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Transportation and Telecommunications Committee  
March 10, 2015

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[LB535 LB652]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Tuesday, March 10, 2015, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB535 and LB652. Senators present: Jim Smith, Chairperson; Lydia Brasch, Vice Chairperson; Curt Friesen; Tommy Garrett; Beau McCoy; John Murante; and Les Seiler. Senators absent: Al Davis.

SENATOR SMITH: Good afternoon. Good afternoon, we're going to begin our hearings for the day. Welcome to the Transportation and Telecommunications Committee hearing. I am Jim Smith from Papillion; I'm Chair of the committee. I'd like to introduce you to my colleagues that are on the committee with me. To the far left is Senator Tommy Garrett from Bellevue. Next to Senator Garrett is Senator Les Seiler from Hastings. And next we have Senator Beau McCoy from Omaha. To the far right is Senator Curt Friesen from Henderson. Next to Senator Friesen will be...joining us later, will be Senator Al Davis. And then Senator John Murante. We have with us Vice Chair, Senator Lydia Brasch from Bancroft. Committee staff on my right is Mike Hybl, he is our legal counsel to the committee. And on my left is Paul Henderson, our committee clerk. Pages today are running some errands for us, but we will have with us J.T. Beck from Centreville, Virginia, who is a senior at UNL. And Kelli Bowlin from Cody, Nebraska, who is a junior at UNL. We have two bills before us today; we will be hearing them in the order posted. If you are wishing to testify on a bill, you should come to the front of the room and be ready to testify in order to keep the hearing moving. Those wishing to testify on a bill, if you are testifying, please complete the sign-in sheet so it's ready to go and hand to one of our pages as you approach the testifier table. And for the record, please begin your testimony by stating and spelling your name. I'm looking at the number in the audience; it does not look like we have a large number. We do ask you to keep your testimony to approximately five minutes, but we will forego using the light system today. If you do not wish to testify, but want to voice your support or opposition to a bill, you can indicate so on the sheet provided on the table at the front of the room as you came in the door. If you do not choose to testify, you may submit comments in writing and have them read into the official record. Please silence your cell phones. And as I mentioned before, we are an electronic-equipped committee. So committee members will be referencing information related to the bill either in paper form or on their electronic equipment. Please be assured that your presence here today and your testimony are important to us. And your role is critical to the operation of our state government. So thank you for being here. I'm going to turn the reins over to Vice Chair Brasch and I will be introducing our first bill.

SENATOR BRASCH: Chairman Smith will be opening LB535. Thank you, Chairman Smith. You may now open. [LB535]

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SENATOR SMITH: Thank you and good afternoon, Senator Brasch and members of the Transportation and Telecommunications Committee. For the record, my name is Jim Smith, J-i-m S-m-i-t-h, and I represent the 14th Legislative District in Sarpy County. I am here today to introduce LB535. LB535 would authorize the Nebraska Public Service Commission to establish depth requirements for underground natural gas and major oil pipeline facilities that are located within two or more counties. The bill is a response to recent news that several counties are considering making a change in their zoning ordinances that would specify a minimum depth for underground facility placement. My primary concern, having heard that news, is that this could result in a patchwork of regulations where each county would mandate different depth requirements and would impact the operators' compliance across multiple counties. One proposal that caused concern for several utilities would have required all underground infrastructure to be buried at a depth of 60 inches. The proposed ordinance would have drastically changed the depth utilities would have to bury lines, raising serious safety and financial concerns for both the utilities and their customers. Particularly concerning, where an ordinance requires a depth...a specific depth for all utilities, you would have an intermingling of gas, electric, cable, telephone, water, and sewer all at the same basic location. This raises serious safety and operational issues. I understand that to date none of these changes have advanced through final action in any county. I will ask that following today's hearing that we would hold this bill and monitor activity throughout the state. These facilities, particularly natural gas facilities, are installed and maintained in compliance with a variety of federal regulations. We need to be mindful that any legislation we consider does not result in federal preemption. There are several utilities present and testifying today who will offer their insight and concern and will be able to address any technical questions that the committee may have. Thank you, Senator Brasch. And that concludes my introduction of LB535. [LB535]

SENATOR BRASCH: Thank you, Chairman Smith. Are there any questions from the committee? Seeing there are none, will the first proponent please come forward. Welcome, please say and spell your name. [LB535]

JILL BECKER: Good afternoon, Senator Brasch, and members of the committee. My name is Jill Becker, spelled J-i-l-l B-e-c-k-e-r, and I appear before you today as a registered lobbyist on behalf of Black Hills Energy. We'd like to thank Senator Smith for introducing LB535 and talk a little bit about our interest in this piece of legislation. As Senator Smith described, one county recently offered a proposed ordinance and requested public comment on some new zoning regulations. After reviewing those regulations, Black Hills Energy was concerned about the potential impact on our natural gas transmission and distribution system. Adoption of these proposed regulations could have significantly impacted our operations within that county. One major concern that we had was that the proposal would have required our system to be installed at a depth of 60 inches. Currently, federal standards require our transmission lines to be installed at a depth of 48 inches below the surface. So while there was a potential for us to perhaps come

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into compliance with that 60 inches, ultimately, the regulations would have actually required us to retroactively move all of our facilities at a very significant cost and potential safety concerns for our customers. Black Hills Energy also believes that allowing local entities to have varying depth requirements, essentially a variation of different types of regulations across their jurisdiction, increases the risk of our facilities being damaged by third parties. While we have additional concerns specific to those proposed regulations that I won't go into detail here, we, as a jurisdictional utility company, comply with a host of safety statutes and regulations under both federal and state pipeline safety statutes, as well as DOT and PHMSA regulations which are enforced by our state fire marshal. Ultimately, we believe that in some areas, the federal government has preempted state and local entities from acting. And while certainly we understand a local entity, such as the county's interest in enacting certain zoning regulations, we believe that, perhaps, in some areas the counties really should not be acting in this area and it should best be left to either a state or federal entities. We are concerned that allowing local entities to make determinations that impact the way that we provide safe and reliable service actually diminishes public safety. And with that I'd be happy to answer any questions that you may have. [LB535]

SENATOR BRASCH: Thank you, Ms. Becker. Are there any questions from the committee? Seeing there are none... [LB535]

JILL BECKER: Thank you. [LB535]

SENATOR BRASCH: ...next proponent please, come forward. Welcome. Please say and spell your name. [LB535]

VAL SNYDER: My name is Val Snyder, V-a-l, Snyder, S-n-y-d-e-r. Good afternoon, Senator Brasch, and the Transportation and Telecommunications Committee members. My name is Val Snyder. I represent Tall Grass Energy, a successor to the Kansas-Nebraska Natural Gas Company, which has been providing natural gas service to Nebraska since 1936. As an oil and gas...natural gas pipeline operator, Tall Grass Energy supports legislation aimed at providing depth of cover predictably and consistently at a statewide level, while at the same time not conflicting with existing federal regulations. We are testifying in support of LB535 with the following recommendations to amend existing language to the bill. Neither LB535 nor any other proposed legislation at the county, municipal, or state level can supersede federal regulations of oil and natural gas pipelines with regards to the depth cover or the safety requirements. Number two: existing oil and natural gas pipelines are exempt from LB535 and any other proposed legislation at the county, municipal, and state level. On behalf of Tall Grass Energy, I'd like to thank you for this opportunity to share my perspective on this bill. [LB535]

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SENATOR BRASCH: Thank you, Mr. Snyder. Are there any questions from the committee? Seeing there are none, next proponent please come forward. Are there any other proponents? Seeing none, are there any opponents? Seeing none, is there anyone to testify in the neutral? Welcome. [LB535]

GERALD VAP: Thank you. [LB535]

SENATOR BRASCH: Please say and spell your name. [LB535]

GERALD VAP: (Exhibit 1) Good afternoon, Vice Chair Brasch. My name is Gerry Vap and I'm the chairman of the Nebraska Public Service Commission representing the 5th District. I'm here today to testify in a neutral capacity regarding LB535. LB535 directs the commission to establish rules and regulations related to the depth of certain pipelines which cross more than one county. If the commission is given the responsibility, we would open a rule and regulation proceeding to seek input from interested parties and review current local standards related to the issue. The commission is happy to work with the committee on this issue, and I'd be happy to answer any questions. [LB535]

SENATOR BRASCH: Thank you. Are there any questions from the committee? Yes, Senator Garrett. [LB535]

SENATOR GARRETT: Thank you, Chairman Brasch. Question: gasoline, is gasoline shipped via pipelines as well? [LB535]

GERALD VAP: I believe it is, yes. [LB535]

SENATOR GARRETT: Okay. Would this bill not cover it...it says major oil companies and natural gas. I just... [LB535]

GERALD VAP: That I'm not sure. Generally, I think gasoline pipelines, diesel fuel, probably are interstate in nature, which is a federal jurisdiction. [LB535]

SENATOR GARRETT: Because I see a gasoline pipeline that runs through part of my district in a housing area, it just always...I know how volatile those can be, certainly, so. [LB535]

GERALD VAP: There are no refineries in the state of Nebraska, so I'm guessing it all comes in through interstate pipelines. And that's a federal jurisdiction. [LB535]

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SENATOR GARRETT: Some of them right through housing areas...in the middle of housing areas, so. [LB535]

GERALD VAP: Yeah. [LB535]

SENATOR GARRETT: Anyway, okay, thank you. [LB535]

SENATOR BRASCH: Are there any other questions for Commissioner Vap from the committee? Seeing there are none, thank you. [LB535]

GERALD VAP: Thank you. [LB535]

SENATOR BRASCH: Next neutral testifier, please. Welcome. Please say and spell your name. [LB535]

MICHAEL LOEFFLER: (Exhibit 2) Thank you. My name is Mike Loeffler, the last name is spelled L-o-e-f-f-l-e-r, and I'm the senior director of certificates and external affairs for Northern Natural Gas Company, headquartered in Omaha, Nebraska. Good afternoon, I'm happy to be here. Northern Natural Gas provides interstate natural gas transportation and storage services. We operate 14,700 miles of pipeline in 11 states, including more than 1,600 miles of pipeline in Nebraska. Northern is a natural gas company, as that term is defined in the Federal Natural Gas Act. Its rates and services are regulated by the Federal Energy Regulatory Commission, otherwise known as FERC. The construction and operation of Northern's interstate natural gas facilities are also subject to the jurisdiction of other federal agencies such as the Pipeline and Hazardous Material Safety Administration, or PHMSA, a division of the U.S. Department of Transportation. Those safety regulations are...were governed pursuant to Natural Gas Pipeline Safety Act of 1968, as amended in subsequent pipeline acts. It is Northern's belief that LB535 would not be lawful as it applies to interstate natural gas pipelines because states are preempted from promulgating laws and regulations where the federal government has, in legal terms, "occupied the field." In other words, state law would be preempted by the federal requirements because federal agencies currently have jurisdiction over interstate pipeline construction and operation. The doctrine of preemption has its roots in the supremacy clause of the U.S. Constitution. There is specific legal finding that the provisions of LB535 would be preempted as it pertains to interstate pipeline companies. Northern litigated a case of Northern Natural Gas v. Iowa Utilities Board, a 2004 decision in which the Eighth Circuit Court of Appeals determined that an Iowa statute and certain IUB or Iowa Utilities Board rules related to pipeline construction were preempted by federal law. Another case, Colorado Interstate Gas Company v. Thomas E. Wright, et al., decided by the U.S. District Court in 2010, invalidated certain Kansas regulation of natural gas storage fields owned and operated by interstate natural gas pipelines. We are here

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today to go on record that we believe that LB535 would not be lawful as it relates to the construction and operation of interstate natural gas pipelines and, therefore, we are testifying in a neutral position today. I'm open for questions. Thank you. [LB535]

SENATOR BRASCH: Thank you, Mr. Loeffler. Are there any questions from the committee? Yes, Senator Friesen. [LB535]

SENATOR FRIESEN: Thank you, Chairman Brasch. When it comes to natural gas pipelines, they're required to be at a certain depth. So does anybody regulate that, or do they come check that when you put those pipelines in? [LB535]

MICHAEL LOEFFLER: We're regulated both by the FERC and the U.S. Department of Transportation. We bury our pipelines, initially, at 48 inches deep. Now, over time the pipelines may have less cover because of erosion, wind, things like that; but we engage in active operation of and integrity procedures to make sure that we identify those pipes and go under. Whenever we construct a pipe, we're also required to indicate our depth of cover and other pipeline safety regulations through the FERC as part of the application for the construction of those pipelines. [LB535]

SENATOR FRIESEN: What would be the minimum cover before you would go in and rebury it or...? [LB535]

MICHAEL LOEFFLER: We...that's a good question, we go and we actually do annual survey of all of our 14,700 miles of pipe. We augment that with a aerial survey that goes over. And so when we discover a pipeline is not covered to the four-foot depth, we do go ahead and...we have a prioritization and those that have less cover, we put high priority and we'll take care of those year by year. So it's an ongoing process because of erosion. But whenever we find anything less than 48 inches, it goes on that list. [LB535]

SENATOR FRIESEN: Okay. Thank you. [LB535]

SENATOR BRASCH: Are there any other questions? Yes, Senator Seiler. [LB535]

SENATOR SEILER: Is there a distinction with FERC between...if pipelines international and distribution. [LB535]

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MICHAEL LOEFFLER: Between Distribution, yes. FERC only...the federal and natural gas act only regulates interstate transmission pipelines. You have distribution pipelines, such as Omaha, it's MUD. Those are not regulated by FERC. [LB535]

SENATOR SEILER: So they would come under this type of a bill. [LB535]

MICHAEL LOEFFLER: I can't speak to that. They could speak to that themselves, but we would not. [LB535]

SENATOR SEILER: Okay. Thank you. [LB535]

SENATOR BRASCH: Any other questions? I see there are none. Thank you, Mr. Loeffler. [LB535]

MICHAEL LOEFFLER: Thank you. [LB535]

SENATOR BRASCH: Is there any other neutral? Welcome. [LB535]

JOHN LINDSAY: Thank you, Senator Brasch, members of the Transportation Committee. My name is John Lindsay, L-i-n-d-s-a-y, appearing on behalf of SourceGas Distribution. The...start off saying that we appreciate Senator Smith's work on this. He's identified an issue that was out there at the time he introduced the bill. And our concern with the bill is simply the approach to resolving that issue. SourceGas owns and maintains and operates about 5,800 miles of transmission and distribution pipes throughout the state. Basically, SourceGas has the western two-thirds of the state that where natural gas is provided, with some exceptions, where Northwest Energy and some municipals might be. We serve many natural gas irrigation engines and grain dryers around the state. So we do get out into the counties. We are...our pipelines are installed and maintained...the transmission lines are installed and maintained under strict codes and regulations governed by the office of Pipeline Hazardous Material Safety Administration, or PHMSA, as has been suggested earlier. And so there is...there already is the high degree of safety entered into any decisions we make with respect to underground infrastructure. And that, along with, simply the need for SourceGas to adhere to that...adhere to strict guidelines for its own...the safety of its own infrastructure because the cost involved. We would urge the...appreciate Senator Smith's concern and would offer to continue to work with the committee to find resolution. [LB535]

SENATOR BRASCH: Thank you, Mr. Lindsay. Are there any questions from the committee? Yes, Senator Seiler. [LB535]

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SENATOR SEILER: The pipeline security act that you talked about, is that a federal act or is that a state act? [LB535]

JOHN LINDSAY: Yes. [LB535]

SENATOR SEILER: Federal? [LB535]

JOHN LINDSAY: Yes. [LB535]

SENATOR SEILER: So your distribution is covered under that as well as your transmission? [LB535]

JOHN LINDSAY: I don't believe the distribution is. The transmission lines would be. [LB535]

SENATOR SEILER: Then if we pass this bill, you transfer your distribution lines would be coming under this bill, because they wouldn't be preempted. [LB535]

JOHN LINDSAY: Probably not. Yes, they would probably come under the bill, they would not be preempted. And that raises another concern of a patchwork of...of...not having a patchwork of varying depth requirements around the state. [LB535]

SENATOR SEILER: Right. [LB535]

SENATOR BRASCH: Any other questions? Seeing there are none, thank you, Mr. Lindsay. [LB535]

JOHN LINDSAY: Thank you. [LB535]

SENATOR BRASCH: (Exhibit 3) Are there any others to testify in the neutral capacity? Seeing there are none, I am going to read one letter into the record, Randall Peters on behalf of the Nebraska Department of Roads in neutral. And Senator...Chairman Smith has waived closing. [LB535]

SENATOR SMITH: Thank you, Senator Brasch, appreciate that. And that concludes our hearing on LB535. And we now move to LB652, and I've asked the legal counsel to introduce this bill for us today. Welcome. [LB535]



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MIKE HYBL: Thank you, Senator Smith. Members of the committee, my name is Mike Hybl, M-i-k-e H-y-b-l. I'm introducing LB652 on behalf of the committee. LB652 would propose the adoption of the 911 Emergency Services Communications Act. The bill was drafted by the Wireless E-911 Advisory Board with assistance from the staff of the Nebraska Public Service Commission and represents a proposed next step in the discussion and consideration of the need to move forward in Nebraska with Next Generation 911 service capability. Next Generation 911 capability is defined as the ability of a 911 call center, a public safety answering point, or PSAP, to receive calls for emergency assistance by voice, text, or video utilizing in whole or part internet protocol. The provision of 911 service is a local function, but over the past 25 years, there has been significant legislative involvement in provision of the service. Almost all of the legislative involvement has been aimed at providing financial assistance to local government to support 911 services. In 1990, the Legislature enacted LB240 which authorized local governments to impose a surcharge of up to 50 cents per access line on all landline telephone service. The surcharge was to be used to defray the cost of 911 emergency communications. In 1994, LB1044 was enacted. It allowed local government entities, except for those within Douglas County, to increase the 50 cent surcharge on wireless...excuse me, on wire-line services to up to \$1. In 2001, LB585 was enacted. It created the Enhanced Wireless 911 Services Act. That act authorized the Public Service Commission to collect a surcharge of up to 70 cents per month on all wireless subscribers. The surcharge is distributed by the Public Service Commission to public safety answering points and telecommunication carriers and the funding is used to defray the costs of providing an enhanced wireless E-911 service. By 2012, the Public Service Commission had completed the direct task that was called for by the Enhanced Wireless Service Act and all 93 counties had fully implemented wireless E-911 service with at least one wireless provider. The evolution of 911 service capability has now moved to the concept of NextGen 911 service. Again, NextGen 911 moves beyond a voice connection between a caller and a public safety answering point, but is also voice and nonvoice, text, video-type capabilities. In 2013, the Legislature enacted LB595. The following finding was made in that bill that consideration of upgrades to emergency telephone communications is warranted, but the Public Service Commission was authorized to use the enhanced wireless 911 fund to study the implications, costs, and consideration of Next Generation emergency telephone communications. Public Service Commission retained a consultant, Mission Critical Partners, to study issues associated with implementation of NextGen 911 service. That report was delivered to this committee and to the Legislature in March of 2014. Following the issuance of the report on March 25, 2014, Senator Dubas, as Committee Chair, introduced LR537, which called for further study of the implementation of NextGen 911. The resolution stated that there should be an examination of new legislation necessary to enable the state to move forward with the implementation of NextGen 911 service and the need to consolidate existing statutes and funding streams for 911 services. The result of that activity over the past 12 months is LB652. LB652 designates the Public Service Commission as the statewide governing authority, increases the membership and representation upon the advisory board, provides for the Next Generation 911

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planning and implementation authority to the commission, and establishes a uniform and consolidated wire line...wire line/wireless surcharge. To summarize, the introduction, I thought, the history would be helpful. I know they'll be more behind me that were more involved in the actual preparation of the bill and participants in the study. So with that I'll close my introduction. [LB652]

SENATOR SMITH: Thank you, Mr. Hybl. Questions from the committee? This is a good opportunity to kind of get some perspective as we move toward proponents and opponents of the bill. Senator Friesen. [LB652]

SENATOR FRIESEN: Thanks, Chairman Smith. This surcharge, are you saying that the old surcharge then would go away and we transition into this new one? [LB652]

MIKE HYBL: Basically, the current surcharge is in place...under the terms of the bill would be merged into this consolidated fund, yes. [LB652]

SENATOR FRIESEN: Okay. Thank you. [LB652]

SENATOR SMITH: Additional questions? Mr. Hybl, so with...there should be some coordination with the CIO's office on what this looks like going forward, so I know that that particular spot is vacant, currently, in the Governor's Administration. So having some delay on this could be beneficial to us to get that person on board and have them part of the process. [LB652]

MIKE HYBL: Yes, I would agree with that. Part of the mission critical study that was delivered to the committee last year was...was a focus on the fact that...at the state level, particularly between the Public Service Commission and the CIO's Office, there needed to be direct involvement by both and coordination of the activities of both. So having a...the new CIO in place, I think, will be important to this process as it goes forward. [LB652]

SENATOR SMITH: (Exhibit 1) Great. Thank you for the history. And we're going to move now to proponents, proponents wishing to speak on LB652. We do have a letter to read into the record for support on LB652 from Ryan Larsen on behalf of the Nebraska Hospital Association. Seeing no proponents, we now move to opponents, those wishing to testify in opposition to LB652. Welcome. [LB652]

GARY KRUMLAND: Senator Smith, members of the committee, my name is Gary Krumland, it's G-a-r-y K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities. I'm appearing

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in opposition to LB652, it's not because of the policy. We do appreciate the work of the Advisory Committee, the PSC, and this committee and everything they've done and support the policy working towards implementing the Next Generation 911. Our opposition comes from one provision in the bill and that's the provision that takes away the surcharge from local governments that can be used to support their call centers, or PSAPs, and gives it to the state. Under the bill, that ends on July 1, 2017, which is a very abrupt ending. The local governments will still have responsibility to continue with the...providing the service and it just takes an important source of funding away from them. And for that reason we're appearing in opposition, although we do appreciate the work that's gone into this and the study and would like part of the continuation of that, if that is going on. [LB652]

SENATOR SMITH: Thank you, Mr. Krumland. Questions from the committee? Senator Friesen. [LB652]

SENATOR FRIESEN: Thank you, Chairman Smith. Mr. Krumland, when this was first established, wasn't the fund set up in order to allow 911 centers to acquire equipment that would enable 911 and it was not really meant to run the operations of 911? [LB652]

GARY KRUMLAND: There's been that debate. I don't know that the statute is that clear. It is being used as...for ongoing operations and equipment right now. And if that goes away, whether that was the original intent, it...the local governments will have to come up with other source of funding, property tax or whatever. [LB652]

SENATOR FRIESEN: Okay, thank you. [LB652]

SENATOR SMITH: Additional questions from the committee? I see none. Thank you for your testimony. We continue with opponents to LB652. Welcome. [LB652]

STEVEN LAMKEN: (Exhibit 2) Senators, my name is Steve Lamken, L-a-m-k-e-n. And I'm here today representing the Police Chiefs Association of Nebraska. And I'm here to express the Nebraska's Police Chiefs Association in opposition to LB652 as it is currently written. LB652 provides for the Public Service Commission to collect all 911 surcharge fees and distribute them as the commission deems appropriate. Land line 911 surcharge fees have been dedicated to local government public safety answering points, PSAPs, to support their operations. 911 surcharge fees provide up to 30 percent of the funding for local PSAPs' operations. LB652 places local governments under PSAPs at the mercy of the commission. The PSAP is the lifeline for fire, law enforcement, and emergency medical services. The citizens of Nebraska do not call the Public Service Commission or state government in a crisis or emergency. They call 911, which is answered by a local government PSAP. In turn, it is overwhelmingly the local emergency

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services and not state emergency responders who come to the aid of the people. The safety of our citizens being made subject to the politics and/or special agendas of others who may influence the decisions and actions of the Public Service Commission. The Police Chiefs Association urges the committee to reject LB652 as currently written. As written, LB652 could lead to fiscal crisis for local governments, but even more concerning the potential erosion of quality services provided by PSAPs in our state. In the end, the citizens in a crisis or emergency will be the ultimate loser. Thank you for your consideration of our request. [LB652]

SENATOR SMITH: Thank you, Mr. Lamken, for your testimony. Senator McCoy. [LB652]

SENATOR McCOY: Thank you, Chairman Smith. And thank you, Mr. Lamken. In looking at your testimony you handed out, and I wanted to...one of the very last things in your prepared testimony you have...it's stating--as written, LB652 will lead to financial crisis for local government. I think you just said "could." [LB652]

STEVEN LAMKEN: I could modify that and say "will," but I'll be optimistic that it won't. But maybe not. [LB652]

SENATOR McCOY: So it's the position of the Police Chiefs Association... [LB652]

STEVEN LAMKEN: The association thinks it will lead to the erosion. [LB652]

SENATOR McCOY: "Financial crisis" is pretty strong language. [LB652]

STEVEN LAMKEN: Some of our county governments and city governments are on the end of their property tax lids and other fees and that's going to be an unfunded cost to them. Some of them are at their lids. [LB652]

SENATOR McCOY: Thank you. [LB652]

SENATOR SMITH: (Exhibit 3) Additional questions from the committee? Seeing none, thank you for your testimony. Next opponent to LB652. Opponent. All right, we now move to those...just a moment. We have an item for the record in opposition to LB652. This is from Jim Peschong and Julie Righter Dove on behalf of the Lincoln Police Department. We now move to those wishing to testify in a neutral capacity on LB652. Neutral. Welcome. [LB652]

GERALD VAP: (Exhibit 4) Good afternoon, Chairman Smith, members of the Transportation and Telecommunications Committee. Again, I'm Commissioner Jerry Vap, Chairman of the Public Service Commission, representing the 5th District. I'm here today to testify in a neutral capacity regarding LB652. In 2001, LB585 vested the commission with the responsibility to implement enhanced wireless 911 service throughout Nebraska. Enhanced wireless 911 enables public safety answering points, or PSAPs, to receive and process location information for wireless telephone users. LB585 also created an enhanced wireless 911 fund to provide cost recovery for PSAPs and wireless carriers resulting from the implementation and provision of enhanced wireless 911 service. The commission worked with the Enhanced Wireless 911 Advisory Board, wireless and landline carriers, county and city governments and various vendors to provide funding for the implementation of enhanced wireless 911. This required not only the purchase and installation of equipment and software in the various PSAPs across the state, but the development of GIS mapping data for the entire state and the intertandem trunking between PSAPs to ensure location data could be transferred along with a call from one center to another. It became apparent that the fund could not continue to provide full cost recovery to all PSAPs and for all wireless carriers for the implementation of enhanced 911 services. As a result, LB1222 was passed in 2006. The commission was no longer required to provide full cost recovery and was directed to develop a funding mechanism to distribute funding to PSAPs and wireless carriers. Further, it raised the surcharge cap from 50 cents to 70 cents for all but Douglas County. In February 2010, the commission adopted the 911-SAM, or Support Allocation Methodology, an econometric model which allocates funding to counties and wireless carriers on an annual basis. This funding mechanism continues to be used today. As of August 2012, the implementation of Phase II enhanced wireless 911 surcharge throughout the state of Nebraska was complete with at least one wireless carrier in each county. The commission's focus migrated from implementation to the operational aspects of enhanced wireless 911 service. For example, the expenses eligible for funding have been expanded to include certain personnel and training costs. Recently, the commission has received funding requests for additional funds in the amount of \$98,380 and change for seven text-to-911 projects covering 18 counties. Today, the commission has approved \$75,330 in funding for three of the projects and the other four are pending. This funding is in addition to payments approved for the 2014-15 funding year to PSAPs totaling \$4.8 million; to wireless carriers in the amount of \$808,000, and to local exchange carriers totaling \$2.7 million. It is clear that the provision of 911 service is ever changing and the commission has taken steps to adapt to that change. However, the current statutory framework is very limiting. In March 2013, the commission received an informal opinion from the Attorney General that we could not use the wireless fund for the purpose of studying or implementing Next Generation 911 technology. In 2013, LB595 directed the commission to utilize wireless funds to hire an independent, third-party contractor to conduct a study regarding the implementation of Next Generation 911 in Nebraska. The contractor held multiple public meetings throughout the state, conducted site visits in multiple 911 centers, and sought information from potential stakeholders including representatives of landline and wireless

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telephone industry, broadband providers, 911 centers, and various state agencies. The final report was provided to the Transportation and Telecommunications Committee in March of 2014 and contained recommendations as to how to proceed with the implementation of Next Generation 911 in Nebraska and suggested a reorganization of the regulatory and funding framework related to the provision of 911 services in Nebraska. The Legislature then directed the commission through LR537 to continue study of the matter. In LB652 is the product of the report and subsequent study. We fully understand that the restructuring of the funding and oversight of 911 in Nebraska is a complicated task and must be approached in a thoughtful and inclusive manner. Implementation of Next Generation 911 requires a comprehensive approach. As technology advances and equipment reaches its end of life and is no longer supported by the manufacturer, new equipment and communications infrastructure will be necessary. However, the current statutory framework and the limitations on the use of the fund prevent the commission or any other agency from developing a master plan for the efficient and orderly implementation of Next Generation technology, or providing funding for Next Generation 911 services. These restrictions make it difficult for the commission to ensure funding is used in the most efficient manner going forward. The current balance of the fund is just over \$16 million. In 2013, the commission reduced the surcharge from 50 cents to 45 cents. Based on our projections, the fund will have a balance of approximately \$10 million by 2018. We have been hesitant to reduce the surcharge further with the future of the commission's role and the funding needs of the 911 community in limbo. However, we cannot continue to maintain the balance at current levels in perpetuity in anticipation of possible changes. The commission will continue to work within the existing framework to ensure that as equipment is replaced and funds are expended that we do so in a way to maintain as much flexibility as possible to take advantage of the developing technologies and any future changes in the statutory framework. We look forward to continuing to work with the committee and other stakeholders to continue to improve public safety for all Nebraskans through the establishment of an adaptable regulatory and funding framework for the provision of 911 service. I'd be happy to answer any questions you may have. [LB652]

SENATOR SMITH: Thank you, Commissioner Vap. Do we have questions? I see no questions. Thank you. [LB652]

GERALD VAP: Thank you. [LB652]

SENATOR SMITH: Next neutral testifier. Welcome. [LB652]

JERRY STILMOCK: (Exhibit 5) Thank you, Sir. Mr. Chairman, members of the committee, my name is Jerry Stilmock, J-e-r-r-y, Stilmock, S-t-i-l-m-o-c-k, testifying on behalf of my clients, The Nebraska State Volunteer Firefighter's Association and Nebraska Fire Chiefs Association in the neutral capacity. Though my comments are neutral and somewhat tangential to the issues that

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you've heard of up to this point in time, we believe they're important and, hopefully, you believe they are relevant. There are definitions within the act...within the proposed legislation that set forth who is responsible for emergency services. On page 10, Section 10, you see that the emergency services are put in charge of the county. Earlier in the legislation, at page 3, Section 3, 911 emergency services are defined to include not only law enforcement, which I think we would all gravitate to, but also fire fighting, medical, and other public services. My points are twofold: fire fighting is already covered under Nebraska statutes in outside of villages and cities by fire protection districts. And in Chapter 35 of the statutes, fire protection districts are charged with that responsibility of fire protection, fire fighting. We want to make you aware of the duplication, perhaps, of who has control and authority over fire fighting. Secondly, perhaps known, perhaps unknown to you is the provision of emergency medical services. Emergency medical services and who has jurisdiction over a community and whether or not a service continues or not is void in the statute. So the committee, Health and Human Services Committee, conducted an interim study--who should be in charge jurisdictionally of emergency medical services. The Board of Emergency Medical Services through the Department of Health has also looked at the issue. And, of course, our volunteer rescue providers have also considered the issue--who is best to be in charge of emergency medical services. It becomes particularly relevant when a small community or village disbands their emergency services and that gap is created. And what happens, typically, what happens is the neighboring communities of their volunteers then overlap and take it to that area where there's been a void because of the disbandment. In this legislation, though fire fighting is included, and we would ask you to consider that it's already provided by Nebraska statutes by fire protection districts, I think it's good public policy to include that counties are in charge of emergency medical services in the event there should be a disbandment or areas of emergency services where there's no coverage...or where there's a need, but there's no coverage. And for those reasons we felt it was important and ask you to consider these points as you contemplate the legislation. Thank you, Senators. [LB652]

SENATOR SMITH: Thank you, Mr. Stilmock, for your testimony. [LB652]

JERRY STILMOCK: Yes, Sir. [LB652]

SENATOR SMITH: Do we have questions from the committee? I see none. [LB652]

JERRY STILMOCK: Thank you. [LB652]

SENATOR SMITH: Thank you. Next testifier in the neutral capacity. Welcome. [LB652]

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CURT BROMM: (Exhibit 6) Thank you. Thank you, Mr. Chairman, members of the committee. For the record, my name is Curt Bromm, C-u-r-t, B-r-o-m-m. I appear on behalf of our client, Verizon Wireless. And I'm handing out a letter that I would like to provide for the record. It is in the neutral capacity, of course, but Verizon would like to express to not only the PSC, but the wireless advisory board that we appreciate very much the work that's been done. We also appreciate that we were given some opportunity to comment on LB652 as it was being introduced. We do feel it's a terribly important task. We feel it is very important to get it right. We heard the chairman's comments about...or legal counsel's comments about getting a CIO in place. It's terribly important that we have leadership in the administration, as well as in the Legislature to tackle this problem. And we just want the committee to know and as you move forward if...if on our part, if we can be of any assistance and participation in any work or collaboration we'd be happy to do so. And with that, Mr. Chairman, I'll be very brief. [LB652]

SENATOR SMITH: Thank you, Mr. Bromm. Questions from the committee? I see none. Thank you for your testimony. Next person to testify in the neutral capacity. Neutral. Welcome. [LB652]

SEAN KELLEY: Good afternoon, Chairman Smith, and members of the Transportation and Telecommunications Committee. My name is Sean Kelley, S-e-a-n K-e-l-l-e-y, appearing today on behalf of the Douglas County Board of Commissioners in a neutral capacity. The board of commissioners would just like this committee to review three items as you deliberate on this important topic. First is the definition of Next Generation 911, so that it encompasses multimedia portion of communication. Second, delaying the taking of that surcharge until absolutely necessary. And lastly, the ability to house the wireless surcharge fund as it exists to fund the planning and transition of Next Generation 911. With that I'd be happy to answer any questions. [LB652]

SENATOR SMITH: Thank you, Mr. Kelley. I see no questions. [LB652]

SEAN KELLEY: Thank you. [LB652]

SENATOR SMITH: Next person to testify in the neutral capacity. Welcome. [LB652]

NEIL MILLER: Thank you. Good afternoon, Mr. Chairman, members of the committee. My name is Neil Miller, N-e-i-l M-i-l-l-e-r. I'm the Buffalo County Sheriff. I also am the Chair of the Nebraska...or the Wireless Advisory Committee through the Public Service Commission and represent the sheriffs in my testimony. I've been on the Public Service Commission's Wireless Advisory Board, which is largely made up of local representatives, since it was established by statute in 2001. And I currently serve as the chair of that committee. During that time, the



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Wireless Advisory Board has been dedicated to implementing phase II wireless 911 location capabilities in every PSAP in the state. That occurs as a major priority to us after the incident that happened in Douglas and Sarpy County where they had difficulty locating the two people who ultimately died as a result of the snow storm, of being out in the cold. The advisory board has also been instrumental in bringing and working with Text-to-911 in Nebraska. Currently, we have two Text-to-911 counties that are on-line and using Text-to-911--they're Douglas and Buffalo. We're working to help the other PSAPs bring it to their areas of the state as well. This technology allows the deaf and hearing impaired community, as well as those at risk, by making a voice call critical access to 911. The current Wireless Advisory Board, along with the 911 professional organizations in this state, worked with the Public Service Commission's attorney to help draft some of the language used in LB652. These members also had direct input into the study that was mandated by LB595 and completed for the Legislature on 911 in Nebraska. We also looked at other states and their legislation to try and help to develop a plan that will serve Nebraska, taking into account information from the study. I had...if you had asked, when this bill first started out, where I would have been testifying, I would have told I would be testifying in favor of this bill. I, like some of the other testifiers, am testifying neutral because we have concerns over just some of the language that's in there. The concerns that we have as a committee and have been brought to us by local government are the following: Due to that Attorney General's Opinion that currently limits the wireless 911 fund to only wireless 911 expenses, we need to ensure that the new law allows revenue in the existing wireless 911 fund to be used in the development of Next Generation so the expenses that will be incurred by this new technology can be funded. Again, it is a very tightly worded and it's very difficult, the commission has no authority to do anything outside of wireless. And we want to make sure that when we talk about that fund, that it has the ability to continue to keep the PSAPs that are on-line going, as well as money in the fund being able to be used for Next Generation expenses to move Nebraska forward with Next Generation. So the fund would serve two purposes, and we want to make sure that both of those are there. Secondly, we are concerned that the language in the bill does not ensure that the wire line funds will go back to the local PSAPs once it is received by Public Service Commission. Any further reduction in surcharge revenues on the wire line income is sure to cause an increase in the local general fund budgets; most of those come from property taxes. There will come a time when we may need the wire line revenue to support NextGen 911, and when that date comes we can look at change from the way we collect and disperse those funds. And again, there just...the wire line side, even though the revenue has been decreasing, it's still funding a lot of the expense of equipment and those expenses inside the 911 centers. So that became apparent to us that there was a huge concern from the locals about not having a way to make sure that there was no reduction in revenue by those funds coming in to the Public Service Commission, similar to how the wireless industry has those funds come in right now. I think everybody would say...or the people that have been involved in this know that at some point those two revenue streams are going to probably come together. We just want to make sure that as a result of that happening we don't end up with less funding to the PSAPs by

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that happening. And lastly, we're concerned that the language and definitions used to define Next Generation 911 in this bill are not those used by the 911 industry. We feel they should be the same as those used by the National Emergency Number Association to provide uniformity in how Nebraska defines NextGen. It is a multimedia service that's going to deliver 911 calls in a number of different ways, whether those are a text, some type of multimedia deliver, voice, all of those things we want to make sure that the language and definitions in the law cover all of those so that we're not back here again trying to amend the legislation once we get it passed. So our recommendation would be use the NENA standards, National Emergency Number Association, for definitions inside the law that gets passed. In conclusion, the Wireless 911 Advisory Board agrees with almost all the language in the introduced green copy of the bill. We also believe that Nebraska needs to move forward to get this state in a position to develop a master plan and the legislation that allows 911 to become a reality in this state. I thank you for this opportunity to come before you, and I would answer any questions that anyone might have. [LB652]

SENATOR SMITH: Thank you, Mr. Miller, very good information you provided. Do we have questions from the committee? I see none. Let me ask you this, in your knowledge of NextGen 911 concepts across the country and what people are looking at, how big of an issue does it become the ability of routing calls between these...does it provide us more options to route calls during a high-volume times? Is there a benefit from the technology there? [LB652]

NEIL MILLER: There absolutely is. One of the things that you're seeing happen in the state right now is you're seeing a lot of the PSAPs in this state go together to provide regional call answering capability in the form of sharing equipment. So we would put the high-dollar cost equipment in one place and then share that amongst multiple other PSAPs in the area as work stations off to that main equipment. That allows a couple of things to happen. One is, that we have some level of redundancy to 911 calls getting delivered. We have a way to take those 911 calls, if for some reason they cannot get to that PSAP that they're intended, that another PSAP can take those calls. We can do that now...a lot of those calls transfer through the tandems that exist in Nebraska, the legacy telephone company switch network. We have the ability to transfer those calls. This moves it to the next level because we're going to see 911 go from a switched technology to an IP or internet protocol technology. And that's really kind of where Next Generation 911 is taking us is the ability to move to that platform. Once that happens, it becomes a much easier process of getting this call to this PSAP along with all the information that's with it, or this call, this PSAP taking calls for some of the PSAPs around it because they can't take any right now. So the technology and the community, the 911 community in Nebraska, is already moving towards regionally sharing equipment to provide less cost for capital outlay and buying this equipment, less maintenance costs for keeping this equipment up, and then a plan to be able to have backups or redundancy built into delivery of 911 calls. [LB652]

SENATOR SMITH: All right. Thank you, Mr. Miller, for your testimony. [LB652]

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NEIL MILLER: Thank you. [LB652]

SENATOR SMITH: Next person wishing to testify in a neutral capacity. Welcome. [LB652]

SHELLY HOLZERLAND: Thank you. Good afternoon. My name is Shelly, S-h-e-l-l-y, last name is Holzerland, H-o-l-z-e-r-l-a-n-d. I'm the president of NESCA and also representing the Nebraska APCO/NENA organization. NESCA is the Nebraska Emergency Service Communications Association. Our organization represents the frontline public safety dispatchers from across the state. NESCA is taking a neutral position on this bill as it is written. We are excited about LB652 because it represents the beginning of a process of implementation of NextGen 911 for Nebraska. We don't feel the bill, in it's present form, is what we would like to see enacted. The loss of the current land line surcharge money will adversely affect every PSAP in the state. The funds that are collected by the individual PSAPs are vital to their budgets and LB652 does not adequately address this issue. However, the fact that a dialogue has started is exciting to our organizations. NESCA has over 300 members from across the state and Nebraska APCO/NENA also has a large membership number. And we are all involved in emergency communications on a daily basis. We stand ready to work on and have input into all statewide projects involving our area of expertise. NextGen 911 will greatly enhance the services we provide to the citizens and responders. Easier call transfers, better location information, and increased situational awareness that comes with NextGen will allow us to increase and improve the services we provide. While we can't support LB652 as it is now, we welcome the opportunity to have input and help make it a bill that everyone can support. Thank you. [LB652]

SENATOR SMITH: Thank you, Ms. Holzerland. We appreciate you being here representing those on the front line for emergency communications. [LB652]

SHELLY HOLZERLAND: Thank you. [LB652]

SENATOR SMITH: Any questions from the committee? I see none. Thank you. [LB652]

SHELLY HOLZERLAND: Thank you for your time. [LB652]

SENATOR SMITH: Welcome. [LB652]

KARA THIELEN: (Exhibit 7) Good afternoon. My name is Kara Thielen, K-a-r-a, Thielen, T-h-i-e-l-e-n, and I'm testifying today on behalf of Colorado Cellular, Inc., which does business in Nebraska as Viaero Wireless. Viaero is a wireless carrier that operates primarily in the rural Nebraska covering all but 15 of the state's 93 counties from Seward west to the Colorado

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boarder. I'm speaking today in the neutral capacity regarding LB652. I'm Viaero's 911 director and I work regularly with approximately 50 of the Nebraska's 76 PSAPs to ensure Viaero's 911 system operates correctly. I have over 20 years of experience in 911 services, including serving as Nebraska Public Service Commission's 911 director from 2001 to 2006 where I designed and led the statewide implementation and operation of the wireless 911 system for the state of Nebraska. There are two over-arching points I want to impart to the committee today. First, 911 is a dynamic system that is always changing, evolving and adapting to new technology and will continue to do so. Installing a new system will not be a turnkey process, but rather a process that will require constant attention and upgrading so that it can respond to the ever evolving 911 environment and emerging technologies. Number two: any new 911 system the state implements will require a transition period, perhaps for many years, when the state's existing legacy system remains operational while the new NextGen 911 system is being constructed and implemented. Again, implementing a new 911 system will not be a turnkey process; it will take time. LB652 has emerged as a result of rapidly changing technology and the recognition that our state's current 911 system is out of date. As you know, in 2013 pursuant to LB595, the Legislature authorized a study to examine issues surrounding the statewide implementation of NextGen 911. The study was submitted in final form to the commission and the Legislature in March of 2014. Many of the findings from the study are addressed in LB652, including the study's most fundamental finding which is that in Nebraska no entity currently has authority to coordinate, oversee, and manage the existing 911 systems and that the current statutory and regulatory framework for the management and funding of 911 services in Nebraska was not designed to support a new statewide NG911 system either. LB652 addresses the deficiency by establishing the Public Service Commission as the statewide governing authority for all 911 emergency services communications. While it is ultimately up to the Legislature to determine whether the commission or another agency or department should be designated to serve in that critical role, Viaero agrees that the essential first step is to establish a central statewide authority for the state's 911 system, which includes current legacy system, the quickly-emerging NextGen 911 System and any new technologies that will emerge in the future. The study also found the evolution of today's outdated legacy 911 system is tomorrow's NG911 system will require careful planning, including detailed and thoughtfully coordinated actions and plans combining state, regional, and local efforts. The study emphasized that such planning should begin with the development, vetting, and communication of a master plan that should present Nebraska's tailored perspective of the new NG911 system's functionality, operational characteristics, government structure and funding mechanism to all entities invested in the new network, including local government entities and most particularly the PSAPs. The study emphasized that the development of the master plan is the essential first step to be undertaken by the new statewide 911 authority to guarantee that careful sequencing of a myriad of parallel activities is necessary to accomplish the detailed planning, preparation, and implementation of the new NG911 system is achieved. LB652 also addresses the critical issue by delegating to the Nebraska Public Service Commission the authority to create a master plan to implement NG911 on a statewide basis. However, it is

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Viaero's observation that a host of issues that should be evaluated as the master plan is developed have already been imbedded in the initial draft of LB652 without the kind of careful vetting and development that is urged under the study. Therefore, Viaero believes that the development of the master plan, through the new statewide authority, should be the essential first step in the development of a statewide vision of the NG911 system. After the master plan is developed, further enabling legislation would be appropriate to define and authorize the remaining details of the government sustainable funding and implementation of the new NG911 system. Finally, Viaero believes that the new statewide governing authority or department should be initially funded for the sole purposes of developing a master plan through a special allocation from the existing Enhanced Wireless 911 Fund, much like the study was funded under LB595. The initial funding would permit the new statewide authority to convene all essential participants that they all are actively engaged in the development and implementation of the new 911 system. In an effort to advance discussion and possible action on NG911 legislation in this legislative action, in February of this year, Viaero authorized its state regulatory counsel to prepare and circulate for review and comment a streamlined version of LB652 reflecting only the limited issues discussed above. I will refer to this draft as the amended version, although it has not been sent to the Bill Drafters Office for their review. This amended version was distributed to a host of interested parties, including, but not limited to the Nebraska Public Service Commission, the Wireless 911 Advisory Board, the Nebraska Association of County Officials, various wireless and wire-line carriers and this committee. A copy is attached to my testimony as Exhibit B. Viaero also engaged in numerous discussions and meetings with interested parties to explain the amended version and to stimulate discussion and ideas about promoting NG911 legislation with more limited objectives. In my conclusion, Viaero believes that LB652 should be streamlined to accomplish three critical objectives set forth in the study: number one--establish a statewide authority; number two--develop a master plan; and number three--the new authority should be initially funded for the purpose of developing the master plan and convening all participants and stakeholders, including local government entities and PSAPs in the master development process. By streamlining LB652 to accomplish these three limited, but critical, objectives as illustrated in the amended version, Viaero hopes that a streamlined version of LB652 could be advanced this session so that another year is not lost in developing the essential master plan toward implementing a new statewide 911 system. Thank you for your consideration. I'd be happy to answer any questions. [LB652]

SENATOR SMITH: Thank you, Ms. Thielen. Questions from the committee? Ms. Thielen, so the process you laid out, including the master plan, have you seen that process used in any other states? [LB652]

KARA THIELEN: Yes, most states that have advanced to implementing Text-to-911 has, basically, have done that. The state of Indiana, for example, I believe also Delaware, and New Hampshire. [LB652]

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SENATOR SMITH: For that particular process, do you have any idea of the costs that other states have incurred for that? [LB652]

KARA THIELEN: I don't, off the top of my head, no. [LB652]

SENATOR SMITH: All right. Thank you. [LB652]

KARA THIELEN: Thank you. [LB652]

SENATOR SMITH: Seeing no further questions. [LB652]

KARA THIELEN: All right. Thank you. [LB652]

SENATOR SMITH: Thank you. Next person to testify in a neutral capacity. Welcome. [LB652]

LARRY DIX: (Exhibit 8) Good afternoon, Senator Smith and members of the Telecommunications and Transportations Committee. My name is Larry Dix, L-a-r-r-y D-i-x, appearing today in a neutral capacity on LB652. It's...what I'm handing out, I think Mr. Miller had referred to a definition from the National Emergency Numbers Association, and that is the definition that he was referring to. So I wanted to make sure the committee had that in case as we move forward we did elect...or you did elect to include that as part of the bill. With interest I sat here and listened to the testimony and certainly I thank the folks from Viaero for sharing the amendment that Ms. Thielen alluded to. We did look at it. We didn't feel we could support it at this time. After hearing all the testimony, it's the bill that you have in front of you, LB652, I think is pretty doggone close to what we'll end up seeing. We had a lot of neutral testimony. A lot of the neutral testimony was talking about the funding piece. And I think that's a key component of it, but with the exception of Mr. Stilmock, everyone else got up here and said--we got to get it right; we got to do the right things. But everybody else...no one else really went into the bill and said, you know, here's some things that we really need to change. So I think LB652, as a framework, what we have to start with, is a very, very good starting point. I think it's been researched. It's been sent around. There's been a number of people look at it. I would certainly commit to the committee, and I agree that Senator Smith asked the question of...can we take a step back, wait for the CIO to come on board. I think that is a step that we can accept. I think that is a step that would help to answer the question of who manages this in the future. I think that was a question that came up. And certainly I would let you know that NACO stands ready to assist in whatever way we need to with the Transportation and Telecommunications legal counsel if we need to host all the concerned parties, we'd be happy to do that. If that be that this bill doesn't advance and we need to do that over the interim, since a majority of the PSAPs set in

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counties, we certainly would take the lead in bringing those parties together so that we can get it right and get this bill ready to go so we can get something passed, if not this year, then in the next session. With that I would take any question anybody may have. [LB652]

SENATOR SMITH: Thank you, Mr. Dix. I see no questions from the committee. [LB652]

LARRY DIX: Thank you. [LB652]

SENATOR SMITH: Thank you. Next neutral testifier. Welcome. [LB652]

KATIE SPOHN: (Exhibit 9) Thank you. Good afternoon, Chairman Smith, members of the committee. My name is Katie Spohn, K-a-t-i-e S-p-o-h-n, and I'm here today on behalf of my client, TracFone Wireless, testifying in a neutral position on LB652. I understand that there's work to be done with this bill as it advances. But should the bill advance, TracFone is offering a commonsense amendment to the bill, AM777, copies of which are now be distributed to members of the committee. This amendment would streamline collection of the Nebraska Universal Service Fund surcharge for prepaid wireless customers. I've shared this amendment with Chairman Smith and Mr. Hybl, PSC Executive Director Steve Meredith, and have support from the CTIA and the wireless companies on this issue. I've also reached out to Jim Otto with the Nebraska Retail Federation and he understands the desires of the prepaid wireless industry. The amendment TracFone proposes for LB652 seeks to treat wireless customers equally in collecting the Nebraska Universal Fund surcharge. Today, traditional wireless consumers contribute to the NUSF through a line item surcharge on their monthly bills. The market of the wireless industry has changed significantly since the creation of the NUSF in the late '90s. Today, nearly one in four wireless consumers are prepaid, or pay-as-you-go consumers, who did not receive a monthly bill from a wireless carrier. This amendment would allow the NUSF surcharge to be collected from prepaid customers at the point of sale, or at the time that they make their purchase. This point-of-sale system is already used today to collect the E-911 and the telecommunication relay system surcharges for prepaid wireless customers. The point-of-sale solution is the most accurate and equitable method for collecting the NUSF fee from prepaid wireless customers. Prepaid wireless customers generally do not have a direct and ongoing billing relationship with their customers. This is because the majority of the prepaid transactions are completed through third-party retailers, for example TracFone often sells its prepaid products at Walmart without any direct contact with our purchasers. Without direct and ongoing billing relationships, a prepaid wireless provider cannot collect directly from the prepaid wireless customers like it can with traditional postpaid wireless customers. Under a point-of-sale methodology, the surcharge is collected directly from the customer at the time of purchase, just like any other tax, surcharge, or fee on goods and services sold within the state. Retailers are already collecting E-911 and TRS surcharges on prepaid wireless sales in Nebraska. This

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amendment would simply add the NUSF surcharge to point-of-sale collection. From the point-of-sale methodology has already proven to work well for 911 and TRS fees in Nebraska, and similar legislation for the USF fees has been passed in Minnesota, California, and Maine, and is currently pending in Oklahoma. While we recognize that LB652 is focused on NextGen 911, this amendment modifies a provision in LB652 which relates to point-of-sale collection of the E-911 surcharge. Thank you. And with that I'd be happy to answer any questions. [LB652]

SENATOR SMITH: Thank you, Ms. Spohn. Do we have questions from the committee? I see none. I appreciate the amendment that you brought forward, very commonsense approach to that. Thank you. [LB652]

KATIE SPOHN: Thank you. [LB652]

SENATOR SMITH: (Exhibits 10 and 11) Next person to testify in a neutral capacity, neutral on LB652. We have a couple of items for the record for the neutral capacity regarding LB652. We have Bill Wehling on behalf of the Geographic Information Systems Council of the Nebraska Information Technology Commission; and also, the Douglas County Board of Commissioners, both are in a neutral capacity. We're going to waive closing. And we appreciate everyone that came and testified on this bill today. And that concludes our hearing on LB652 and our hearings for the day. [LB652]