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Transcriber's Office

Transportation and Telecommunications Committee
February 25, 2013

[LB11 LB545 LB595]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Monday, February 25, 2013, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB11, LB595, and LB545. Senators present: Annette Dubas, Chairperson; Jim Smith, Vice Chairperson; Lydia Brasch; Galen Hadley; Charlie Janssen; Beau McCoy; Scott Price; and Dan Watermeier. Senators absent: None.

SENATOR DUBAS: This afternoon we will be hearing LB11, LB595, and LB545. I'll begin by introducing committee members. To my far left, we have Senator Lydia Brasch from Bancroft. Joining us later...and there will be senators who will be coming and going throughout the hearing so please don't be offended by their leaving. It's just that they're introducing bills in other hearings and taking care of a lot of other business as well. So they'll be coming and going throughout the afternoon. So joining us later will be Senator Beau McCoy from Omaha, Senator Galen Hadley from Kearney. To my immediate left is Anne Hajek; she is the committee clerk. I am Senator Annette Dubas from Fullerton. To my immediate right is Joselyn Luedtke; she is the legal counsel for the committee. Next to her is Senator Jim Smith, the Vice Chair of the Transportation and Telecommunications Committee, and he is from Papillion. Senator Scott Price from Bellevue, Senator Dan Watermeier from Syracuse, and then Senator Charlie Janssen from Fremont will be joining us at a later time. We are served today by two pages. We are very fortunate to have pages that help us up on the floor of the Legislature as well as in our committees to help keep things running smoothly. So if you need anything...if you didn't bring enough copies with you, they can get copies made for you. They will take your green sign-in sheet and hand it in for you. So we have Kaitlyn Evanko-Douglas from Montrose, Colorado. She is a senior at UNL majoring in political science and global studies. And David Postier from York, Nebraska, who is a sophomore at UNL majoring in secondary education. So, again, we're very thankful and appreciate your service to the Legislature. As you testify, we ask that you--back there on the table by the door, there is a green sheet--if you will have that filled out and bring it up with you when you come up to testify. Again, hand it to the page. That information is important for the clerk and the transcribers to have as they're doing their work. If you are here, you want to be on the record whether you support or oppose any piece of legislation that's being presented today but don't want to get up and speak, there is a pink sheet back there on the table. And you can fill in the appropriate information on that pink sheet, and it will be picked up at the end of the hearing. When you come up to the table to testify, first of all, you don't have to mess around with the mic. It's very sensitive. It's more for...it's not as much for amplifying as it is for recording and so any little noises, paper rustling, finger tapping, those types of things really do get picked up, and they can cause some problems for our transcribers. So I know our first inclination is to grab that microphone, but you don't need to because it will pick up what you're saying. Ask that you state and spell your name, again, for the transcriber and the clerk's benefits. That

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way if there's any follow up that we need to do, we have the record accurately. I'll probably do a little show of hands as we get into the bills we're hearing today to see how many people are testifying. If it doesn't appear that there a lot, I won't use the lights. But if there are a lot of people here to testify, we will use the light system. So when the green light comes on, you have five minutes. At the end of four minutes, the yellow light will come on. And then at the end of that minute, the red light will come on. Please feel free to finish your train of thought, or you know, you don't have to stop mid-sentence. Finish up there, and then the committee, of course, will follow up with questions if there are things that they feel you haven't been able to address. Ask that you silence your cell phones or any other electronic devices, again, just out of courtesy for those who are speaking as well as not interfering with our recording devices. So with that, I think I've taken care of all of the housekeeping. We have been joined by Senator McCoy, and we will begin our hearing...our first hearing today, with Senator Krist, LB11. Welcome, Senator Krist.

SENATOR KRIST: Good afternoon, Senator Dubas and members of the Transportation and Telecommunications Committee. For the record, my name is Bob Krist. That's B-o-b K-r-i-s-t, and I represent the 10th Legislative District in northwest Omaha, along with north central portion of Douglas County which includes the city of Bennington. I appear before you today in introduction and support of LB11. This bill modifies provisions relating to surcharges for 911 services in a county which includes a city of the metropolitan class which means cities with a population of 300,000 or more. As you know, Nebraska presently has only one city of the metropolitan class, and that is the city of Omaha, located in Douglas County. The ultimate goal of this bill applies to...the ultimate goal is creating total equity among all Nebraska counties charging for 911 services. The bill would remove the cap for Douglas County surcharge, as this cap is holding down funding for the regional 911 operation center in Douglas Center. All other counties concurrently levy at a larger rate: \$1 in most cases. Removing the cap for the city of metropolitan class, will have all counties across the state in Nebraska on the same playing field. If LB11 looks the same as LB833--if you were here last year--it is. It's the same bill. You actually sent LB833 to the floor, but given the interest of time and a short session, it was not heard so I'm bringing it back to you again for your consideration. One very quick story. I told this last year. This is what caused me to become interested in the subject matter. I left the Omaha area and drove on the interstate, as all of you do at some point, saw an impaired driver who was going basically from the rumble strip to side swiping--darn near--cars all the way. I made a 911 call crossing the Platte River bridge which I assumed would be picked up by Douglas or Sarpy when, in fact, you could be picked up by Douglas, Sarpy, Otoe, you know, all the way through. And in that period of time that I followed from a safe distance, I watched this lady in a newer model Lexus go side to side. Now I'm not assuming that she was impaired by alcohol or drugs. She could have been having a diabetic reaction. But in that 40-minute drive into Lincoln, not one law enforcement officer responded. I called 911 again, several times along the way. And I found out when I arrived here in

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Lincoln and asked some questions from the 911 centers, they're not totally connected. In fact, the only 911 center in the local area that is connected directly to the State Patrol happens to be those in Lancaster County. So the connection and the capability and the technology is not the same all over the state. Moreover, I think you've heard in terms of IT and the connectivity to our possible responses to bank robberies, terrorist attacks, and all the rest of it, the cities and the municipalities around this...political subdivisions around the state have different technology. And sometimes one cannot talk to the other. In the interest of trying to level the playing field with the 911 centers, my hope is that they can come together with a common levy and say, where does the money go, where does it need to be spent? And together with the Lieutenant Governor's committee on communications, we can establish better communications throughout the state. I think this, as many of the experts might testify that follow, is a first step to leveling that playing field and bringing the folks in to talk about those issues. It is in no way, in no way, an attempt to try to take over a common 911 facility. That would not be good for us. Leave that to the counties to run their facilities. But the connectivity and the technology is very important. And one other quick note. I asked the question when I arrived here, what if this was an AMBER Alert? And I was told, oh, that's a different process. So I have to ask myself as my time in the military taught me, if you don't exercise with the actual equipment you will use during an emergency, how good can you be at working with that equipment? So if the AMBER Alert system is much better, much better defined and technologically connected, then maybe we should be looking at using it as well. With that, I would take any questions, Senator. [LB11]

SENATOR DUBAS: Very good. Thank you, Senator Krist. Questions for Senator Krist? Seeing none. [LB11]

SENATOR KRIST: Ma'am, I'm going to go back to my own committee so I waive closing. And thank you for hearing my LB11. Thank you. [LB11]

SENATOR DUBAS: All right. Very good. Thank you for coming today. Can I have a show of hands of those who are here to testify in support of LB11? Two? three? How about in opposition? I don't see any opposition. How about neutral? Okay. And just because you didn't raise your hand doesn't mean that you can't come up if something sparks your need to respond throughout the course. Again, this is just to kind of give me an idea of how the hearing should run. So we won't use the lights for this particular piece of legislation, and I invite the first proponent to come up and testify. [LB11]

MARK CONREY: Thank you very much. My name is Mark Conrey; I'm the Douglas County 911 director. [LB11]

SENATOR DUBAS: Excuse me, Mr. Conrey. Could I have you spell your name, please? [LB11]

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MARK CONREY: C-o-n-r-e-y. [LB11]

SENATOR DUBAS: Thank you. [LB11]

MARK CONREY: Sorry. I think I first testified in favor of this legislation about 17 years ago because that's how long it's been since Douglas County has been limited to the 50 cents. And through this time, we've survived. Based on the number of wire-line calls that exist in Douglas County, we were able to, you know, maintain a modicum of revenue. There's two things that have influenced that, and I hope this time to be successful in trying to get the Legislature to change their mind. The first is, we have lost probably about \$400,000 a year in revenue for 911. Now that means that our revenue is now down to about \$1.3 million. I know that might sound like a considerable amount, but our budget is \$5.3 million. So the surcharge offsetting our budget is a miniscule amount compared to everything else. But the other thing that really is starting to impact us now is that we have done--or we're in the process of studying--a regional shared service project. And we've been studying it for the last year and a half. And that is so that Sarpy County, Washington County, and Douglas County can see what they can do to share the services of combining possibly. You know, initially we might combine one center taking all the 911 calls. That doesn't mean they'll do the dispatching, but we're in the process of seeing what we can do to share those services to try to offset some of the expenses. It's a good...I think it's a good project. It's one that is sorely needed in the state, and we're kind of proud to be taking the lead in that. But one of the obstacles that we are come into is the fact that Sarpy County can collect \$1; Washington County can collect \$1; but Douglas County can only collect 50 cents. So we're not on the same playing field when it's going to come to offsetting the cost. And so I think the importance of a favorable consideration of that bill is now looming because of the fact it's not just a revenue issue, but it's an opportunity to take in a plan that can serve the citizens better, just like Senator Krist has said. And I strongly recommend favorable consideration of this bill. I'll answer any questions if I can. [LB11]

SENATOR DUBAS: Thank you, Mr. Conrey. Are there questions? I would have one for you. [LB11]

MARK CONREY: Okay. [LB11]

SENATOR DUBAS: Could you give us just a little historical perspective as to why Douglas County was limited to the 50 cents where the rest of the counties had the ability to go higher? Or do you remember? [LB11]

MARK CONREY: It kind of happened before I got hired, but if I was to say it in two words I would probably say Ernie Chambers. [LB11]

SENATOR DUBAS: Okay. [LB11]

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MARK CONREY: So I don't think I need to expound on that, but I mean that was...
[LB11]

SENATOR DUBAS: You just have to deal with the cost and what it would impact the individual citizens in the county. [LB11]

MARK CONREY: Yes. [LB11]

SENATOR DUBAS: All right. Thank you very much. Next proponent for LB11. [LB11]

JACK CHELOHA: Good afternoon... [LB11]

SENATOR DUBAS: Welcome. [LB11]

JACK CHELOHA: ...Madam Chair and members of the committee. My name is Jack Cheloha, that's J-a-c-k, and then the last name is spelled C-h-e-l-o-h-a. I'm the registered lobbyist for the city of Omaha, and I want to testify in favor of LB11. First of all, I want to thank Senator Krist for introducing the bill and for his commitment for trying to help us with our emergency service and response in Douglas County and maybe the region of eastern Nebraska, as Mr. Conrey pointed out. If I could maybe back up with a little bit of history, it was back in the mid-'90s where the city of Omaha and Douglas County finally acted upon their studies to merge our 911 response centers. And in the interest of efficiency and cost savings and better response for our citizens, we did move forward, and we do now have a joint 911 service, which Mr. Conrey is the director of. Roughly in Douglas County about, you know, 80-85 percent of the population resides in the city of Omaha, and the rest, 15 percent, would reside in non-city of Omaha boundaries, if you will. And so along those lines, that's basically how we decided to split up the cost in terms of operation. Since that time, as also was pointed out, the amount that we take in on the surcharge for the landline doesn't...it truly is only a subsidy for the actual operation of the system. In the interest of fairness to Omaha, Douglas County as a whole, we feel that this bill is good legislation; it's responsible. For lack of a better term, we like to be treated the same as every other county in the state. The other thing, in terms of our looking at a regional 911 center, those discussions are quite serious. And in, once again, the interest of fairness, we ask that we'd have the ability to charge, you know, up to that \$1 amount if it's warranted, to pay for a regional 911 area. We have been working at this legislation for quite a while. I think it was originally passed--that's even before my term. I've worked for the city of Omaha now 18 years and the initial law came into effect prior to me being the lobbyist for Omaha. But I know we diligently tried for years and years to try and undo the original part so that Omaha and Douglas County could charge the same amount. We think it would be fair at this point to move ahead, and we could look forward to trying to do some joint interaction with other governmental entities which seems to be an important function that the

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Legislature has embraced. And we'd ask for your support on LB11. I'll try to answer any questions. [LB11]

SENATOR DUBAS: Thank you, Mr. Cheloha. Questions? Seeing none, thank you very much. [LB11]

JACK CHELOHA: Thank you. [LB11]

BETH BAZYN FERRELL: Good afternoon, Chairman Dubas, 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 would just echo the comments that you've heard from the previous testifiers. We think that this bill would help level the playing field and make Douglas County's rates consistent with the rest of the state. I would be happy to answer questions. [LB11]

SENATOR DUBAS: Good. Thank you. Questions? Seeing none, thank you. Further proponents for LB11? Any opponents? Anyone in the neutral? Welcome. [LB11]

ANNE BOYLE: (Exhibit 1) Good afternoon, Chairperson or woman or Chair--I'd prefer Chair--and members of the committee. I'm Commissioner Anne Boyle, representing the 2nd District in Douglas County and am current chair of the commission. And I always say the second chair...the 2nd District in Douglas County because the 2nd District in Omaha is also a congressional district. And as you all know, I am a commissioner, not the Congressman Terry. I'm here today to testify neutrally regarding LB11 and to provide the committee with information regarding the wireless and landline 911 surcharges in Nebraska. The commission collects and disburses fees to the Public Safety Answering Points, more familiarly 911 centers, and to wireless carriers for allowable expenses for the provision of enhanced wireless 911 service, called E-911. The fund is comprised of surcharges paid by wireless customers on each telephone number. So if there are five phones in a household, all five phones are paying that fee. The surcharge is reviewed annually by the commission and was recently lowered from 50 cents to 45 cents in order to balance current funding needs with the interest of wireless customers paying the surcharge. The adjustment amounts to savings of approximately \$840,000 per year to Nebraska rate payers. That is on a nickel reduction, which is significant. But it tells you how many there are using wireless carriers. The current balance of our fund is \$17.5 million. However, the balance is forecast to decline by almost 50 percent over the next five years due to the commission's recent decisions to lower the surcharge and to award additional funding to 911 centers for allowed personnel costs. Additionally, LB595, if passed, would result in additional expenditures for a study regarding next-generation 911 that would further reduce the fund. Nebraska has approximately 1.4 million wireless customers statewide of which 430,000 are in Douglas County. Approximately \$8 million in wireless surcharges are collected and remitted to the commission annually. The funds are provided to 911 centers for

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equipment, software, telecommunications, and other services necessary for the provision of wireless E-911. The commission has never set the surcharge higher than 50 cents, even after the cap was raised to \$0.70 for all of Nebraska with the exception of Douglas County. LB11 would not result in any additional wireless surcharge revenue to the fund unless the commission raised the surcharge beyond 50 cents. Technology, as all of you know, changes rapidly. And the fact that the commission revisits the surcharge annually gives us the opportunity to adjust it to address any unanticipated needs if it ever were to require a surcharge greater than 50 cents. The 911 surcharge placed on landline telephones is set by local governing bodies. However, telephone companies annually report to the commission the amount of surcharge revenue remitted to the bodies. In 2012, \$6.8 million in landline 911 surcharge revenue was collected and remitted by telephone companies to local governments. The current 50 cent landline surcharge set by Douglas County resulted in approximately \$1.3 million in revenue for the county during 2012. With that, as always, we would be pleased to provide you with any additional information. And at this time, I am available to answer any questions you may have. [LB11]

SENATOR DUBAS: Thank you very much, Commissioner Boyle. Are there questions? Seeing none, thank you very much for coming forward today. [LB11]

ANNE BOYLE: Okay. Thank you. [LB11]

SENATOR DUBAS: Additional neutral testimony? Seeing none, that will close the hearing on LB11, and we will move on to LB595. Senator Price. [LB11]

SENATOR PRICE: Good afternoon, Madam Chair and fellow committee members. My name is Scott Price, S-c-o-t-t P-r-i-c-e, and I represent the 3rd Legislative District in Nebraska Legislature. I appear before you today to introduce LB595. LB595 was brought to me by representatives of Sarpy County, and it deals with 911 services and how they are provided across the state. LB595 would authorize the use of enhanced wireless 911 funds to fund a study of the implications, costs, and consideration of next-generation emergency telephone communications. Upon completion, the study would be reported to the Legislature's Transportation and Telecommunication Committee. Implications of the next-generation 911 could include deployment of new networks, handling transition from legacy call delivery to Internet protocol, interconnection between public safety answering points, PSAPs, we've all heard that acronym enough times; provider private networks, and etcetera, let alone security. Cost drivers of the next-generation 911 could include statewide network infrastructure, installation and maintenance, equipment, inventory of current PSAP equipment, development of equipment standards and time lines for deployments to include logging data, audio, and computer-aided dispatched records. There would be training, including staff and management training. And for the staff, increased need of technical employees in areas of networking, security, and database administration and management. A

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consideration of the next-generation 911 could also include governance, responsibility and accountability, network build outs to include other state-related projects like the Nebraska Public Safety Communication Council, network build outs to include the federal-related projects like the National Public Safety Broadband, call routing to current PSAPs and future PSAPs, PSAP overflow, and location accuracy. In 2001, the Legislature created the enhanced 911, or E-911 Fund and the enhanced wireless 911 advisory board with the passage of LB585. The intent of the legislation was to create a mechanism to help fund the implementation of the E-911 services, both phase 1 and phase 2 in the state of Nebraska. And as I understand it, phase 2 is pretty much nearing its completion. Technology has changed in the last 12 years, and users of modern technologies have expectations for their 911 system to match their needs. The Federal Communication Commission estimates that 70 percent of 911 calls come from mobile users. These new technology can provide public safety officials with critical real-time information in the event of an emergency. The first text message was sent in 1992. And today officials estimate that 2.5 billion text messages are sent daily in the United States. Text messages, mobile videos and pictures can provide first responders with critical information to speed the assessment and the response to emergency situations. Next-generation 911 will expand the multimedia capabilities of the 911 centers. The U.S. Department of Transportation defines next-generation 911 as any real-time communication, voice, text, photo or video between a person needing assistance and the PSAP call taker. One reason for the change in advancing time lines is being forced on us by public expectations. There are more than 6,000 PSAPs in the U.S. with over 70 PSAPs here in Nebraska; and that public, our public, will expect to receive and be able to use text messages in 2014 because that is when the big four cell phone companies are going to enact and turn on that text message capability. Our PSAP may not be able to take it, but our citizens are going to be expecting it to be there for them. I mean, think how much texting goes on already. Text-911 capabilities will arrive, like I said, with the big four in 2014 under historic agreement reached between the National Emergency Number Association, or NENA. I'm going to have a lot of acronyms here. The 911 Association, Verizon, ATT, Sprint and T-Mobile, and other Association for Public Safety Communication Officials International, or the APSCO. Now this agreement does not mean that the text-to-911 service will be available to all consumers, for that will hinge on the deployment of hardware, software, training at the more than 6,000 911 centers across America. However, you can tell that there will be pressure to hasten this. So again, we're looking at an opportunity to get ahead of this wave that's coming on...coming up to us. Now we've all looked at the fiscal note associated with it; it's a Cash Fund expenditure and that this was based on similar studies done in other states, and according to PSC there is sufficient cash available for the study. Now there will be more people behind me to answer the more technical questions. But again, I think it is important that we as a committee and as a body try to get ahead of...where do we want to be when we have to make that policy decision? I think we want to operate from a fact-based, outcome-based understanding of what is it we have today. We have 70 different systems, and as I've been reaching into this to understand the implications,

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different carriers have been granted the use to use different systems. So we got four different types of systems. So you could have a Ford, and you could have your Dodge, and you can have a Nissan, you know, they all may be vehicles, but they all don't work exactly the same. And when we want to move to that next level, I think it's incumbent upon us and we'd be prudent to know what it is we have today, know what the expectation is tomorrow, and have a road map to get there, and not be forced into a solution. Because right now other states are moving ahead. Over, in, and around Bellevue, someone lit up the 911 circuit, since Iowa is a little bit ahead on something, somehow or another that tripped something in the Iowa side. Now that was able to be fixed through a router, and they were able to fix things. But, as more and more pressure comes from our neighboring states for a solution, as the FCC starts pushing down with more circulars coming down, as the wireless carriers start to present the capability and our citizens want it, I don't think we want to be left there, scrambling trying to figure out who is on first and who has what; instead do a good baseline analysis so we can have a programmatic approach to get to where we need to be in the best way and leverage...We may not need to go out there and put an RFP on the street that will dictate that we have to change everything. Maybe we only have to change a few things with what we have and do an incremental improvement. But I thought it would be prudent for this committee to take on the subject matter and have a study conducted to tell us where we are. And with that I'd answer any questions you have. [LB595]

SENATOR DUBAS: Very good. Thank you, Senator Price. Are there questions?
Senator Hadley. [LB595]

SENATOR HADLEY: Thank you, Chairman Dubas. Senator Price, when did you say the first text message was sent, what year? [LB595]

SENATOR PRICE: I'm going to go and say I said, '92; but I could pull it out of my testimony because it was actually written. [LB595]

SENATOR HADLEY: Nineteen ninety-two? Okay, I was just curious. Since I sent mine in 2012, does that mean I'm technologically challenged? Is that a fair statement?
[LB595]

SENATOR PRICE: I've read your text messages, yes. [LB595]

SENATOR HADLEY: Okay. Thank you. I just wanted to be sure that I had... [LB595]

SENATOR PRICE: Coming from a person who only has half a thumb. [LB595]

SENATOR HADLEY: ...that the bus hadn't left me by yet. [LB595]

SENATOR PRICE: When I text, I'm cursing, and that's a problem. [LB595]

SENATOR DUBAS: Senator Smith. [LB595]

SENATOR SMITH: Thank you, Madam Chair. Senator Price, what's the time line of the study? [LB595]

SENATOR PRICE: We were wanting to have it done within about the next year. The challenges with the time line, we'll hear more about that, some people would like us to put an emergency clause so we can get it rolling out sooner. So I'm going to be open to that. We put it for a year out to have it come back to committee. I want to give them time to look at it. But we're working on that, Senator Smith. [LB595]

SENATOR SMITH: And the fiscal note is strictly for consulting; it's not permanent FTEs? [LB595]

SENATOR PRICE: That is...that was...thank you very much for asking that. That is my goal and my intention. I know there are individuals...there was a time, I believe, when we had a 911 director. But I wasn't getting into that...that discussion. There are professionals out there that we can contract with who can give us what we need to know and be done. The PSC has a function, and it isn't always to be the technical directors. So I didn't want to mix mash what they do. They oversee; they can contract this out, use the funds, and we can get a good plan presented to us. But thank you very much for asking. [LB595]

SENATOR SMITH: Thank you. [LB595]

SENATOR DUBAS: Other questions? I would follow up a little bit on that. So you don't...you're not looking for anything really specific to come out of this study yourself? You're wanting something that creates kind of that baseline, and then from there we can know where we need to go as far as what needs to be put in place. Would that be correct? [LB595]

SENATOR PRICE: Well, there were some things that are talked about in the green sheet. You can see the expectations. And there is some discussion to, perhaps, put some milestones into some requests, so it's not too open ended. No we...maybe what we want to sit there and as a committee and as people approach us and provide us...what is the prudent thing to do? Maybe want to say, give us something that would be more kin to having a menu, where you sit there and say, do we want to maintain 70 PSAPs, if that's what the policy wants to do? If you do that, then these are your expectations. If you want to go to regionalization; if you want to go to the cloud; do you want to maintain databases? We could add stipulations in here to a committee amendment should you desire, the committee desire. They'll call out that the study will provide at least the following and then the rest. [LB595]

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SENATOR DUBAS: That's, I guess, that's what I was driving at. You know. Are we wanting to be a little more specific, a little more ascriptive in what we're looking for in this study, or do we just kind of create a...? [LB595]

SENATOR PRICE: Yes, I think we are. This bill and my introduction of it is to get that conversation moving beyond the water cooler and getting out and open to let also our citizens know. They're going to wonder about this, too. And they're going to wonder, can I light my phone up? We've heard before in testimony the new system won't tell you, just at the corner of Highway 370 and 84th, that's a boundary area for me, it will tell you what floor of what building you're in. First responders who can get a video can understand how to prepare while they're responding to a medical emergency, to the type of injuries they have based upon videos. So, all that takes throughput bandwidth, technology, management, upkeep, training. And if we're going to have to do it, I'd rather not be reactive to the pressure, but proactive in building solutions that we can order off the menu à la carte if we need to. [LB595]

SENATOR DUBAS: Very good. Other questions? Seeing none, thank you. [LB595]

SENATOR PRICE: Thank you. [LB595]

SENATOR DUBAS: Can I get an idea of testifiers here who are testifying in support? I see two, three, four hands. Any opposition? I don't see any hands. Any neutral? A couple neutral. Okay. Very good. We'll begin with proponent testimony. [LB595]

LARRY LAVELLE: (Exhibit 2) Good afternoon, Senator Dubas and committee members. My name is Larry, L-a-r-r-y, Lavelle, L-a-v-e-l-l-e. I'm currently the director of communications and emergency management for Sarpy County. I'm here today just to speak in favor of LB595. Now is the time to be moving forward on planning for the changes in the near future. These changes include not only delivery of what we understand what 911 call is today, but what it will mean in the coming years. As the senator mentioned, last year the big four wireless telephone providers, Verizon, AT&T, Sprint and T-Mobile agreed to deploy that text-to-911 service capabilities throughout the carrier networks by May 15, 2014. This does not mean that text-to-911 will be available to all customers in 2014, but this will move that day forward when someone in Nebraska can call 911 for an emergency assistance using that text-to-911 feature. Again, that feature, text-to-911, is but one imagined by the term "next generation." Basically, another definition of Next Generation, NextGen 911, or NG911 conveys that anything that can be digitalized: voice, location information, photos, video, floor plans, real-time medical data, etcetera, can be sent to a 911 Public Safety Answering Point, that PSAP you hear about. In many cases, it is desired that once that information is gathered to the PSAP, the responders in the field will want that dispatcher to pass relevant information to them in the field. I'm not here today to speak in details, but again to simply show

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support that this legislation is the beginning of the next generation in 911 in the state of Nebraska. As the senator mentioned, I do suggest the emergency clause be added to the bill to ensure the work begins in a timely manner and believe that the cost of the study be limited to no greater than the amount that the fiscal note provided by the Public Service Commission staff. I appreciate the opportunity to speak in favor of this proposed legislation. I'm willing to answer any questions you may in regards to this legislation or next-generation 911. [LB595]

SENATOR DUBAS: Very good. Thank you. Questions? I would have one for you. [LB595]

LARRY LAVELLE: Yes, ma'am. [LB595]

SENATOR DUBAS: You are pretty specific about not wanting the cost of the study to be more than what is stated in the fiscal note. Are you feeling that that is ample...those are ample dollars to do what needs to be done? What is your reasoning for putting that in there? [LB595]

LARRY LAVELLE: I truly believe that the staff did prepare that by looking at other studies done by states and have been completed by others. I feel that's well within the cost that it might incur here in the state of Nebraska to perform the same. [LB595]

SENATOR DUBAS: Very good. Other questions? Senator Hadley. [LB595]

SENATOR HADLEY: Thank you, Senator Dubas. Just quickly for...as I said, I'm a little technology challenged. Text-to-911, would you just spend a minute just explaining what that really means. [LB595]

LARRY LAVELLE: Well, it's probably most probable in the speech and hearing-impaired world right now where the expectation of the old TTY machine, or TDD machine where they would have a relay. I would text something to a relay system, that person sitting at that relay desk would then telephone 911 on their behalf and engage in conversation. Now technology has moved forward in the 30 years that I've been involved in 911 here in the state. Now the dispatchers can answer that TTY phone directly in the software they have. So the community at large now wants to be able to text that same message directly into the 911 without the relay, without special equipment, without purchasing that TTY gear. So it's more prevalent in that community, but again, you hear anecdotal stories of, I don't want to give up my location because my voice might give away my location. So I might be able to text in those rare circumstances. I personally would say voice to the 911 center over all at any time, but text would be a methodology for some of the population to be able to reach 911 and convey that message to them. [LB595]

SENATOR DUBAS: Other questions? Seeing none, thank you very much for coming

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today. [LB595]

LARRY LAVELLE: Thank you. [LB595]

SENATOR DUBAS: Next proponent. [LB595]

KATIE ZULKOSKI: (Exhibit 3) Good afternoon, Chairman Dubas, members of the Transportation and Telecommunications Committee. Katie Zulkoski, Z-u-l-k-o-s-k-i, testifying today on behalf of Viaero Wireless. I'm handing around the testimony of Kara Thielen who is unable to be here; she is snowed in in Denver and unable to make the committee hearing this afternoon. So I wanted to hand around her testimony. Ms. Thielen has been in the 911 arena for over 14 years, and so she has some really helpful comments that I wanted you all to see and have in front of you. But there are a few points that I did want to make in support of Senator Price's bill. Viaero Wireless thinks this is a very important area for the Public Service Commission to study, and we do thank Senator Price for his leadership here. This is an area, according to Ms. Thielen's testimony, this is not something that I've been able to research myself, Nebraska is 1 of 11 states that have not started to comprehensively plan for NextGen 911. And that is something we think Nebraska does need to prepare for. Specific comments Senator Price mentioned this, but specifically we think a time line and a tight time line to get this report done because of the 2014 dates and because of what other states are doing and how they are preparing. And Senator Smith alluded to this as well that perhaps putting some tight time lines in there, that a report would be available for you all to use in looking at legislation as we go forward would be helpful in the bill. And Ms. Thielen also notes in her comments that using a consultant to look at this is something that's considered on page 6 of the bill, and I would think in the fiscal note, Senators, and we think that would be something that would be very helpful because of the technology that's emerging and always changing in this area. We think having a consultant be involved in this study would be very helpful. And with that I'm happy to take any questions. [LB595]

SENATOR DUBAS: Thank you very much. Are there questions for Miss Zulkoski? Seeing none, thank you for bringing the testimony forward. [LB595]

ERIC CARSTENSON: Senator Dubas and members of the Transportation and Telecommunications Committee, my name is Eric Carstenson. Eric is E-r-i-c, Carstenson is C-a-r-s-t-e-n-s-o-n. I'm the president of the Nebraska Telecommunications Association. The NTA is a statewide trade association that represents the majority of companies in Nebraska that provide local telecommunications. And I'm here today to testify in support of LB595 introduced by Senator Price. Technology is changing very rapidly, and it's especially true in the telecom industry. I think it's prudent, and the association thinks it's very prudent for the state to study and confirm that our 911 system is state-of-the-art and that it is

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technologically utilizing those technologies that are available. It's also important for us to consider public policy as we conduct that study. So for those reasons, NTA supports this legislation. And I'd be happy to answer any questions. [LB595]

SENATOR DUBAS: Thank you, Mr. Carstenson. Questions? Senator Smith. [LB595]

SENATOR SMITH: Thank you, Madam Chair. Mr. Carstenson, have you...are you aware of other states that have done this type of study? And are there any out there that are a good model to follow? [LB595]

ERIC CARSTENSON: I'm not...off the top of my head, but I'd be more than willing to check in...especially with my colleagues in other states that have done some of these studies and bring them back to the committee. [LB595]

SENATOR SMITH: And typically, what do you think would be the type of results we would expect out of a study like that? [LB595]

ERIC CARSTENSON: I think we're going to see that we want to update to include capacities like text messaging, data, IP communication, internet protocol communications. Just for example, the instance that Senator Hadley asked about, I could see a situation where somebody has an intruder in their house, and they don't want to make a voice call because maybe they found a secure place within the house to be, but they do need to summon 911, and they can do that quietly with a text message versus speaking on the handset. Think technologies like that. [LB595]

SENATOR SMITH: Yeah. All right. Thank you. [LB595]

SENATOR DUBAS: Other questions? Seeing none, thank you very much. Next proponent. [LB595]

BETH BAZYN FERRELL: Good afternoon Chairman Dubas, 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. NACO agrees that it is prudent to take a look at what the future needs are and create a road map as we go forward for the next generation. I would be happy to answer questions. [LB595]

SENATOR DUBAS: Very good. Thank you so much. Questions? Seeing none, thank you for your testimony. Additional proponents for LB595? Any opponents? Neutral? [LB595]

JERRY VAP: (Exhibit 4) Good afternoon, Senator Dubas and members of the committee. My name is Jerry Vap, and I represent the Fifth District of the Nebraska Public Service Commission. That's 47 counties from Grand Island west, so I have a

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large area that is desperately in need of good 911 service. I'm here to testify neutrally regarding LB595. As you know, the commission administers the Enhanced Wireless 911 Fund. LB595 would require the commission to utilize the fund to conduct a study into the requirements and cost of implementing next-generation 911 in Nebraska. Next-generation 911 generally refers to an IP-based 911 system that will allow people to text to 911, send video, send photos, utilize other more advanced features. The current balance in the fund is \$17.5 million. However, due to the commission's recent decisions to lower the surcharge to 45 cents and to award additional funding to PSAPs for certain personnel costs, the balance of the fund is forecasted to decrease by almost 50 percent over the next five years. Investigations similar to that outlined in LB595 have been conducted by other states. The commission would anticipate hiring an independent contractor to conduct the study. Based on an initial investigation, it appears that cost of conducting studies like this can vary from \$100,000 to \$650,000. We believe that the current balance the commission...with the current balance, the commission could conduct the study without impacting the surcharge or any of the funding to the PSAPs or wireless carriers. Implementation of next-generation 911 requires a statewide approach and should be handled in a comprehensive manner. Surrounding states such as Iowa have already begun to take steps toward an IP-based network. We have already experienced disruption in our system as a result of what Iowa is doing. Changes in Iowa's network affect the ability for PSAPs along the state line to transfer calls between Nebraska and Iowa. The commission has taken steps to correct the problem, but similar situations are likely to arise as other states make changes to their networks. The commission has met the policy objective required by the Enhanced Wireless 911 Service Act in that we have implemented phase two enhanced wireless 911 services with at least one carrier statewide. Implementation of next-generation 911 is a distinct policy question for the Legislature's consideration. The study proposed in LB595 would provide valuable information to you as a committee as you decide how to proceed. I'd be happy to answer any questions. [LB595]

SENATOR DUBAS: Thank you, Commissioner Vap. Questions for the commissioner? Seeing none, thank you for coming forward today, appreciate it. [LB595]

JERRY VAP: Thank you. [LB595]

SENATOR DUBAS: Any other neutral? [LB595]

MARK CONREY: Thank you, Senator, members of the committee. My name is Mark, M-a-r-k, Conrey, C-o-n-r-e-y. And I find myself in a position to go neutral on this bill only because I don't think it goes far enough at this time. I think that the reality of the situation is that the state of Nebraska would need the outline of a plan on how we implement 911, you know, enhanced 911. Right now to study the fact that we have to do enhanced 911, I think if I looked at each of you in the eye, you would probably come to the understanding that we are going to be forced to implement enhanced 911. So by

doing the study, we'll identify the pieces of the puzzle that we have to do, but we won't have a plan of how to implement. And this plan would probably be...would have to be fraught with options. Because, obviously, there's going to have to be some legislative options. We might have to change some of our laws as we go forward. Some of the PSAPs might have to change their equipment. There's all kinds of things that would have to take place. But by studying it and going for approximately a year, at the end of that year we will have a study that says, this is it. Now how are we going to get from the study to possible implementation? And I think that when you look at the...the public laws, the 911 Improvement Act of 2008 which started this whole thing, and then there's another Next Generation 911 Advancement Act of 2012. I think that it is showing us that there is no real choices but to start migrating towards the implementation of next-generation 911. But how do we do it? And I would hope that this study would come back with options of, what are our choices and how would we enact a plan? I mean, it can't be a rigid plan that says you got to do this, this, this. But it's got to give the Legislature...it's got to give this committee options that they'll take. Studying it and going on...if we put off studying it, you heard...you heard Commissioner Boyle state that we lowered the surcharge from 50 cents to 45 cents, and there was a savings to the public of 800...and that's good, but what...what is going to happen when we go to next-generation 911? Is that surcharge going to have to go higher? Are we going to need...you know, will the public put up with us lower it and raising...? And there's all kinds of things in this that make this very difficult. And I think Senator Price did an outstanding job of identifying the issues, okay. But studying those issues without an end game, I don't know where it takes us. And if we're going to have to make more decisions about the purchasing of equipment; if we're going to have to make more decisions about surcharges; if we're going to have to make more decisions at regionalization, I say the sooner we understand what we're up against and what are our real options, the better off we are of trying to go down that road together. And...and because there's another law out there the Next Generation 911 Advancement Act which provides \$150 million for next generation begins a multiyear process of building a public safety network. Well, we're starting to go down different paths between the broadband...the wireless broadband, between 911, and eventually they're all going to have to come together. And I think the sooner we know the end game and what our options are, the better off we'd be. So I don't know whether studying for the sake of studying 911 is going to get us to the point where we need to be. And so I would...I would hope that consideration would be that out of this study something more than just looking at the issues. We have some type of road map, some type of plan, and some type of decision points that are identified that we could make rather than...because there is no...there is no single entity that's going to be in charge right now, that I can see, of implementing enhanced next-generation 911. I know the Public Service Commission manages the fund; they don't have the technical or the operational skill set to be able to come together with a plan of how we're going to do this. And so there's a lot at stake here, and I think the faster we get to having some type of outline, some type of plan with decision points, with possibilities, the better off the state of Nebraska will be.

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Thank you. [LB595]

SENATOR DUBAS: (Exhibit 5) Thank you, Mr. Conrey. Questions? Seeing none, I appreciate you coming forward. Thank you so much. Additional neutral testimony? Seeing none, Senator Price...Oh I do...excuse me, I do have a letter of support for LB595 from the Nebraska State Volunteer Firefighters Association and the Nebraska Fire Chiefs Association. Thank you. [LB595]

SENATOR PRICE: Thank you very much, Madam Chair and members of the committee. I know it's a...arduous subject. My mind is fraught with mental images to present to you. One of them is recently this weekend watching a hero-type show where they're running into a pyramid to grab the jewel they're looking for. And we've all see this tableau where they run in, and finally someone says, hold on, hold on, hold on there, there's a trap here. And something happens, and they miss that trap because there's a little bit of a prudent approach versus a headlong rush. Would it be that I had a crystal ball, and it said two years ago let's have a study. So the study would be out so now we would be making the policy. You know, Mr. Conrey is spot on, a plan. But a plan equals a policy. And that's our job. And let me go through some of the things. As I peeled this back, I found some interesting facts to consider going forward because I just pick up the phone and hit 911, I don't look at the magic that goes on behind that call. But I had a chance to go into a 911 center this past summer, and I got to see it, and so now we'll go forward from there. First thing I'll start off with, it's great to be on the leading edge, not the bleeding edge. Okay? We'll let some other people make a few mistakes, but I don't want to be forced into a solution set. First and foremost, when you think of policy what works in Sarpy County and Douglas County doesn't work everywhere else. So when we talk about policy, do I want to have one PSAP for the east and one for central and one for western Nebraska? Well, remember now, we have 70 of them out there; now you're taking away a whole bunch of PSAPs and communities that have grown accustomed and all that that entails. I'm not against it, I'm not for it; it's a point of policy discussion we have to have. Text to voice, and we do talk about why text? Imagine you're going down Interstate 80, you're in and near Grand Island, okay? And there is an accident unfortunately. You got all those lanes of traffic, and let's say it's during Husker Harvest Days. You'll get a lot of text messages and phone calls into the 911 center there. Simultaneously, someone is having a medical emergency in a home 200 yards away. This system has to be able to resolve the difference between hundreds of phone calls on an accident versus one that is happening in someone's house. And both of them had the same priority to the people who are involved in it. So we're talking about a very complex system to resolve that, to ensure the right resources get to the right places to do the best we can. And that's all the public is asking us is to get that one thing done right. A lot of magic behind there. Let's talk about some of the things we're talking here when we're talking about...we have wireless companies now getting involved. You saw how they're going to push it via enabling it on the phones versus landline companies; internet protocol and the data cloud versus databases and hard

lines; rural, urban; you have hardware and software considerations. You know, right now our different...we have different vendors assigned to the different entity that provide the 911. You could have different proprietary operation systems on this. When the RFP was let years ago to say give us a certain capability, a good...a well put together RFP does not dictate a solution. It says, I want this thing to be delivered, this service. It doesn't tell you how to do it. It doesn't tell you if you say you need something with four wheels and have to be able to move dirt that has to be a Ford; it just has...whatever you note that meets that requirement. And you say, well, what does that really mean? How about Beta versus VHS? How about Netflix and CDs? You all get to see a movie; we get to see a movie, but how that was delivered is completely different. So we're going to go forward from where we are. All we can do is what we have now. And I wouldn't want to get in that policy discussion of saying, do we have multiple PSAPs or a few PSAPs? Are we going to have to have full...complete access today, or can we do it through a rolling implementation? So when you start to look at the plan, the plan is policy, and that's a...that is a discussion, some might even call it a fight, for another day. But I would want us to be able to go forward and know what it's like. So our...what we put in, I know, Senator Dubas, we have spoken, if we need to add a little bit more firmament to understand exactly what we're asking for; we don't want it to just be something that is a on a shelf, we want to be able to make a policy decision based on this, then we'll do that appropriately. But I think this is something you've heard from numerous agencies that represent the same people we represent, the citizens. They're looking for this capability and it's good policy to go forward and have an understanding of where we're going and why we make the decision we made. And with that I'd answer any questions the committee might have. [LB595]

SENATOR DUBAS: Thank you, Senator Price. Questions? Senator Hadley. [LB595]

SENATOR HADLEY: Thank you, Chairman Dubas. Senator Price, I guess I'm getting a much better understanding of this. One set of numbers that kind of, to an extent, surprised me a little bit, the fact that the study costs from \$100,000 to \$650,000. [LB595]

SENATOR PRICE: Sure. [LB595]

SENATOR HADLEY: That seems like a reasonably wide distance between the two of them. [LB595]

SENATOR PRICE: And you know, Senator Hadley, that's like, how many states don't have income tax versus do have income tax. You know, when you do those studies, I mean, every state and each group is going to have a different way of doing something. They're going to approach it in a different way. They may have different considerations. Okay? I didn't mean that as a glib, offhand thing, but more to sit there and say, I think that the difference is what the studies ask for, and where it was conducted, and the

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state of the 911 system when it was enacted and when they went to do the study. I mean, you could say I want two people...I mean, I come from this world, okay, I can put two people on them and bill them at \$150 an hour and tell you I can get the job done in 200 hours, and you'll get exactly what you pay for. Some of them more robust. You might go to Battelle or you might use some other type of company that does a lot of this type of work for a living, and their bill rate is a little different, like different attorneys. So I think those are some of the factors that go into it. I wouldn't attest to it completely, but you get what you pay for. [LB595]

SENATOR HADLEY: I just always worry when you have two wide numbers like that. All of them seem to come in at the highest. [LB595]

SENATOR PRICE: You know, I don't disagree with you. [LB595]

SENATOR HADLEY: Six hundred and fifty thousand if possible. [LB595]

SENATOR PRICE: I don't disagree with you. [LB595]

SENATOR HADLEY: Thank you, Senator Price. [LB595]

SENATOR PRICE: You bet. [LB595]

SENATOR DUBAS: Other questions for Senator Price? Senator Smith. [LB595]

SENATOR SMITH: Yes, thank you, Madam Chair. Senator Price, I'm kind of going to follow up on what Senator Hadley had brought up. It is fairly a wide range of cost, and is that reflecting the broad nature of the deliverables that you have in the bill itself? [LB595]

SENATOR PRICE: Yeah. [LB595]

SENATOR SMITH: I mean, when you talk about examination, examination, examination on numerous points here, that could mean a broad range of activities, and what we're hearing in the last testifier, Mr. Conrey, he was talking about having a plan. And there's only two places where you talk about a plan; one is examination of the plans and efforts of other states, which I think would be very valuable; I'd like to see that in a report, not just examination of them. And then also, any other issues related to the planning and implementation of next-generation 911. If we could see that fleshed out a bit, I think I would expect an exhaustive study is going to be more towards that top end of that cost range. [LB595]

SENATOR PRICE: Oh, absolutely. I... [LB595]

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SENATOR SMITH: We certainly need to make certain it's, you know, it's clear as to what we're trying to get out of it so we know which direction to go going forward. [LB595]

SENATOR PRICE: Absolutely. That's why I...again, working with the committee, then when I came in, we knew...we wanted to cast this out to catch everything we can, get as many people to come to the table to talk about what it is that we want to get. That's why we do have some plan in there, but not too prescriptive. And moving forward, it's what the committee will is to get this done. And as you've heard, I think there is a significant gravity and reason to go forward on this, and getting some more discrete or finite direction is great. [LB595]

SENATOR SMITH: Thank you. [LB595]

SENATOR DUBAS: Other questions? Seeing none, thank you very much. That will close the hearing on LB595. And we will now move to LB545. [LB595]

JOSELYN LUEDTKE: Good afternoon, Chairperson Dubas, members of the Transportation and Telecommunications Committee. My name is Joselyn Luedtke, J-o-s-e-l-y-n L-u-e-d-t-k-e, and I'm the legal counsel for this fine committee. Today I come before you to introduce LB545, to change Public Service Commission appeal procedures. Following my introduction, Commissioner Vap will testify and be able to answer any questions you may have. A Public Service Commission appeals bill has been in the works for around three years and has come to a point where all interested parties have been at the table working on a compromise. In short, LB545 changes the process for appeals to final orders of the Public Service Commission. Under the bill, appeals are filed in the Court of Appeals instead of the district court as currently required under the Administrative Procedures Act. In practice, filing in the district court has proved time consuming and costly for both the commission and participants in the proceedings. The Court of Appeals is better suited to the types of cases generally dealt with in PSC appeals because of their ability to thoroughly review highly technical subject matter. Other changes to the law in LB545 include a new provision to automatically stay natural gas rate orders during appeals; to extend the time for natural gas rate orders before the appeal runs; and clarification that interim rates continue during the appeal process. The amendment that you can find in your committee notebooks takes into consideration issues that the natural gas industry and others have raised during negotiations, and also corrects some dates and titles from last year's draft. Thank you very much, and I'll be happy to answer any questions. [LB545]

SENATOR DUBAS: Thank you, Ms. Luedtke. Are there questions? Thank you. Commissioner Vap. [LB545]

JERRY VAP: (Exhibit 6) Good afternoon again, Madam Chairman. Again my name is

Jerry Vap, J-e-r-r-y V-a-p, and I'm the Fifth District representative of the Public Service Commission. I am here today to testify in support of LB545. We would like to thank Senator Dubas for introducing this bill on our behalf. LB545 directs appeals from decisions of the commission to be filed with the Court of Appeals rather than pursuant to the Administrative Procedures Act which requires appeals to be filed in district court. The primary motivation for this bill is to reduce the costs and delays associated with appeals from commission orders. As a constitutional agency, the commission often acts in a judicial capacity in which cases are contested with both sides of the issue presented by sophisticated parties represented by legal counsel. The records from these appeals are typically large and the subject matter is highly technical. The additional appellate review by the district court results in an increased and unnecessary burden on the courts, additional costs to the parties, and significant delay. LB545 restores the process for appeals from the commission orders to that which existed prior to LB187 in 2003. Returning to the original method for appeals would lessen the burden on the court and reduce costs for the parties involved. In certain areas of the commission's regulatory authority, the review by district court appears unnecessary, and the delay caused results in significant hardship for claimants. For example, with respect to claims filed against grain proceeds and a grain warehouse bonds resulting from the commission's decision to close a warehouse, the Grain Warehouse Act specifically allows either the commission to conduct the hearing and determine claims or to commence a suit in district court for the benefit of the claimants, Nebraska Revised Statute Section 88-547. It would appear that the grain act places the commission and the district court on equal footing with respect to the claims process. If that is the case, it seems redundant to require review of the commission's order determining claims by the district court. The additional layer of appeal has also lead to claimants having to wait almost a year and a half for payment of their claims. If the appeal would have been filed with the Court of Appeals rather than district court, it would have eliminated seven months from that process. We have made this proposal before, and it has been supported by the telecommunications industry. In the past, a member of the natural gas industry has objected to the change based in part upon the resulting change in the standard of review that would result as a consequence of going directly to their Court of Appeals. We have had extensive conversations with the natural gas industry and the public advocate and together have developed an amendment. The amendment makes some general corrections to the bill and specifically addresses issues raised by the natural gas industry and a concern raised by a member of the telecommunications industry. First, the amendment corrects the operative date and removes the emergency clause that was previously on the bill. Second, it incorporates another section to make this applicable to cases filed with the commission under the Major Oil Pipeline Siting Act, which was passed since an earlier version of this bill was introduced. This change is necessary so that the appeals from the commission are handled uniformly. Additionally, it removes the automatic stay for all commission orders except for natural gas rate cases. The remaining portions of the amendment relate to the natural gas rate case processes intended to further increase the efficiency of the appellate process. The

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amendment establishes a longer time frame for the filing of motions for reconsideration of natural gas rate orders before the commission prior to the deadline for filing an appeal. Such a change would allow for a meaningful review of what is a voluminous, complex, and detailed case in order to make corrections and adjustments in the commission's order if necessary. We're hopeful that allowing more time for these types of reviews will lead to fewer appeals overall, the cost of which are borne directly by ratepayers. Additionally, the amendment designates that all appeals of natural gas rate orders should be treated as advanced civil cases by the Court of Appeals. Because interim rates would remain in effect pending resolution of the appeal, it is in the public interest to resolve these appeals as quickly as possible. This change will ensure that appeals will be expedited and any refunds due to ratepayers made with as little delay as possible. The commission is looking to increase efficiencies and decrease costs for all parties that come before the commission. Returning to the previous appeal process can accomplish that goal. I ask for your support of LB545 and the proposed amendment. The commission welcomes the opportunity to work with you and other interested parties on the bill. I would answer any questions. [LB545]

SENATOR DUBAS: Thank you, Commissioner Vap. Questions? Senator Hadley. [LB545]

SENATOR HADLEY: Thank you, Chairman Dubas. Senator (sic) Vap, do you have any recollection of what happened or why LB187 of 2003 came about to where...? [LB545]

JERRY VAP: I do not. [LB545]

SENATOR HADLEY: Okay. [LB595]

JERRY VAP: That was the Administrative Procedures Act, and to my recollection or my knowledge, that was due to some uniformity across the board with all appeals, but the inadvertent result of that was exceptional high cost for the prosecution of appeals to the ratepayer, especially in the natural gas arena. And then also it delayed significantly any claims on grain elevator closures. A good example would be if, say you have a grain elevator we close, and there are 100 people filing claims. And the commission conducts the case and determines that X...say 95 of those people have legitimate claims, and 5 of them don't. Any one of those claimants could appeal to the court...district court under this current process, and that would stop all 100 or all of the claimants from getting payment until that one case is resolved. If two of them file, then two cases have to be resolved. That did happen in our last case, and it was a year and a half before some farmers got their money which was in significant amount, over \$100,000...\$200,000 that they could have been using themselves, but could not because of that one process. [LB595]

SENATOR HADLEY: Thank you, Commissioner Vap. [LB545]

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SENATOR DUBAS: Other questions? Is this...what this bill is proposing, is this common practice in other states? [LB545]

JERRY VAP: I can't answer that; I don't know. [LB545]

SENATOR DUBAS: And in no way does what this bill is proposing impede due process; I mean it's still going to be a very... [LB545]

JERRY VAP: No, we actually think it improves due process. [LB545]

SENATOR DUBAS: Very good. Senator Price. [LB545]

SENATOR PRICE: Thank you, Chairperson Dubas. I have a question in that scenario where you talk about the 100...95 being awarded, 5 not being; if we moved forward, would the sum that was divided up between the 95 be different than that now if I have 3 new claimants? So, if you paid out the 95, and you used all of the amount left over, then I'd have three people come to court and say, yeah, I have a claim, there's nothing left for them to get? [LB545]

JERRY VAP: That's why we can't make any payment until all cases are settled. [LB545]

SENATOR PRICE: Are we saying now that we want to move forward and settle some? Will we be... [LB545]

JERRY VAP: No. [LB545]

SENATOR PRICE: ...leaving money? [LB595]

JERRY VAP: No. [LB595]

SENATOR PRICE: Okay. Came in a little late here but I'm trying to understand. [LB545]

JERRY VAP: Well, by not having the district court completely review the entire transcript and all the evidence the way they would have to do, going to the Court of Appeals which determines whether everything is done according to current law and rules, the Court of Appeals could handle the case much quicker. [LB545]

SENATOR PRICE: Okay. [LB545]

JERRY VAP: And those legitimate claimants could get paid quicker. But any one of the claimants could file an appeal and delay payment for everyone else. [LB545]

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SENATOR DUBAS: Other questions? Seeing none, thank you. [LB545]

JERRY VAP: Thank you. [LB545]

SENATOR DUBAS: Can I get a show of hands for those who testify in support of LB545? Two, three. How about opposition? Okay. We'll keep going with proponents of LB545. [LB545]

ERIC CARSTENSON: Senator Dubas and members of Transportation and Telecommunications Committee, my name is Eric Carstenson, E-r-i-c C-a-r-s-t-e-n-s-o-n. I'm the president of Nebraska Telecommunications Association. I'm here to support LB545 as proposed by this committee and supported by Commissioner Vap. The bill streamlines the appeal process coming out of decisions rendered by the Nebraska Public Service Commission and...that are then appealed. That saves money both for the NTA-member companies and for state government. We have seen the amendment that the Public Service Commission brought to you. We look forward to working with this committee and the commission on that amendment going forward. That concludes my testimony, but I'd be happy to answer any questions. [LB545]

SENATOR DUBAS: Very good, Mr. Carstenson. Questions? Seeing none, thank you very much. [LB545]

ERIC CARSTENSON: Thank you. [LB545]

JILL BECKER: Good afternoon, Chairwoman Dubas and members of the Transportation and Telecommunications Committee. My name is Jill Becker, spelled J-i-l-l B-e-c-k-e-r, and I appear before you today as a registered lobbyist in support of LB545. Black Hills Energy would like to thank the commission for their past efforts in attempting to streamline the regulatory process and supports the commission's efforts as laid out both in the green copy of the bill and the proposed amendment to the bill. Black Hills Energy supports the intent behind LB545 which has been mentioned previously, is to continue to streamline the regulatory process within the Public Service Commission's regulatory functions. The results of the green copy would mean that the appeals of the Public Service Commission orders would go to the Court of Appeals bypassing the district court. Removal of one level of judicial review will result in a cost savings to our customers who ultimately pay for rate-case expenses. Specifically within the area of regulation for jurisdiction on natural gas companies, the Public Service Commission has undertaken several measures meant to make the regulatory process more efficient and definitive. These include rules regarding general rate filings, encompassing general application requirements, prefile direct testimony, and exhibits and discovery rules. Secondly, the commission has adopted a standardized progression order for natural gas rate cases which allows interested parties to meet at the beginning of a rate case to discuss and agree upon deadlines critical to finalizing a rate case in a

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timely manner. Regarding the amendment, Black Hills Energy supports the provision that provides an appeal of a natural gas rate case is automatically stayed upon enforcement of the order. We believe that without an automatic stay provision, that issue will be litigated upon the appeal of every rate case. In the past, each appeal of a natural gas rate case has resulted in an automatic stay, but only after petitioning the court. Black Hills Energy also supports provisions that would extend the time frame for reconsideration for up to 120 days. This would allow both the Public Service Commission staff and the utility additional time, if necessary, to review the commission's order, determine its impact, and if necessary, work with the Public Service Commission staff on addressing concerns without having to appeal within the quick 30-day appeal deadline. We believe it is more effective to allow a more meaningful review of the commission's order at that stage of the process. We appreciate the willingness of the Public Service Commission and the other natural gas utilities and the telecommunication utilities who are also impacted by this to work together on this amendment. Advancement of this bill will result in a more efficient regulatory process. Thank you for the opportunity to testify today, and I'd be happy to answer any questions you may have. [LB545]

SENATOR DUBAS: Thank you, Ms. Becker. Questions? Seeing none, thank you very much. [LB545]

JILL BECKER: Thank you. [LB545]

SENATOR DUBAS: Next proponent. [LB545]

ANDY POLLOCK: Senator Dubas, members of the Transportation and Telecommunications Committee, my name is Andy Pollock, A-n-d-y, Pollock is P-o-l-l-o-c-k, and I appear before you today as a registered lobbyist for Northwestern Natural Gas Company, a gas company that serves North Platte, Kearney, and Grand Island. We appear in support of LB545. I would like to thank Senator Dubas for introducing this bill. It's been around before, and I think that the natural gas industry, and Northwestern in particular, appreciates the time the commission has taken to address some of the concerns that we had. I would point out that, in adding to what Miss Becker said, the motion for reconsideration time period is important to the natural gas companies and my client. I talked to another attorney today in our office who doesn't do PSC work and she said, well, doesn't this take us in a different direction? If the goal of the bill is to streamline appeals, which we support strongly, doesn't giving the commission a little bit more time on a motion for reconsideration go counter to that? And I said, in fact, no; it gives the commission a chance with the work of the parties to make sure that its decision didn't have something that was incorrect, and I think Jerry Vap, Commissioner Vap, testified to that effect. If there is something that is incorrect, the commission has a chance to fix it which would reduce the likelihood of a potential appeal. So I think even that section streamlines the process. In terms of costs, I would

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look back to LB187, and I would say it was probably a good experiment. I can tell you, Senator Hadley, that that was not a key component of LB187, there were other provisions in that that dealt with what happens to the order on appeal. Is it stayed? There were provisions that dealt with civil penalties. I think they made an attempt to try to achieve some uniformity with LB187 in 2003 and, frankly, I think experiences shows that it just wasn't a very good experiment. It has cost people money. Commissioner Vap talked about grain claimants. When a natural gas company has a rate order before the commission, the expenses including those of the company and the commission are borne by the ratepayers. So for each level of appeal, you're just adding additional costs for, not the company, but the ratepayers. And so this efficiency would improve and, hopefully, reduce the costs. Senator Dubas asked about due process, and I think a careful review...I've been involved and looked at a number of appeals of commission decisions over the past few years, and I think a careful review of those decisions by the district court will show you that the district court recognizes that the commission and its staff and the consultants that they pay a lot of money to to do it right have a great deal of expertise, and for that reason it appears that the district court has given a great deal of deference to the commission and its decision, similar to what the Court of Appeals would probably be giving as well. So with that, I don't think that the bill in any way impedes due process. And I would agree it probably improves the process all together. I'd be glad to try to answer any questions. [LB545]

SENATOR DUBAS: Questions for Mr. Pollock? I would have one. So is this, what this bill is proposing, is this process similar to what other states have in place, do you know? [LB545]

ANDY POLLOCK: You know, I don't know the answer to that question either. And I'd be glad to check. [LB545]

SENATOR DUBAS: I'll find somebody. All right, thank you. Other questions? Seeing none, thank you very much. [LB545]

ANDY POLLOCK: All right, thank you. [LB595]

SENATOR DUBAS: Additional proponents for LB545? Is there anyone in opposition? Anyone in the neutral? Seeing none, that will close the hearing today on LB545 and close the hearings for the Transportation and Telecommunications Committee today. Thank you very much for coming. [LB595]