

ONE HUNDRED FOURTH LEGISLATURE - SECOND SESSION - 2016

COMMITTEE STATEMENT

LB890

Hearing Date: Friday February 19, 2016
Committee On: Judiciary
Introducer: Brasch
One Liner: Change provisions relating to actions involving motor vehicle collisions with domestic animals

Roll Call Vote - Final Committee Action:
Indefinitely postponed

Vote Results:

Aye: 8 Senators Chambers, Coash, Krist, Ebke, Morfeld, Pansing Brooks, Seiler, Williams

Nay:

Absent:

Present Not Voting:

Verbal Testimony:

Proponents:

SEN. LYDIA BRASCH
WENDY RIDDER
MICHELLE WEBER
DANNIS MOTT
MARVIN GENTRUP
AMBER PARKER

Representing:

INTRODUCER
SELF
NEBRASKA CATTLEMEN
SELF
CUMING COUNTY FEEDER'S ASSOCIATION
SELF

Opponents:

PETE WEGMAN
RICHARD REISER

Representing:

NEBRASKA ASSOCIATION OF TRIAL ATTORNEYS
NEBRASKA TRUCKING ASSOCIATION

Neutral:

Representing:

Summary of purpose and/or changes:

LB890 would amend section 25-21,274 to prevent the application of the doctrine of res ipsa loquitur ("the thing speaks for itself") in cases involving motor vehicle collisions with escaped livestock on public roadways.

The doctrine of res ipsa loquitur allows an inference of negligence without specific evidence if (1) The occurrence is one which would not, in the ordinary course of things, happen in the absence of negligence, (2) the instrumentality which produces the occurrence must be under the exclusive control and management of the alleged wrongdoer, and (3) there must be an absence of explanation by the alleged wrongdoer.

The Nebraska Supreme Court held in *McLaughlin Freight Lines, Inc. v. Gentrup*, 798 N.W.2d 386 (Neb. 2011) that the current version of section 25-21,274 does not prevent res ipsa loquitur theory of recovery.
