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Transportation and Telecommunications Committee
February 13, 2012

[LB715 LB833 LB847 LB1091]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Monday, February 13, 2012, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB715, LB847, LB1091, and LB833. Senators present: Deb Fischer, Chairperson; Galen Hadley, Vice Chairperson; Kathy Campbell; Annette Dubas; Charlie Janssen; LeRoy Louden; and Scott Price. Senators absent: Scott Lautenbaugh.

SENATOR FISCHER: Good afternoon and welcome to the Transportation and Telecommunications Committee. My name is Deb Fischer and I am the Chair of the committee and I'm the senator representing the 43rd District from Valentine, Nebraska. At this time, I'd like to introduce the committee members and staff to you. On my far right is Senator Scott Price, who is from Bellevue. Next we have Senator Kathy Campbell from Lincoln. Next is Senator Galen Hadley from Kearney, who is our Vice Chair. On my immediate right is Mr. Dusty Vaughan, who is committee counsel. On my immediate left is Jonna Perlinger, who is our committee clerk. And on my far left is Senator Dubas, who is from Fullerton, Nebraska. We have three members who aren't here yet today. As you know, other committees are holding their hearings, and so we will have senators that come and go during the hearing process. Please do not be offended by that. Our pages today are Gera Carstenson from Lincoln and Alex Wunrow, who is from California. If you need any help with anything, please just let the pages know and they will be happy to assist you. We will be hearing the bills in the order that they are listed on the agenda. Those wishing to testify on a bill should come to the front of the room and be ready to testify as soon as someone finishes testifying in order to keep the hearing moving. Please complete the yellow sign-in sheet at the on-deck table so it's ready to hand in when you testify. We use a computerized transcription program, so it's very important that the directions on the sign-in sheet are followed, and you need to hand that sign-in sheet to our committee clerk to my left here before you sit down to testify. We will be using the light system. You'll have three minutes for your testimony. When the yellow light comes on, that means you have one minute left, so please try to wrap it up at that time. If you do not...and then when the red light comes on, it's time for you to truly wrap it up and quit. If you don't want to testify but you want to voice your support or your opposition to the bill, you can indicate so at the on-deck table. There is a sheet provided there and that will be part of the official record of the hearing. If you want to be listed on the committee statement as a testifier, however, you must come forward with your yellow sign-in sheet, state your name and state whether you are for or against a bill. That's how it shows up on the committee statement, which is what the senators look at when they're debating the bill, so it's important that you know that. If you don't choose to testify, you may submit comments in writing. Those will be read into the official record. At this time, I would ask that you please turn off your cell phones. We don't allow cell phones on in this committee and that means no texting. With that, I will open the hearings for the day. We will begin with LB715 and committee counsel will

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introduce the bill. Welcome, Mr. Vaughan.

DUSTY VAUGHAN: Thank you, Senator Fischer; thank you very much. And members of the Transportation and Telecommunications Committee, for the record my name is Dusty Vaughan, spelled V-a-u-g-h-a-n, and I am the legal counsel for the committee. LB715 is a bill brought on behalf of the Public Service Commission. In a large geographic state with a sparse population, broadband has become a necessity to Nebraska. While strides have been made in this area, there is still work left to be done that ensures that all Nebraskans have access to high-speed broadband service. This bill is a small step towards that goal. The state has experienced situations where a customer on one side of a boundary line receives high-speed broadband with one provider, while the provider on the other side of the boundary line does not offer broadband to another customer. Although these two customers live in close proximity to each other, the one with inadequate service is being held hostage by the outdated statute from receiving broadband from the one provider on the other side of the boundary line. Under the current statutory process, when one company objects to the customer's request for a boundary change, the commission can only order the change based upon the quality of the voice-grade service the customer is receiving. Broadband accessibility can have no bearing on the commission's decision. LB715 would change the current requirements with respect to a customer making a boundary change request to change from one local telecommunications company to another local telecommunications company. The bill updates the boundary change provisions so that an application for a change is based on broadband service and whether the change will afford the applicant broadband service that is not currently available to him or her. I do know that there is a representative, one of the commissioners from the Public Service Commission, here to advocate on behalf of this bill, so I will end my testimony and take any questions. [LB715]

SENATOR FISCHER: Thank you, Mr. Vaughan. Questions? I see none. Thank you very much. Our first proponent, please. Commissioner Vap. Good afternoon and welcome. [LB715]

JERRY VAP: (Exhibit 1) Good afternoon, Senator Fischer and members of the Transportation and Telecommunications Committee. I'm Commissioner Jerry Vap. That's spelled J-e-r-r-y V-a-p. I'm a member of the Nebraska Public Service Commission. I represent the 5th District. I'm here today to support LB715. LB715 will modify the statutes that allow a telephone customer of one local telephone company to seek a change in the exchange boundary so the customer can receive service from a telephone company in an adjacent exchange. Currently, if both affected carriers consent to the change in boundary, the commission simply grants the change sought and orders the carriers to upgrade the exchange maps. LB715 would not change this consent option. Problems arise when the telephone company that currently serves the customer refuses to let the customer out of its territory so another company can serve them. The

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existing statute sets out the legal requirements the applicant must establish before the commission is authorized to grant the change in boundary over the objection of the current provider. Under current law, the commission can only grant a customer's boundary change application without consent of both providers if the customer can show they are not receiving adequate voice service. Other advanced telecommunications services being offered, like broadband, cannot be considered by the commission. When the boundary change statutes were originally enacted in 1969, voice service was the primary offerings of a telephone company. Today, these statutes are very outdated. Due to the universal service and technological advances, voice service is no longer the primary service many Nebraskans want. Broadband is the service customers want and in many areas, rural areas, it is not readily available. Let me give you an example. Mr. and Mrs. Smith live in rural Nebraska and are receiving voice service from telephone company A. However, telephone company A does not provide broadband service in the area where the Smiths live. Company A provides broadband service in the communities that it serves, but those advanced services only extend about a mile outside the city limits of the towns and cities. Where the Smiths live, they can only get dial-up Internet service. Dial-up is slow and it doesn't allow them to access the Internet at speeds comparable to broadband. About a mile from the Smith's residence is the service territory of telephone company B. Company B does offer high-speed broadband in its service area. The Smiths consult with company B, the company agrees to build facilities to the Smiths' home and provide them with service. However, company A must consent to a boundary change to allow them to do it. If company A refuses to consent, then the Smiths have to file an application with the commission to change the boundary so they can receive broadband services from company B. You would think this would be an easy decision of the commission, but the statute as it currently exists does not allow the commission to consider any other services offered by either company except voice service when making the determination on the Smith application. Because the Smiths are getting adequate voice service from company A, the commission must deny the boundary change application. Now the commission is left to explain to the Smiths why they can't receive broadband service from company B, even though company A can't provide them broadband. As you can imagine, customers are not happy and fail to see the logic or the reason behind the current law or the system as it is. As the law stands today, it does not recognize advances in technology and gives company A an absolute veto over the Smiths and the commission with respect to boundary changes. I submit to you this does need to change. LB715 is competitively neutral and equally applies to large and small companies. This is not a big company versus little company issue. The commission currently has applications pending from customers seeking to move from a larger company to a smaller company, and customers seeking to move from a small company to a larger company. The modifications in LB715 would update the statute and allow the commission to consider advanced telecommunications services being provided by a company in determining whether to grant an application for a boundary change. After meeting with members of the industry that had some concerns regarding LB715, the

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commission drafted an amendment with language to address some of the concerns brought to us. We'd like to offer the amended language to the committee for its consideration and would encourage its adoption. Finally, it just comes down to this: getting customers the service that they want and need. Thank you for your attention. I urge your support of LB715 and would answer any questions. [LB715]

SENATOR FISCHER: Thank you, Commissioner. Are there questions? I see none. Thank you very much. [LB715]

JERRY VAP: Um-hum. [LB715]

SENATOR FISCHER: At this time, I would note that we've been joined on my far left by Senator LeRoy Loudon from Ellsworth, Nebraska. Next proponent, please. Good afternoon and welcome. [LB715]

ERIC CARSTENSON: (Exhibit 2) Good afternoon. Thank you, Senator Fischer and members of the Transportation and Telecommunications Committee. My name is Eric, E-r-i-c; Carstenson, C-a-r-s-t-e-n-s-o-n. I'm the president of the Nebraska Telecommunications Association. That's a trade association that represents the majority of the local exchange carriers telephone companies in Nebraska. I'm here to testify in support of LB715. The Nebraska telecommunications industry has been a national leader in deploying broadband throughout the state at a very rapid rate thanks to the good public policy that has been advanced by the Transportation and Telecommunications Committee, the Nebraska Legislature, and the Nebraska Public Service Commission, and that's why we're pleased to support this bill. When the 1996 Telecommunications Act was passed, Nebraska responded in 1997 by updating our statutes, but today's technologies were not widely deployed at that time and the statutes did not reflect the capacity that is currently commonplace in today's market. So now it's appropriate for us to update our statutes to include the realities that are occurring in the marketplace. The telecommunications industry likes that LB715 is competitively neutral, that it is consumer focused, and it will enhance Nebraska's ability to use our vast broadband network to achieve good economic development throughout the state. That concludes my testimony, but I would like to point out I did distribute a map that shows the boundaries of the various telephone companies throughout Nebraska so you can get kind of a picture of what we're talking about here. When you read the map, please just use the key at the bottom so you can see some of the other companies that really show you the variety of companies that are out there. With that, that concludes my testimony. [LB715]

SENATOR FISCHER: Thank you, Mr. Carstenson. Are there questions? I see none. Thank you for the map, and I would also like to thank you for your daughter being a page in the committee this year. We've enjoyed having her. [LB715]

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ERIC CARSTENSON: Thank you very much; I know she's enjoying it. [LB715]

SENATOR FISCHER: Thank you. Next proponent, please. Are there other proponents? Any opponents to the bill? I see none. Anyone wishing to testify in the neutral capacity? Good afternoon and welcome to Nebraska. [LB715]

BETH CANUTESON: Thank you, Madam Chair and members of the Telecommunications and Transportation Committee. I'm Beth Canuteson, spelled B-e-t-h C-a-n-u-t-e-s-o-n. I'm here today to speak on behalf of AT&T in the neutral capacity on LB715. While the goal of this legislation is laudable--increasing the broadband access services in Nebraska--some of the specific language in the bill raises concerns. In fact, AT&T has provided amendments to the commission and committee staff for consideration and it's my belief that this language will prevent any negative unintended consequences. For instance, in Section 3, the definition of advanced telecommunications capability service is very broad and could unintentionally include wireless or even CLEC business services. We would like to see language added to that section that would clarify that advanced telecommunications capability services do not include wireless broadband telecommunications capability. And further, in 86-135(1), in referring to telecommunications company, we would like to add "that serves in the capacity of the incumbent local exchange carrier." This would further clarify that we are really talking about the local LEC here, not any CLEC or others who are not designated as an essential telecommunications carrier by the PSC. Next, we believe that by changing the payment mechanism to require that the customer provide up-front payment in Section 86-136(3), companies would be more comfortable investing the high costs often associated with that "last mile" of service. Finally, we would prefer to see language added in the new section stating that nothing in this chapter shall be construed to confer the commission with any jurisdiction or regulatory authority over any advanced telecommunications capability service. The 1996 act creates a distinction between telecommunication services and information services. The former consists of pure transmission services offered to end users without change in form or content, and they are presumably subject to common carrier regulation. The latter offers end users something more than pure transmission: the ability, for instance, to store, retrieve, utilize, or manipulate information. Under established FCC precedent, such information services are exempt from common carrier regulation, including common carrier regulation by the states. Clarifying that the commission does not have authority over advanced services in state code will reduce any confusion raised by this legislation. Thank you for your time. I'm happy to answer any questions. [LB715]

SENATOR FISCHER: Thank you, Ms. Canuteson. Are there questions? Senator Price. [LB715]

SENATOR PRICE: Thank you, Senator Fischer. And thank you, ma'am, for testifying today. [LB715]

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BETH CANUTESON: Uh-huh. [LB715]

SENATOR PRICE: I'm glad you touched on that. I think maybe in Section 3 where you talk about the word switched, is that what's causing or bringing the consternation on your part? [LB715]

BETH CANUTESON: No, not in particular. It's just that the advanced telecommunications capability services is a new term and the way that it's defined here, it's not just the switched aspect of it, but it's just so broad that it could include any kind of advanced services, so it could be wireless, it could be...we provide a lot of broadband land services, so those could be pulled in as well, and we just want to make sure that when we talk in conversations with staff and with the commission staff as well...they've talked about the, you know, the USF funds following this switch in territory, and so we want to make sure that we're really talking about just the lack here. [LB715]

SENATOR PRICE: All right. Well thank you, because I was kind of concerned that we'd be back in the same position. With the tech-free refresh rate we have, in seven years, I mean, we could be so different and with different compression rates, different side bands being opened up and the spectrum being opened up... [LB715]

BETH CANUTESON: Right. [LB715]

SENATOR PRICE: ...we could find such new technologies that we'd be right back here again, sitting in this same position. Someone has a territory, they're not providing a service that a customer wants to get and they can't, and we didn't put enough understanding in this language that seven years from now, we're back here again doing the same thing again. But thank you very much. [LB715]

SENATOR FISCHER: Thank you, Senator Price. Other questions? Senator Campbell. [LB715]

SENATOR CAMPBELL: Thank you, Senator Fischer. My question is really to our counsel. Are the amendments that she is talking about, the amendments attached to Mr. Vap's? They are separate. Okay. [LB715]

SENATOR FISCHER: That would be correct. [LB715]

SENATOR CAMPBELL: Thank you. [LB715]

SENATOR FISCHER: As we're both shaking our heads, here. [LB715]

SENATOR CAMPBELL: Okay, thank you. [LB715]

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SENATOR FISCHER: Other questions? I see none. Thank you for your suggestions and we'll take them under advisement. [LB715]

BETH CANUTESON: Thank you for your time. Thank you. [LB715]

SENATOR FISCHER: Thank you. Anyone else wishing to testify in the neutral capacity? I see none. We will waive closing and close the hearing on LB715 and open the hearing on LB847 and welcome Senator Sullivan. [LB715]

SENATOR SULLIVAN: Thank you. [LB847]

SENATOR FISCHER: Nice to have you join us today. [LB847]

SENATOR SULLIVAN: (Exhibit 3-5) Thank you. I appreciate that. Good afternoon, Senator Fischer and members of the Transportation and Telecommunications Committee. I'm Senator Kate Sullivan, representing the 41st Legislative District. That's K-a-t-e S-u-l-l-i-v-a-n, and I come before you today to introduce LB847. LB847 is the result of an ongoing discussion with one of my county board members who serves on the Region 26 Council. Region 26 is the emergency management and emergency dispatch agency that serves as the public service answering point, or PSAP, for eight counties in north-central Nebraska: Thomas, Blaine, Loup, Garfield, Wheeler, Valley, Greeley, and Sherman, covering 4,844 square miles. And it's sometimes easier to have a visual image of that, so if I could have the page pass a map out that shows where Region 26 is located. Five of these eight counties--Garfield, Wheeler, Valley, Greeley, and Sherman Counties--are in my legislative district. Thomas, Blaine, and Loup are in Senator Fischer's legislative district. U.S. Highways 281, 183, and 83 run through these counties. State highways include 2, 11, 91, 58, 70, and others. Three major recreation sites are located in this service area: the Calamus Reservoir, Davis Creek, and Sherman Reservoir. These lakes draw people from all over the state to camp, boat, and fish. The Halsey National Forest is almost completely within this service area. Other tourist attractions bring a lot of folks into our part of the state, including the Burwell Rodeo in July, Nebraska's Junk Jaunt in September, and many other local festivals, events, and county fairs. I bring these up, and the point I'm trying to make is this. Although the resident population of the eight-county service area is approximately 14,574 people according to last year's census, there are many more people passing through or coming to stay during the spring, summer, and fall months. These visitors have cell phones and when they have a problem, they use it to call 911 for help, as they should. Region 26 and the other PSAPs across the state are experiencing an increasing decline in funding from the landline surcharge as more and more users switch over to wireless. Almost one-third of U.S. households are wireless only in 2011. In addition, the widespread use of cell phones has caused an increased number of the calls coming into the PSAPs. Where a car accident, a potential drowning, or a weather event might have

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once generated one or two calls for help, a lot of people call 911 to report the problem. And since all calls have to be answered, more personnel are needed. Wireless calls take more time to process than landline calls for many reasons. Now I haven't experienced this, but maybe you have--the purse or pocket dialing that happens on occasion, and we also probably all know about the inadvertent calls and prank calls, but all of which have to be followed up. For the past few years, Region 26 and other PSAPs have requested that personnel costs be considered as eligible reimbursable expenses from the Enhanced Wireless 911 Fund. Unfortunately, the statutory language in Section 86-465 restricts the use of these funds to the purchase, installation, maintenance and operation of equipment, upgrades, modification, and personnel training. Personnel costs are not an eligible reimbursable expense under the current statute, so these requests have been denied. The result is that the local political subdivisions are picking up the increased costs. In the case of Region 26, the costs are being picked up by the eight counties in the service area that I indicated. It's an increasing burden on these counties at a time when county revenues are as tight as they have ever been. Of course, there's nothing better than to hear from those who are directly impacted, and you are going to hear from the executive director of Region 26 in testimony. There were several others that were going to be here, but unfortunately the weather has not allowed them to be here. Kevin Hood, chairman of the board from your area, Senator Fischer, and also Doug Wrede, who is a county board member in my district. Both were unable to be here because of the weather, so I would like to have their testimony passed out. Since the primary cause of the decline in revenue from the landline surcharge is the increase in wireless users, it only seems logical that the Enhanced Wireless 911 funds be used to pay for personnel costs. LB847 amends the statute to include personnel as a reimbursable expense. The Public Service Commission has recommended an amendment, which I believe they are going to be passing out, and I am in total support of that amendment because basically, it incorporates everything I'm trying to accomplish as well. I ask you, consider for just a moment how important the 911 service is to us in our wide-open rural spaces. More and more emergency calls are made from cell phones rather than landlines. LB847 will allow PSAPs more flexibility in how they use the E-911 funds they receive. It will not affect the PSC's funding distribution formula or their newly implemented audit procedures. My goal with LB847 is to ensure reliable 911 service at a reasonable cost to the political subdivisions that provide this vital service to us all. I thank you for your time and interest. I'll try to answer any questions, but I certainly encourage you to advance LB847 to General File. [LB847]

SENATOR FISCHER: Thank you, Senator Sullivan. Are there questions? Senator Dubas. [LB847]

SENATOR DUBAS: Thank you, Senator Fischer; and thank you, Senator Sullivan. [LB847]

SENATOR SULLIVAN: Um-hum. [LB847]

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SENATOR DUBAS: Now, you have referenced your district as well as Senator Fischer's. But am I correct to understand this isn't just a problem for that particular area in the state, that many of our rural areas are experiencing the same thing? [LB847]

SENATOR SULLIVAN: That's right. But I think, you know, it's exacerbated by, first of all, the fact that we have fewer people out there but we have more people visiting the area, all of whom use cell phones. [LB847]

SENATOR DUBAS: Okay, thank you. [LB847]

SENATOR FISCHER: Thank you, Senator Dubas. Senator Louden? [LB847]

SENATOR LOUDEN: Thank you, Senator Fischer. Who answers these calls? Is it the sheriff's office? [LB847]

SENATOR SULLIVAN: In the case of Region 26, no. They do have an emergency dispatch center, and you'll be hearing from the executive director of Region 26. [LB847]

SENATOR LOUDEN: Then each one of these like Thomas County and--where is your map, here--Blaine and Loup and them, the sheriffs don't have to handle these calls. The... [LB847]

SENATOR SULLIVAN: They go into the dispatch center, right. [LB847]

SENATOR LOUDEN: Okay, and where is that dispatch center at? [LB847]

SENATOR SULLIVAN: In Taylor. [LB847]

SENATOR LOUDEN: In Ord? [LB847]

SENATOR SULLIVAN: Taylor, Nebraska. [LB847]

SENATOR LOUDEN: Taylor? [LB847]

SENATOR SULLIVAN: Um-hum. [LB847]

SENATOR LOUDEN: Okay. And then they...well, do these counties then, these other counties all...this \$100,000, what, \$75,000 now, does that all go to support that? And is that from all of these counties in this whole area? [LB847]

SENATOR SULLIVAN: Well, the Region 26 gets some funding, of course, from the landline surcharges and they get some from the E-911 Wireless Fund. And then also

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they get some support from each of the local political subdivisions. [LB847]

SENATOR LOUDEN: Okay. That's what I was wondering because I'm thinking up in the western part there that the counties do this, and that's the reason I'm wondering if it was coming under the sheriff's budget or not. But they have their own separate answering system. [LB847]

SENATOR SULLIVAN: Um-hum, yes. [LB847]

SENATOR LOUDEN: Well, that has to be manned 24 hours a day. [LB847]

SENATOR SULLIVAN: Yes, it does. Yes, it does, and keep in... [LB847]

SENATOR LOUDEN: How come you don't have it in one of the sheriff's departments, because those have...there must be one of those around there that has to be manned 24 hours a day, right? [LB847]

SENATOR SULLIVAN: Well, and I think in...it gets a little complicated because I think some of the counties--for example, Valley--they do have a service provided not only by the sheriff--and also local law enforcement in Ord--but then also we've got the Region 26 center. So I'm thinking that Ms. Beland, who will be testifying on this from Region 26, can probably explain that division of responsibilities a little bit more than I can. [LB847]

SENATOR LOUDEN: Okay, thank you. [LB847]

SENATOR SULLIVAN: Um-hum. [LB847]

SENATOR FISCHER: Thank you, Senator Louden. Other questions? I see none. Thank you very much, Senator Sullivan. [LB847]

SENATOR SULLIVAN: All right, thank you. [LB847]

SENATOR FISCHER: At this time, I would note for the record that we've been joined by Senator Charlie Janssen from Fremont. With that, we will start with the first proponent for the bill, please. Good afternoon and welcome. [LB847]

JON ROSENLUND: (Exhibit 6) Good afternoon. My name is Jon Rosenlund, J-o-n R-o-s-e-n-l-u-n-d, and I am the director of emergency management and 911 communications for the city of Grand Island and Hall County. First, let me express my thanks to the committee for this opportunity to testify on LB847. It is my purpose to express our support for that bill. The state of Nebraska, working with the local public safety answering points, or PSAPs, has wisely used the Wireless E-911 Fund to achieve a number of improvements for 911 services throughout Nebraska. Most

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notably, the state, working with the locals, has been able to establish Phase II location for wireless calls, essentially allowing that dispatcher to more or less pinpoint the location of that caller. As that project winded down, the Public Service Commission provided two of the PSAPs the opportunity to utilize a portion of that funding for our own local costs as we see personnel costs expanding, our operational costs expanding, and our revenues shrinking due to a number of previously stated situations. The Public Service Commission established the wireless support allocation model, or the SAM, allocating a certain amount of this fund to each county to cover our operational costs. However, a significant cost for providing that wireless service is--and the most valuable portion of it--is that 911 dispatcher. No amount of technical or software upgrades purchased at any one time can eliminate the necessity of a person who is trained and qualified to meet the needs of an emergency caller. In Grand Island for instance, our 911 personnel costs exceed our operational costs by a margin of 5:1. Emergency 911 is a very personnel-heavy discipline. As PSAPs struggle to meet their financial needs in an environment of shrinking local resources, placing restrictions on legitimate 911-related costs such as personnel are unnecessary obstacles in accomplishing the tasks that we face every day. Dispatchers are the backbone of your 911 service. That dispatcher will pick up the call, locate the caller, interpret that location, determine which agencies need to be dispatched. At the same time, she's contacting the agencies, keeping the caller on the line, providing lifesaving instructions. She also has to coordinate with other dispatchers who may be in the room with her to ensure that the repeated calls that are coming in from our increased wireless customer base are perhaps of a same or a different incident, all of which is necessary to accomplish their goal. As wireless 911 calls constitute the vast majority of our work--75 percent in Hall County--it seems only fitting and appropriate that the wireless fund be applied to our largest and most vital funding item, the dispatcher. No expense is more common among PSAPs and none is so necessary. If left unremedied, we may face a situation where dispatch centers have sufficient money to buy software and equipment but not enough money to pay for the dispatchers to operate that. Thank you. [LB847]

SENATOR FISCHER: Thank you very much. Are there questions? I had a couple questions for you. You talked about 75 percent of the work is done by your dispatchers, correct? [LB847]

JON ROSENLUND: Seventy-five percent of the phone calls are wireless calls. [LB847]

SENATOR FISCHER: Oh, are wireless calls that are answered by the dispatchers. [LB847]

JON ROSENLUND: Yes. All the calls are answered by those dispatchers. [LB847]

SENATOR FISCHER: Okay. What percent of your budget right now goes to pay salaries of dispatchers? [LB847]

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JON ROSENLUND: About 87 percent. [LB847]

SENATOR FISCHER: How high would you increase that if you were able to access these E-911 funds? [LB847]

JON ROSENLUND: Utilizing these E-911 funds allows the...we're not looking to increase our personnel budget per se. What it will allow me to do is go back to fixing some of the equipment that we've not repaired over the last two or three years. For instance, in Grand Island, we have seen the 911 budget has not grown in five years but has actually decreased by 3-4 percent due to budget constraints between the city and the county through their interlocal cooperative agreement. As such, as employee costs grow, then certain operational costs had to be cut, and that included repair costs, service contracts, and so on. [LB847]

SENATOR FISCHER: Have you seen an increase in your 911 funds that you're receiving? [LB847]

JON ROSENLUND: In the landline? [LB847]

SENATOR FISCHER: Um-hum. [LB847]

JON ROSENLUND: No, not over the last two or three years; not measurably at all. We have not...it's seemed to have leveled out. [LB847]

SENATOR FISCHER: Okay, thank you. Senator Price? [LB847]

SENATOR PRICE: Thank you, Senator Fischer. Thank you, sir, for coming and testifying and giving us some professional feedback. Of that 75 percent of wireless 911 calls, how many of those are what might be classified as redundant calls? You know, you've got 17 people reporting on the same accident. [LB847]

JON ROSENLUND: That's difficult to say. We...statistics I can quote is we receive approximately 55,000 911 calls every year and we generate approximately that same number of emergency calls for service in Hall County, meaning we'll dispatch an officer to a situation, a firefighter to a situation. That's a call for service. While they're not 1:1, we do receive a number of calls for service or incidents reported by nonemergency. The majority of our emergency line--of our calls for service--are generated by 911. [LB847]

SENATOR PRICE: So let me check...I got that clear. You say we get...the majority of your calls end up going to call for service... [LB847]

JON ROSENLUND: Um-hum. [LB847]

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SENATOR PRICE: ...but there are a percentage that are redundant and we don't know the percentage of redundancy? [LB847]

JON ROSENLUND: Well, it's difficult. I can't tell you how...there's not a 1:1 relationship. A phone call I can count--about 60,000 911 and 140,000 nonemergency calls that are received by that dispatch center every year. We dispatch to about 60,000 events, incidents, or we call them calls for service. So a traffic accident is an incident; that's a call for service. We may get five calls for that. Most of our medical calls, we'll only have one call. If I were to look at our top 10 percent of calls, medical calls, you're only going to get one, maybe two calls. Traffic accidents may be at the bottom of that top 10 list, but no more than 3 or 4 percent. [LB847]

SENATOR PRICE: Okay, I'm still not tracking. [LB847]

JON ROSENLUND: Yeah. [LB847]

SENATOR PRICE: One of the things with the enhanced 911 as I understood it, the technology... [LB847]

JON ROSENLUND: Um-hum. [LB847]

SENATOR PRICE: ...was to allow someone to say hey, I've got a flood of calls coming in and they're from the same georeferenced location. It's probably about the same thing. It has some software that--logic--to sit there and say I can shunt somebody who calls over, so the calls from this one specific area on, let's say a highway, an accident, don't overburden/overload the system, so if something is happening just a mile and a half away that's totally not related can't get in in a timely manner. So again, I... [LB847]

JON ROSENLUND: I see where you're going. However, the system, just it's mere location doesn't really provide a dispatcher sufficient evidence that it's not a separate incident, nor does it provide to that dispatcher the idea that this caller--the third caller--might actually be the best caller. So the dispatcher...and in most of your jurisdictions in this state, you're only going to have one person on duty. It's a very...only a few of our PSAPs actually have more than one dispatcher working, and so that dispatcher has to answer as many phone calls as possible and really needs to meet the need of each caller. The one that gets away might be the most valuable caller that we have. It's unlikely that a dispatcher is going to let go of a good call. I say a good call or a good descriptive caller; we want to find the best caller we have. And I know certainly for a single-seat dispatch center, that dispatcher has to hurry, answer that call and figure out all the information they can, and then let them go to answer the next, to answer the next. It is certainly in Grand Island not uncommon that we'll have three or four simultaneous events, all producing three or four phone calls all at once, and that's just

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the sea of Grand Island or Hall County of 60,000 people. So yes, the enhanced 911 can show where those calls are clustering, but it doesn't necessarily mean you don't have two similar incidents going on as...and especially in an urban environment where you have people living in an apartment building. The entire building is part of that location and you may have 70 people living in that building having a number of different incidents going on. [LB847]

SENATOR PRICE: And I appreciate the answer. My only question would...is there a way that you can, when you get back to the district, that you could actually look to find those numbers? I mean, I'm pretty sure that there's a data set out there that says I got five phone calls that dealt with the same thing. I didn't generate five separate phone calls to rescuers. I generated one call based on the best out of those five. That should be...you should be able to differentiate and delineate that doing some sequel search or going through something to find out how that actually works. So that 60,000, you may send out 60,000 rescue calls for emergency responders, but you may have had 80,000 different calls related to those 60. That's what I'm trying to figure out, because like you said, it's not 1:1, so we should be able to resolve that. [LB847]

JON ROSENLUND: Sure. Perhaps. But you would have to have a greater integration of your 911 system in your CAMS--call accepting maintenance system--than currently exists in, I would say, most of the 911 centers. [LB847]

SENATOR PRICE: Okay, thank you. [LB847]

SENATOR FISCHER: Thank you, Senator Price. Senator Campbell. [LB847]

SENATOR CAMPBELL: Thank you, Senator Fischer. You talked about the city and the counties' budgets. What's the split between Grand Island and Hall County in terms of your budget? [LB847]

JON ROSENLUND: Fifty/fifty. What happens is as far as communications expenses go, we allocate a certain number of expenses to the landline fund and the wireless fund according to the definitions that are 911 related. All of our other expenses that cannot be borne by those two funds are carried by the general fund. Currently, the 911 funds, both the wireless and the wire line, cover about a third of my total 911-related costs. The balance is split 50/50 through an interlocal agreement. [LB847]

SENATOR CAMPBELL: Thank you. [LB847]

SENATOR FISCHER: Thank you, Senator Campbell. Other questions? Senator Dubas. [LB847]

SENATOR DUBAS: Thank you, Senator Fischer. Does Grand Island or Hall County

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have the ability to charge any other additional fees to help supplant what you're getting, or this is strictly from the... [LB847]

JON ROSENLUND: Oh, no. Oh no, we've certainly looked at every option. Really, it just comes down to general fund. And when it comes to the general fund mixture, my case is a little specific. Other interlocals may have more of a proportionate weight, depending on how many counties and their specific interlocal agreement. In my case, let's say the city had a windfall of tax revenue and would love to give me \$800,000 extra, which would be a lovely thing. If the county cannot match that dollar for dollar, then it is of no use to me. And so if Senator Dubas and Senator Louden wanted to buy pizza and they agreed that they would all spend the equal amount, if Senator Dubas wants a supreme but Senator Louden wants only pepperoni, he will only get a pepperoni pizza, because they are determined to only spend 50/50. And so our budget in Hall County and Grand Island comes to a lowest common denominator. Thus, since the county is at their lid, there is not likely to be a windfall of funding coming my way any time soon. [LB847]

SENATOR FISCHER: Thank you, Senator Dubas. Hall County is at its lid? What is it now? [LB847]

JON ROSENLUND: I don't know. I not sure with the exact mill rate, but I do know that they don't have any more. And I've asked them and it doesn't move. [LB847]

SENATOR FISCHER: Too bad Senator Louden left. He would have asked you that question, so. [LB847]

JON ROSENLUND: Certainly. [LB847]

SENATOR FISCHER: Other questions? I see none. Thank you so much for coming in today. [LB847]

JON ROSENLUND: Thank you. [LB847]

SENATOR FISCHER: Next proponent, please. Good afternoon and welcome. [LB847]

ALMA BELAND: Good afternoon. [LB847]

SENATOR FISCHER: How were the roads coming down? [LB847]

ALMA BELAND: Slick. [LB847]

SENATOR FISCHER: Glad you could be here. [LB847]

ALMA BELAND: (Exhibit 7) Thank you. I'm Alma Beland, B-e-l-a-n-d, the director of

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Region 26 communications which, as Senator Sullivan stated, covers eight of the central and north-central counties. And our boundaries go out a little further than the county lines also, so we do cover a little bit of Cherry County as well, so. My testimony that I turned in covers very much the same as what Senator Sullivan has went over and also Jon Rosenlund from Grand Island, so I will just touch on some of the high points here, what we have for Region 26. I'm testifying in favor of this bill, and what we have for Region 26 currently for our ratio for wireless calls--911 calls versus landline calls--is at 64 percent in our region. We don't have a great population there. We are at just below 15,000 for the 18 counties, but due to the wide area that we cover, we have a large infrastructure, so that is where a lot of our expense comes from, so the upkeep of the infrastructure. But also the creation of the landline...excuse me, the wireless telephone calls that we receive in is on an increase for us, so the wire line income is dropping for us. With the decline of the landline usage, our 911 surcharge is also declining. And the landline surcharge is projected to fund approximately one-fourth of our operating budget this year, and our wireless funding, less than 10 percent of what our budget is. So our landline surcharge that we receive to fund our 911 center is dropping at about 4 percent a year, the funds that we receive to...for us. Our workload has increased by the use of cell phones due to the capability that the public has to immediately call 911 when the events happen, so therefore, it causes numerous 911 calls by cell phone. So I will stop on that, since it would continue on the very same, so. [LB847]

SENATOR FISCHER: Thank you, Ms. Beland. Are there questions? Senator Campbell. [LB847]

SENATOR CAMPBELL: Thank you. So if I look at the letter--I just want to make sure I'm clear--the eight counties pay in to the center. [LB847]

ALMA BELAND: Um-hum. Yes, and our 911 center is different from Grand Island. We are eight counties together, so there isn't a 911 center in each of the county courthouses. We are a separate entity that is supported by the counties to service those eight counties, and that is where our funding comes from is from those eight counties with the surcharges that we get. [LB847]

SENATOR CAMPBELL: And how do those eight counties determine how much they're going to give you? [LB847]

ALMA BELAND: We have a formula that is set about with using population and usage of the dispatch center, so we keep track of the calls that come in to our center and outgoing calls for that county. And we keep track of--by tally marks--keep track of how much usage that that county is giving us, and then that's how we divide down our budget accordingly for each of the counties, and so their assessment each year is by that formula. [LB847]

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SENATOR CAMPBELL: Right. And none of the individual communities within those counties provide any assistance, financial assistance? [LB847]

ALMA BELAND: No, no. [LB847]

SENATOR CAMPBELL: It's all through the county? [LB847]

ALMA BELAND: It's through the county [LB847]

SENATOR CAMPBELL: Thank you. [LB847]

SENATOR FISCHER: Thank you, Senator Campbell. Senator Price? [LB847]

SENATOR PRICE: Thank you, Senator Fischer. Thank you for coming down. In the testimony, I'm looking to see...I'd seen in the national news some numbers, I don't have them, about...and we heard opening testimony. But purse dialing and pocket dials of 911, what is the percentage, and do you track that percentage? [LB847]

ALMA BELAND: No, I can't say that we do. And I feel that part of that is manpower, too. What we have on duty in our dispatch center is one person, and to be able to track that would be...yeah. [LB847]

SENATOR PRICE: Oh, no, I absolutely...you answer the phone call regardless. But I just wanted to know, you know, when we get national numbers I'm always careful. Just because something is happening nationally, it doesn't reflect that it's happening in Nebraska, due to just the way the Nebraskans are. We have a sense of caution by nature, but I did note. Does anybody ever track the number of calls that were initiated through faulty reasons or by just someone sitting down on the phone wrong or in the purse wrong? [LB847]

ALMA BELAND: I have not; I have not tracked that. [LB847]

SENATOR PRICE: Does your system have the ability to do that? Are there inputs for that? So you just...every... [LB847]

ALMA BELAND: No. I have seen systems available for that, but it is not something that I know of that anyone has, due to new upcoming equipment that is there and available, but due to budget constraints do not have that. [LB847]

SENATOR PRICE: Oh, I... [LB847]

ALMA BELAND: It is...it will be available, I believe. [LB847]

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SENATOR PRICE: Great. Thank you so much. [LB847]

SENATOR FISCHER: Thank you, Senator Price. Other questions? I see none. Thank you for coming down today. [LB847]

ALMA BELAND: Okay, thank you. [LB847]

SENATOR FISCHER: Good to see you. Next proponent, please. Good afternoon. [LB847]

MARK CONREY: Good afternoon, Senator Fischer and members of the Telecommunications Committee. As in everything about 911, I wish it was just about the technology, the what we had to do. This bill, the original bill was designed so that there would be money back for to pay offset the cost, but one of the things that they did not... [LB847]

SENATOR FISCHER: Excuse me. I need you to say and spell your name, please. [LB847]

MARK CONREY: Oh, I'm sorry. Mark Conrey. [LB847]

SENATOR FISCHER: Thank you. [LB847]

MARK CONREY: M-a-r-k C-o-n-r-e-y, from Douglas County. [LB847]

SENATOR FISCHER: Thank you. [LB847]

MARK CONREY: I'm sure you'll hear from me again today. The real problem that we have is the fact that we never considered what it took to answer a 911 call. The Hornickel-Wamsley thing, that started Phase II and we got the technology, we paid all the different parties of this, but we never considered the fact that the person who has to answer the phone is a viable component of the process. I'm going to give you two examples of what happens when a 911 call comes in. You get a point on a map. You don't get an address, you don't get anything, you just get a point on the map, and then the operator has to go through and figure out where that is. Sometimes it's obvious if it's in a road. Other times, if it's in a residential district, trying to get an address is very, very difficult. If it's in an apartment, it's almost impossible. You asked earlier how many "butt dials" do we get. And basically, I know because we call back about 10,000 people a month that...and sometimes we have to try twice, so I'm thinking we're in the neighborhood of 6,000 or 7,000 calls a month. But here's what the operator has to do, and this is a very good example and it plays out every day. A person called in, was barely breathing, said I need help. He was on his cell phone. We looked. We saw that

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he was in a big apartment complex. We had no idea where he was at. The operator filled out a piece of paperwork and sent in the subpoena to the cell company to try to get subscriber information. They got the fact that the subscriber information was at this address. We didn't have a phone at that address, so we had to send a policeman over there. They knocked on the door and they said, yes, that's my uncle's cell phone and he lives here in his apartment. So then, we sent the police back there and the fire back there and they knocked on the door and they broke the door down and they barely got there and that was one of the successful 911 things. But that's the pressure that the people are under, almost on a daily basis. They get a point on a map and it says that, oh, maybe we're accurate within a certain degree, and then it's up to them to try to get the address to send the people to the location. Now, what bothers me a little bit about all this is the fact that we've done a very good job of compartmentalizing the cost and saying that it would be there, but there was no consideration of the people. And without the people, without the operator that answers the phone, Phase II and Phase I and everything else is useless, so the absurdity of not including them is bad. Now what I'm afraid of, if I heard that there was going to be an amendment or a compromise, is that the fact that they would treat that in the money already allocated. And I think since they did not consider the people, I think it's time that they get recognized as a viable component of 911 and for the job they do. And I think that again, without the 911 operator, without the person answering the phone, we don't have wireless 911. Thank you very much. Are there any questions? [LB847]

SENATOR FISCHER: Thank you, Mr. Conrey. What do you do with Douglas County? Is it you're emergency management are you representing...? [LB847]

MARK CONREY: I'm the 911 director. [LB847]

SENATOR FISCHER: Okay, thank you. Are there any questions? Senator Campbell. [LB847]

SENATOR CAMPBELL: Several years ago, Omaha and Douglas County combined, correct? You have them combined? [LB847]

MARK CONREY: Yes, ma'am. [LB847]

SENATOR CAMPBELL: What's the split in terms of between the city and county on payment into your budget? [LB847]

MARK CONREY: 85/15. [LB847]

SENATOR CAMPBELL: Eighty... [LB847]

MARK CONREY: The city has 85. It was based on population. [LB847]

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SENATOR CAMPBELL: Oh, okay. Thank you. [LB847]

SENATOR FISCHER: Other questions? I see none. Thank you very much. [LB847]

MARK CONREY: Thank you. [LB847]

SENATOR FISCHER: Next proponent, please. Good afternoon. [LB847]

JERRY STILMOCK: Good afternoon, Senators. My name is Jerry Stilmock, J-e-r-r-y; Stilmock, S-t-i-l-m-o-c-k, testifying on behalf of the Nebraska State Volunteer Firefighters Association and the Nebraska Fire Chiefs Association in support of LB847. As part of the end-group users that receive the E-911 calls, we're supportive of the statutory change and wanted to state our support on the record for the committee. Thank you. [LB847]

SENATOR FISCHER: Thank you, Mr. Stilmock. Are there questions? I see none. Thanks a lot. [LB847]

JERRY STILMOCK: Thank you. [LB847]

SENATOR FISCHER: Next proponent, please. Good afternoon. [LB847]

BETH BAZYN FERRELL: Good afternoon. Chairmen Fischer, members of the committee, for the record, my name is Beth Bazyn, B-a-z-y-n; Ferrell, F-e-r-r-e-l-l. I'm with the Nebraska Association of County Officials. We support this bill for the reasons that you have heard so far. I won't repeat some of those, but we do believe that allowing personnel costs to be covered under the wireless surcharge would give those counties flexibility to use the funds for whatever is most helpful for them. I would be happy to try to answer questions. [LB847]

SENATOR FISCHER: Thank you, Ms. Ferrell. Since NACO is supporting this and, you know, we're looking at expanding the use of the funds, so I would assume, then, the counties would be willing to kick in more money to help with equipment if these funds are going to be used for personnel? [LB847]

BETH BAZYN FERRELL: Well, I think that would be up to each county, what their needs were. We've been looking at what the next generation of equipment will be and there will certainly be sizeable costs related to that, so I think that it would be a balance for whatever the county needed at that point. [LB847]

SENATOR FISCHER: I don't know if we're going to have a representative from the Public Service Commission coming up on this bill. I think we are, so I'll pepper him with

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questions then. Okay, thank you very much. Are there other questions? I see none. Thank you. Next proponent, please. Good afternoon. [LB847]

LARRY LAVELLE: Good afternoon, Madam Chair and fellow members of the Transportation and Telecommunications Committee. I am Larry Lavelle, L-a-r-r-y L-a-v-e-l-l-e, currently the director of emergency management and communication for Sarpy County, Nebraska. I'm here just to give vocal support on a personal note--30 years in this 911 game for me, and on behalf of Sarpy County, showing support in the change of the legislation if it truly reflects what you've heard from those that have spoken in front of me, and I believe that it is a need across the state, not just specifically to Sarpy County, so a simple vote of confidence. And if anyone has any questions of me, I'd be more than happy to answer. [LB847]

SENATOR FISCHER: Thank you, Mr. Lavelle. Can you tell me, has Sarpy County been able to use these funds to purchase all of the needed equipment? [LB847]

LARRY LAVELLE: Sarpy County uses the funds as applied by the rules set forth in the current legislation and also some of the guidelines set forth in that cost model. Of the wireless fund, not 100 percent can be spent, so it is matching with the percentage of calls that are received wireless, and currently we're at about the 70 percent in Sarpy County. [LB847]

SENATOR FISCHER: 70? [LB847]

LARRY LAVELLE: 7-0, yes. [LB847]

SENATOR FISCHER: And where are you on the...you're Phase II for sure. [LB847]

LARRY LAVELLE: Yes, we are. In fact, currently we are...Hornickel-Wamsley mentioned earlier, that occurred in Sarpy County. Again, that made a huge push in our game for that Phase II. I'm happy to say that I do serve on the wireless commission at the Public Service Commission--a subcommittee for that commission. My interest there is really making sure that that event doesn't occur to any citizen or any traveler in the great state of Nebraska. So having said that, I believe that the funds have been spent wisely. Phase II is sweeping across the state. I had an opportunity to visit with sheriffs from Rock and Holt County last week, trying to get a feel for how business was going on the other parts besides what I'm daily involved in, so I know that there are other costs coming down the road. Next-generation 911 is drawing an awful lot of attention. Everyone carries smart phones. We're trying to stay ahead of the curve on educational of saying, okay, it's one thing to dial 911. When I started, it was only a house phone. And if there was an accident on the interstate, somebody got on a CB radio and called a volunteer that would monitor a react channel, and then they would go to a pay phone and call 911. But now with wireless, now we have to find where they're calling from. And

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the next gen might be the picture of that car in the accident; it might be the text message coming from someone that uses that device--not for a voice device, but only as a text-type device. So there is other changes coming. We want to stay ahead of the changes. The county is well aware. In fact, next week we will be meeting with representatives of Douglas County and a couple other counties in regards to regionalization of the concept on the eastern end of the state. [LB847]

SENATOR FISCHER: What percentage of your budget now goes for personnel? [LB847]

LARRY LAVELLE: Approximately 70 percent of my budget is personnel. [LB847]

SENATOR FISCHER: I would assume since you're supporting the bill, you would be looking at using some...if this would pass, you'd be wanting to use some of those funds for personnel, or am I assuming incorrectly? [LB847]

LARRY LAVELLE: We would use some for personnel, yes. We know to offset some of the costs that we currently have, guidance through the Public Service Commission, other funds, our landline funds, our general funds, support that we receive from the cities in Sarpy County and through an interlocal government agreement, it's tight. We know that we have to allocate X amount of dollars, whether it be personnel or costs, within the guidelines that we're given now--again, the 70 percent rule that we're sitting at. If our percentage changes, we have to prove to the Public Service Commission our percentage goes up and down to the wireless, of how we can use those wireless funds. Obviously, wire line funds, 100 percent ours, but again, declining in Sarpy County. And then there's just that fixed revenue, hence the reason why we will be meeting next week to discuss regionalization. [LB847]

SENATOR FISCHER: So you would like all the rules and all the guidelines off on how this money can be used? [LB847]

LARRY LAVELLE: I don't quite understand. Excuse me? [LB847]

SENATOR FISCHER: You would like to be able to use the funding you're receiving in any way that your county sees fit... [LB847]

LARRY LAVELLE: No, it... [LB847]

SENATOR FISCHER: ...with regards to the E-911. [LB847]

LARRY LAVELLE: Understanding that the percentage of the call factor would come in, that would we spend each and every penny I allocated on a monthly basis to personnel costs? It would be easy to do that, but we know there's other demands. We understand

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fully that there are general funds that go for it. In fact, Sarpy County made an attempt to use the countywide sales tax. Unfortunately, that did not pass on the ballot, but that was yet another opportunity. [LB847]

SENATOR FISCHER: Glad you put it up for the ballot. [LB847]

LARRY LAVELLE: Yeah, well, it did go to the ballot. But again, that was an understanding it could be used for public safety. The opportunity was explored to drive down that long-term cost of 911. [LB847]

SENATOR FISCHER: You know, you said money is tight. Do you see a problem with this if we would pass this bill? Would that create problems in the future on how we are going to be able to finance equipment or if we can even help counties or PSAPs in order to finance any equipment upgrades that are going to be necessary I think more and more often as technology increases? [LB847]

LARRY LAVELLE: Heck of a question. I hate to speak for anybody other than of what I've known and what I've seen. And so what I have seen is people become creative. I see regions that are now dispatching, sharing operations. I myself went through the city of Omaha/Douglas County merger. Sarpy County merged city/county operations before that. Now we're looking at a regional concept even in that large metropolitan area. It does create opportunities for people to explore what we're doing...exploring now. If in fact they had a...if one of the biggest concerns from the other elected that I serve was somewhat tamed down by the dollar amount, they might think on a bigger scale. You've heard percentages. Hall County, 50/50; city of Omaha/Douglas County, 85/15; ours is currently 78/22, or whatever it is. [LB847]

SENATOR FISCHER: Who's 78? [LB847]

LARRY LAVELLE: The county. It's just the opposite of Douglas in my previous experience, but again. And then the cities slice that pie however they choose. The remaining, they get to split it five ways. So what I can do is say I believe that would help the county and subset cities. And then regionalization, factor in, okay, how do we best use those dollars allotted, to say do I buy one switch that will answer for two or three counties or will I continue to have to pour money into taking that and leveraging a sheriff's office that's open 24, and maybe that person really isn't just a 911 person, but then leverage everything else I see in the smaller operations. It might give them flexibility. [LB847]

SENATOR FISCHER: Okay, thank you. Other questions? I see none. Thank you very much for coming in today. [LB847]

LARRY LAVELLE: Okay. [LB847]

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SENATOR FISCHER: Next proponent, please. Are there other proponents for the bill? Are there any opponents to the bill? Good afternoon. [LB847]

BETH CANUTESON: Madam Chair, members of the committee, my name is Beth Canuteson. It's B-e-t-h C-a-n-u-t-e-s-o-n, and I represent AT&T. I appreciate the efforts of Senator Sullivan. However, AT&T is just philosophically opposed to this legislation. The fees on telecom are as old as 911 itself, and both the fees on wireless and wire line have always been used specifically for equipment, installation, maintenance upgrades, and specifically for training of personnel on the equipment. There has always been the belief that other costs associated with 911 should be covered by the taxpayers generally because they are for the common good. The cities and counties represent the taxpayers, and I'm here to represent our customers who pay the fees and will no doubt increase with this type of legislation. You know, we see time and time again this type of thing, and you start to wonder where it will stop. I mean, it's a great idea to say, you know, maybe we should see because we've seen an increase in wireless phone calls--which we do see definitely that--but we've also seen a reduction in response times as a result of those calls. And you heard some talk today about the next generation of 911. You're going to be getting text messages from somebody who is maybe locked in a closet who can't make a phone call, but can send a text message, or a picture of an accident so that response officials know what to expect when they get there. So, then what's next? If we pass this legislation, it makes sense maybe to supply, you know, fund personnel, and then what's next? Then we decide to fund the dispatch center? And then what if you need a fire truck? Then you fund that as well, and so when that next generation comes along, how are we funding that equipment? And then again, here you're faced with enhanced fees. At what point does the county or the city have that responsibility to pay for those basic services for 911, which I consider a basic service for customers. So, just because somebody has a wireless phone, or a landline phone even, does that require them to pay for those services continually? So just because it's a source of income doesn't mean it's the right source of income for that. So with that, I'll close and answer any questions. [LB847]

SENATOR FISCHER: Thank you, Ms. Canuteson. Are there questions? I see none. Thank you very much. [LB847]

BETH CANUTESON: Thank you. [LB847]

SENATOR FISCHER: Other opponents to the bill? Any other opponents? Anyone wishing to testify in the neutral capacity? Good afternoon. [LB847]

JERRY VAP: (Exhibit 8) Good afternoon again, Senator Fischer and members of the committee. Again, I'm Jerry Vap, representing the 5th district of the Public Service Commission. I'm here today to testify in the neutral position regarding LB847. My

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purpose today is to provide you with information to assist you in making policy decisions regarding eligible expenses under the Enhanced Wireless 911 Services Act. The commission administers the Enhanced Wireless 911 Fund, which funds 911 service in Nebraska for wireless telephone service. This fund is made up of surcharges collected from wireless telephone subscribers. The funds are then distributed to the public safety answering points, or PSAPs, and wireless service providers, through a cost model developed by the commission. During the 2011-2012 funding year, \$3.5 million has been allocated to the PSAPs. Approximately \$1.59 million is allocated to wireless service providers for monthly recurring costs. However, providers only requested \$716,000 of the amount allocated. Additionally, \$660,000 is available to the wireless providers for capital investments. PSAPs and wireless service providers can then utilize funds for eligible expenses related to the provision of wireless enhanced 911 service. Currently, expenses eligible for reimbursement from the fund include purchase or lease of new equipment, equipment upgrades and modifications, maintenance costs and license fees for new equipment, cost incurred in creating or maintaining databases and personnel training as it specifically relates to processing the data elements of enhanced wireless 911 service. LB847 makes one change to eligible expenses for 911 service. In addition to those costs that are already eligible, LB847 allows funds to be used for personnel costs required for the provision of enhanced wireless 911 service and removes the limit on the services considered eligible by deleting telecommunications. The commission has no objection to this bill. However, while it will expand the types of expenses eligible for reimbursement from the fund, its passage will not necessarily result in more money being allocated to the PSAPs. With Phase II wireless enhanced 911 now available statewide, we are now shifting the focus of the program to expenses related to the maintenance and operation of the system. The commission is currently completing audits for the use of the funds after the first year and is evaluating possible adjustments to the cost model to make more funds available to PSAPs. Additionally, on September 22, 2011, the commission opened a docket to investigate expanding the list of eligible expenses for PSAPs. A hearing was held on this docket on January 23, 2012, and the commission will likely take no further action until the Legislature makes its decision regarding this bill. In the meantime, the commission will continue to take steps to refine and improve the efficiency of the wireless 911 program. That concludes my comments. I'm available for any questions. [LB847]

SENATOR FISCHER: Thank you, Commissioner. Are there questions? Senator Campbell. [LB847]

SENATOR CAMPBELL: Thank you, Commissioner Vap, for your testimony. And so basically you're saying that there's not going to be more money, it's just how it may be divided? [LB847]

JERRY VAP: Under the current...the way the model is set up now for distribution of those funds, there would be no more money available. It would be just allowing them to

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spend it on something that they haven't been able to in the past. They would still have to figure out a way to pay for what they've been paying for out of this fund. We do have the docket open. We are attempting to see if there's a way we can put more money into the fund for the PSAPs. That's based on the current system; it's based on the fact that we've got a 50-cent per month surcharge now. We could go to 70 percent in all the state except one county, but 70 cents is not on the list of things we're going to do at this time. Fifty cents right now has provided us with a pretty health fund, but when you decide you're going to take more of that money and put it into the reimbursement pot, you have to look down the road and see what's going to happen when the next generation comes along and very expensive equipment is going to be needed all over the state for that purpose. Sarpy and Douglas County are looking at a consolidation, if you want to use that word. That seems to be not an acceptable word around the state when it comes to county governments and city governments and that type of thing. But Region 26 is a good example. I met with Region 26 and that meeting prompted the opening of the docket that we have on looking at eligible expenses. I've also met with Region 24, and we do have another area that...Keith County at Ogallala dispatches for seven other counties, and so that's possible. And it's going to come down to how much money should we putting into this out of the wireless fund and how many expenses should they be able to pay for it. When the county is beginning in some of the sparsely populated counties who are trying to run their own PSAPs today, at what point are they going to be saying we can't afford to do this anymore? If they have to replace equipment, a small PSAP with one, maybe two answering stations is going to spend between \$150,000 and \$200,000 on new equipment. Right now, the way the allocation is laid out for them to be eligible to spend, the county can take 75 percent of what we give them--or the commission sends them--and save it for new equipment, or they can save nothing and spend it all on eligible expenses. We've had a real mixed reporting on the audits that we've had after the first year of the model, year-and-a-half. There was one or two counties that didn't spend any of the money. They were afraid to; they didn't know what to do and they didn't ask what they could spend it on. Others put money away just like they should for future equipment purchases. Others don't have the luxury of doing that, so it's all over the board as to how they're spending that money. And we are going to hold another workshop. We've had a couple of them already on what expenses are eligible. If this particular bill were to pass, then we would definitely be holding a workshop for all the PSAPs to come in and lay out what they can spend the money on. And they're still going to be audited; they can't get the money without an audit, so.
[LB847]

SENATOR CAMPBELL: Commissioner, one follow-up question. Is the fund growing?
[LB847]

JERRY VAP: The fund has been growing. As I said, the wireless companies that are eligible for recurring expenses are only asking for about a half of what's allocated. There is one or two companies that were accepting money out of the fund for recurring costs,

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but one of them changed hands and it sent a notice to the commission they did not want any money whatsoever of any kind out of the commission. That has caused the fund to increase. So we look at two aspects: Should we be putting more money into the cost model for the PSAPs to use; and at the same time, should we think about lowering the surcharge for the customers? Now, if I were to ask the Governor, I know what he would say. He'd say lower the surcharge. Any time you can cut taxes or fees or service charges or anything, you ought to do it. We've also got the next generation of equipment that has been testified to. You may need to be...a PSAP may have to be able to accept a text message, an e-mail, or anything as a 911 call. Many of the PSAPs have equipment that is capable of accepting the software to do that at this point in time, but not very many. And that equipment, when it comes around, you've got over 70 PSAPs in this state; it's going to be expensive to do. [LB847]

SENATOR CAMPBELL: Well, some of the people just haven't asked for more money or haven't used the money. [LB847]

JERRY VAP: Well, even if they ask for more, they won't get any more... [LB847]

SENATOR CAMPBELL: Got it. Okay. [LB847]

JERRY VAP: ...because the model lays out what each county is going to get, based on a formula and population and all that. If you've ever listened to an economist, you know that they speak a different language than the rest of us do, and that's who we have set these models up. So unless we can figure out a way to plug into the model some more money that we do have but at the same time look to the future to make sure that we're not going to jeopardize the ability to make the system run at its best, there won't be any more money put into the PSAPs' pockets. I'd like to, because most of them are strapped. [LB847]

SENATOR CAMPBELL: Thank you, Commissioner. [LB847]

JERRY VAP: Um-hum. [LB847]

SENATOR FISCHER: Thank you, Senator Campbell. Other questions? I see none. Thank you very much. [LB847]

JERRY VAP: Thank you. [LB847]

SENATOR FISCHER: Anyone else wishing to testify in the neutral capacity? I see none. Senator Sullivan, would you like to close? [LB847]

SENATOR SULLIVAN: Thank you very much, and I appreciate all of the people who have come to testify. I think it's been helpful to me and I hope it's been helpful to you as

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well, but I think also it's important to clarify what I'm trying to accomplish with LB847. Not looking for more money; just more flexibility for how the PSAPs will use it. And I believe that you all have the amendment that was given to you by the Public Service Commission, and as I said in my opening testimony, that just further clarifies again what I'm trying to accomplish and it doesn't mess with the formula or the distribution or the allocation. And with all due respect to the testimony--and I appreciate what AT&T had to say--this doesn't have anything to do with fees. It's all about providing what I would consider a very essential and valuable service, particularly in our rural areas. And I think Region 26 is a good example of how the counties have gone together to try to be efficient but yet provide that valuable service. And they have done their due diligence with providing the up-to-date equipment; it's all Phase II out there. But you know what? All the good equipment in the world is not going to do any good if you don't have the people there to operate it in a timely and efficient manner. And the counties, I think they're already picking up some of the increased costs for personnel because they've seen a decrease in the amount of funds coming back to them because of fewer landlines, and so less of a surcharge there. So again, I hope we've made a good case for you considering it and advancing this to General File. Thank you. [LB847]

SENATOR FISCHER: Thank you, Senator Sullivan. Questions? I see none. Thanks for coming in today. [LB847]

SENATOR SULLIVAN: Thank you. [LB847]

SENATOR FISCHER: (See also Exhibit 13) With that, I will close the hearing on LB847 and open the hearing on LB1091. Senator Campbell, since Senator Hadley is not here, would you run this hearing, please? [LB1091]

SENATOR CAMPBELL: Sure, sure. Good afternoon. [LB1091]

SENATOR FISCHER: Good afternoon, Senator Campbell and members of the Transportation and Telecommunications Committee. For the record, my name is Deb Fischer, F-i-s-c-h-e-r, and I am the senator representing the 43rd District here in the Nebraska Unicameral. LB1091 is a bill that develops a new method for collecting certain surcharges from prepaid wireless carriers. The prepaid wireless industry is a growing wireless business model. The Cellular Telephone Industry Association estimates the model as accounting for 21 percent of the overall wireless market today. The Transportation and Telecommunications Committee dealt with the collection of enhanced wireless 911 fee for prepaid accounts in 2007. At the time, all states were just beginning to deal with the collection of fees from a model where there is usually no face to face or billing interaction between the service provider and the customer. Approximately 80 percent of wireless prepaid services are sold through traditional retail outlets such as Walmart, Best Buy, and Target, while 11 percent are sold via on-line retailers, and 9 percent sold through wireless carrier retail stores. The committee felt it

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best to leave it up to the Public Service Commission to determine a method for collecting a telecommunication surcharge. Since that time, the clear trend throughout the states has been to adopt a point-of-sale collection method with 17 states enacting legislation since 2009. Under this method, customers who purchased prepaid wireless service will have the surcharges added to their purchase and will pay it to the seller at the point-of-sale just as they pay sales and use taxes. There are several benefits to this method of collection including stable and predictable revenues from prepaid wireless customers and transparency to the customer. LB1091 adopts the point-of-sale collection method for prepaid wireless service for two surcharges: the enhanced wireless 911 fee and the telecommunications relay systems fee. The Department of Revenue shall determine the percentage to be added to the customer's bill based on a statutory formula. Beginning July 1, 2013, the seller of prepaid wireless service will be required to collect the surcharge from the customer and remit the fee to be credited to the Enhanced Wireless 911 Fund and the Telecommunications Relay System Fund in their respective proportions. The collection and remittance will be in the same manner as the sales tax to reduce any burden on the seller. In addition, the seller will be allowed to keep a 3 percent collection fee from the surcharge. This bill has been shared and discussed with the retailers. With their cooperation, I believe LB1091 provides a simple and effective avenue for collecting these surcharges and is the best solution to make sure the state receives the required surcharge from all wireless users. Thank you, Senator Campbell. [LB1091]

SENATOR CAMPBELL: Thank you, Senator Fischer. Are there any questions from the committee members? Thank you. [LB1091]

SENATOR FISCHER: Thank you. [LB1091]

SENATOR CAMPBELL: And with that we will call the first proponent. Good afternoon. [LB1091]

BETH CANUTESON: (Exhibit 9) Good afternoon, Madam Chair and members of the committee. My name is Beth Canuteson, it's B-e-t-h C-a-n-u-t-e-s-o-n, and I represent AT&T. We're here in support today of LB1091, legislation that would create a fair and equitable method of collecting 911 fees from purchasers of prepaid wireless service. As you know, state law requires fees to support the 911 system and they're levied on the users of landline and wireless telephone services in Nebraska and most other states. Historically, these fees have been added to the monthly bills of telephone subscribers, collected on the service provider, and remitted to the proper state agency. Unfortunately, this method doesn't work with prepaid wireless service because there is no monthly bill. When these laws were enacted, prepaid wireless services were really not contemplated. However, this segment of the market is rapidly growing and now make up about 25 percent of the wireless market. With prepaid service, customers can walk into a retail store and purchase additional minutes or cards without providing a

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name or address. In fact, the prepaid wireless provider may not have any information about the customer's address or location. Furthermore, over 70 percent of prepaid transactions are completed in third-party retail establishments such as Walmart, Best Buy, and Target. In these transactions prepaid providers are not involved in the retail transaction between the customer and the seller. Prepaid providers have no ability to collect 911 fees from the customer in these transactions because they did not receive payment from the customer. To further exasperate and highlight the problem, almost half of new wireless subscribers added over the past year were prepaid subscribers. The new prepaid segment is growing at a rate two times that of postpaid subscribers. Customers enjoy the flexibility of no monthly bill, no credit check, no contract, ease of activation, and economically tailored to meet their financial situation. States that have not addressed the problem, currently use a variety of methods which Nebraska does. And Senator Fischer talked about these, so I'm going to skip over that part of my testimony. In many cases, the carriers end up eating the fees in states where this has not been addressed and there is no money available by any of the methods of collection. We believe that this point-of-sales is the solution for Nebraska. A few years back the industry reached out to the public safety community tax experts and our retail partners to develop a fair, uniform, and effective system for collecting 911 on prepaid wireless services. A lot of time and effort was put into minimizing the cost and burdens on retailers. As a result, model legislation was developed by and endorsed by NCSL, and that legislation has passed in 18 states, and lots of others are considering it this spring. I think you know some of the key provisions that the senator has outlined. The benefits are: the prepaid point-of-sale methodology in LB1091 is based on actual sales, is transparent to the customer, accurately sources the transaction to the state, and is a more efficient methodology for the collection of the surcharge directly from all prepaid end users, and is fair to the postpaid consumer. It will end disputes, consumer complaints, and litigation over the application of 911 to prepaid wireless service. We believe this prepaid point-of-sale creates a method that is certain, stable, and predictable; fair, equitable, and transparent; and finally, it will create transparency. All consumers will know that they are paying an E-911 fee to support emergency communication services. Thank you and I'm happy to answer any questions. [LB1091]

SENATOR CAMPBELL: Thank you, Ms. Canuteson. Are there any questions from the senators that you want to ask? Senator Janssen. [LB1091]

SENATOR JANSSEN: Thank you. Miss Canuteson, you said one thing, are they currently being...the fees being paid for by the person selling it, or is this? I was just a little confused. Is this something that we're not getting now or we're just changing the means in which we're...? [LB1091]

BETH CANUTESON: Yeah, you're changing the means to make it more transparent, as well as easier to collect and more sure of being collected. Right now there are different ways which a carrier can collect the fee. And a lot of times what we do is we've

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determined...there's several different ways that you can do it, and a lot of times the carrier ends up paying the fee because there's no way to get it back from that customer. So we end up paying it on behalf of the customer. And so this will allow us to actually charge the customer for that fee. [LB1091]

SENATOR JANSSEN: Oh, so presently you can't charge for that, is that...? [LB1091]

BETH CANUTESON: Right. We can if we do it in certain ways but again there are different mechanisms for doing that. And on certain types of...ways of doing that, excuse me, I'm...but anyway, on the second and third month, that's where it gets a little hazy. There's no way to reach back in and grab money from that account. [LB1091]

SENATOR JANSSEN: Has there been any cases of providers trying to skirt the system knowingly and not pay the fee? [LB1091]

BETH CANUTESON: AT&T has never done that. [LB1091]

SENATOR JANSSEN: I would certainly...(laughter). (Inaudible.) [LB1091]

BETH CANUTESON: I would defer that question to somebody else. [LB1091]

SENATOR JANSSEN: Thank you. [LB1091]

SENATOR CAMPBELL: Senator Price. [LB1091]

SENATOR PRICE: Thank you, Senator Campbell. Thank you, ma'am, for coming down and helping us understand some if this. [LB1091]

BETH CANUTESON: Thank you, Senator. [LB1091]

SENATOR PRICE: And I'm going to advertise an ignorance I have on the prepaid phone business. [LB1091]

BETH CANUTESON: All right. [LB1091]

SENATOR PRICE: So you can go and buy a phone. I go and buy...let's just say in the generic, a TracFone at Walmart and I have a phone. And then I have to buy a card for minutes, correct? [LB1091]

BETH CANUTESON: Correct. Sometimes they come preloaded and sometimes they don't. [LB1091]

SENATOR PRICE: And so what we're saying is, we'll be taxing not the device, but the

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prepaid minutes? [LB1091]

BETH CANUTESON: Correct. [LB1091]

SENATOR PRICE: We're not taxing. We're putting a fee on the (inaudible). [LB1091]

BETH CANUTESON: Right, right, exactly, that's correct. [LB1091]

SENATOR PRICE: Okay. I just wanted to make sure that I understood that this wasn't tied to just the device of a one-time sale of the device. [LB1091]

BETH CANUTESON: No. [LB1091]

SENATOR PRICE: Each time I would come back and buy a card, there would be a portionality that somehow PSC and the powers that be would divine and put on there. [LB1091]

BETH CANUTESON: Right. No, in fact on the bottom of page 4, I believe it is...yes, on the bottom of page 4, and starting on the top of page 5, it says that if you sell the phone and it has less than 10 minutes or less than \$5 of service, it's actually considered a noncharged phone, and it's sold just as a phone with no tax on there or no 911 fee associated with it. So then it's just an unloaded phone. It's considered an unloaded phone because those few minutes are not worth charging a 911 fee on. [LB1091]

SENATOR PRICE: Great. And then to tell you what I do know, I found out that if I have an old phone, because I had one, like an old steam-powered phone, practically,... [LB1091]

BETH CANUTESON: (Laugh) That you have to crank the handle. [LB1091]

SENATOR PRICE: Yeah, exactly. And then my son told me that if I had a charge on that one, even though I didn't have service, but I had charge on that thing, I could press 911 and it's going to make the call. [LB1091]

BETH CANUTESON: Absolutely. Absolutely, it will. [LB1091]

SENATOR PRICE: Now the question is, who gets the charge then? [LB1091]

BETH CANUTESON: Who gets to charge that? [LB1091]

SENATOR PRICE: No. Who has the charge? I don't have a service. I don't have... [LB1091]

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BETH CANUTESON: No, and we just absolutely have to connect that based on federal law, but we don't charge for 911 calls. We would not charge you for that call. [LB1091]

SENATOR PRICE: Well, I mean, that's (inaudible). But, you know, there's a fee. I don't pay a fee on that phone. It's been sitting up on the counter, up in the... [LB1091]

BETH CANUTESON: Right, exactly. [LB1091]

SENATOR PRICE: And I keep all the little chargers. I don't know why, but... [LB1091]

BETH CANUTESON: It's just a safety issue. [LB1091]

SENATOR PRICE: Okay, thank you. [LB1091]

BETH CANUTESON: Um-hum. [LB1091]

SENATOR CAMPBELL: Any other questions? What is the most minutes, Ms. Canuteson, that you could buy prepaid, do you know? [LB1091]

BETH CANUTESON: I don't. That's an excellent question. [LB1091]

SENATOR CAMPBELL: Is there any...there is no federal limit in the amount of minutes? [LB1091]

BETH CANUTESON: I don't know, and maybe somebody else behind me can answer that question, but I don't know. I've never..I bought a prepaid phone one time just to try to learn how they worked, but I don't have the answer to that question. [LB1091]

SENATOR CAMPBELL: I think, I'm with Senator Price, I've never had one so it's interesting to learn. [LB1091]

BETH CANUTESON: Yeah. [LB1091]

SENATOR CAMPBELL: And we should note for the record that the companies listed on this also are supportive of the bill? [LB1091]

BETH CANUTESON: Yes. [LB1091]

BETH CANUTESON: So U.S. Cellular, which we have a letter of support, and Sprint, T-Mobile, TracFone, AT&T, and Verizon. [LB1091]

BETH CANUTESON: Yes. [LB1091]

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SENATOR CAMPBELL: Thank you. [LB1091]

BETH CANUTESON: Thank you. [LB1091]

SENATOR CAMPBELL: The next proponent. [LB1091]

NANCY RIEDEL: Good afternoon. [LB1091]

SENATOR CAMPBELL: Good afternoon. [LB1091]

NANCY RIEDEL: Senator Fischer, Senator Campbell, committee members, my name is Nancy Riedel. I'm the director of state tax policy for Verizon. [LB1091]

SENATOR CAMPBELL: And you need to spell your name. [LB1091]

NANCY RIEDEL: Oh, I'm sorry. Oh, N-a-n-c-y, Riedel, R-i-e-d-e-l and I'm with Verizon. [LB1091]

SENATOR CAMPBELL: Okay, go right ahead. [LB1091]

NANCY RIEDEL: I don't have a whole lot to add. I'm available for additional questions as well. Senator Fischer did a great job summarizing what the point-of-sale provision does and why this bill is necessary. And then Beth filled in a few questions as well. I might just reiterate that this has been a culmination in Nebraska of a several-year effort, at least two years that I'm aware of, with the industry working together with NCSL and the retailers, the PSAP community, other stakeholders in this effort to come up with model legislation that has been adopted, as Senator Fischer mentioned, 17-18 states that have adopted point-of-sale methodology. And there are many others working on it as we speak here today as well. So it is a well-vetted methodology and it has been determined really the only reliable, consistent way to capture the prepaid market in terms of supporting 911 emergency services. There are different methodologies, as Beth mentioned, for carriers to remit the funds today, but none of them are reliable. There's really no way to make sure that everybody's being captured in that net. So point-of-sale is any time you buy, replenish, or buy an initial prepaid amount of minutes, you're subject to paying the fee to support 911. So it's been well discussed and determined that this is the way to deal with that growing segment of the market. [LB1091]

SENATOR CAMPBELL: Are there any questions? Thank you very much for your testimony today. [LB1091]

NANCY RIEDEL: Thank you. [LB1091]

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SENATOR CAMPBELL: Our next proponent. Good afternoon. [LB1091]

BETH BAZYN FERRELL: Good afternoon. Senator Campbell, members of the committee, for the record my name is Beth Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm with the Nebraska Association of County Officials. When our board discussed this bill, it was less from the funding mechanism or the actual formula process than it was the whole concept of making sure that everyone who can help pay for the wireless surcharge contributes to that. I would be happy to try to answer questions. [LB1091]

SENATOR CAMPBELL: Questions for Ms. Ferrell? Thank you so much for your testimony today. The next proponent. Is there someone in the room who would like to testify in opposition of the bill? Someone in a neutral position? Welcome. [LB1091]

JIM OTTO: Thank you. Senator Campbell, members of the committee. Senator Fischer, I guess since you introduced it, we...I got it, okay. (Laugh) My name is Jim Otto, J-i-m O-t-t-o. I'm president of the Nebraska Retail Federation and I'm here today to testify in a neutral capacity on LB1091. As has been stated earlier, this has been a long drawn-out issue. Initially retailers were very opposed to it. In fact, we owe a lot of thanks to Senator Fischer and Mr. Vaughan in our negotiation and how it went several years ago. We were very much opposed to it and we're very appreciative of the assistance from Senator Fischer. But our opposition has not been that we didn't think the fee should be collected. Our opposition was basically that we didn't think it needed to be at the point-of-sale. And the point-of-sale is just becoming...in frustration, you've all heard about the occupation taxes that have come on, they happen at the point-of-sale; sales tax is already at point-of-sale. It seems like point-of-sale is becoming the popular place to collect all the taxes. So it's just basically a concern of retailers that when people show up at the point-of-sale they will have this item and then they will have this fee, this tax, this fee, this tax. So we're concerned about the overall point-of-sale issue. Having said that, Verizon and AT&T have been very gracious in working with us in trying to get this worked out so it would work best for retailers. Bromm and Bromm have gone above and beyond. And so with that, we are in a neutral position saying that we accept this, we're glad to work with it, but simply because of the point-of-sale issue, we couldn't come and say we wanted to testify in favor. With that, I'd be glad to answer any questions. [LB1091]

SENATOR CAMPBELL: Are there questions from the senators? Mr. Otto, I have one question. As you looked across the country, it would seem though that the point-of-sale is the most used methodology. [LB1091]

JIM OTTO: It is, but that has happened in the last...since we actually first had it hit Nebraska, and I think it was four years ago, wasn't it, or five years ago? All of those have happened since. We lost that fight...I shouldn't...I don't want to come across as negative, but we really lost that at NCSL, because NCSL adopted the point-of-sale

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model. [LB1091]

SENATOR CAMPBELL: That helps answer that question. Thanks, Mr. Otto. [LB1091]

JIM OTTO: Thank you. [LB1091]

SENATOR CAMPBELL: Our next neutral testifier. The commissioner is earning his keep today. Goodness. [LB1091]

JERRY VAP: You're keeping me busy today. [LB1091]

SENATOR CAMPBELL: Yes, we are. It's his day. Welcome again. [LB1091]

JERRY VAP: (Exhibit 10) Thank you, Senator Campbell, members of the committee. Again I'm Jerry Vap. I represent the 5th District of the Public Service Commission and I'm here to testify in the neutral position regarding LB1091. Enhanced wireless 911 service in Nebraska is funded in part through surcharges on wireless telephone service that are remitted to the Enhanced Wireless 911 Fund administered by the commission. Currently, prepaid wireless carriers have two options for the remittance of the surcharge: (a) the wireless carrier can divide the total earned prepaid wireless telephone revenue received within the monthly reporting period by \$50 and multiply the quotient by the surcharge amount or the wireless carrier can collect on a monthly basis the surcharge from each customer's active prepaid account. LB1091 would modify that process so that retailers would collect the surcharge at the point-of-sale and remit the funds to the Department of Revenue. LB1091 may result in a slight reduction in revenue to the fund because of the amounts retained by the retailers and the Department of Revenue to cover administrative costs. However, the commission has no objection to this process so long as it is not required to audit the prepaid wireless surcharges collected. We don't really want to be auditing Walmart or entities of that type; that's up to the Department of Revenue to do that. And that concludes my comments today. I would answer any questions. [LB1091]

SENATOR CAMPBELL: Are there any questions for the commissioner? Thank you very much. [LB1091]

JERRY VAP: Thank you. [LB1091]

SENATOR CAMPBELL: Our next neutral testifier. Anyone else in the hearing room on a neutral position? Senator Fischer, do you wish to close? Senator Fischer waives closing and that will conclude the hearing on LB1091. And we will turn the Chair back to Senator Fischer. [LB1091]

SENATOR FISCHER: Thank you, Senator Campbell. [LB1091]

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SENATOR CAMPBELL: (Exhibit 11) Senator Fischer, we probably...I mentioned it, but we should note particularly that U.S. Cellular sent a letter of support. [LB1091]

SENATOR FISCHER: Okay, we will have the clerk note that. [LB1091]

SENATOR CAMPBELL: Thank you. [LB1091]

SENATOR FISCHER: Thank you, Senator. We will open the hearing on LB833. I don't see Senator Krist in the room yet. [LB833]

SENATOR KRIST: Do I need to fill out something for your clerk? [LB833]

SENATOR FISCHER: No. Okay, I will open the hearing on LB833 and welcome, Senator Krist. [LB833]

SENATOR KRIST: Senator Fischer and members of the Transportation Committee, I apologize. Blame it on Senator Lathrop; he wouldn't let me out of his committee. [LB833]

SENATOR FISCHER: Okay, we will do that. [LB833]

SENATOR KRIST: Thank you. Always defer the blame. You all read the intent. I'm not going to stick to any prepared testimony; I'm just going to tell you this. I had an opportunity during the special session to drive to Lincoln, as I do every day, and I passed by the Platte River bridge and I witnessed an almost a brand-new Lexus SUV going from the rumble strip to almost sideswiping cars and she was going back and forth. I called 911 right on the Platte River bridge. I gave them make, model, license plate number, everything. It was disturbing that day because I followed her at a safe distance all the way to Lincoln. I got off on the 9th Street exit. She went from the outside lane right after I exited all the way across as though there was nobody else on the interstate, brake lights coming on, and she obviously was going for the airport exit. It disturbed me because here's a person that truly was impaired. Now, I don't know whether she's a diabetic or what the condition was, but impaired driving. I called 911 there at the Platte River bridge, and when I got off I went to my office and I called the 911 call centers in, first, Douglas County, because I thought they would obviously have taken that call. He was a...every one of the call centers...I called Lancaster, Cass, and Douglas County, and they all told me the same thing: There are jurisdictional problems with 911. The hand-off that automatically should happen, you would think would happen, does not happen. One of the issues is in collaboration with the 911 centers--where's the hand-off; how simple is the hand-off. And they told me that I really should have a roundtable discussion. When I talked to Lieutenant Governor who runs our IT for the state, and he said, you know, we've been talking about this consolidation,

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collaboration, and expansion of the program, and he said thanks for bringing it to my attention. I said I am going to run a roundtable discussion after things settle down in the session and bring the folks in from the 911 centers and talk to them about it, and then let them solve their problem; and they are actively engaged in solving their problem, as I found out. There is so much interface that goes on that they're there. Now, I talked about this at a Douglas County commissioners' breakfast just before we came back into session and I was told one of the key building blocks to making some of these changes happen was a level playing field. That's what this bill represents. There was an exception put in for the city of the metropolitan class that held down the funding for the 911 center in Douglas County. In order for us to share in this blanket of collaboration, evaluation, and expansion, we need to start at a level base. That's exactly what this is about. I think they're well on their way, in some of the meetings that have been proposed and some of the lessons learned that they brought back in from Iowa, for example, which is much more...has progressed further on this effort. They're ready to take the bull by the horns. We need to give them the ability to do that. Remove that exemption for the city of the metropolitan class, and have everybody on the same playing field. I will tell you this, one of the questions that was disturbing that day, it was very simply this: What if that car, that license plate, would have been a part of an Amber alert? What if it would have been an Amber alert? And I was told, oh, that's a different process. I said really? Well then, maybe you all need to get together and use the technology that's out there the way that you can. We're working at it. So again, thank you for your time. I apologize for my absence. I hope I didn't hold you up too long. I would ask you to send this one forward and let's have a debate on the floor about it. [LB833]

SENATOR FISCHER: Thank you, Senator Krist. Questions? I see none. Thank you very much. [LB833]

SENATOR KRIST: Would you allow me to go back to my hearing? [LB833]

SENATOR FISCHER: Yes. [LB833]

SENATOR KRIST: Thank you very much. I'll waive. [LB833]

SENATOR FISCHER: (Laugh) You're waiving closing? [LB833]

SENATOR KRIST: Yeah. [LB833]

SENATOR FISCHER: Okay. Thanks a lot. [LB833]

SENATOR KRIST: Not because it's not important. [LB833]

SENATOR FISCHER: Understood. First proponent, please. Good afternoon. [LB833]

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SEAN KELLEY: Good afternoon, Madam Chair Fischer and members of the 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. I can add a little bit to Senator Krist's opening in that the Douglas County board does desire to have a regional 911 operation center, and one of the impediments is that Douglas County is the only county in Nebraska that cannot go above the 50 cents. We see that as an impediment and we'd like to be equal. We're a pretty undesirable county for a region if we're less than everybody else. So with that, I'd be happy to try to answer any questions. [LB833]

SENATOR FISCHER: Thank you. Questions? Senator Price. [LB833]

SENATOR PRICE: Thank you, Senator Fischer. Mr. Kelley, I'm going to ask a question that's a little bit off this but still within the topic area. How does Douglas County and that...and it would apply to Sarpy County and others. How do we handle this surcharge on wireless, let's just say to 911, when you live in a SID? Does the city handle that and do they get it, or does the county? Because I've heard that there's an issue in that if you live in a SID, how that money is allocated and how many times...you actually get taxed maybe twice. I want to understand that a little better. Do you know? [LB833]

SEAN KELLEY: That's a great question. I'll defer to the Douglas County 911 director who will testify after me, if that's okay. [LB833]

SENATOR PRICE: Great. Thank you. [LB833]

SEAN KELLEY: Thanks. [LB833]

SENATOR FISCHER: Other questions? I see none. Thank you very much. [LB833]

SEAN KELLEY: Thank you. [LB833]

SENATOR FISCHER: Next proponent, please. Good afternoon. [LB833]

MARK CONREY: Good afternoon again, Senator Fischer and members of the Telecommunications Committee. My name is Mark Conrey, M-a-r-k C-o-n-r-e-y. I'm the Douglas County 911 director and I'm here to speak in favor of this amendment to the bill, allowing...removing the cap of 50 cents for the Douglas County surcharge. What you heard about regionalization and going on with the study, that study begins a week from tomorrow in Sarpy County, and one of the issues is the level playing field. The other, so that people understand exactly what the 50-cent surcharge means to Douglas County, my budget is a little bit over \$5 million. We collect...last year, we collected \$1.3 million in surcharge, and that's gone down about \$400,000 over the last three years, okay? So, I mean, everybody is complaining, you know, so it's relative. Everybody is

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losing money, but that's the impact on Douglas County. We take in about \$300,000 from wireless surcharge, so we put \$200,000 to my budget and we put the whole \$1.3 million of surcharge to my budget, and then the county has to make up the difference. Okay, we used to put aside \$200,000 so that we could keep buying equipment and we put \$1.5 million to the budget, but now we've gone beyond that. My personnel costs make up a little bit over \$3 million. I have a...because of the technology, because of a lot of things, obviously, we're a very technology-driven department, and unfortunately that's kind of an odd percentage for personnel. But, you know, it's only about 60 percent, but that's the reality of what goes on in Douglas County and that's how the surcharge is being spent. I just thought I'd lay that out in case there's any questions. So, in answer to your question and in anticipation of that, every September, Douglas County sets the surcharge rate. Well, we can only collect 50 cents. And we've set it for 50 cents so on every wire line phone inside Douglas County, the county collects the money. There's no double money. You know, if you're in Omaha or Douglas County, the wire line carriers submit the surcharge to Douglas County and they're the only ones that collect the surcharge. Everybody is treated the same. That is everything I have, and I really want that we level the playing field because this regionalization study has got to be the thing of the future because we can't go it alone any longer and neither could Sarpy County, neither can a lot of...and neither can Washington County. And so we really appreciate consideration, successful consideration of this bill. Thank you very much. [LB833]

SENATOR FISCHER: Thank you. What is your recollection on the debate that was had in the Legislature and why Douglas County only receives that 50 cents compared to the rest of the state? [LB833]

MARK CONREY: I was hired in 1996 and I was down here. I mean, this is...I can't tell you how many times I've testified, you know, on this. But the person that this Chamber is named after was adamant that it was never going to be raised from there, and that became a cry of his and something that...I mean, if it was Ernie's desire that it never goes up, so we've lived with that for...I mean, ever since I've been here. I started in '96, we've lived with that thing. Now, why? I really don't...I couldn't explain it. [LB833]

SENATOR FISCHER: Any questions? Senator Price. [LB833]

SENATOR PRICE: Thank you, Mr. Conrey. You've stipulated that you charge just the 50 cents for the wire--the hard line, right? [LB833]

MARK CONREY: Yes, sir. [LB833]

SENATOR PRICE: The wire carriers. You don't really deal with the wireless at all. [LB833]

MARK CONREY: No. The wireless is collected by the state. [LB833]

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SENATOR PRICE: All right. Thank you very much. [LB833]

SENATOR FISCHER: Other questions? I see none. Thank you. It has been a long time. [LB833]

MARK CONREY: Thank you. [LB833]

SENATOR FISCHER: Any other proponents? Other proponents for the bill? Any opponents to the bill? Anyone wishing to testify in the neutral capacity? [LB833]

JERRY VAP: Last time today, I promise. [LB833]

SENATOR FISCHER: (Laugh) Good afternoon, Commissioner. And it's the last time today because this is the last bill today. [LB833]

JERRY VAP: (Exhibit 12) Yes. Good afternoon, Senator Fischer, members of the committee. Again, I'm Jerry Vap, representing the 5th district of the Public Service Commission, here today to testify in a neutral position on LB833. My purpose today is to provide you with information to assist you in making policy decisions regarding the regulation of surcharges under Enhanced Wireless 911 and the Emergency Telephone Communications Act. The 911 service in Nebraska is funded through surcharges on both landline and wireless telephone service. The landline 911 surcharges are set by local governing bodies and are assessed on telephone bills by the landline local exchange carriers. That surcharge revenue is paid directly to the local governing body and is not regulated by the commission. Currently, any governing body other than those in Douglas County can set the surcharge up to \$1 per telephone line. In Douglas County, the surcharge is limited to 50 cents, and the local exchange carriers report to the commission on an annual basis the amount of surcharge revenue paid to local governing bodies. In the commission's 2011 annual report, local exchange carriers paid almost \$6 million in landline surcharge revenue to local governing bodies during 2010. The commission administers the Enhanced Wireless 911 Fund. This fund is made up of surcharges collected from wireless telephone subscribers. The surcharge for all subscribers in the state, other than those located in Douglas County, is capped at 70 cents per cellular telephone number. For subscribers in Douglas County, the surcharge is capped at 50 cents per telephone number. The commission reviews the surcharge on an annual basis. At this time, the surcharge is 50 cents on each cellular phone number. The funds are distributed to public safety answering points and to wireless service providers through a cost model developed by the commission. During the 2011-2012 funding year, \$3.5 million is allocated to PSAPs. Approximately \$1.59 million is allocated to wireless service providers for monthly recurring costs. However, those providers have only requested \$716,000 of the amount allocated. Additionally, \$660,000 is available to wireless providers for capital investments. PSAPs and wireless service

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providers can then utilize the funds for expenses related to the provision of enhanced wireless 911 service. LB833 makes two changes to surcharges for 911 service. First, it raises the maximum landline surcharge rate in Douglas County to \$1 per telephone line, matching the cap of the rest of the state. Secondly, it raises the maximum wireless 911 surcharge rate in Douglas County to 70 cents per telephone number, making it equal with the cap for the remainder of the state. This bill only affects the maximum rate and has no effect on surcharge rates currently in effect. Therefore, it will have no fiscal impact. The cost model has been in use for one-and-a-half years. Fewer wireless service providers are requesting funds than we originally projected. Also, those opting to receive funding are taking less than their full allocation. Additionally, funds set aside for the possible implementation of next-generation 911 related to enhanced wireless 911 service have not yet been needed and are not likely to be needed in the short term. However, some equipment currently in use by PSAPs is no longer supported by the manufacturer and may need to be replaced. Therefore, we must ensure sufficient funds are available for PSAPs who have not had sufficient time to save for the purchase. With Phase II wireless enhanced 911 now available statewide, we're shifting the focus of the program to expenses related to the maintenance and operation of the system. The commission is currently completing audits for the use of the funds after the first year and is evaluating possible adjustments to the cost model to make more funds available to PSAPs. Additionally, we're considering whether the surcharge should be reduced. And additionally, on September 22, 2011, we opened a docket to investigate expanding the list of eligible expenses for PSAPs. The commission will continue to take steps to refine and improve the efficiency of the system, and that concludes my comments today. [LB833]

SENATOR FISCHER: Thank you, Commissioner. Are there questions? I see none. Thank you very much. [LB833]

JERRY VAP: Thank you. [LB833]

SENATOR FISCHER: Anyone else in the neutral capacity? I see none. Senator Krist waived closing. With that, I will close the hearing on LB833 and close the hearings for the day. Thank you. (See also Exhibit 14). [LB833]