasions where someone is arrested. They may be an undocumented person, and they're in jail for committing a crime legitimately...you know, the police department would like to be able to...and this happened in Fremont quite frankly, and I know even in Schuyler talking to some of the people there, the police chief, they want better enforcement, they want to be able to call ICE, they want better coordination because if someone has violated the law and they are not legally permitted to be here that there has to be some interdiction at that point. So that's a little different from what you're talking about, but that was something that we found. [LR9]

LUIS LUCAR: Let me add a little bit more. I mean, actually I do have a close relationship with the community as a whole. I talk many times with the police chief, and actually talked to him yesterday before coming to here. [LR9]

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SENATOR ASHFORD: He's a very helpful guy. [LR9]

LUIS LUCAR: Yes. He is a very helpful person, and his words, yes, they want to make the community feel safer, they want the community to know that they are here to help, not to serve as an immigration agent. [LR9]

SENATOR ASHFORD: But if there is a law violation and it's a serious law violation, and the person may be legal here or illegal...if they are not legal and they don't have a legal right to be here, I think there was a concern that ICE does...not the domestic violence, I'm not talking about that. I'm talking about a law violation that's more serious, and this person is arrested. That seemed to be also a consistent message. [LR9]

LUIS LUCAR: I do understand completely what you mean. If somebody is a criminal, of course, that's a different story. But I do believe and my community believe because I'm talking on behalf of most of them, they talking to many people, that we want to have a law enforcement that we could trust, we could feel safe, we could call them and we could feel that we are protected. [LR9]

SENATOR ASHFORD: And that's a message we heard by law enforcement as well as by Hispanic groups that talked to us, so. Thank you very much. [LR9]

LUIS LUCAR: Thank you. [LR9]

SENATOR ASHFORD: Where are we? Opponents? Next opponent, come on up. [LR9]

DARCY TROMANHAUSER: (Exhibit 17) Hi. My name is Darcy Tromanhauser. I'm here from Nebraska Appleseed Center for Law in the Public Interest. And we're here today also to oppose LR9, and for the reasons that you were just discussing, this is a dangerous policy for public safety issues. It fundamentally hinders the ability of police to reach out to members of the community and build that trust that then brings the information that they need to solve crimes and protect public safety. For that reason, police departments and police chiefs across the country have opposed this sort of approach. There was a great report on NPR this morning about how community policing initiatives work and how you need to be able to build, you know, trust in the community in order to bring forward the tips that allow you to solve crimes. If a part of the community believes that they can't trust the police, you have just lost your ability to gather the information that will allow you to fight crime. So as one officer put it, you know, we can drive around in our cars all day, but if people won't talk with us, then how are we going to actually keep the community safe? On the funding issue, there were a couple of questions earlier today in some testimony about whether this is fully funded, and the federal monies that are available are only for training, they're not actually for staff time to be implementing this. But again, the key point I come back to is that you

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can't pay enough for how you undermine the police's ability to do their primary job of fighting crime. You can't pay enough to compensate for undermining that ability. And I think that we want to remember that if the community hears that the state passed a resolution encouraging this, what the impression that leaves is that, okay, all local police are now immigration agents. It'll take a lot of work and expense to actually reverse that impression. So by passing this very resolution, I think it sends the message and will be heard by many wrongly. It's not inaccurate, but it would be heard wrongly that now local police in Nebraska are enforcing immigration law. So even passing the resolution could have the unintended consequence of pushing some people away from feeling that they can communicate with their local police. I think those are the main points that I wanted to make. There's additional information here, and we passed out a packet on this issue. And as well, you know, the Police Officers Association of Nebraska has opposed the resolution as well. Are there any questions? [LR9]

SENATOR ASHFORD: Any questions? The only point I would make though what I did hear from every officer almost is that they do want training in immigration law in the sense that they want to know what it is, they want to be informed as to what immigration law is. And there is also a sense...and also this coordination with ICE, which is horrible... [LR9]

DARCY TROMANHAUSER: Right. [LR9]

SENATOR ASHFORD: ...needs to be...that's a federal responsibility. [LR9]

DARCY TROMANHAUSER: I don't think you need this for the coordination. [LR9]

SENATOR ASHFORD: That's a different issue, but that...I understand that. [LR9]

DARCY TROMANHAUSER: I'm sorry. [LR9]

SENATOR ASHFORD: I'm just...I understand you don't need that for that. But you may need to somehow impress upon somehow the message has to be gotten to ICE that things like Fremont and those kinds things or Grand Island or whatever, which were horrible because of the terrible lack of coordination. The last point is that what we did here across the state from all law enforcement, they do...in the area of corrections, that is an area where there does need to be more training once there is an apprehension of someone who has committed in many cases a violent crime or a drug-related crime that...how do you deal with someone who is not legally here? That is an issue. We did hear it consistently across the state, and so there are variations of that issue. [LR9]

DARCY TROMANHAUSER: Right, right. Yeah, I don't think you need this in order to deal with the coordination. [LR9]

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SENATOR ASHFORD: Well, I don't know what you need. I'm just telling you...you might, you might because somehow ICE isn't getting the message and there wasn't a law enforcement officer that we talked to that didn't say it is a big issue. Federal drug interdiction money has been cut off, cut down over the last couple of years of the Bush administration. They don't have the resources. The other point that was brought up, just so we get it all out here, over and over again was they wish there was some way they can identify the people they apprehend just for common everyday motor vehicle...and this was brought up in Schuyler actually where you have motor vehicle problems, I mean, you're turning left when you can't or going through a red light. And at some point law enforcement officers don't even do anything about it anymore because they can't identify the person. That is a big problem for law enforcement as it is for financial institutions and as it is, you know, for others. I mean, this is not...it's not just really rosy out there. There are lots of issues that come with having a number of undocumented people in a community. I'm not saying you need this resolution. I'm just saying that it is a bigger issue. [LR9]

DARCY TROMANHAUSER: Right. One just quick piece related to the fact that you said that they also were not excited about having to implement immigration law. If they enter into a 287(g) (sic) agreement, then they are obligated to. [LR9]

SENATOR ASHFORD: I understand 287(g). [LR9]

DARCY TROMANHAUSER: And so the coordination piece does have to happen in another way if they don't want to be obligated to be immigration agents. [LR9]

SENATOR ASHFORD: Well, you don't have to...I don't want to...we're saying the same thing. Thanks. [LR9]

DARCY TROMANHAUSER: Okay. [LR9]

SENATOR ASHFORD: Any other opponents? [LR9]

KAREN GOMEZ: Good evening. My name is Karen Gomez, K-a-r-e-n G-o-m-e-z. I come from Columbus, Nebraska. I'm a community leader. I'm here to oppose LR9 because I believe both documented and undocumented immigrants fear the racial profiling will increase and so will the chance of being targets of racial discrimination. It's going to create frictions and lack of trust between the Hispanic communities and law enforcement agencies. There have been incidents in which U.S. citizens have been arrested, put up in jail, and sometimes even deported because of lack of credibility that they are in fact U.S. citizens. Like I mentioned before, I am a community leader. I have been working hard with other community leaders to build channels of communication between community members and our police department. And I know this law is going to affect in a negative way to our communities. Instead of spending time pitting

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neighbors and against neighbor, we should be working united to create better communities with values, respect, and dignity for all. [LR9]

SENATOR ASHFORD: We didn't make it to Columbus. I'm sorry we didn't get there. [LR9]

KAREN GOMEZ: What did you say? [LR9]

SENATOR ASHFORD: We didn't get to Columbus. We got to Schuyler, but that's about as far north as we got. Yeah. [LR9]

KAREN GOMEZ: Yeah. I was over there too when you had that hearing. [LR9]

SENATOR ASHFORD: Were you there too? Okay. Any comments or questions? Thank you. [LR9]

KAREN GOMEZ: Okay. Thank you. [LR9]

SENATOR ASHFORD: How many other opponents do we have here? One more. Okay. Come on up. I'm sorry. Come on up. [LR9]

BEN JONES: Do I need to spell my name and stuff? [LR9]

SENATOR ASHFORD: You can say it first and then we'll decide whether (laugh)... [LR9]

BEN JONES: Ben. [LR9]

SENATOR ASHFORD: No, go ahead. [LR9]

BEN JONES: It's Ben Jones, the usual spelling. [LR9]

SENATOR ASHFORD: Okay. [LR9]

BEN JONES: I'll preface this by saying most of what I'm about to say may or may not be over your heads because it may or may not entirely contradict your entire view of history and jurisdiction. My father is an African-American, he's an African who was born in Alabama. He's been a pastor and bishop in Lincoln for 20 years. Slavery was illegal immigration. On my mom's side, we have documented our history back to the Mayflower, Eli Whitney's blood flows through my veins. My grandma, Carry Yokim (phonetic) some of you might know her, she ran for the state Legislature as a Democrat. I said that to say that I am descendent of illegal immigrants who have built this country. Colonialism is illegal immigration as in the 13 original colonies. Our founding fathers

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were illegal immigrants who stole this land from Indians. Indians are important on this issue of immigration. This hearing reminds me of the trial of Standing Bear here in Nebraska where rich white people debated on whether or not a band of the Ponca Tribe were people, because if they were people, the law of habeas corpus would be applied. I have a problem with rich white people deciding the fate of everyone, not because I'm African or Irish or poor, but because I'm a human being. And these decisions usually end in the collective punishment of far too many people, people who are usually not rich or white. If minimum wage was raised in Mexico we wouldn't be sitting here today. Poverty south of the border is a direct result of economic sanctions and colonialism on America's part. The same could be said for most other parts of the world. I have a problem with a state punishing people for conditions it created because it begins to look like the state isn't against crime or immigration, but against the existence of a people. If I was Mexican, I wouldn't want to come here. There are colder hearts and there is colder weather and there is a different language and different culture. If I come here to the U.S. I'd do so only to make a decent living. Another reason Indians are important is that these so-called Mexicans were here before 1492 fighting for Homeland Security. On the issue of policing, police become necessary only in that junction of human society between those who have and those who have not. We know who are the haves and the have nots in this situation. We wouldn't need border patrols if our first class lifestyle didn't rely on the exploitation of the second and/or third class. [LR9]

SENATOR ASHFORD: Ben, I'm going to ask you to sum up because your time has elapsed and... [LR9]

BEN JONES: Oh, sorry. I've just got like two more lines. I'm sorry. [LR9]

SENATOR ASHFORD: ...we've got...put them on us. (Laughter) [LR9]

BEN JONES: All right. How dare we come here, kick down the door on our way in, and then build a cement wall behind us unless we are to assume that those behind us are inferior. That's all I got. [LR9]

SENATOR ASHFORD: Thanks, Ben. Any questions of Ben? Seeing none, thanks. Tony, are you going to sum up here? Oh, neutral. Do we have neutral testifiers? Okay. Now, you've got to be...come on up, and you've got to be neutral. I know you were outside and you didn't get a chance to testify. But just, you know, try to...you're the last testifier, so. [LR9]

DENNIS MURPHY: I'll try to be as neutral as possible. [LR9]

SENATOR ASHFORD: Okay. [LR9]

DENNIS MURPHY: Okay. My name is Dennis Murphy. And the question that I find

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interesting here is that when did it become politically incorrect for law enforcement to enforce the laws of the land? The principle of coenforcement authority is one that's been settled within the law enforcement community for many years. For example, counterfeiting is a federal offense that comes under the jurisdiction of the U.S. Treasury and specifically the Secret Service. And yet there's never any apprehension on the part of local law enforcement at the state, county, or municipal level to apprehend a counterfeiter, and then turn them over to Secret Service. And as I've been told by officers within the Douglas County sheriff's department, the same concept should apply with respect to the issue of immigration. It's not that they're going out and specifically profiling people and looking for those who are illegal, but if in the process, if in the process of a normal traffic stop or arresting for some other crime, the ability exists to inquire as to their legal status. That should certainly exist and then if they are determined not to be legal, they will then be turned over in this case to Immigrations and Customs Enforcement. [LR9]

SENATOR ASHFORD: And I think that happens now, Dennis. You know, at least that's what we found that that happens. You know, it may not happen in every case because part of the problem is that they don't know who a lot of these people are in some cases, but I think that practice does occur. [LR9]

DENNIS MURPHY: Right. In most cases, the officers are apprehensive to ask the questions because they... [LR9]

SENATOR ASHFORD: Sometimes they are. [LR9]

DENNIS MURPHY: ...they need political cover, and in my discussions quite frankly with Sheriff Dunning in Omaha, it was indicated that they are looking for political cover from this body in the form of a resolution, something indicating to them that they have the authority to do it. They have the legal authority to go out and sign, in some of their estimations, an agreement with ICE at this point. [LR9]

SENATOR ASHFORD: They can do it...Dunning can do it tomorrow. [LR9]

DENNIS MURPHY: They could do it tomorrow, but they're apprehensive to do it because, again, they want the political cover. And all they're asking for is that political cover at this point. [LR9]

SENATOR ASHFORD: I understand. I just don't know if that's our job, but anyway. Thanks, Dennis. Senator Lathrop. [LR9]

SENATOR COUNCIL: Did we get a letter from Dunning? We didn't get anything from Dunning. [LR9]

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SENATOR LATHROP: He's not here at all. I mean, if he wanted political coverage, he should have come down and asked us for it. [LR9]

DENNIS MURPHY: He could. [LR9]

SENATOR LATHROP: You don't speak for the Sheriff's office, today? [LR9]

DENNIS MURPHY: Oh no. I don't speak for him. I've spoke to him on two separate occasions recently, and that was the indication that... [LR9]

SENATOR ASHFORD: Actually, I've heard him say that before. I've heard him say that before, and I get the political cover point, except that he could enter into an agreement with ICE tomorrow. And I think what you're asking be done I think is done generally by Dunning. And it seems like it was done, the idea of actually knowing what to do when you've apprehended someone who is not documented. I think there is a process that people go through. But I get your point, I get your point. [LR9]

DENNIS MURPHY: Right. It's a third rail issue, Senator. That's what it is, and that's why he's apprehensive to do it. [LR9]

SENATOR ASHFORD: Okay. All right. Thanks, Dennis, very much for your comments. [LR9]

DENNIS MURPHY: Thank you. [LR9]

SENATOR ASHFORD: That concludes the hearing, except for Senator Fulton who will be the final speaker. [LR9]

SENATOR FULTON: Thank you, Mr. Chairman. I'll go briefly. There was a question. When there are good points raised, I feel incumbent upon me as the introducer to respond to those points. Does participation in 287(g) usurp the ability of local law enforcement to perform their jobs? It's a legitimate question. I think that in some places that could be the case, in other places perhaps not. I've used this line before: as a simple principle of subsidiarity, let those closest to the problems identify whether or not to enter into these memoranda of understanding. The local law enforcement agencies are best positioned to determine whether the criminal element of our illegal immigrant population rises to that level. [LR9]

SENATOR ASHFORD: Can't they do that anyway, Tony? [LR9]

SENATOR FULTON: They can and that's the nature of this resolution. It's permissive. And so I understand that we're not putting forward mandatory language. But this does provide a tool for the Judiciary Committee. [LR9]

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SENATOR ASHFORD: But what the flip side of it is, the flip side of it is that if the local government is the closest to the people...and that's what I thought when I went around, I found that basically each city had different issues. There was some commonality, but there were different issues from place to place. And if...and Fremont clearly had a big issue, and they dealt with it in a Fremont way, so forth. Schuyler may deal with it differently. Isn't that something that ought to be done on the local level? If there is a need for training...and by the way, they don't have enough officers to send a bunch of people down to Alabama to be trained. That's another issue. But even if they did...and I think it's legitimate to say...and we certainly would not, I wouldn't think, pass a resolution saying you can't do it, but if you do do it, that's your choice. You've evaluated the local situation and you've decided that you need to have one of your officers trained. I have no objection to that if that's what they want to do. But I think what I'm hearing on the other side is if you make it a state policy, which you're basically encouraging people to do it, you're somewhat usurping that local relationship. Like Columbus and Schuyler and Fremont, whatever it is, these are local problems. And the law enforcement, healthcare, schools, all those issues religion, faith, they're all local issues that can be the same in nature, but each one is different in the way they're handled. And, you know, I would be opposed to passing something that says you can't do it, but that's where I come down. And you got to go to these towns to get that. I mean, you got to understand what these people are thinking. It's a whole different deal. That's all. I've taken your speech. Well, that wasn't your speech, but. Go ahead. [LR9]

SENATOR FULTON: Fair enough. There is...I come from a small town also, Senator. [LR9]

SENATOR ASHFORD: (Laugh) I know. [LR9]

SENATOR FULTON: I'd like to touch on why I have an interest in this. This provides another tool for the Judiciary Committee. And perhaps I don't have a vote here, but perhaps other... [LR9]

SENATOR ASHFORD: I'm not saying...I'm just saying what my concerns are, Tony. [LR9]

SENATOR FULTON: Perhaps. That being said, what I heard during my campaign is that illegal immigration is something that's on the minds of my constituents, and my suspicion is your constituents also. My vantage is not only one of policy, but it's also one that hits me personally. And I think you know that my parents or my mother is from the Philippines, that entire side of my family remains overseas. And it is a Third World country. They experience poverty like it's not understandable here. When they see that there are those who have come across our borders to enjoy the fruits of American life illegally, it is enraging to them because we cannot bring my family over here due to our

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lack of money and the amount of time with the arduous immigration laws that exist. So that being said, there is...this is why I believe this issue is something that rises to a high level of import for our citizens because there is a perceived injustice. So in the event that bills that you have before you do not find, you know, a collaboration among yourselves to put something forward that can be presented to the entire floor of the Legislature, here is a resolution that leaves the volitional choice at the local level. While it does make a statement on behalf of the state, I don't think that, we can't do anything without making some statement because that is the nature of taking action, so. [LR9]

SENATOR ASHFORD: Yeah, Senator Lathrop. [LR9]

SENATOR LATHROP: I do want to ask you this question. And that is, the people who testified in opposition brought up a point that I think is interesting. And that is if you turn the local town cop into an immigration person, then somebody who has been the subject of a violent crime may not go and report it, may not get any protection. And you can say that somebody who's here unlawfully deserves or doesn't deserve a lot of things, but not to have the laws of our society enforced as it relates to them probably isn't one of them. Here's the other thing that occurs to me too, and that is that if you are law enforcement and will take a place where there's a concentration...at least arguable, I don't even know if that's true, but there are pockets of populations of folks who are undocumented workers. And you go into that community and you and your wife walk into a restaurant, and we'll say it's on South 24th Street, and one of you is the victim of a violent crime, and you look around for witnesses and they all say, I'm not talking to anybody. I'm not talking to the cops because they're going to check me out. I'm dark skinned, they're going to check me out and I'm illegal. Now law enforcement can't enforce the laws or people won't ask them to enforce the laws after a violent crime, nor can we find the witnesses we need for the violent crimes that may not have anything to do with an undocumented worker. It might be someone who was born in this country and has every right to be here. And so here's maybe the issue that I got and it's leading to a question, and that is there's a balance. And when we talk about policy here, we're trying to balance. Does it make more sense to turn these city cops into immigration people or does it make more sense policywise to say, you guys don't have to worry about the immigration because we have other laws we want you to enforce that you can't do effectively if we turn you into immigration cops. So here's my question. This is the second year you've put the resolution in or the second time since you've been here, Senator Fulton. I'm wondering what law enforcement is telling you or if you've talked to them because I haven't seen them here, and it seems to me as a Judiciary Committee we ought to have the Tim Dunning's and the chief of police from Schuyler or someplace like that to say, you know, before you put this resolution out, let me tell you what the considerations are and on balance what we think we should be doing and what we shouldn't be doing. [LR9]

SENATOR FULTON: The question? [LR9]

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SENATOR LATHROP: The question is whether or not you've talked to law enforcement, whether you've consulted them, how come we haven't seen law enforcement on this resolution, because I understand people's frustration. I knock doors, same as you, they are frustrated with immigration. They are frustrated up to here with immigration and they want something done. And so we throw something out that looks like we're doing something, but is it good policy? [LR9]

SENATOR FULTON: Okay. Yeah. [LR9]

SENATOR LATHROP: And the law enforcement is the people we should have heard from today. [LR9]

SENATOR FULTON: Yeah, and that's...perhaps we could have prodded local law enforcement to testify. We had the same issue last year. So long as this is put forward as a resolution, I don't know that we're going to have law enforcement come in to testify specifically to this resolution. If it would help the committee make a decision, I could secure letters of support or at least letters of support for this idea. To your point that you're raising about whether it's counterproductive with regard to enforcing laws as a matter of justice, I'm glad that you say that there's a balance that has to be struck because I think that's what the...the points here are being put forward are based on a prudential judgment. There's a judgment to be employed here within the committee and the Legislature as to whether we put something like this forward. The way that we've crafted this and the reason that it...had I put forward a bill, I believe we would have had law enforcement testifying both for and against. Coming forward with a resolution it remains permissive, and it provides...I hate to borrow the term, but a cover for local law enforcement. We are the ones who set policy and if we come forward with encouragement toward this action, then it empowers local law enforcement to make a decision that they may not make otherwise. So I guess that's my vantage, and I understand what you're saying. Perhaps it's not appropriate in some locales because of the illegal population. [LR9]

SENATOR LATHROP: I just wonder, though, if we took your thing, and I'm sorry for extending this any further than it has been, but if we took your proposition and let's say that the chief of police of the city of Omaha says I'm turning all my officers into immigration enforcement guys. You don't think that the people in Columbus are going to stop talking to their law enforcement because now what everybody understands to be the law in Nebraska is don't talk to cops because they're going to arrest you for immigration violations, even though you may be the prime witness to a murder between...that involved two Caucasian people, two...you know, two 20 generation people that live in Platte County. [LR9]

SENATOR FULTON: I'd ask you to recognize, Senator, that the presumption is that

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those who wouldn't come forward are all illegal immigrants. If we are saying that we can't... [LR9]

SENATOR LATHROP: No. I need to use them in my example because I know there are an awful lot of witnesses that are perfectly legal. Okay. But to make my point, I'm going to suggest to you that if we have witnesses to violent crime in this country, in this state and they are illegal and we authorize this or even encourage it, it's not even that I'm on one side or the other. My problem and my point is if we're going to consider something like this we should have law enforcement here to tell us what's the balance, what's the good, what's the evil. How are we suppose to balance this? And all we're doing if we pass this is kick something out, and the best thing we've got is somebody come down and tell us what he says Tim Dunning told him. [LR9]

SENATOR FULTON: Yeah. That's fair. With that I can agree, and we will endeavor...if indeed this doesn't move forward this year, then we'll endeavor to bring law enforcement...even if they aren't testifying, at least to get letters submitted. [LR9]

SENATOR LATHROP: It'd be helpful because then we have something to work with, but... [LR9]

SENATOR ASHFORD: Because there might be something that is appropriate to be done here, and I think you've got to hear from the...Senator Council. [LR9]

SENATOR COUNCIL: I mean, that was my question, Senator Fulton. I appreciate your explanation. But when I look at this and having dealt with the Omaha Police Department for a number of years, sometimes good, sometimes not so good, but I don't understand this cover argument. Say, for example, if the Omaha Police Department decided that they would enter into a memorandum of understanding. And the community voiced its objection and said, why are you doing that? You know, we need you handling basic street crime. We don't need you enforcing immigration law, and they see it as cover that, well, the Legislature said it was okay. I just don't see that being what they're looking for in order to do...if they really wanted to do this, they have the authority to do it now without us. So my question is, what is our saying to them we encourage you to do it? I'm not getting this political cover argument because that provides them, at least in my humble opinion, no political cover. [LR9]

SENATOR FULTON: Okay. What has occurred in the state of Nebraska with regard to illegal immigration and its enforcement thus far, nothing. There has not been action on the part of the state who is the proper setter, that entity which is most proper to set policy, the state. Nothing has happened thus far. Perhaps an action by the state would provide the impetus for a local agency to be able to enter into one of these memoranda of understanding. That's what I see right now. If I'm speaking as a citizen, in my citizen Legislature identity, I've seen nothing. I've heard a lot of talk. I've seen nothing. So we

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have bills before us in the event that the committee doesn't see fit move forward any of the bills, I have at least put this forward to ask us to consider a resolution. [LR9]

SENATOR ASHFORD: Your motives aren't being impinged here. It's not your motive. That's not the issue. [LR9]

SENATOR COUNCIL: Because I'm going to tell you, in my community they're not looking to the state to enforce immigration laws, they're looking to the federal government to enforce immigration laws. I mean, if you did a survey, went door to door, they wouldn't say the state ought to be doing this. They would say...I'm going to tell you 85-plus percent of them would say the federal government needs to be doing this, and if they're not doing it, then we need to be talking to our Congressional delegation to do it. And when we're talking about these criminals...I don't know where people are, but I'm over in county court a lot. I'm in district court a lot. I see undocumented immigrants there a lot being charged with crimes and offenses with crimes, and believe me local law enforcement has no problem enforcing those crime, I mean, enforcing those laws. I haven't been in court on one occasion where I've seen a federal official come in and say, I'm going to take this person, I believe they are an undocumented immigrant. No, that person goes through that criminal justice system, and I bet you go down here to LCC, you'll find a lot of undocumented immigrants. [LR9]

SENATOR ASHFORD: Let me...and you've challenged us a bit by saying there is no state policy now and so forth and so on, and I think that's a legitimate point. I think...here's the way I look at this and I've been on this a year now. We started last February with terrible consternation and... [LR9]

SENATOR FULTON: I was there. [LR9]

SENATOR ASHFORD: I know. And (laughter) what I think what this committee decided was we're going to take a hold of this issue, we're going to try to take it away from the political stuff, and try to see what's really good. And let me tell you why I arrived at E-Verify because I think it's the way to go. Let me tell you why I did, because I went to...and I heard from all these people that were in the room today or not all the people, but some of them and I heard from others who were...support E-Verify and many who would be very skeptical of E-Verify. And I went out to those communities with Senator Schimek, and here's what I found. What I found is that there are lots of undocumented people out there. But there are an awful lot of documented people out there, and there are a lot more documented people than there are undocumented people that are Latinos, let's say, because that's, in some sense, that's what the large...that is the largest group of undocumented people we're talking about, though there are others--Sudanese and Somalis who are refugees, basically, and don't have the immigration issue. But I was trying, I think and with Stacey's help, trying to find a something that would try to solve what I saw to be the two fundamental problems. It is

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not good to have undocumented workers, that many undocumented workers in the state, and having that number get larger, and larger, and larger. That's not good for them, it's not good for the state. The second thing we saw was, there's a lot of discrimination out there. So how do you...what do you come up with that applies to everybody so that if you pass, so to say, if you go...and it's not a perfect system, if you pass, you're okay. You can work here. We want you here. We don't care if you're purple. We want you here. And if you don't pass, if you aren't documented, if you can't get there, it's not that we're discriminating against you, it's the law does not permit you to work here. That's where I'm coming down on this. Not that your idea is bad or that your motivation isn't wrong. I wish your family could come here. We ought to have federal...one last point I'll make because I spent so much time on this. (Laughter) One last point I'll make on this. One last point I'll make is my family came from Sweden in the 1870s to work on the railroad. And in those days, and Brenda's family was here a lot longer than that, but in those days, in those days they would put ads in the Stockholm newspaper and it would say, come to Omaha and work on the Union Pacific railroad. And you would come. And they invited, they wanted us to...they wanted my family to come here and work because they was the engineer. They'd been trained as engineers. There was unlimited numbers of spots for people to come to do. Now, we have no spots. We have very limited spots. We have a stranglehold of regulation that does not allow immigrants to come here. Okay. It's totally different. We don't invite your family in. We don't invite families from Mexico in. And they are suffering. It's poverty and drugs and crap, and they're not getting to come. So you've got...so what you have here, what you have here (laugh) is you have laws that are not being enforced. In the 1870s you had laws that were very, very liberal that allowed us to come here from Ireland and Sweden and Italy and Greece and to join Brenda's family who was already here, and the Native Americans who were already here to try to make a better world. That's the problem. So when we're making state policy, let's pass something that is fair, applies to everybody, reduces discrimination, and then we're getting the best of both worlds. That's where I'm at. Not that you're having a bad idea. It's just that let's do something that makes discrimination go down and not up. That's sort of where I come from. [LR9]

SENATOR FULTON: Senator, may I say it's encouraging to hear. I don't hold this resolution so personally that I'd be offended if you didn't move it forward. [LR9]

SENATOR ASHFORD: I know you don't. (Laughter) You just gave me a chance to talk more. [LR9]

SENATOR LATHROP: And I think ultimately the point is it's not... [LR9]

SENATOR ASHFORD: You just got me...I got to talk more. That was the old... [LR9]

SENATOR LATHROP: I think the point is though, at least the point I wanted to make is I don't know that it's a good one or a bad one. I would have liked to have heard from law

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enforcement to hear about the balancing or the competing interest. [LR9]

SENATOR FULTON: I'll...maybe I can talk with you afterward. But I appreciate it.
Thanks. [LR9]

SENATOR LATHROP: Okay. [LR9]

SENATOR ASHFORD: And everybody in this room are good people. Let's go out and
do good work, and thank you for coming. (See also Exhibits 20, 27, 31, 33, 36, and 39)
[LR9]

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Disposition of Bills:

LB34 - Held in committee.

LB403 - Placed on General File with amendments.

LR9 - Held in committee.

Chairperson

Committee Clerk