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Judiciary Committee
February 19, 2016

[LB832 LB890 LB916 LB966]

The Committee on Judiciary met at 1:30 p.m. on Friday, February 19, 2016, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB832, LB890, LB916, and LB966. Senators present: Les Seiler, Chairperson; Colby Coash, Vice Chairperson; Ernie Chambers; Laura Ebke; Bob Krist; Adam Morfeld; Patty Pansing Brooks; and Matt Williams. Senators absent: None.

SENATOR COASH: Okay, we're going to go ahead and get started. If I could have your attention, please, we are going to get started with this afternoon's hearings. My name is Colby Coash. I'm the Vice Chair of the committee. I'm going to be chairing the committee for the first part of the afternoon. We are going to hear the bills as they're listed on the agenda, starting with Senator Morfeld's LB832. For those of you that are here to testify on a bill, a couple things to keep in mind. We'll ask you to fill out a testifier sheet, which is back there by the door. If you'd like to register your support or opposition to a bill, you can do that without testifying by signing the sign-in sheet back there as well. So you can get on the record just by simply signing in. You don't have to testify. We...if you do testify, please come on up, give the sheet to the page, state your full name for the record, spell it, and you will have three minutes of testimony. We do use the light system. Green means go, yellow means you have a minute left, and at the red light we'll ask you to conclude your testimony. And then we'll see if there are questions following that. My colleagues here, I'll start on my far right, we have Senator Williams from Gothenburg, Senator Morfeld from Lincoln, Senator Krist from Omaha, Senator Chambers will be joining us later, our legal counsel Josh is here, committee clerk Oliver VanDervert (phonetically), and...

SENATOR PANSING BROOKS: VanDervoort.

SENATOR COASH: VanDervoort. (Laugh) I'm just kidding you. On my far left will be Senator Ebke, and next to her is Senator Pansing Brooks. With that, we are going to open up the hearing and start with Senator Morfeld's LB832. Senators are introducing bills in other committees, so if you don't see somebody up here don't be offended. It's just we have other bills in other committees. So, Senator Morfeld, you're recognized to open on LB832.

SENATOR MORFELD: (Exhibit 1) Senator Coash, members of Judiciary Committee, my name is Adam Morfeld. That's A-d-a-m M-o-r-f-e-l-d, representing the "Fighting" 46th Legislative District, here today to introduce LB832. LB832 would change provisions relating to household movers and allow Public Service Commission to seize a motor vehicle used for the hire (sic) of household goods without a certificate, in violation of 75-309, and to declare a public nuisance. I do have an amendment that I'd like to pass out, if the pages, they will do that, for your review. And actually, I will take a copy of that. The bill addresses consumer protection and was brought

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to me by a general manager of Two Men and a Truck, who has been looking for ways to discourage and punish rogue movers who undercut legitimate businesses who are licensed and insured. The problem right now is that there's really no penalty or punishment for doing this. After I introduced LB832, the Public Service Commissioner Tim Schram contacted me and requested the following amendment that I am passing out for discussion purposes that would remove the provision allowing PSC to seize the motor vehicle being used to transport household goods but would, instead, institute increasing fines for violation of this statute. I will say, though, that I believe that it is important that consumers are protected from these rogue movers and we must do what we can to enforce the law. I'd be happy to answer any questions though. [LB832]

SENATOR COASH: I don't see any. Thank you, Senator Morfeld. We're going to start our testimony with proponents, those here to speak for the bill. Welcome. [LB832]

JASON CHRISTENSON: (Exhibit 2) Good afternoon, Chairman Coash and members of the committee. My name is Jason Christenson, that's J-a-s-o-n C-h-r-i-s-t-e-n-s-o-n. I'm the general manager of Two Men and a Truck here in Lincoln, Nebraska. We have 23 employees at our location here, and in the summertime that number approaches 50. The Lincoln office opened in 1998, so we have 18 years of experience in the Nebraska household moving industry. Today I'm representing Two Men and a Truck, Lincoln, in support of LB832. During our 18 years in business, we have worked hard to follow local and state regulations and have worked to enhance the way people view local movers. We are involved in the community. We sit on community boards, we volunteer, and we also donate to various causes. However, every year we watch people place an ad on Craigslist or in the newspaper and complete household moves without the benefit of the necessary authority from the Nebraska Public Service Commission. Every year when these moves...when we report these rogue movers, we see that the Public Service Commission doesn't really have the strong ability to enforce the rules, you know, to enforce their own rules. We believe that they could have a much greater impact on the rogue moving industry and better protect the public from bad actors if they could impound the vehicles used by these movers or, at the very least, if they could levy greater fines than they currently can. For this reason, we ask for your support of LB832. And I'd be happy to answer any questions. [LB832]

SENATOR COASH: Thank you, Mr. Christenson. So in order for you to operate, you get a license from the PSC? [LB832]

JASON CHRISTENSON: Correct. [LB832]

SENATOR COASH: What does that license require you to have or do? [LB832]

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JASON CHRISTENSON: I don't know a detailed answer to that off the top of my head. It requires you to have a place of business. It requires you to have workmen's comp insurance. It requires you to have other insurance. It requires you basically to operate as a legitimate business. [LB832]

SENATOR COASH: Okay. Any questions for Mr. Christenson? Seeing none, thanks for your testimony. [LB832]

JASON CHRISTENSON: Thank you. [LB832]

SENATOR COASH: We'll take the next testifier in support. All right. Seeing none, is there anybody here to testify in opposition of LB832? Seeing none, neutral testimony. Welcome. [LB832]

TIM SCHRAM: (Exhibit 3) Thank you. Good afternoon, Vice Chair Coash, members of the Judiciary Committee. My name is Tim Schram. That's spelled, first name T-i-m, last name S-c-h-r-a-m, chairman of the Nebraska Public Service Commission, representing the 3rd District. I am here today to provide neutral testimony on LB832. Section 75-309.01 grants the commission the authority to seize and confiscate vehicles used to transport passengers without first receiving verification from the commission. These vehicles can, at the discretion of the court, be forfeited to the state and sold. LB832 would amend this statutory provision to add vehicles owned, used, or attempting to be used by a person to transport household goods for hire without a certificate-- the types of vehicles which would be deemed a public nuisance and, therefore, subject to potential seizure by the commission. The commission would be also tasked with securing any goods left on the vehicle that is to be seized for the identified owner or owners. The commission would carry out the bill's directive should the Legislature pass the bill as originally drafted. The commission has identified some concerns with the bill as it was originally introduced. However, the bill, as amended, would remove those concerns. The commission believes that the penalty set out in the amended bill would be a strong deterrent to illegal movers. These changes would also take the fiscal note for the commission down to zero. The commission would like to thank Senator Morfeld for working with the commission on the amendment to the bill. This concludes my testimony and I would be happy to answer any questions you may have. Thank you. [LB832]

SENATOR COASH: Thank you, Commissioner. I don't see any questions though. [LB832]

TIM SCHRAM: Okay. Appreciate it. [LB832]

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SENATOR COASH: Pretty straightforward. I think we get it. Is anyone else here to testify in a neutral capacity? Wonderful. Senator Morfeld. [LB832]

SENATOR MORFELD: That may be a record. I'll just finish by closing and saying that I'm more than happy to work with the commission or any members of the committee to alleviate any concerns. Just want to make sure that there's an ability to enforce the current law and to prevent this. Thank you. [LB832]

SENATOR COASH: Thank you, Senator Morfeld. Any final questions? Don't see any. Thank you. [LB832]

SENATOR MORFELD: Thank you. [LB832]

SENATOR COASH: That will conclude the hearing on LB832. And when Senator Brasch gets here, we will open the hearing on LB890. Welcome, Senator Brasch. [LB832]

SENATOR BRASCH: Thank you. [LB890]

SENATOR COASH: We're moving along quickly today, so. [LB890]

SENATOR BRASCH: I hear that. [LB890]

SENATOR COASH: You are recognized to open up on LB890. [LB890]

SENATOR BRASCH: Thank you. Thank you very much, Senator Coash. And thank you, members of the Judiciary Committee. My name is Lydia Brasch, L-y-d-i-a B-r-a-s-c-h, and I represent the 16th District in the Nebraska Legislature. I am here to introduce LB890. This bill contains the same language of a bill introduced by Senator Schilz in 2012 which he began as a discussion about what the legislative policy should be with respect to negligence in motor vehicle collisions with livestock. And today I reintroduce this same language and ask for a solution and to validate the importance of this topic. LB890 pertains to civil actions involving collisions of motor vehicles with livestock. The intent of LB890 is to help prevent livestock owners, the defendants in these civil actions, from being held liable in motor vehicle collisions when the plaintiff, the driver or the owner of a motor vehicle, has not presented any direct evidence indicating there was negligence by the defendant. Please allow me to give you some recent history on this particular issue. In 2001, LB781 amended Nebraska Revised Statute 25-21,274 by inserting a new subsection that reads, and I quote, "The fact of escaped livestock is not, by itself, sufficient to raise an inference of negligence against the defendant," end quote. In a

recent Nebraska Supreme Court case, McLaughlin Freight Lines v. Gentrup, a livestock producer, which was sent back to the district court after the district court granted Gentrup summary judgment because McLaughlin's sole theory of recovery was premised on the doctrine of res ipsa loquitur, which is Latin for "the thing speaks for itself." As stated in McLaughlin v. Gentrup, the doctrine of res ipsa is an exception to the general rule that negligence cannot be presumed. Res ipsa is a procedural tool that, if applicable, allows an inference of a defendant's negligence to be submitted to the fact finder where it may be accepted or rejected. There are three elements that must be met for res ipsa to apply. First, the occurrence must be one which would not, in the ordinary course of things, happen in the absence of negligence. Two, the instrumentality which produces the occurrence must be under the exclusive control and management of the alleged wrongdoer. And, three, there must be an absence of explanation by the alleged wrongdoer. The district court determined that, pursuant to Nebraska Revised Statute 25-21,274, the fact that Gentrup's escaped livestock was not by itself sufficient to raise an inference of negligence against Gentrup. However, the Supreme Court cited the following as evidence. "The holding pen...was...constructed of steel, and secured to the ground by steel posts which were cemented into the ground." Furthermore, "to secure the pen's gate," Gentrup "wraps a chain around the gate once and places the chain into a latch." Gentrup then explained that he hangs the chain on the outside of the fence to "prevent the cattle from disturbing it." If what is currently in our statutes is going to be allowed...is going to allow courts to cite the fact that the pen was a durable, well-constructed, standard-practice pen as additional evidence to the fact of escaped livestock, then responsible livestock producers are essentially put into an indefensible position in the court of law. Res ipsa, as originally contrived, applied to an inanimate object. Livestock are not inanimate objects. They are big, powerful, 1,500 pounds or more. They are beasts who can at the drop of a hat run into the fence or gate, jump over the fence or gate, rub against the gate, lick the lock, and stampede the gate or fence, and get out of their pen. They are beasts. They're not humans. And they cannot be told what to do and how to behave. It is for this reason I believe we should discuss as a policy decision whether res ipsa fails to apply to livestock and should be used in these cases, because who defines what is considered to be an ordinary course of events? As I stated earlier, livestock can unexpectedly partake in a random behavior that allows them to get free of their confines of their pen at no fault of the livestock producer. The second requirement for res ipsa to be applied is that "the instrumentality...must be under the exclusive control and management of the alleged wrongdoer." I agree that this criterion could be applied to inanimate objects but not to livestock. Again I will say livestock are difficult to control and can behave unexpectedly. In cases of motor vehicle collisions with livestock, I believe that if someone is going to be held liable for negligence because their livestock escaped their pen, then it should be incumbent upon the plaintiff to be required to present evidence of specific acts of negligence by the defendant, not for negligence to simply be assumed when the pen and gate are built to standard-practice procedures and the livestock producer has no history of livestock escaping from their pen. Following my testimony, you will hear from at least one livestock owner who went through the lawsuit just described. Also follow are attorneys who have

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a deeper knowledge about legal theories than I. Thank you so much for your attention. And I do encourage you to please pass LB890 out of committee to General File. [LB890]

SENATOR COASH: Thank you, Senator Brasch. We'll see if we have any questions from the committee. Senator Pansing Brooks. [LB890]

SENATOR PANSING BROOKS: Thank you for coming, Senator Brasch. I was just trying to...as I'm looking at that, is there a reason that you...you talk about "without evidence of specific acts of negligence"? So whoever the person is that runs into a cow on the road, they have to prove "acts." So that's more than one act of negligence? [LB890]

SENATOR BRASCH: Senator Brooks, I am aware you asked that question earlier this morning and I believe it's a legal term that is called acts in statute. And one of the attorneys that follows me can explain that to you if you would allow. [LB890]

SENATOR PANSING BROOKS: Okay, thank you. [LB890]

SENATOR BRASCH: Thank you. [LB890]

SENATOR COASH: I don't see any other questions. Thank you, Senator Brasch. [LB890]

SENATOR BRASCH: Thank you. [LB890]

SENATOR COASH: We're going to open up the testimony. Those here to speak in favor of LB890, come on up. [LB890]

WENDY RIDDER: Thank you for the opportunity to talk with you today. My name is Wendy Ridder, W-e-n-d-y R-i-d-d-e-r. I live in rural West Point, Nebraska, with my husband, Zach Ridder, our two boys. My husband works for his father's feedlot operation, along with his dad and his brother. I grew up around cattle. My dad and brothers have a cow/calf herd and raise breeding bulls in Fullerton, Nebraska. My dad is sitting here today behind me. He's not going to speak to you today because he's facing litigation that is directly impacted by the very statute we're here to talk to you about today. Both my parents are named in the lawsuit filed against them, along with the landowner they rented cornstalks and pasture from, where the cows at issue were kept. I'm a practicing lawyer in West Point and defended my parents' lawsuit for a time period. My involvement in their case has really made me aware of how serious of an issue this is. Additionally, a few years back, I took the opportunity to observe a jury trial with the same issue, that of Marvin Gentrup. That case was heard in Cuming County, where I practice. As a new

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lawyer, I wanted to observe a jury trial and the issue was interesting to me. Marvin Gentrup is here today as well. You'll hear from him a little bit later. You might be aware that he was the defendant in that case. And the court found that the statute governing motor vehicle collisions with domestic animals does not displace the three elements of res ipsa loquitur and does not prevent a res ipsa loquitur jury instruction in appropriate circumstances. What was most unjust about Marvin's situation was that, because the court found that res ipsa loquitur could be applied at the jury trial, the plaintiff put Marvin between a rock and a hard place. The facts of his case were that he'd used the same cattle pen since 1993 without any cattle escaping and that the pen worked, that it was a standard pen that worked out for him. The plaintiff was then able to argue that, because the fence had worked with no issues for such a long time period, that Marvin must have done something wrong or the cattle on that occasion wouldn't have gotten out. The very fact that he'd been a diligent and good caretaker of his animals for that long and had an operative system in place was used against him. My assistant, legal assistant at the time, was picked for Gentrup's jury trial. We discussed the case. She said it could have come out either way. People were split. Some people thought that he owned the cattle, he should be held liable. Others thought, understood that cattle are their own beings. Can't go into my dad's case today since it's still pending, however, I will tell you he is being sued under two alternate theories: that of specific acts of negligence and that of res ipsa loquitur. At the jury trial, the plaintiff is going to be able to argue he committed specific wrongs, but then will be able to tell the jury, well, if you don't believe me or if you don't think so, think that evidence is weak, well, then he must have done something wrong because he's told you his fence was intact and he's told you that his fence was standard practice. Again, this will be a situation where the adequate fencing in place will be held against the cattle owner. We need to level the playing field in this situation and in these cases. The way it is now, cattle owners are left trying to plead with juries for sympathy because they have no way to argue their case. If they argue their fence was standard practice and adequate to hold the cattle, then they end up setting up a res ipsa argument for the plaintiff. Thank you. [LB890]

SENATOR COASH: Ms. Ridder, thank you. Did you have anything else to add or did that cover your testimony? [LB890]

WENDY RIDDER: I guess, just to conclude, we do hold ourselves out as the beef state and Nebraska prides itself about the beef industry. I ask you to look at this issue with an open mind. I've seen firsthand the cost to cattle owners. A person's livelihood could be put at risk in one of these cases if left to a jury to decide when the only evidence against them is that the cattle were out and the fence was intact. And I would be happy to answer (inaudible) questions. [LB890]

SENATOR COASH: All right. Senator Chambers. [LB890]

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SENATOR CHAMBERS: How would a motorist be supposed to prove negligence on somebody else's property or their failure to do something that they ought to have done? Let's say the gate was left open and the animals got out. Then all the owner would have to do is shut the gate... [LB890]

WENDY RIDDER: Right. [LB890]

SENATOR CHAMBERS: ...and say they jumped over the fence. And that's something that could not... [LB890]

WENDY RIDDER: In a lawsuit they could... [LB890]

SENATOR CHAMBERS: How could...I'll just ask the question and see what you say. How would a motorist prove negligence on the part of the livestock owner? [LB890]

WENDY RIDDER: They can depose him and, you know,... [LB890]

SENATOR CHAMBERS: But suppose he... [LB890]

WENDY RIDDER: ...livestock owners are obligated to answer under oath just like anybody else. So if the gate was left open and the livestock owner saw the gate left open, he would have to tell them that the gate was left open. [LB890]

SENATOR CHAMBERS: Why would...in other words, you're saying that somebody taking a deposition would not lie. [LB890]

WENDY RIDDER: Well, they're not supposed to if things work the way that they're supposed to work. [LB890]

SENATOR CHAMBERS: Well, the thief is not supposed to steal, but that's why he's a thief. [LB890]

WENDY RIDDER: Right, and the thief has the right to the Fifth Amendment. But in civil cases that doesn't apply. [LB890]

SENATOR CHAMBERS: Who has the right under the law to the highway, the motorist or livestock? [LB890]

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WENDY RIDDER: I believe the motorist does. [LB890]

SENATOR CHAMBERS: And if the motorist is driving on the road and livestock wind up on the road, then the fact that the livestock are where they shouldn't be should be enough. [LB890]

WENDY RIDDER: I disagree with that. [LB890]

SENATOR CHAMBERS: I know (laughter). That's your position. But those who handle livestock have to be accountable and make sure that they keep those animals from going where they shouldn't go. [LB890]

WENDY RIDDER: And I very much agree with that statement. And that's why if a lawsuit were filed and it is alleged on specific acts of negligence, a person who keeps a shoddy fence or a person who has a hole in their fence or a person who left the gate open while they went to water their cattle, because it's worked, you know, in the past, then they should be held liable. They were negligent and they should be held liable for the damages. [LB890]

SENATOR CHAMBERS: Then how would the cattle get on the road if everything was done that should be done? How did they get on the road? [LB890]

WENDY RIDDER: There are several reasons and there's a couple cattle owners that are going to be able to tell you better. [LB890]

SENATOR CHAMBERS: Oh, then I'll wait. [LB890]

WENDY RIDDER: But having grown up around cattle, they jump the fence. [LB890]

SENATOR CHAMBERS: Then they need a higher fence, it's clear. [LB890]

WENDY RIDDER: Well,... [LB890]

SENATOR CHAMBERS: That takes care of it right there. If cattle are known to jump a fence that's four feet high, build a higher fence. [LB890]

WENDY RIDDER: Right. And again, if you have known instances of cattle jumping out of your fence, you ought to build a higher fence. But if your fence has kept them in for 20 years and they

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just happen to get spooked by lightning on this one occasion and jump the fence, then I see no negligence on the cattle owner. [LB890]

SENATOR CHAMBERS: Well, you're a lawyer, aren't you? [LB890]

WENDY RIDDER: Yes. [LB890]

SENATOR CHAMBERS: And you represent zealously your client, don't you? [LB890]

WENDY RIDDER: Yes. [LB890]

SENATOR CHAMBERS: You will not acknowledge that your client was negligent, would you? [LB890]

WENDY RIDDER: No, I would not. [LB890]

SENATOR CHAMBERS: No. Okay. That's all I wanted to ask you, and it will prepare those who come after you for the kind of questions that I have. [LB890]

WENDY RIDDER: Okay, thank you. [LB890]

SENATOR CHAMBERS: Thank you. [LB890]

SENATOR COASH: Senator Pansing Brooks. [LB890]

SENATOR PANSING BROOKS: Thank you. I don't know if you're the only lawyer that's coming forward that Senator Brasch mentioned, but I don't know if you want to answer my question about "without evidence of specific acts of negligence." [LB890]

WENDY RIDDER: I don't think it's meant...it is plural in the statute. I don't think it's meant to be plural. I think what it means is prove the conduct of the cattle owner that resulted in the cattle getting out and not that there has to be two specific actions. [LB890]

SENATOR PANSING BROOKS: It seems like, I mean the way I read it, I would say, well, they have to show that he's...that the owner would have to be negligent on more than one occasion. [LB890]

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WENDY RIDDER: And I don't think that's what's intended. I think it's more that they have to prove the specific... [LB890]

SENATOR PANSING BROOKS: Okay. So would you be satisfied if it said without evidence of a specific act of negligence? [LB890]

WENDY RIDDER: Yes. [LB890]

SENATOR PANSING BROOKS: Thank you. [LB890]

WENDY RIDDER: Any other questions? [LB890]

SENATOR COASH: I don't see any. Thanks, Ms. Ridder. [LB890]

WENDY RIDDER: Thank you. [LB890]

SENATOR COASH: We'll take the next testifier in support. [LB890]

MICHELLE WEBER: Good afternoon. My name is Michelle Weber, M-i-c-h-e-l-l-e W-e-b-e-r, and I'm here today to testify in support of LB890 on behalf of the Nebraska Cattlemen. In Nebraska we are blessed to have a very productive and successful beef industry with a \$12.1 billion annual impact on our state's economy. This very productive industry means that we have more than three times as many cows in Nebraska as we do people. On any given day in our state, there are more than 6 million cattle in residence. Nebraska farmers and ranchers work hard to maintain fences to keep their livestock enclosed, making substantial investments in fencing, conducting daily inspections, and doing repairs and maintenance. Even following best management practices, livestock can and do escape from time to time. Livestock are living beasts with minds of their own. They can scratch, rub, or lick gates open. They can jump fences. Weather, trespassers, or other factors can also affect their enclosure. The question that this bill presents is what the standard of liability should be for producers whose livestock escape. LB890 would require evidence of specific acts of negligence by the livestock owner to be presented before an inference of negligence could be made. Other states, including Kansas, Montana, New Mexico, Utah, and Tennessee, bar res ipsa loquitur claims for escaped livestock. They all require evidence from the plaintiff that the livestock owner was somehow negligent. This policy recognizes the unique factors impacting the enclosure of livestock. It protects the producers from liability in instances where they weren't truly negligent. The Nebraska Cattlemen urges the committee to advance LB890. Thank you. [LB890]

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SENATOR COASH: Thank you, Ms. Weber. Senator Chambers. [LB890]

SENATOR CHAMBERS: How is the motorist supposed to prove what was going on, on somebody's land, at the time an accident occurred? [LB890]

MICHELLE WEBER: There are various ways that they can do that, but our contention is that they should have to present evidence that the gate was open, that cattle were frequently out, the fence was poorly constructed, or some other specific act that shows true negligence on the part of the livestock owner. [LB890]

SENATOR CHAMBERS: I understand what you're saying. I don't have any more questions. [LB890]

SENATOR COASH: Thanks, Ms. Weber. [LB890]

MICHELLE WEBER: Thanks. [LB890]

SENATOR COASH: We'll take the next testifier in support. Welcome. [LB890]

DENNIS MOTTL: Thank you. My name is Dennis L. Mottl, spelled D-e-n-n-i-s L. Mottl, spelled M-o-t-t-l. I am from Fullerton, Nebraska. I wear a couple of different hats. I'm an agricultural educator. I am a farmer. I am an owner of livestock. I also build fence. To that end, I...and I should say that at one time I managed some pasture, some livestock areas where fences certainly were something important to the livelihood of the people that asked me to check those fences. I guess I would begin by saying that I understand cattle and I believe I do because at one time after an initial retirement as an ag educator I had a job where I managed pastures. But I also sold livestock handling equipment. And it became very apparent to me that animals, and especially cattle, are animals that depend on their senses. And ahead of that, however, cattle are driven by flight, then fight, then breed it, then eat it. So it's a flight, fight, breed it, or eat it scenario on the part of these cattle, as well as many other animals, that perhaps is true of humans as well. But in the course of all of that, what causes flight? Well, cattle are prey animals. That's been from the beginning of time. Other animals are predators. Cattle do not necessarily need to see a predator. Maybe we're talking about the history of these animals in terms of their presence in the environment where bears existed, coyotes, wolves, mountain lions. These animals will have an effect on cattle. They will cause them to run, to stampede, and to go through fences. Okay. I live in a rural area and we police or try to police each other in that, if fences are not good on the part of, say, a neighbor or another livestock producer, we coach, encourage this other

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person, fix your fences. We will even go there to fix their fences if so asked to do so. Okay. [LB890]

SENATOR COASH: Mr. Mottl, we'll... [LB890]

DENNIS MOTTTL: Yes. [LB890]

SENATOR COASH: The red light is on so we'll see if we have any questions from the committee. Senator Williams. [LB890]

SENATOR WILLIAMS: Thank you, Senator Coash. Mr. Mottl, would you like to finish up and give us a conclusion on your statement, please. [LB890]

DENNIS MOTTTL: Well, grass is greener on the other side of the fence--that's what cows think. To that end, they'll push through fences. Cattle are our number-one industry in this state. At one time, we had 90 percent of the people in this state living on farms, 10 percent in towns. Today that is switched. I have to believe that in the conversations that I have had with people we've lost some of the common sense about driving in rural areas. Now this is not to say that it's okay for us to act in ways that present a hazard to people who drive on our roads, not at all. [LB890]

SENATOR WILLIAMS: Thank you. [LB890]

SENATOR COASH: Thank you, Mr. Williams. I don't see any other questions. Take the next testifier in support. Welcome. [LB890]

MARVIN GENTRUP: Thank you. Thank you, Senator Coash and the rest of the members. I am Marvin Gentrup, M-a-r-v-i-n G-e-n-t-r-u-p. I had this all in my head and it's a little intimidating here. But what I understand is that with res ipsa is if we own cattle, if they get out, we're negligent. There are so many other factors. A year and a half ago, a tornado went through Pilger and a bunch of feedlots. There was thousands of cattle out. It wasn't because the owner was negligent. Twenty-five years ago I had a pen of cattle. The neighbors, I couldn't prove it, but there was...the neighbor had five, six dogs. There was tracks there. All my cattle were gone. I had put up a new five (strand) barbed-wire fence with high line poles for corner posts. That was all ripped and tore down and they were gone. Couldn't prove anything, you'd just round up the cattle, fix the fence, and go on, so. I don't believe if we are owner of cattle that we are negligent if they get out under certain circumstances. And don't get me wrong, there are people that are negligent that have a history of their cattle are out many times. They have sheriffs' reports. Yes, some people are negligent. But they can prove that, I mean, through talking to neighbors and

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their past history. So I don't think we should...each cattle producer should be negligent if their cattle get out for a fact that Mother Nature causes it, whether it be dogs, storms. My uncle had a windbreak blow down, 80 mile an hour winds. They were in the basement because there was a tornado warning. By the time they got up, the cattle were out and five of them were on the road and a straight truck hit them and they had to put all five down and there was damage to the straight truck. So was he negligent? I guess for that fact I don't believe so. Mother Nature has a lot to do with it. Thank you. [LB890]

SENATOR COASH: All right, thank you, Mr. Gentrup. I don't see any questions from the committee, appreciate your testimony. [LB890]

MARVIN GENTRUP: Okay, thank you. [LB890]

SENATOR COASH: We'll take the next testifier in support. Welcome. [LB890]

AMBER PARKER: Whenever? Okay. [LB890]

SENATOR COASH: You're welcome. [LB890]

AMBER PARKER: Hi. My name is Amber, A-m-b-e-r, Parker, P-a-r-k-e-r. And I'm here. This is...honestly, there's...in a short legislative session it doesn't cut the caseload of work. So I'm here. I just...I hear something in hearing these testifiers. And I know Senator Brasch, when she supports proposed legislation, that she is very...she thinks through what she's doing and she looks out and she understands what farmers go through. And one of the questions that I do have is let's take a different scenario. Let's look at deer. You know, there's not a whole bunch of fences along the interstate. But do you think that the state of Nebraska should be sued because there's not proper fencing for the deer? And I just want to take that concept and compare it to here, LB890, and the questions that I hear posed. I'm greatly concerned. We need to protect our farmers and be friends of our farmers. We are an agricultural state and we need to protect that. And with that said, I have family that are farmers myself and there is a passion in my heart. Now I've lifted hay bales and I've helped on a dairy farm. But you basically...by putting people in the position where let's say someone goes and opens someone's fence and it wasn't the farmer's...due to their negligence but somebody setting them up, we need to think of those things. And again I go back to the deer and I would ask the state senators, I would be interested in your comment, do you think the state of Nebraska should be sued because of the negligence and lack of fencing or the height of fencing for every Nebraska driver who hits a deer? Thank you. [LB890]

SENATOR COASH: I don't see any questions. Thank you, Ms. Parker. [LB890]

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SENATOR CHAMBERS: Excuse me. [LB890]

SENATOR COASH: Oh, excuse me. Senator Chambers has a question. [LB890]

SENATOR CHAMBERS: Do you see a difference between wild animals and domestic animals who are the property of somebody who has an obligation to keep those animals confined? So let me ask the question a different way. Do you believe that those who own cattle have an obligation to keep them confined? [LB890]

AMBER PARKER: I believe that they do keep them confined. But I would ask you the question, do you believe that the state of Nebraska has an obligation to keep the deer off the interstates and the roads? I mean look at how many people have hit deer compared to the cows in the state of Nebraska. [LB890]

SENATOR CHAMBERS: There are a lot of fences along the interstate but that's not even the issue. [LB890]

AMBER PARKER: They are but there are deers that still can get around them and so... [LB890]

SENATOR CHAMBERS: But that's not the issue. We're talking about... [LB890]

AMBER PARKER: But you're creating a double standard, Senator Chambers, by...I look at it as targeting farmers. [LB890]

SENATOR CHAMBERS: If you're not going to answer the question, I don't have anything to ask you. [LB890]

AMBER PARKER: No, I...I'll listen. [LB890]

SENATOR CHAMBERS: That's all right. I have nothing. [LB890]

AMBER PARKER: Okay, thank you. [LB890]

SENATOR COASH: Thank you, Ms. Parker. [LB890]

AMBER PARKER: I'm good? Thank you. [LB890]

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SENATOR COASH: Thank you. We'll take the next testifier in support. Seeing no other testifiers, we will go to opposition testimony. Is anybody here to testify in opposition of LB890? [LB890]

PETE WEGMAN: Good afternoon. [LB890]

SENATOR COASH: Welcome. [LB890]

PETE WEGMAN: (Exhibit 1) Vice Chair Coash and other members of the committee, my name is Pete Wegman, P-e-t-e W-e-g-m-a-n. I practice law with the Rembolt Ludtke law firm here in Lincoln. I appear today on behalf of the Nebraska Association of Trial Attorneys and speak in opposition to LB890. For the record, I will state I did buy a side of beef this week. And on Wednesday I was traveling to Burwell for a hearing and came across a cow in a ditch and I called the 911 dispatcher for Howard County and I think all of us need to do things like that. LB890 seeks to amend our Nebraska animal collision statute, 25-21,274. That statute was enacted in 2001. It was intended to codify existing case law, specifically a 1995 Nebraska Supreme Court case called Roberts v. Weber and Sons which allowed the use of the legal doctrine of res ipsa loquitur in livestock collision cases. That legal doctrine allows negligence to be presumed if three specific elements are met. With all due respect to Senator Brasch, you know, we had this discussion between the cattle industry, the insurance industry, the trial lawyers, and other interested parties about 16 years ago in 2001. And this bill attempts to change the compromise that we reached 16 years ago or 15 years ago. And in 2001, this committee advanced the bill that became the current law on an 8-0 vote. It was advanced from Select File 32-0. It was passed on General File 48-0. So my folks always told me, if something is (sic) broke, don't try to fix it. So let's look at what's happened on our roadways and our courts since we passed this law 15 years ago. Nebraska Department of Roads keeps statistics on cow and horse and motor vehicle collisions. This data goes back to 2003. In 2003, there were 429 reported motor vehicle collisions with cows. In 2013 there were only 218, in 2014 there were only 207--less than half what we were dealing with 15 years ago. And this is even though Nebraska's cattle inventory has remained steadier and slightly higher than 6.2 million animals in the state when this law was passed in 2001. Same thing with horses, in 2003, there were 41 collisions between horses and motor vehicles. Two years ago it was down to 21 and 21--again, cut in half. So apparently landowners and ranchers and producers are doing a better job of checking their animals and maintaining their fence. And the public is probably doing a better job of calling in animals on the road. And law enforcement is probably doing a better job of responding to those calls. The law is working. What's going on in the court system that requires this change? Well, there hasn't been a rash of lawsuits. There's been one recorded case in our Court of Appeals, Supreme Court. It was reverse of a summary judgment motion. I've done a pretty exhaustive search. I believe there has been four jury trials since 2001 involving these kinds of collisions. Two involved cows; two involved horses. Two of those were defense verdicts and one was a verdict for less than \$7,500.

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The other was a significant verdict involving significant injuries out of Sarpy County with a horrible, horrible fence. So we've had this discussion. It's not broke. This is a bill...this bill is an answer in search of a problem. The livestock industry, this doctrine of res ipsa loquitur is a legal doctrine. It applies potentially to every person in this state, every single industry in this state. This bill would carve out one industry from protection of that legal doctrine. That's not right. That's not fair. We've had 13 people die since 2003 in collisions between cows and horses. This is working. Don't change it. Thank you. [LB890]

SENATOR COASH: Thank you, Mr. Wegman. I don't see any questions from the committee, appreciate your time. We'll take the next testifier in opposition. [LB890]

RICHARD REISER: Good afternoon, Senator Coash and members of the committee and staff. My name is Richard Reiser, R-e-i-s-e-r, appearing here today on behalf of Nebraska Trucking Association in opposition to LB890. As has been pointed out, the Legislature acted on this in 2001 with the intent of codifying the existing law in the area. The case was interpreted in 2011 in the McLaughlin Freight Lines v. Gentrup case. That case did not hold that the animal owner is strictly liable. In fact, the statute...and I realize that sometimes it can feel like that to people, but the statute here specifically says standard of care shall not...shall be according to principles of ordinary negligence and shall not be strict or absolute liability. The court in that case said it was a summary judgment case. The defendant did not necessarily lose the case. All that happened was the court said that the lower court had misinterpreted that. The case was sent back for...to allow the finder of fact or the jury to determine if the additional evidence of negligence was sufficient to find the animal owner negligent. If this statute is amended as suggested, requiring specific acts of negligence, I think that the result would be more confusion as to what that means. In other words, do you have to specifically do something affirmatively as an act of negligence as opposed to just being benign and failing to maintain your fence for several years, let the cattle get out? You didn't...there was no specific act there. You didn't do anything. And I think questions like that are likely to occur. We think the existing law is fair to all parties, reasonably protects the interest of the animal owners and the motoring public. Thank you. [LB890]

SENATOR COASH: Thank you, Mr. Reiser. Senator Chambers has a question. [LB890]

SENATOR CHAMBERS: You touched on what the existing law is, but it also says...I'm going to read the existing law that preceded what you had read. "The fact of escaped livestock is not, by itself, sufficient to raise an inference of negligence against the defendant." The law already says that the mere fact that the animal is out there does not...and it's judged according to the standard of ordinary negligence. So that means that the person has to do what is called exercising ordinary or due care. And if that is not done, then that is the standard the court would use. And I don't see

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that the law needs any changing whatsoever. And I was getting at this notion of the specific acts. How would a motorist be able to prove that anyway? If an animal is in the road and you run into the animal and you're rendered unconscious, then how is anybody...and we don't know how long you'll be there before somebody comes. There is no way you're going to establish what the people who are changing this bill would want you to have to do. So rather than it being a matter of not holding the livestock owner to a standard of strict negligence, it would be almost carte blanche to let the livestock owner off the hook by saying you prove what we know you're not going to be able to prove. And since you can't prove these specific acts, you'll never recover, no matter what. And I was trying to work up with one of the witnesses a discussion of what is entailed in owning livestock, what is considered due care on the part of a livestock owner, but we never got a chance to get to that. But I will make it clear that I don't see a need to change the law. And I think there might have been one case or something and that might have led to the bill because, as was pointed out, there has not been a rash of court cases. But when Senator Brasch closes, I'll have a chance to ask her a question or two. But the law does say the mere fact that the animals are out would not, by itself, be enough. So it's not where you run into an animal and they say automatically, well, you recover. And that's not what the law right now says. It doesn't say what has been indicated. So I will wait till Senator Brasch comes back, but I'm glad that the prior, the previous witness testified. I'm pleased that you've testified to point out that this law is not broken. And I will, when Senator Brasch closes, in view of the testimony we've had, find out what in her opinion makes her believe the law is broken. [LB890]

RICHARD REISER: Thank you. [LB890]

SENATOR COASH: I don't see any other questions. Thanks. [LB890]

RICHARD REISER: Thank you. [LB890]

SENATOR COASH: Take the next testifier in opposition. Seeing none, is there anybody here to testify in a neutral capacity? Seeing none, Senator Brasch, if you'd like to close. [LB890]

SENATOR BRASCH: Thank you, Committee. And I do appreciate everyone that has come forward today. And when my staff, my aide carefully wrote this and spoke with the attorneys and I practiced my script, I'm not an attorney, you know. This is all legalese to me. But I will tell you--and I'm happy to answer some of your questions--because I want to go back in time. I became a farmer's wife when I was 40 years old. I grew up in the North Bottoms of Lincoln here and at that point my husband had cattle, feeder cattle. And one of the early dates the phone rings and my husband jumps like he's going to a fire. And I'm all confused. It was a neighbor: the cattle are out on the road. His heart is pounding. He's racing out the door and he said, how would you like to see \$50,000 of your money walking down the road? Cattle aren't cheap. And since

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then, over the 22-some years, I've learned to identify a heifer from a steer, the ear tag. I know how to alert a neighbor. I have several neighbors on my cell phone who I can call. We all rush to get cattle back. It's an expense. And as far as the negligence, whenever it rains...and this is where we gave up raising cattle a dozen years ago. It's a lot of work. When it rains, you walk and drive fences. You look for posts that have fallen down. You look for debris. You have to walk into the crick. We're not lazy but we're not getting any younger. And so we've given our pasture for rent for a younger couple. But there are ways you can tell a negligent farmer. And the State Patrol does go out to those accident reports. If there are many fence posts down...or is it one fence post down? Are the wires loose? The fences are also hot-wired, electrical, and I know because I accidentally backed into one. I did and I screamed and it frightened my dog. I mean I screamed so loud that...farmers do work on keeping their fences maintained and their gates. And I know how to double, triple lock and put a lock in and... [LB890]

SENATOR CHAMBERS: May I ask you a question? [LB890]

SENATOR BRASCH: No. Yes, so. [LB890]

SENATOR CHAMBERS: If there were four cases in all those years, what was the specific thing that resulted in this bill being before us? [LB890]

SENATOR BRASCH: And what we are asking was part of earlier in my...what I read here, that is, if what is currently in our statutes is going to allow courts to cite the fact that the pen was durable, well constructed, standard-practice pen as additional evidence to the fact of escaped livestock, then responsible livestock producers, they're essentially put in an indefensible position in the court of law. Right now it's saying it's your fault that this animal who...and it's not like having a dog. They don't sit. They don't roll over. They, you know,... [LB890]

SENATOR CHAMBERS: But this is not happening in a lot of instances. Was there... [LB890]

SENATOR BRASCH: But it happens. [LB890]

SENATOR CHAMBERS: Was there a specific case that resulted in this bill being brought? [LB890]

SENATOR BRASCH: There have been and there is one... [LB890]

SENATOR CHAMBERS: Four cases in all these years. [LB890]

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SENATOR BRASCH: Four, and one where a person is in here but cannot testify, an active case. It does happen. And neighbors do really work on trying to keep the cattle. We don't want the cattle on the road, absolutely. [LB890]

SENATOR CHAMBERS: But frankly, laws of this kind that would be applicable in the city or anywhere else, if it had been on the books that many years and there were only four cases, people would say you've written a good law. It covers most of the situations that are going to arise. There may be one, two, three, or four, but in all those years that's not enough to indicate that the law, something is wrong with the law and it needs to change, in my opinion. [LB890]

SENATOR BRASCH: And I respect your opinion. But my thoughts when I came here was we help. And it's actually on the Web site of what senators' duties are is we help make wrongs right. And the first attorney that came up here, she grew up on the farm, you know. I didn't grow up with it and it was all new to me, all very new. And from the position of some of you, maybe you have extensive experience. But in my work, limited work, maybe a dozen years with cattle, is they are...it's...they're not trainable. [LB890]

SENATOR CHAMBERS: But, see, all of that is a part of the... [LB890]

SENATOR BRASCH: Okay, and don't we help... [LB890]

SENATOR CHAMBERS: ...profession somebody chose to be in. There are difficulties in every profession. Railroads have to check the tracks, the crossings, the signal lights, all of that. Those are the responsibility. And if a person gets in that line of work, that is what's going to have to be done. So when it's ordinary activities, the state is not going to relieve a person of those responsibilities. [LB890]

SENATOR BRASCH: And they're not asking... [LB890]

SENATOR CHAMBERS: If lightning spooks cattle, that's part of it. But I have not heard you tell me anything that indicates this law is not working. Somebody didn't get the decision they wanted, but that's not a problem with the law. [LB890]

SENATOR BRASCH: Is the law to protect individuals? I'm not supposed to ask you questions, but I thought we wrote laws to protect people. And the people who by no means of their own, who are good stewards of their industry, have gone through everything, are being liable or held liable by law, whether it happens or not, because of a creature who may be startled by a jack rabbit and that...it was funny about the grass being greener on the other side. For some reason,

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cattle love the grass that's post the fence. And farmers, when you talk about responsible, it's a fiscal responsibility right... [LB890]

SENATOR CHAMBERS: This is my final question. [LB890]

SENATOR BRASCH: Okay. All right. [LB890]

SENATOR CHAMBERS: Are the roads built for the convenience of the abutting property owners or for those who are going to use that road? Who is the road built for? [LB890]

SENATOR BRASCH: The roads are built for the motorists but the motorists in wherever they are driving should be aware of any distractions, whether it's a bicyclist, cattle on the road, a pedestrian. Motorists need to be less distracted and more focused. I drive very, very carefully on a gravel road and I don't know if it's just because, you know, I grew up on pavement, but I believe that people who are in a rural area are aware that livestock may be present. I believe in nonrural areas, urban areas, the incidents hopefully are not where cattle maybe...you know, I don't...I can't address that. But I know that we have a situation where we are being held liable for the actions of a beast beyond our own control. [LB890]

SENATOR CHAMBERS: I don't have any more questions. Thank you. [LB890]

SENATOR BRASCH: Okay. I appreciate your questions. They're...any others? [LB890]

SENATOR COASH: Senator Pansing Brooks. [LB890]

SENATOR PANSING BROOKS: Thank you, Senator Coash. Again, I just...I can't tell much difference except that you're now requiring specific acts of negligence. I didn't really hear from the lawyers that that isn't what you want. All I know...you've referenced that I do have some experience. And my aunt and uncle in the '70s were coming up to a game here, a Husker game, from Kansas City and they had a terrible accident where they hit a cow or where a cow was on the other side and the car came over. And they both broke their backs and my cousin, who is my age, was thrown from the car--severe, severe injuries that they dealt with the rest of their lives. And so when I look at this and know that they had no idea who the farmer was or what was going on, they couldn't have proven any other additional acts were going on by that farmer. They had no idea who the farmer was until they had this entire accident that was so severe. So I guess when you say without evidence of specific acts, there is no way that a court wouldn't read that as there has to be more than one act other than the fact that the cow got out the first time. [LB890]

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SENATOR BRASCH: And we could amend that, if we need to, to be act, but...and I'm so sorry to hear about that accident and I would hope that whoever did the investigation went to see was the owner...you know, were their fences in good condition? You know, you can tell if someone does not maintain their fences. It's very easy. You can drive along a countryside. And most of the times, when you see bad fences, there aren't any livestock there. And so if any amendments, you know, I could amend it to say without evidence of negligence, but it just seems wrong to have to penalize or put a person in a position who has gone to extreme expense, extreme length to protect their assets. Cattle are assets to them. They're livestock. It's a means of making a living. And if you had a business, you would protect your...you know, you don't leave the jewelry store door unlocked at night or the grocery store door open at night. I mean you protect your goods inside and that's what the farmers are trying to do. They do that. But sometimes, by the nature of cattle, they try to get out or they are spooked. [LB890]

SENATOR PANSING BROOKS: Okay, thank you very much, Senator Brasch. [LB890]

SENATOR BRASCH: Thank you. I appreciate everyone's willingness to listen to the testimony, and I do ask for your understanding or an amendment that you believe would make this fair and right. Appreciate it, and have a good weekend. [LB890]

SENATOR COASH: (Exhibit 2) Thank you, Senator Brasch. Before we close the hearing, we'll read into the record a letter of support from the Farm Bureau. And we'll close that hearing and open up the hearing on LB916. Senator Howard is here. Go ahead, Senator Howard. [LB890]

SENATOR HOWARD: Good afternoon, Senator Coash and members of the Judiciary Committee. My name is Senator Sara Howard, S-a-r-a H-o-w-a-r-d, and I represent District 9 in midtown Omaha. Today I bring before you LB916, a bill that would create an immunity clause for individuals that enter vehicles by force to save an animal that is in danger due to heat. I have brought this bill on behalf of constituents of mine who are active in the Nebraska Animal Rescue Council. And just as a side note, District 9 is full of animal lovers. LB916 protects animals. Nebraskans value their pets as family members, yet some mistakenly believe an animal can be comfortable or safe left unattended in a vehicle, especially in warmer temperatures. Animals do not tolerate extreme temperatures. A pet's temperature is already higher than that of a human. My mother will send our dog Ranger out in the winter and he'll roll around in the snow because, she says, he's already wearing a fur coat. Animals cool themselves mostly through panting and, unlike humans, they're not able to release their heat through sweat. Protecting animals from a prolonged suffering death due to organ failure or heat stroke in a hot car is a problem that I think we can all agree to prevent. Seven other states--Maryland, Pennsylvania, Georgia, Florida, Ohio, Kentucky, and California--have introduced similar legislation to this bill this year. The language I am presenting to you today comes from the language used in Tennessee. This bill is an

important step toward achieving realistic protective measures for pets in Nebraska. Unfortunately, the average response time for even the largest and most sophisticated animal control agency, the Nebraska Humane Society, in the state is 24 minutes. Thus, a dog left in a car on an 80-degree day will most likely be dead by the time an animal control agent arrives. Because it is extremely unlikely that the owner would report the heat-related death of their animal and face charges, there is really no way to accurately determine the in-state statistics of animals deaths due to being left in vehicles in warm temperatures. LB916 provides immunity from civil and criminal liability for breaking an animal out of a vehicle when the animal is considered to be in imminent danger. I did work with the Trial Attorneys when drafting this bill to make sure that any concerns they might have with the language could be alleviated. LB916 does not allow for a citizen to just break into a car because they believe an animal is in danger. Rescuers must follow prescribed guidelines when assessing an animal in crisis in a hot car. The following conditions must exist and are outlined in statute: the motor vehicle is locked or there is no otherwise reasonable method by which to extricate the animal than by forcible entry; the person has reasonable belief that forcible entry is necessary because the animal is in imminent danger of suffering harm or death if not immediately removed, based upon the surrounding circumstances; the person has contacted either local law enforcement, an animal control agency, or emergency responders prior to the forcible entry of the vehicle; the person places a written notice securely on the windshield or driver-side door of the vehicle, of the motor vehicle, with the rescuer's name, phone number, or other contact information with an explanation of why forcible entry was made, the location of the animal, and the fact that authorities have been notified; and the person remains with the animal in a safe location and protected from the elements but reasonably close to the location of the motor vehicle until such time as law enforcement, animal control, or emergency responders arrive; and no more force than reasonably necessary was used to enter the vehicle under the circumstances. For instance, one of our colleagues this morning asked me if he could shoot out all of the windows in a car and would that be reasonable force or reasonably necessary force. And I informed him that that is probably not very reasonable in order to get one car (sic) out of a vehicle. Owners and dog sitters should already know that Nebraska law requires them to provide the care that's reasonably necessary for an animal's health. And not only can they receive a citation or have their car window broken to save a pet already by a rescuer who's not a general citizen, they could also be prosecuted for cruelty and neglect. To give you an example of what this bill is trying to prevent is the story of Mayshay (phonetic), who is a boxer. Mayshay (phonetic) died because her owner forgot her in his car outside of his house. The family of the owner contacted local rescuers to assist them in pursuing cruelty and neglect charges against him. And while the necropsy results were turned over to the city attorney and the death was confirmed with a responding officer from animal control, only a citation was issued. And a passerby could have saved Mayshay (phonetic) had this law been in place. It's very likely that other animals in Nebraska have died as a result of being left unattended in a hot vehicle, yet were not reported. This bill sends a clear message that leaving your pets in a hot car is not an accepted level of care and a rescuer will have the right to

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save your dying animal if they happen upon a vehicle with an animal trapped inside. I thank you very much for your consideration of this issue, and I'm happy to try to answer any questions you may have. [LB916]

SENATOR COASH: Senator Howard, did you say that the Trial Attorneys have looked at this bill and they're okay with it? [LB916]

SENATOR HOWARD: As far as I know. [LB916]

SENATOR COASH: You mean we're giving carte blanche immunity and I'm not going to hear from the Trial Attorneys? [LB916]

SENATOR HOWARD: As far as I know. [LB916]

SENATOR COASH: I expect more consistency from them. (Laughter) [LB916]

SENATOR HOWARD: I think because we've put several parameters in place before the immunity kicked in. You still have to call a rescuer or the police. And if they say they're going to be quite a long time, that would give you the opportunity to break the window and let the dog out. [LB916]

SENATOR COASH: Okay. Thank you. Senator Pansing Brooks. [LB916]

SENATOR PANSING BROOKS: Thank you for coming, Senator Howard. So I don't see any attempt to even, like if you see the owner go in the house or...an attempt to reach the owner or...you didn't really put that in the bill. [LB916]

SENATOR HOWARD: You know, we didn't put an attempt to reach the owner. We would have to have a presumption that the owner was nearby or that. I think this is a scenario where you would see the car, you would see the dog in the car, you would say how do I fix this situation? First, by calling rescuers or animal control. [LB916]

SENATOR PANSING BROOKS: Okay. [LB916]

SENATOR HOWARD: But that's a good question. [LB916]

SENATOR COASH: I don't see any questions. Thanks. [LB916]

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SENATOR HOWARD: Thank you. [LB916]

SENATOR COASH: Okay. We're going to go ahead and start the...open up the testimony. We'll start with the proponents of LB916, those here to speak in favor of the bill. Welcome. Welcome. [LB916]

LORI HOOK: Oh, thank you. I'm Lori Hook with Hearts United for Animals, from Omaha, Nebraska. Spellings: Lori, L-o-r-i, last name Hook, H-o-o-k. And I'm here as a proponent of LB916 because it protects animals. Nebraskans value their pets as family members, yet some mistakenly believe that an animal can be comfortable or safe left unattended in a vehicle. This bill will raise awareness of the dangers of leaving pets in a parked car and prevent needless suffering. Animals do not tolerate extreme temperatures. A pet's normal body temperature is already higher than a human's, and humidity of just 35 percent can slow or shut down an animal's ability to evaporate moisture and control his body temperature. On a 72-degree day, a car's internal temperature can heat up to 116 degrees within an hour. On an 80-degree day, a car's internal temperature can shoot up to a sweltering 99 degrees in just ten minutes. Lowering the window has been shown to have little effect on the car's temperature. Does anyone have any questions? [LB916]

SENATOR COASH: Is that all you have? [LB916]

LORI HOOK: Yes. [LB916]

SENATOR COASH: I have a question for you. Ms. Hook, is this issue that Senator Howard is trying to address here a problem, not that people leave animals in the vehicles when they shouldn't have, but is it a problem that people are getting sued because they're rescuing animals and the car owner has taken them to court? [LB916]

LORI HOOK: I really don't know the incidence of lawsuit, but what I hear about is that people don't rescue an animal where they wish they would be able to, because they're law-abiding citizens who, you know, don't wish to break the law by vandalizing someone else's property. [LB916]

SENATOR COASH: So you're aware of citizens who have not rescued an animal because they're afraid of breaking the law? [LB916]

LORI HOOK: We do, you know, we do have people write to us and call us and say, what should we do? And you know, we always say, obviously, contact law enforcement first, but... [LB916]

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SENATOR COASH: Doesn't that seem to be the right thing to do, let law... [LB916]

LORI HOOK: To contact law? Oh, it's always the right thing to do, always. It's just...and the bill does state that, that law enforcement must be contacted. Then there's a certain number of steps that you need to take. It's not going to be a bunch of crazy women going around with baseball bats breaking, you know, car windows. [LB916]

SENATOR COASH: Is this something your organization does? It drives around looking for cars locked in car...or... [LB916]

LORI HOOK: No. [LB916]

SENATOR COASH: ...or animals locked in vehicles? [LB916]

LORI HOOK: (Laugh) We don't. No. [LB916]

SENATOR COASH: Okay. [LB916]

LORI HOOK: No, we're locate...we're out in the country, in the middle of Auburn, so, you know, we don't see a lot of it. But being rural, the police response time is extremely poor even for crimes against... [LB916]

SENATOR COASH: Right. [LB916]

LORI HOOK: ...people as far as that goes, so because it's just like the county sheriff's department will... [LB916]

SENATOR COASH: Right. [LB916]

LORI HOOK: ...take three towns or that kind of thing. And in Omaha I know Animal Control said their average response time is 24 minutes. And 24 minutes is too long. I mean I've...you know, I've done my due diligence before. I've been shopping at the mall and saw an animal in a hot car and contacted security and they called it out over the loud speaker in the mall and I stayed there with the dog until the owner came out and took care of it, you know. I think that...and that's just what's prescribed in here. If the owner doesn't come out and take care of it and the police don't show up and the animal is in an extreme way... [LB916]

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SENATOR COASH: I understand what the bill is trying to do. [LB916]

LORI HOOK: Uh-huh. [LB916]

SENATOR COASH: I'm just not convinced that there's a bunch of lawsuits happening because people have done this... [LB916]

LORI HOOK: Uh-huh. So you're... [LB916]

SENATOR COASH: ...and then sued by the car owner. And I'm also, if this were law, I don't think the average Nebraskan is going to know this. I mean I don't think they're going to look it up and say, jeez, can I break this window? They're either going to do it or they're not going to do it based on their own conscience, not based on what the law says. But that's my opinion. [LB916]

LORI HOOK: Okay. [LB916]

SENATOR COASH: I don't see any other questions. Thanks for your testimony. [LB916]

LORI HOOK: All right. Thank you. [LB916]

SENATOR COASH: We'll take the next testifier in support. Welcome. [LB916]

JESSICA ELLIS: Hello. Thank you for having me. My name is Jessica Ellis, J-e-s-s-i-c-a E-l-l-i-s, and I'm the president of the Nebraska Rescue Council. I'm also the co-owner of The Green Spot in Omaha. We're a natural pet food store in Omaha. I want to thank, first, Senator Howard for her willingness to bring this legislation forward for the animals in Nebraska. Being involved with animal rescue for almost ten years now, I understand how beneficial this bill is for the animals in our state. Hot dog protection...hot car protection is increasing in popularity in our country. Protecting animals from a prolonged, suffering death due to organ failure or heat stroke in a hot car is a problem we can all agree to prevent. As Senator Howard mentioned, there's already 16 states' legislatures that have taken action to empower statewide law enforcement authority to protect animals in cars, as well as 7 other states this year introducing similar legislation. This bill is an important step toward achieving realistic protective measures for pets in Nebraska. Before entering a vehicle to save a dog, we will always advocate that the rescuer attempt to locate the owner first. If an advocate sees a pet in distress in a hot car, we tell them to take down the car's make, model, and license plate number, and then notify a manager or security guard in the nearby businesses and ask them to make an announcement to find the car's owner. If that doesn't work, we tell them to call the authorities and wait for the car to arrive. However,

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waiting too long can and has resulted in death, which is why this bill is so important. A rescuer can save a life without facing criminal charges. A law of this kind in Nebraska creates a discussion on the dangers of pets in hot cars in an opportunity to further engage the community. When signed into law, we will be distributing targeted educational brochures that offer a comprehensive list of ways to help when a rescuer encounters an animal left in a hot car. We will also connect with local businesses, shelters, law enforcement, and veterinarian clinics to post signs asking owners not to leave pets in unattended vehicles. We will continue to encourage owners to leave their pets at home unless the business allows companion animals in their store. While it may seem like a fun idea to take your pet with you while running errands on a hot, sunny summer day, unless you can take your pet inside with you, there's a real risk that the dog could die. This bill gives animals a chance to live if someone finds them in time. Please support this important step toward keeping our pets safe. And thank you, Senators on the board, for your time today. [LB916]

SENATOR COASH: Thank you, Ms. Ellis. I don't see any questions. Appreciate your testimony. We'll take the next testifier in support. Welcome. [LB916]

MISTY CHRISTO: Hi. Thanks. My name is Misty Christo, that's M-i-s-t-y C-h-r-i-s-t-o, and I am legal consultant with the Nebraska Rescue Council. And everyone who spoke before me pretty much hit on some of the most important points, but I do want to reiterate that the statistics on how often this happens, they're underreported. It's likely that other animals, that lots of animals in Nebraska have died as a result of being left unattended in a hot vehicle and not reported. Just to mention a couple cases, on May 8, 2014, in Omaha a five-year-old pit bull dog died after being left in a vehicle on a 95-degree day. The Nebraska Humane Society said the owner told them that he was shopping for just 35 minutes. When he came out, he found the dog was dead. Officials said the 23-year-old left the dog in a car that was parked in the sun with all the windows up. So the temperature inside the car reached 130 degrees and the owner was cited. And August 2, 2015, in Lincoln, a boxer died after her owner, Aaron Robba (phonetic) forgot Mayshay (phonetic) in his car outside of his own home on a 96-degree day. Robba's (phonetic) family contacted local rescuers to assist them in pursuing cruelty/neglect charges against Aaron. The necropsy results were turned over to Jeffrey Kirkpatrick office and we did confirm this death with the responding officer, Cheryl Bomberger of Lincoln Animal Control. While a citation was issued, a passerby could have saved Mayshay (phonetic) if we had had this law in place at the time. So we know that nationally 11 of these dogs have died of heat exhaustion in the summer, 9 of whom were left in patrol cars. And again, there's no agency collecting data on how many animals die in this way. So plenty of groups do warn people of the dangers of leaving pets in hot cars and offer instructions on what to do if you see an animal in distress, but pets continue to die in hot cars anyways. So this bill sends a clear message that leaving a dog in a hot car is not an accepted level of care and an educated rescuer will have the right to save your dying animal if they happen upon your vehicle. And another unintended consequence of leaving a pet in a

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vehicle is the very real danger that the pet could be stolen. Pets left unattended in parked cars are at a much higher risk of theft, especially if the windows are open. Additionally, pets can become confused or scared and try to escape or be injured. So we'll use this bill as an opportunity to educate the public not only on the dangers of leaving your dog in a hot car but also the ramifications that you could face legally. I welcome any questions. [LB916]

SENATOR COASH: Thank you, Ms. Christo. I don't see any questions. Appreciate your testimony. [LB916]

MISTY CHRISTO: Great. Thanks. [LB916]

SENATOR COASH: Take the next testifier in support. Seeing none, is there anyone here to testify in opposition to LB916? Seeing none, is there anybody here to testify in a neutral capacity? [LB916]

JOHN LINDSAY: Thank you, Senator Coash, members of the committee. I wasn't planning on testifying, but I think Senator Coash wanted some answers. Senator Howard, which we appreciate, Senator Howard reached out (inaudible). [LB916]

SENATOR COASH: You want to start with your name? [LB916]

JOHN LINDSAY: I'm sorry. John Lindsay, L-i-n-d-s-a-y, appearing as a registered lobbyist on behalf of the Nebraska Association of Trial Attorneys. Senator Coash, in response to your question, Senator Howard reached out to us prior to the session, said this is the concept, had some language. We worked with that language. Frankly, to the extent that had it been introduced as originally come, we would have offered an amendment which would have gotten it to this position. That is, it's not a carte blanche grant of immunity. The first provision says, not liable for immunity for...excuse me, not liable for damage to a motor vehicle. Section, I believe it's, 3 of the bill says nothing in this is construed to limit liability for death or injury. So it's the person is...there's no immunity for damage if somebody is injured when these acts are taking place. As far as damage to the motor vehicle, which that's where the immunity is limited to, the bill also sets out a list of things that must...the person must comply with before that not being liable for the damage to the vehicle would kick in. So it's extremely limited with quite a few things that must be met before that happens. We have no position on the underlying bill but I wanted to address the issue of the immunity from liability. [LB916]

SENATOR COASH: Thanks for clearing that up. I don't see any other questions of the committee. Oh, excuse me. Senator Krist. [LB916]

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SENATOR KRIST: Not being a lawyer, I just want to put something on the record. The litany of (a), (b), (c), (d), and then we get to a point where it says, under (e), "and," that the way it is written is implied to mean all of those conditions must exist before one would take the action that they would take. [LB916]

JOHN LINDSAY: That would be my interpretation. [LB916]

SENATOR KRIST: So do you think it would be clearer to the general public and in statute if the "and" is added in addition to each subsequent step? [LB916]

JOHN LINDSAY: Yes. I would agree with that interpretation. [LB916]

SENATOR KRIST: Thank you. [LB916]

SENATOR COASH: Thank you, Senator Krist. Thank you, Mr. Lindsay. [LB916]

JOHN LINDSAY: Thank you. [LB916]

SENATOR COASH: Is anyone else here to testify in a neutral capacity? Seeing none, Senator Howard, if you'd like to close. [LB916]

SENATOR HOWARD: Once again I would like to thank the committee for your time and attention to this bill. I appreciate that everybody in the room, in their own way, is also a pet lover as I am. One point I did like to make, Senator Coash did bring up a good point that we don't have a robust registry of lawsuits around people who have broke in car windows and have been sued for the damages in that regard. However, anecdotally, Mark Langan from the Nebraska Humane Society said that the majority of calls that he gets in the summer are from just everyday folks who see a dog in a hot car and say, hey, can I break the window and get this dog out? And they have to say, if you do, you may have to pay for that window. And so it gives them that moment of pause before they make the decision to extract that dog. And so in this instance, we are trying to address that. I appreciate Senator Krist's suggestion and we're happy to make changes to add the word "and" so that it's very clear that all of those sort of stipulations have to be met before the immunity from liability would be available to a rescuer. I'm happy to try to answer any questions you may have. [LB916]

SENATOR COASH: Senator Krist. [LB916]

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SENATOR KRIST: My only concern to the group that has come up and says that...to two groups and legal counsel has come up and said that they would use this as a learning point or a teaching moment for, I would hope you would also discuss that throwing a brick through the window is probably not good for the pet nor the vehicle;... [LB916]

SENATOR HOWARD: Yes. Yes. [LB916]

SENATOR KRIST: ...that there has to be an acceptable way to rescue the pet and I think that maybe may require a little bit of attention in terms of, you know,... [LB916]

SENATOR HOWARD: Methodology? [LB916]

SENATOR KRIST: ...methodology. Thank you. [LB916]

SENATOR HOWARD: Not shooting every window out of the vehicle? [LB916]

SENATOR KRIST: Yeah. Yeah. Yeah. [LB916]

SENATOR HOWARD: Yes, I agree. [LB916]

SENATOR KRIST: Yeah, you can't pull your weapon out and shoot all those (inaudible). Thank you. [LB916]

SENATOR HOWARD: Thank you. [LB916]

SENATOR COASH: Thank you, Senator Howard. [LB916]

SENATOR HOWARD: Thank you. Have a good day, guys. [LB916]

SENATOR COASH: That will close the hearing on LB916. Senator Kintner. Senator Kintner. Good afternoon, Senator Kintner. You are recognized to open on LB966. [LB916 LB966]

SENATOR KINTNER: Well, thank you, Mr. Chairman. Members of Judiciary Committee, I'm Senator Bill Kintner, B-i-l-l K-i-n-t-n-e-r. I represent Legislative District 2. I'm here to introduce LB966. You know the American people are compassionate people. They give large amounts of resources and money to those in need and have consistently over the years welcomed persecuted

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people into our country from around the globe. Over the last several months, Americans, Nebraskans included, are becoming more concerned with the ability of the federal government to effectively vet refugees seeking asylum from countries where radical Islamic terrorists are seeking to strike the West under the guise of refugees fleeing persecution. Paris and San Bernardino have put many people on edge. They want assurances that their government is faithfully doing their due diligence to protect them and their communities from Islamic jihadists determined to bring death and terror to our shores. Prior to these attacks, during a House Committee on Homeland Security hearing last October, the committee discussed a possibility of U.S....the possibility of the U.S. conducting thorough background checks on the thousands of Syrian refugees that were possibly going to be brought into our country. The U.S. FBI director was asked a series of questions regarding the ability to vet these people and his response was: We can only query against those that we've collected data on. If someone has to...has never had...made a ripple in the pond in Syria in a way that would get their identity or their interests reflected in our database, we can query the database until the cows come home but there will be nothing to show because we have no record of them. You know, Nebraskans have no control over whom the federal government lets in the refugee resettlement programs, but we can regulate agencies in Nebraska to try and reduce the risk of radical Islamic jihadists using our goodwill against us. LB966 would require that refugee resettlement agencies in Nebraska provide proof of financial responsibility, up to \$25 million, for any criminal acts of refugees that they receive from a high-risk country within a five-year period; provides a civil cause of action for the state and its political subdivisions, along with any victims, if a refugee resettled in Nebraska commits a terrorist or criminal act. The bill would give Department of Insurance regulatory authority to confirm the proof of financial responsibility by the resettlement agency, any noncompliance within the statute. I've always believed that one of the primary responsibilities of state government is to provide protection of its citizens and for its citizens. This is my attempt to fulfill this duty when it's become increasingly questionable whether the federal government will be able to adequately fulfill that role. I am very happy to say that I've met with three resettlement organizations in our state and I'm confident in saying we do not face an immediate threat. We may face a threat down the road somewhere, but there's no immediate threat right here. I feel far better about this process, after meeting with those groups, hearing how they do it, hearing the entire process than when we started this whole thing. So I hope this is the beginning of a conversation in our state and at some point in the future, as needed, we reach a consensus as to if there's anything that our state has a role to play in terms of this policy or if it's all going to be the federal government. I thank you for your consideration of LB966. [LB966]

SENATOR COASH: Thank you, Senator Kintner. Senator Krist. [LB966]

SENATOR KRIST: Did you tell me on the floor earlier that you are not going to ask us to Exec and put this bill out of committee? [LB966]

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SENATOR KINTNER: That's correct. [LB966]

SENATOR KRIST: So all these folks that are here testifying either in support or in not support of this bill need to know that their testimony can be entered into the record by simply entering it into the record. But we have no intention of putting this bill out of committee, and they need to know that up-front. Is that correct? [LB966]

SENATOR KINTNER: That is correct. [LB966]

SENATOR KRIST: Okay. Thank you. [LB966]

SENATOR KINTNER: That is correct. You know and this is a good opportunity to start discussion and this discussion could continue into next session as we assess where we are as a state and where we are as a country. In the meantime, there will be a Presidential election in there too. So it's good to start this conversation now. [LB966]

SENATOR KRIST: And just in fairness, I just want to make sure people understand that. There's been a lot of letters and a lot of phone calls and a lot of pressure, but this bill is not going to come out of this committee this year. So if the purpose is a discussion then we'll listen to three minutes per, and we'll go on our merry way this afternoon and this weekend, just to let you know up-front. [LB966]

SENATOR KINTNER: Yeah. And I suspect if I wanted it to come out of this committee, it couldn't come out of this committee this year, so. (Laugh) [LB966]

SENATOR KRIST: Well, I don't know, but I just wanted to make sure it's on the record that you had... [LB966]

SENATOR KINTNER: That's correct. [LB966]

SENATOR KRIST: Okay. Thank you. [LB966]

SENATOR COASH: Senator Chambers. [LB966]

SENATOR CHAMBERS: Senator Kintner, when you observe me, you're observing the master. And it takes somebody getting up very early in the morning to trump me on something. So yesterday, for your information, I had a bill before this committee which I approved of being

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indefinitely postponed, my own bill. So you're not the first one to do it. You're not the only one to do it. And I made that clear so that anybody in the room, and I said I didn't want them to have heartburn on either side, just to let them know that that bill of mine was not going anywhere. And what Senator Krist did kind of followed the pattern of what was done yesterday in this committee with a member of the committee who's suggesting that the committee kill his own bill. [LB966]

SENATOR KINTNER: And I would say there are two things here. There are people that support this bill, support us taking some action I think that need to be heard and it's a legitimate point of view. And there's the agencies. I told them flat-out that this is your opportunity. This is in the media now. This is your opportunity to explain to people what your agency does, how it does it, and educate people. So I think we're all going to come out ahead no matter what side of this issue you're on. [LB966]

SENATOR COASH: Thank you, Senator Kintner. [LB966]

SENATOR KINTNER: And I will not be making closing comments. [LB966]

SENATOR COASH: All right. We're going to start. We're going to open testimony on LB966. We're going to start with the proponent testimony. Come on up. [LB966]

DOUG KAGAN: (Exhibit 1) Good afternoon. My name is Doug Kagan, K-a-g-a-n, representing Nebraska Taxpayers for Freedom. Our organization strongly supports LB966 as a means to both safeguard taxpayers and keep our state secure. The U.S. has a very generous refugee program. However, a 2009 Department of Homeland Security internal report found that 70 percent of asylum cases contained proved or probable fraud. Influx of these refugees mentioned in this bill easily could overwhelm local community social services and healthcare agencies, decrease the availability of affordable housing and job opportunities, and stretch the capability of local school districts to meet the needs of English as a second language and special education students. A 2013 federal Office of Refugee Resettlement survey showed that among asylum refugees, as mentioned in the bill, almost 75 percent receive food stamps, over 50 percent receive Medicaid, and almost 25 percent receive subsidized housing entitlements. Lacking health and medical screenings, there is no requirement to track and report costly-to-treat communicable diseases. Resettlement groups are financially responsible for their charges for only a short time. Nebraska taxpayers should not have such a fiscal yoke around their necks. Listen to the warnings from top intelligence officials regarding security implications. Last year, an assistant director of the FBI Counterterrorism Division testified that, quote: The concern in Syria is that we don't have systems in place on the ground there to collect information to vet a country that is a failed state that does not have any infrastructure. So all the data set, the police, the intel services that

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normally you would go to seek information does not exist. FBI Director James Comey verified such in later statements. Refugees from the 34 high-risk countries, some of them failed states, enumerated in this bill cannot undergo effective screening to ensure that they do not pose a danger to Nebraskans. Recall that the family of the Boston Marathon bomber and the family of the killer of armed services members in Chattanooga were both settled for asylum by refugee resettlement organizations. Taxpayers should not bear the responsibility to pay the costs of prosecution and damages and injuries or deaths caused by an unvetted refugee bombing a church or massacring shoppers at a mall here. The responsibility lies almost wholly with resettlement organizations. Thus, oversight of nonprofit resettlement organizations is crucial. Consistent with federal law, states can require cooperation from nonprofit groups in refugee placement; audit, restrict, and require regular reporting, with penalties imposed for failure to comply. Yet, Nebraska resettlement groups have evidenced no willingness to coordinate with our Governor or debate their opponents publicly. [LB966]

SENATOR COASH: Thank you, Mr. Kagan. [LB966]

DOUG KAGAN: Okay. [LB966]

SENATOR COASH: Light is on, but we've got your written testimony, so. [LB966]

DOUG KAGAN: Okay. [LB966]

SENATOR COASH: Appreciate your testimony. We'll see if we have any questions from the committee. [LB966]

DOUG KAGAN: Thank you, Senator. Any questions? [LB966]

SENATOR COASH: I don't see any. Appreciate your time. [LB966]

DOUG KAGAN: Okay. Thank you, Senator. [LB966]

SENATOR COASH: We'll take the next testifier in support. [LB966]

JIM NIPPER: Hello. I'm Jim Nipper, that's J-i-m N-i-p-p-e-r. I live here in Lincoln and I just wanted to say I appreciate Senator Krist's, you know, acknowledgment of the status of this bill. I wasn't aware of that, in fact, so I do appreciate that. I had...I'm going to be going off of notes here. I had a prepared statement but since things have changed so much, it's going to be a little

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bit different. I originally didn't think the bill, even before I knew what Senator Krist had, you know, the information he gave, I didn't think the bill was going to be moved out of committee anyway. But then I got to listening to the testimony and some of the senators' comments, the committee's comments on earlier bills that were presented and it was interesting. I heard that Senator Morfeld looked for accountability in people who move our furniture. They have to have insurance. They have to have, you know, the right type of equipment. They have to be certified and all that sort of thing. We heard Senator Chambers say that livestock owners are supposed to be liable for the harm resulting from their trade even when there is no harm intended. This is a paraphrase. I wasn't able...I'm not good at shorthand so I had to write it down. Senator Chambers said anyone who goes into that line of works accepts the risks of that occupation. Well, if that's true of those occupations, is it not also true of the agencies who are part of the refugee resettlement process? This, of course, is a moot point but I originally had thought that I would just address...make a few statements to the organizations that are involved in this. And as Senator Kintner said, they are good people. They've been around a long time. Their services have provided...been provided to many people in need, the poor, the homeless, the sick, and orphans, making no distinction between...if they're a Christian organization, making no distinction between believers and nonbelievers. In compassion, they're doing God's work and they, in compassionate caring, are part of God's work. But we also have to ask are they the only part of God's work. Are they the only tenets of our faith? And you know there are certainly other aspects of Christianity, like protecting our faith communities. That's pretty much a standard concept within the faith. And we must keep in mind that the United States is the largest Christian faith community in the world and that Islam has been growing by leaps and bounds over the last...since the year 2000. And of course most...half of that is due to immigration and in and of itself that isn't bad. But we've seen the rise, with that rise in Islam, the rise of terrorism in the United States, so. [LB966]

SENATOR COASH: Thank you, Mr. Nipper. [LB966]

JIM NIPPER: Thank you very much. [LB966]

SENATOR COASH: Appreciate your testimony. We'll take the next testifier in support. Welcome. [LB966]

SUSAN GUMM: (Exhibit 2) Thank you. Good afternoon, Mr. Chairman and committee members. My name is Susan Gumm, S-u-s-a-n G-u-m-m. I'm testifying as a concerned citizen. I support LB966 and any state or federal legislation that will halt the resettlement of high-risk refugees to Nebraska and the United States. Local resettlement agencies must be held accountable and liable when they resettle people from known areas of violence and terror, potentially endangering the lives of Nebraskans. At a time when the United States is in the

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highest threat environment since 9/11, it is irresponsible and dangerous to bring refugees from high-risk countries into the United States who cannot be properly vetted. Top law enforcement and security officials have cautioned Congress on the terror risks linked to Syrian refugees. It is perhaps obvious to state that terrorists cannot plan and carry out attacks in the United States if they are unable to enter the country. Even if the vast majority of refugees being resettled are not security threats, the Paris attacks, like the attacks of 9/11, prove that it only takes a few people to inflict catastrophic danger...damage, excuse me. The directors of our top security agencies, including the FBI, recently testified there is no way to properly vet refugees from Syria as there is no database or anyone in Syria who can provide information about these people or their past behavior. When discussing the vetting of Syrian refugees, it is disingenuous to say that refugees are the most highly scrutinized and most rigorously vetted, knowing no information exists to vet against. ISIS and other terrorist groups have made it abundantly clear that they will use the refugee crisis to try to enter the United States. The true Syrian refugees do deserve compassion and aid. There are compassionate approaches that do not entail the security risk associated with allowing vast numbers of unvettable displaced people into the United States. We could help Syrian refugees in their own region rather than moving them thousands of miles from home to adjust to new cultures. Funds set aside for refugee resettlement can be redirected to help refugees closer to their homes. For every refugee we resettle in the United States, we can provide funding to help 12 in neighboring countries that share their culture, language, and religion. Shouldn't we want to help the largest number possible? While the U.S. is still the world's most generous and compassionate nation, our self-preservation dictates that we know who we are allowing into our country and that we keep ISIS terrorists out. The chaos in Europe is but a foreshadowing of what could take place in our nation if our government is foolish enough to follow suit. [LB966]

SENATOR COASH: Thank you, Ms. Gumm. Good timing. I don't see any questions from the committee. [LB966]

SUSAN GUMM: Thank you. [LB966]

SENATOR COASH: Appreciate your testimony. We'll take the next testifier in support. Welcome. [LB966]

LARRY STORER: Good afternoon, Senators. My name is Larry Storer, S-t-o-r-e-r. I'm here with Nebraska Taxpayers for Freedom. However, I'm also a legal U.S. citizen, a 57-year taxpayer. I am concerned about the sovereignty--I'm adding my comments now--the sovereignty of our nation, number one; the sovereignty of our state, number two. And as all of you should be aware, sovereignty was where it all started back in 1770-something or other, when states got together to say we have to protect ourselves, and we will come up with something to help us do that. Well, it appears that our sovereignty is being given away to the United Nations. They are the ones that

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are telling us how many refugees are coming and where they're coming from. But they have not solved the problem of helping the poor refugees over there. They should be helping them over there. How we do that is another matter. I'm not against spending my personal money to help refugees. I am not an evil person, as I am portrayed to be in the news media and by certain agencies that are profiting from this enterprise. They select who is going and where they're going and they do not have to tell us how many and where. You do not know, your Governor does not know, your city people do not know, the citizens do not know. This cannot happen. If we need a solution let's all be human and let's create a solution that's effective and that's "humanitarianly" oriented. Let's do not encourage these poor people to put their lives at risk trying to come here when they probably will not make it. We've heard about that in the news. Most of you are too busy to read and listen to the things I can do because I'm retired. So you need to be aware of that. It's happening in Europe. Do you want it to happen here in Nebraska? I do not. I am a Christian. I am not a hater. I do not preach hate. The World-Herald, various news medias want to say that we are, that I am. I am not. We all know who those agencies are. They're in the documents that you've gotten. But some of them are religious-oriented agencies and, therefore, the government is mixing religion and politics. [LB966]

SENATOR COASH: Thank you, Mr. Storer. [LB966]

LARRY STORER: Just real quickly, in Nebraska we like to always use the word "you have no (inaudible). I'm sorry, we do have standing. We're the ones that have the standing. Thank you. [LB966]

SENATOR COASH: All right. We'll take the next testifier in support. Welcome. [LB966]

AMBER PARKER: (Exhibit 3) Okay. Thank you. Hello again. Amber Parker, A-m-b-e-r, Parker, P-a-r-k-e-r. I'm here. My God, people can be looked at as a number and the last thing I want to do is look at any person as a number. My heart breaks when I think of the danger that we are in, in not having a proper vetting process at this time and allowing refugees in these high-risk countries of over 20 or at least 31 high-risk countries. And the truth is there are people that are fleeing and wanting safety. Let us never underestimate compassion. It is out of compassion that has made America to look out for others, not just merely their own interests. I am a proponent for LB966 because I believe at this time that the agencies that want to bring the refugees from the high-risk countries at this time in such a area of terrorism that there should be accountability and responsibility. And maybe this is the only way, quote unquote, to have a vetting process. Before I came here, I'm new to this legislation. I read it last night about 2:00 in the morning, quite frankly. Thank you for the four-pages. I appreciate that. We have great agencies that have brought great people over. I have had friends who have come from other countries to be granted asylum over here in the United States of America through the proper process to keep themselves

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and their families free. Amarillo, Texas, has been down this road and I would encourage you to call Amarillo, to call Paris to see what has happened with the refugees. I know in some areas people are afraid to come out of their homes because of what it has created. We have to be wise in realizing there are different cultures, and to assume for people to come over and adapt to our culture is naive and is not truthful. We do need to listen to warnings of FBI. The sad part about this is that there are good people that want to come over here for the right reasons. But at this time, because we do not have the proper protocol, we, as our state and the United States of America, could be putting ourselves in danger in opening the doors for ISIS and terrorists to come over and invade our lands. Thank you. [LB966]

SENATOR COASH: Thank you, Ms. Parker. I don't see any questions from the committee. Appreciate your testimony. We'll take the next testifier in support. Okay. We're going to move to the opposition testimony. We'll take the first testifier in opposition. Welcome. [LB966]

SALIM MERZA: (Exhibit 4) Thank you. Good afternoon, members of the Judiciary Committee. My name is Salim Merza, S-a-l-i-m M-e-r-z-a. I am a refugee from Iraq and I am testifying today as a representative of my employer, the Center for People in Need, a nonprofit in Lincoln, Nebraska, whose mission is to enhance opportunities for families and youth as they address socioeconomic barriers limiting their paths to success. The Center for People in Need opposes LB966 as it is designed to circumvent our state's policies regarding refugees by placing an undue burden on the organizations that facilitate refugee settlement, penalizing those working to better the lives of those fleeing violence in their native countries. This bill would hurt refugees, nonprofits, and our state's integrity for the sake of allaying unfounded, uninformed fears of refugees that a divisive political environment has fostered. I am here today in an effort to humanize this debate by telling you my story. I was born in a small town in northern Iraq where I lived with my parents, seven sisters, and two brothers. We had a simple life, and as I grew older I worked to get an education and find employment to support my family. From 2003 until 2004 I began studying for my bachelor's degree in law and politics at the University of Mosul. During this time, while studying English in school, I began work as an interpreter for the U.S. Army, furthering my knowledge of the language. Working for the U.S. Army can have dire consequences in Iraq. My neighbors and friends knew of my work and, because of this, my family and I were under constant threat. Mosul became so unsafe for us that we moved. And from 2005 until 2007, I completed my undergraduate degree at the University of Duhok. For a time, northern Iraq was safe for myself and my family. But on August 3, 2014, ISIS attacked my area, displacing around 400,000 Yezidies from Sinjar, raping girls and women, killing men, and kidnapping kids to train them to be terrorists. Because of my work with the U.S. Army and the presence of ISIS in my area, Iraq was no longer safe for myself or my family. On January 12, 2015, leaving behind my mother and five sisters, I and the family members was able to escape. We came to Lincoln, Nebraska, to find refuge. When we arrived, my sister was already here. We

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were finally safe and Lincoln quickly began to feel like home. In late January, my wife and I began taking ESL classes offered at the Center for People in Need. [LB966]

SENATOR COASH: Mr. Merza, thank you very much. Your red light is on. We have your testimony in written form. So we'll see if there's questions from the committee? I don't see any. I appreciate your testimony. [LB966]

SALIM MERZA: Thank you. [LB966]

SENATOR COASH: We'll take the next testifier in opposition. Welcome. [LB966]

ANNE MARIE KUDLACZ: (Exhibit 5) Hello. My name is Ann Marie Kudlacz. I'm the executive director at Refugee Empowerment Center. We're one of the three refugee resettlement agencies in Nebraska. And since I'm not going to read my statement since it's not going to come out of committee, I just wanted to mention a couple of important points, mainly about the history of refugees in Nebraska. In the '90s, Sudanese starting moving to Omaha and Lincoln from other cities and states. They originally were settled in Minnesota, North Dakota, South Dakota. And like most, you know, other immigrants before them, different ethnic groups, they found a low cost of living, entry-level employment, and a welcoming community with lots of community support. So in 1997 they founded our agency as Southern Sudan Community Association to help support those Sudanese that were moving to Nebraska at the time. It was a tough time as there wasn't a lot of funding to support helping them learn English, get jobs, and then integrate into the community. So they began the Omaha Refugee Task Force, talked to the senators, the mayor's office, Omaha Police Department, public schools, Red Cross, Department of State, Office of Refugee Resettlement, and did a community assessment to see if Omaha would be a viable direct refugee resettlement city. And so it was determined that, yes, it would. And so in fiscal year 2000, refugees began to be resettled from Sudan overseas directly to Omaha, Nebraska. So our agency is an affiliate of the Ethiopian Community Development Council in cooperation with the Department of State, Bureau of Population, Refugees, and Migration. The Omaha Refugee Task Force continues to work on issues in support of programs affecting refugees and our community today. We meet every other month. The state refugee coordinator is an amazing resource. She works under HHS Department so she can always answer any questions that people have regarding the refugee resettlement process. We...our agency does not dictate which refugees we resettle. We don't discriminate based on country of origin or religion or anything like that. The refugees apply to be resettled to 23 different countries, so they can apply to come to Omaha, Nebraska, Lincoln, Canada, and New York. But we resettle refugees based on them wanting to come to Omaha, and the majority of the refugees we resettle apply to come to Omaha because they're tied to family members there. And so they're applying for their family and friends and brothers and sisters to come to Omaha. And so we resettle them and help them become culturally

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integrated and self-sufficient members of society. So I strongly oppose LB966. People entering in our state under the Refugee Resettlement Program should be treated the same as those other people in our country. The majority of the refugees, after one year they apply to adjust their status. After five years they apply for citizenship. And so especially for the Sudanese populations, they are applying for their family and friends to come over here from Sudan. [LB966]

SENATOR COASH: Thank you very much for your testimony. Take the next testifier. Welcome. [LB966]

TAYLOR GIVENS: (Exhibit 27) Thank you. Good afternoon. My name is Taylor Givens, T-a-y-l-o-r G-i-v-e-n-s, and I am here on behalf of the Nebraska Chapter of the National Association of Social Workers to go on the official record in opposition to LB966. The National Association of Social Workers' code of ethics calls on social workers to meet the basic human needs of all people, including people who suffer displacement due to wars and civil conflict, such as many refugee populations. Under the terms of LB966 Nebraska refugee resettlement agencies would be forced to purchase unreasonably expensive liability insurance, essentially rendering them unable to operate. Additionally, this bill explicitly singles out specific nationalities. Doing so inherently leads to profiling, racism, and discrimination against an already marginalized population. Refugees are among the most vetted of any class of immigrants allowed to enter the United States. Punishing nonprofit agencies for resettlement efforts on unfounded fear is not responsible governance. LB966 does not represent Nebraska's value of hospitality or the social work principles of respecting human dignity and building people's capacity. We cannot stand by and allow refugee populations and the agencies that serve them to be treated this way. I'd like to thank the committee for your consideration and time on this matter. Thank you. [LB966]

SENATOR COASH: Thank you, Mr. Givens. Thank you. Take the next testifier. For some of you that may have just come in since we started today at 1:30, there's a sign-up sheet in the back and you can indicate either support or opposition through your signature there as well, which will become part of the record. Welcome. [LB966]

NANCY LAMBERT: (Exhibit 6) Thank you. I'm Reverend Nancy Lambert. I am assistant to the bishop of the Great Plains Conference of the United Methodist Church, N-a-n-c-y L-a-m-b-e-r-t. And I'm here to bring you the words of our bishop, Scott Jones, who is not able to be here in person today. Dear members of the committee, I am Scott Jones, bishop of Great Plains Conference of the United Methodist Church. I lead the more than 300 congregations of our denomination in Nebraska, as well as the United Methodist congregations in Kansas, and I urge you not to approve LB966. We are a nation of immigrants, and Nebraska is no exception. Many of our ancestors, including the ones on my mother's side, fled oppressive governments in Europe

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to make a new life in the United States. Nebraska has benefited from the hardworking, family-oriented, and committed people who have made their home here. Today many immigrants are fleeing oppression in other countries and seek to make a new life in the United States. Toward that end, churches and other charitable organizations work hard to make their transition to the American way of life as smooth as possible. I have visited with people who were welcomed by United Methodist congregations, helped to learn English and American values, and then found jobs to contribute their skills to society. Some of those persons converted to Christianity because of the love and hospitality shown to them on their arrival. Rather than helping such persons feel welcome in Nebraska, LB966 places an unsustainable burden on those very agencies that make the transition work well. Christians are under the command of Christ to welcome the stranger as if it was Christ himself, as recorded in Matthew 25. Jesus was reiterating part of the moral law in the Old Testament, which continues to be binding on believers today, in Leviticus 19. When our faith compels us to such acts of hospitality for those fleeing oppression, the proposed bill, LB966, restricts our freedom of religion and imposes an intolerable form of governmental interference. In addition, it is an unconstitutional attempt to usurp the responsibilities of the federal government and will just waste our precious state resources in needless litigation. Please do not approve this bill. Respectfully submitted, Scott J. Jones. [LB966]

SENATOR COASH: Thank you for your testimony. Take the next testifier. [LB966]

SIEF MAHAGOUB: Good afternoon. My name is Sief Mahagoub, S-i-e-f M-a-h-a-g-o-u-b. I'm an refugee from eastern Sudan. After September 11, I left my comfy life and I joined the U.S. Army and I went to Iraq. I fought a good fight, did two deployments and a half, made it safe and sound. I'm proud refugee and I'm proud U.S. Army soldier and I'm proud veteran. So one thing I really wanted to say, LB966 is a victory for ISIS. When we start to really doubt ourselves as brothers and sisters, that's when ISIS is winning. We are not going to divide ourselves. So for this bill to punish these refugee resettlement agencies, I think that's un-American and it's not our way of life. I see some people here, they said they're afraid that we don't integrate. I integrated myself from Private First Class to Sergeant and to a Platoon Sergeant. So I led war, brought victory, and I speak English. I didn't speak English when I came here. I integrated very well. I'm an American, proud American. So I am loyal to this country. This is the only country I know. For me, just to show that I'm loyal, when I came to this country I barely knew this new country but I fought for it. What more proof do we need? So I am just one little guy, but let me tell you there are so many Sudanese and so many Iraqis that I saw in a combat zone that some of them that were Muslim, they were fasting during Ramadan and they were fighting. Brave people but you might not see them, media may not talk about them. But overall, I mean, I'm a refugee. I'm your brother. Take me. I'm going nowhere. (Laughter) So I think we should really, if we want to introduce a bill or something like that, I think you should really study and kind of learn about the refugees here. I am the first Sudanese Nebraskan American to join the service after September 11. I wish this Senator Kintner talked to me and kind of like say, hey, listen, I was to become a

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refugee, before you really start, you know, saying stuff like that. I don't think you study the local refugees' community. And from now on, you guys need to really go look around and talk to the refugees. There are a lot of wonderful stories, you know? Thank you. [LB966]

SENATOR COASH: Thank you for your testimony. Senator Pansing Brooks. [LB966]

SENATOR PANSING BROOKS: Thank you. I just wanted to thank you for your testimony today, Mr. Mahagoub, and I am aware of your really positive acts at a high school here in town. And I just thank you for your service to our country and to the kids at the high school whom you are an incredible asset and great role model and friend to many of them. Thank you. [LB966]

SIEF MAHAGOUB: Thank you. [LB966]

SENATOR COASH: Thank you. Take the next testifier in opposition. [LB966]

GREG SCHLEPPENBACH: Good afternoon, Senators. My name is Greg Schleppenbach, spelled S-c-h-l-e-p-p-e-n-b-a-c-h. I'm here as executive director of the Nebraska Catholic Conference to put the conference on record in opposition to LB966. One of our agencies, Catholic Social Services of the Diocese of Lincoln, is one of the three major refugee resettlement agencies in the state, resettling 180 refugees per year. They do family reunification settlements only, but they have indicated that this particular bill would cause them to stop being able to participate in refugee resettlement. They simply could not afford to do that. So I will leave it at that, just to put us on record in opposition to this bill. [LB966]

SENATOR COASH: Thank you, Greg. Take the next testifier in opposition. Anyone here to...anyone else here to testify in opposition? [LB966]

MARY BOSCHULT: Thank you. [LB966]

SENATOR COASH: You're welcome. [LB966]

MARY BOSCHULT: (Exhibits 7 and 8) Thank you, Senator Coash and members of the Judiciary Committee. My name is Mary Boschult and I am representing the League of Women Voters of Lincoln and Lancaster County. And for the clerk, M-a-r-y B-o-s-c-h-u-l-t. The League of Women Voters of Lincoln and Lancaster County is a member of the Nebraska Coalition for Immigration Reform, and I've brought copies of our recent report for members of the committee, for you and your staff. Many of you have already seen that report. But we are here today to oppose LB966. The League of Women Voters thinks that immigration policy should promote

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reunification of immediate families, meet the economic business and employment needs of our country, and be responsive to those facing political persecution. This bill does not support those goals. The League of Women Voters of the United States policy position further states that criteria for admission to the United States should include flight from persecution or as a response to humanitarian crisis in the refugees' home countries. This asylum and refugee status is the responsibility of the federal government which has instituted multiple and lengthy levels of review and scrutiny to assure safety for the refugees and for the communities that welcome them. We urge you to indefinitely postpone this bill. Thank you for the opportunity to testify. [LB966]

SENATOR COASH: Thank you for your testimony. We appreciate it. Take the next testifier. [LB966]

CHARLES ELLISON: (Exhibit 9) Good afternoon, Senator Coash and members of the committee. My name is Charles Shane Ellison, E-l-l-i-s-o-n, and I'm the legal director for Justice for our Neighbors. I'm also on the board of directors for the Refugee Empowerment Center and I'm a former federal officer within the Department of Homeland Security, where I screened refugees seeking protection within the United States. And I'm testifying today to express my opposition to LB966. This law is immoral, it's unlawful, and it's bad policy. As was already testified, the bill would create enormous costs for refugee resettlement agencies. Our estimate as to the cost of the policy required under this bill would be \$25,000 a year and the cost of noncompliance with this bill would be, for our organization, eventually up to \$1.2 million per day in the form of a fine, given the number of refugees we've resettled over the last five years. So compliance with the bill is not really an option. The only way that a refugee resettlement agency might avoid this liability would be to decide not to resettle the 34...refugees from the 34 nations that are listed in this bill. That would make it highly unconstitutional. Federal law makes it quite clear that you cannot engage in national origin discrimination if you receive federal funding, and so refugee resettlement agencies would not legally be able to do that. So when faced with either breaking federal law or violating the constitution, it is a Hobson's choice that leaves no out for the resettlement agencies. And lastly, I would say that this law, this bill is bad policy. It's premised on misinformation, unfounded fear. As was previously stated, refugees are among the most vetted of any group that enters the United States. And as a former officer who was a part of that process of vetting, I can tell you it's very rigorous, it's very robust, it's very thorough. Now there's been a number of references so far to testimony by Director Comey and so I wanted to just direct your attention to footnote 13 in the testimony, because Director Comey's testimony, as well as the CIA director and the director of the National Intelligence Community also testified during that hearing. And here are some other things that they said in the course of that hearing that was not quoted earlier from those who wanted to quote Director Comey. Director Rasmussen, who's the director of National Intelligence, said: We have a lot of lessons learned in this area. We have now worked successfully to make sure that every bit of available intelligence information that the U.S. government holds will be looked at with respect to screening a

potential refugee. I certainly feel good about that process and the degree to which we've tightened it up over time. Secretary Johnson, the secretary of Homeland Security, added immediately thereafter: Each refugee will receive a careful security vetting. It is a good process, a thorough process. And then Director Comey immediately thereafter said this: I do not have anything to add. My view is captured in what both the secretary and the director have said. [LB966]

SENATOR COASH: Thank you. [LB966]

CHARLES ELLISON: Thank you. [LB966]

SENATOR COASH: We'll take the next testifier. [LB966]

DARCY TROMANHAUSER: (Exhibit 10) Good afternoon, Senators. My name is Darcy Tromanhauser, D-a-r-c-y T-r-o-m-a-n-h-a-u-s-e-r, and I'm the director of the Immigrants and Communities Program at Nebraska Appleseed. I'm testifying today to express our strong opposition to LB966. As you've been hearing, every year there are people around the world who face very extreme circumstances and are driven from their homes to escape a well-founded fear of persecution or death. It's part of our history and values to ensure that we create a safe space for people who had no choice but to flee their homes. I won't read our whole testimony but I'd like to quickly emphasize that Nebraskans have shown overwhelming support for refugees in recent months. Just before Thanksgiving, more than 700 people came together for candlelight vigils for refugees in Lincoln and Omaha. Thirty-one Nebraska organizations issued a letter of support for refugees. And to take just one more example, the Great Plains Conference of the United Methodist Church immediately announced 35 congregations in Nebraska and Kansas ready to welcome Syrian families. This is reflective of our experience at the local community level in many towns across the state where Nebraskans are working to create welcoming and inclusive communities. The reality at the local level is simply a shared interest in creating community and a recognition that welcoming communities create positive outcomes for all residents. I know you're getting a lot of words today so I also provided you with a picture of one of those vigils in testimony. And I'd say that running counter to that community support, the purpose of LB966 is effectively to prevent refugee resettlement agencies from being able to operate, which is reprehensible. It also has legal and constitutional issues, as you've heard. LB966 is an extreme proposal that does not represent Nebraska or our cherished values. We should continue to recognize the great economic, social, and cultural contributions of refugee Nebraskans who have defied all odds in establishing a new life as our neighbors. We strongly urge the committee to reject LB966. And I'll just mention in response to some earlier comments that there are also numerous studies at this point that show that the net economic impact of refugees and immigrants on local economies is positive. I'll stop there. [LB966]

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SENATOR KRIST: Thank you. Thanks for coming. Any questions? Seeing none, thank you very much. Next testifier. Could I get a show of hands of those that still want to testify on this bill? Okay, one, two, three, four, five. All right. Go ahead. [LB966]

SHAFIQ JAHISH: (Exhibit 11) Good afternoon, respected members of the Judiciary Committee. My name is Shafiq Jahish, S-h-a-f-i-q, Jahish, J-a-h-i-s-h, and I'm here today to testify in opposition to LB966. I am one of the Afghans who served for the U.S. military in Afghanistan as an interpreter. I came here on a special immigration visa. The visas are issued to those Afghan and Iraqi nationals who took a stand and supported the good cause to fight terrorism alongside the U.S. troops for the last one and a half decades. I served as an interpreter for the U.S. military in Afghanistan for almost ten years and was a big asset to the U.S. mission in Afghanistan. I and other Afghans and Iraqis have risked our lives, the lives of our families and loved ones. Hundreds of these interpreters lost their lives and their loved ones as a result of supporting this good cause to fight violent insurgents in my home country. A colleague who worked at the same base with me was beheaded by the insurgents because he also took a stand and supported the U.S. service men and women in Afghanistan. When I came to Omaha in mid-2014, I received the same love and support that we would give to each other while on the battlefield. My community here in Nebraska has huge respect for me and others like me because of what we have done for this country. We have fled from terror and war, served the U.S. well with our lives, and we have come here to Nebraska and other places in the U.S. So this is now our home and we would do whatever we can for this country. We want to build our lives here so that our children can live in peace and have a better life. If this bill was passed two years ago, I wouldn't be sitting here today, and many other interpreters who served with the U.S. military would not be in Nebraska today. There are thousands of interpreters like me who are still waiting for their special immigration visa to be issued. This bill and bills like it will put their lives in risk and prevent them from coming to Nebraska and other locations across the U.S. Thank you very much. [LB966]

SENATOR KRIST: Thank you. Thanks for coming. Next testifier in opposition. [LB966]

IAN FALLON: (Exhibit 12) Good afternoon, Senators. Before I begin, I'd like to point out a typo on the written copy of my testimony. I am aware that I'm testifying in front of the Judiciary Committee this afternoon, not the Transportation and Telecommunications Committee. So just so everybody knows I'm not crazy. (Laughter) [LB966]

SENATOR KRIST: Noted. [LB966]

IAN FALLON: My name is Ian Fallon, I-a-n F-a-l-l-o-n. I'm a community organizer with the Heartland Workers Center in south Omaha. The Heartland Workers Center is a nonprofit located

in south Omaha and works mainly with the Latino community there. In 2015, we conducted a community assessment to identify the major issues affecting the community, asking questions about housing quality, satisfaction with public services, levels of employment and income, and access to education and healthcare. We carried out this project for five months and spoke with over 600 members of the south Omaha community. Several of these community members are refugees and are grateful for the opportunity to live in our great state. Francis is a south Sudanese refugee whom I spoke with during our community assessment last summer. He works two jobs, one full time as a line worker in a plastics factory in west Omaha and another as part-time kitchen staff at a casino in Council Bluffs. Francis is a humble man who is grateful for the opportunity to live in a country free from the persecution present in his home country. He told us he wants to work to build up community relationships in south Omaha, and he wants to work to combat violence and find community solutions to make peace in his neighborhood. Francis is a refugee and he wants to make our city a better place to live for families. John is another member of our community who came to our country as a refugee. He works full time at a meatpacking plant in south "O" and he is a regular participant in the HWC's community building projects. He is a Neighborhood Watch leader and wants to work to combat workplace racial discrimination and abuse. John works hard, pays taxes, and contributes to our society. He wants to make his community a place free from discrimination where all people can work without fear of persecution. These stories exemplify the nature of most refugees in Nebraska. They work hard and wish nothing but to better their communities. This piece of legislation contributes to the false narrative that refugees and other immigrants are a tax on society and are a threat to the safety and security of our nation. Refugees are the most thoroughly vetted class of immigrants, and the National Counterterrorism Center, FBI, Department of Homeland Security, and the State Department process their applications thoroughly. Those applying for refugee status and admittance to the United States are denied entry if they have a criminal history and are deemed a threat to national security. Refugees who now call Nebraska their home have been processed and thoroughly vetted. Those who insist that they are a security risk are either unfamiliar with this process or they are willfully ignoring it in the interest of instilling fear in Nebraskans. For these reasons, the HWC opposes LB966 and strongly opposes any legislation that would prevent refugee resettlement agencies from settling refugees in our state. And I understand that the bill isn't leaving committee today so I will not ask you to oppose the legislation. [LB966]

SENATOR KRIST: Thank you. [LB966]

IAN FALLON: Thank you, Senator Krist. [LB966]

SENATOR KRIST: Next testifier in opposition. [LB966]

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BRIAN BLACKFORD: (Exhibit 13) Committee members, thank you. My name is Brian Blackford. I have my own immigration law practice in Omaha, Nebraska. I'm also the vice chair of the Iowa-Nebraska Chapter of the American Immigration Lawyers Association, or AILA. AILA is a nonprofit organization comprised of more than 14,000 immigration lawyers and professors across the United States. The Iowa-Nebraska Chapter has more than 150 members throughout the two states. We strongly oppose LB966. Central to the mission of AILA is the promotion of justice and advocacy for fair and reasonable immigration laws. AILA condemns any proposal that would treat someone differently based upon nationality or religion. Bigotry and discrimination are anathema to the principles upon which our country was founded, are contrary to the principles of the constitution, and have no place in a just and free society. To turn our backs on refugees would be to betray our nation's core values. It would send a demoralizing message and dangerous message to the world that the United States makes judgments about people based on the country they come from and their religion. This feeds into extremist propaganda and makes us all less safe. LB966 arbitrarily determines that all individuals from 33 predominantly Muslim countries and the Palestinian Territories are high-risk based on nothing more than their country of origin and religion. The objective of the bill is to reduce the risk of Islamic jihadists getting placed in Nebraska under the guise of a refugee in the federal resettlement program. This singling out of individuals based on nationality and religion violates the equal protection clause of the Fourteenth Amendment to the U.S. Constitution, and also the First Amendment's doctrine of free exercise of religion. There are also state antidiscrimination laws that would be violated if this law were to pass. By definition, a refugee has a well-founded fear of persecution on account of her race, religion, nationality, political opinion, or membership in a particular social group. Congress passed the Refugee Act of 1980 which incorporated this definition into U.S. law and provides the legal basis for today's U.S. Refugee Admissions Program, or USRAP. Refugee resettlement is, of course, a federal matter and LB966 also flies in the face of federalism by trying to prevent local resettlement agencies from resettling some of the very refugees we are obligated to protect who are fleeing persecution in their homelands based on their nationality and religion. Refugees are some of the worlds' most vulnerable populations who need our protection, not our animosity. They are the most vetted group of people who come to the United States undergoing a process that usually takes two years or more to complete before they are even allowed to step foot in this country. Yes, there's always risk. There's always fear. Xenophobia is nothing new, but we are now witnessing a new chapter in fear-mongering. There is, of course, a significant amount of political opportunity to be gained by instilling fear in the public, but the truth and the facts, not knee-jerk emotions, should dictate our legislation. The state should not allow recent horrific national, international tragedies to quickly translate into significant and detrimental policy changes such as those proposed by this bill. For the foregoing reasons, we urge you not to let this bill leave this committee. Thank you. [LB966]

SENATOR KRIST: Thank you. Senator Pansing Brooks has a question for you. Just a second. [LB966]

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BRIAN BLACKFORD: Oh, I'm sorry. I apologize. [LB966]

SENATOR PANSING BROOKS: No, that's okay. Thank you, Mr. Blackford. I just want to thank you for all the research. And I don't know, there's mumblings about, well, this could possibly come back another time. So it's nice to have that... [LB966]

BRIAN BLACKFORD: Absolutely. [LB966]

SENATOR PANSING BROOKS: ...legal analysis. Thank you. [LB966]

BRIAN BLACKFORD: Happy to help. Thank you. [LB966]

SENATOR KRIST: Thank you. Next testifier in opposition. Welcome. [LB966]

DHIEU AKEC JOK: (Exhibit 15) Good afternoon, Senators Seiler and members of the Judiciary Committee. My name is Dhieu Akec Jok, spelled D-h-i-e-u A-k-e-c J-o-k. I'm one of the "Lost Boys from Sudan." I'm here today to testify in opposition to LB966. I came to the United States as a refugee and I have learned a lot about American culture and values. I believe that freedom and liberty are rights of humanity. Freedom means that people are not slaves of each other or of the government but are self-owners who are at liberty to pursue their interests as long as they do not violate the property rights of others. As an orphan child, I traveled thousands of miles to a refugee camp, was grateful for this opportunity to come to the U.S. as a refugee, graduated from Lincoln High in 2004, and graduated from the University of Nebraska-Lincoln in 2009 with a Bachelor of Science in political science. I am still chasing the American dreams. Today, I stand before you as a college graduate and a taxpaying law-abiding citizen working in human care service. I have used the blessing I received in Nebraska to help my fellow citizens and have returned to my own country to help people build a quality education service there. Had this bill been in place at the time of my arrival, I would not have had these wonderful opportunities and inspirations to pay forward the love and kindness Americans have shown me. I believe in the American dream and the opportunities it affords. I also believe it is the responsibility of the charities and of our government to care for the marginalized people and to protect them from political demagoguery. As a war survivor and a child soldier, when I was wandering in the jungle of Africa, I thought and sang, "Who will cry for the little boy who had no foods and water, who had no parents to take care of him, who had no education to hope for the future, who did not know what tomorrow would bring him?" This bill is unconstitutional and it should not be allowed to pass by the state legislators to become the law in the multicultural state of Nebraska. Thank you for your time today, dear Senators. [LB966]

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SENATOR KRIST: Thank you. Questions? Thank you very much. Thanks for coming. [LB966]

SENATOR PANSING BROOKS: I guess I just have to say... [LB966]

SENATOR KRIST: Oh, I'm sorry, Senator (inaudible). [LB966]

SENATOR PANSING BROOKS: ...I'm grateful that you're here and that we could provide a respite in Nebraska. Thank you. [LB966]

DHIEU AKEC JOK: Thank you. [LB966]

SENATOR PANSING BROOKS: Sorry for what you've gone through. [LB966]

DHIEU AKEC JOK: Thank you. [LB966]

SENATOR KRIST: Next testifier. [LB966]

TODD RECKLING: (Exhibit 16) Good afternoon, members of the Judiciary Committee. My name is Todd Reckling, T-o-d-d R-e-c-k-l-i-n-g. I'm the vice president of program at Lutheran Family Services of Nebraska. I'm here today to testify in opposition of LB966. LFS is the largest refugee resettlement organization in Nebraska, and we have been resettling refugees in Nebraska beginning with the Vietnam War refugees back in the 1970s. LFS is in opposition to LB966 for many reasons but let me focus on three. First, Lutheran Family Services believes this bill discriminates against certain groups of refugees attempting to proceed through the United State's refugee resettlement process. LB966 seems to arbitrarily identify 34 countries to be at high risk and, thus, if LFS resettled refugees from these countries we'd be held liable for each individual's actions. LFS does not discriminate on the basis of national origin, race, color, religion, disability, citizenship, gender, age, marital status, or sexual orientation. If this bill passes, LFS will be put in an unacceptable and untenable position of either resettling all refugees or no refugees because LFS will not discriminate. We also believe this bill would put us in a no-win situation where, in order to comply with this law, we would be in violation of other federal laws that state an organization cannot discriminate based on national origin, race, or religion. Second, LB966 would hold a refugee resettlement organization like LFS responsible for the criminal actions of any refugee resettled for a period of up to five years. To hold a nonprofit liable for any criminal actions of a legal adult client served in good faith does not occur with any other population served by any other organizations or nonprofits. Again, we believe this approach discriminates. Third, this bill would require LFS to carry a \$25 million umbrella insurance policy. We've spoken to our insurance carrier and they've advised that this type of liability insurance to insure

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against the criminal acts of an individual not implied by the organization is not even available. Also, the penalty suggested in the bill would effectively and could effectively shut down not only our refugee resettlement but also our entire organization. Finally, LB966 goes against our organization's mission to express God's love for all people and our Christian faith which motivates us to welcome the stranger and to care for our neighbor. Thank you. [LB966]

SENATOR KRIST: Mr. Reckling, you have less gray hair than the last time I saw you. It must be your change of employer. (Laughter) [LB966]

TODD RECKLING: And about 25 more pounds too, Senator. Thank you. [LB966]

SENATOR KRIST: Nice to see you. Next testifier in opposition. How about a neutral testifier? Okay, Senator Kintner waived closing, right? All right. Sir? [LB966]

LEE TODD: I would like to testify. (Inaudible). [LB966]

SENATOR KRIST: Proponent? Opponent? Oh, okay. [LB966]

LEE TODD: I'm sorry, I'm a proponent of the bill. [LB966]

SENATOR KRIST: You're a proponent. [LB966]

LEE TODD: Yes. (Inaudible). [LB966]

SENATOR KRIST: Okay, we asked for proponents to start out with. [LB966]

LEE TODD: I understand. [LB966]

SENATOR KRIST: I'll make an exception. Come on up. [LB966]

LEE TODD: Thank you. I would like to make also a typo correction on the second page of the handout. There's a reference to a point number four, which, due to time, I have eliminated that. So you can strike the words "see possible exception number 4 below." My name is Lee Todd, L-e-e T-o-d-d. I represent Global Faith Institute. We are an Omaha-based not-for-profit organization dedicated to restoring our founding principles and recognizing how those principles and values were foundational to the greatness of this country. We have over 3,000 subscribers that participate in our twice weekly e-mails. The vast majority of these are in Nebraska. We

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routinely do outreach programs to schools and churches. Last year in 2015 we were in front of 16,000 people. On November 12 and 13, GFI held a critical symposium on Islamic terror in Omaha, Nebraska. And at 13:00 hours on that same day we concluded that event and we had predicted at that event, less than three hours before the Paris attacks occurred, that Paris-types attacks would in fact happen in Europe. And at 21:30 Paris time on November 13 that very attack did occur. It's not a surprise what's going on. The bill that we are supporting, LB966, we feel would go towards alleviating some of the risks that are involved with what is going on in the United States. Consider the following, and I don't have time to go over all these, but, number one, 4,000 ISIS terrorists have infiltrated the ranks of the so-called Syrian refugees into Europe as per the British newspaper called the Express. In the United States, ISIS has bragged: America, we are coming for you; we are arriving with the refugees and it is going like clockwork. GFI's own on-the-ground information coming out of the Middle East and some of these countries that are listed in the bill confirms exactly what ISIS is doing. This is not an idle threat. This is a real threat. FBI counterterrorism expert Michael Steinbach told Congress in February of 2015 it has no reliable way of vetting the Syrian refugees, none. This bill is not an all-or-nothing bill. This bill doesn't say we can't have refugees and we're certainly not against having refugees. But what we are against is having unvetted refugees, refugees that have been unvetted. We also support Governor Ricketts' position that until the Syrian refugees, in particular, can be properly vetted, we need to have a moratorium and we think this is a state right for the state of Nebraska, and the state of Nebraska can go ahead and utilize its own jurisdictional responsibilities and say as such. In conclusion, we feel that LB966 puts the relocation agencies on notice that they have responsibilities too, not just beyond receiving all the lucrative federal dollars for relocating refugees. They have responsibilities as far as what may happen with their actions and as far as bringing in unvetted or undervetted refugees in the United States. I conclude my testimony at this time. [LB966]

SENATOR KRIST: Questions? Okay. Thank you very much. [LB966]

LEE TODD: Thank you. [LB966]

SENATOR KRIST: (Exhibits 18-30) Just, folks, for future...go ahead...for future reference, the reason we do proponents, opponents, and neutral is that we don't insight any more testimony at the end. So there's a reason for that. There's also a reason for three minutes. Everybody gets to say something and we get an opportunity to ask questions. To reiterate again, this bill will not get out of committee this year. I don't think it's ready for prime time. I think Senator Kintner made it very clear to me earlier it wasn't. So if any of you are concerned on one way or the other or if you'd like to continue to work with Senator Kintner, I'm sure he'd appreciate that. I need to read a couple things into the record, letters of support, and if I mispronounce people's name I am sorry but I'm reading Coash's handwriting, so that's my story and I'm sticking to it. Support: Gene Schultz; Rod and Theresa Sievers; Gloria Bullock; Dawn Wiegert; Brenda Ray; S. Wayne

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Smith; David Lostroh, L-o-s-t-r-o-h; Floyd Zabel; Connie Flood; and Jon Rademacher. To oppose: ACLU, NASW, and I believe it's Louis (phonetic) Lieske. That concludes the testimony and the hearing on LB966. [LB966]