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Transportation and Telecommunications Committee  
January 30, 2007

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[LB297 LB330 LB560 LB660 LB661]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Tuesday, January 30, 2007, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB297, LB661, LB660, LB560, and LB330. Senators present: Deb Fischer, Chairperson; Arnie Stuthman, Vice Chairperson; Ray Aguilar; Carol Hudkins; LeRoy Louden; Mick Mines; and DiAnna Schimek. Senators absent: Dwite Pedersen.

SENATOR STUTHMAN: Good afternoon and welcome to the Transportation and Telecommunications Committee hearings. I am Senator Arnie Stuthman from Platte Center and I'm the Vice Chair of this committee. And the Chairman, Senator Deb Fischer, is unable to be here at this time. She's introducing a bill in another committee. First of all, I'm going to introduce the senators that we have present today. To my far left, Senator LeRoy Louden from Ellsworth; Senator Hudkins from Malcolm; we have Senator Ray Aguilar from Grand Island; and we have Senator DiAnna Schimek from Lincoln. Also, I want to introduce the committee clerk, Pauline Bulgrin, and the legal...committee counsel, Dusty Vaughan. What we're going to do, we're going to hear the bills in the order that they are listed on the wall outside. Those wishing to testify on the 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 flow moving. Please complete the yellow sheet, sign-in, and have it on-deck so that it will be able to hand in when you testify. And I would ask you that when you have the yellow sheet, please take it up there to the committee clerk, the yellow sheet, take it to her, and then go back and then prepare for your testimony. Also the new computerized transcription program is being used this year, so it is very important that you follow these instructions. For the record, at the beginning of your testimony, please spell your name, first name and last name, if your first name is spelled in many different ways. Please keep your testimony concise and try not to repeat what someone else has said. If there are a large number of people to testify, it may be necessary to place time limits on the testimony. If you do not want to testify but you want your voice to be heard in support or in opposition of a bill, you know, please indicate so. You can indicate so on the on-deck, on the sheet provided. If you want to testify, please get in line; move up towards the front so that we can keep it moving. Also we have a policy, please turn your cell phones off. If you are caught with a cell phone on and it happens to ring, we will confiscate that immediately. No, not really (laughter). But what...I would also like to mention we are joined by Senator Mick Mines from Blair, he has come with us to the committee. Also I don't think I introduced the pages. The pages, we have Michael Shaeffer, from Lincoln, and Kristin Kallsen, from Big Springs. If you need any water or anything like that, please get the attention of one of the pages, they will help you. If you have any materials that need to be sent to the other members of the committee, please contact the pages, they will help you with this. Okay, we are about ready on LB297, on this bill. First of all, before I open the hearing on LB297, I would like to see how many people are going to testify as a proponent of

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

---

this bill? Or an opponent of this bill? So we have about three testifiers, three or four testifiers on this bill. Is there anyone that wants to testify in a neutral position? I see none. So there could possibly be three or four testifiers. So with that, I'm going to open the hearing on LB297, which is a bill from Senator Pedersen.

BARB BRUNKOW: Senator Stuthman and members of the Transportation and Telecommunications Committee, for the record, I am Barb Brunkow. That's B-r-u-n-k-o-w, legislative assistant to Senator Pedersen, and I'm here today to introduce LB297. LB297 was brought to Senator Pedersen by the Nebraska Commission for the Deaf and Hard of Hearing. It relates to the surcharge that is charged on each telephone access line in Nebraska for the purpose of carrying out the Telecommunications Relay System Act. Current statutes allow the Public Service Commission to set the surcharge at the level necessary to fund the statewide Telecommunications Relay System and the Specialized Telecommunications Equipment Program, as long as it does not exceed twenty cents per month on each telephone access line. This surcharge funds both the Telecommunications Relay System and the Equipment Program, which assists qualified applicants in purchasing specialized equipment, such text telephones. Current law states that the amount appropriated for the Specialized Telecommunications Equipment Program from the fund shall not exceed the revenue generated by one cent of the surcharge per month. This bill eliminates the statutory cap on how much of the surcharge can be appropriated to the equipment side of the program. It is our understanding that although the fund generates enough money, the statutory limitation prohibits that money from being used. The equipment fund runs out very early in the year, and the commission is unable to continue providing equipment to those who need it. Passage of this bill with the emergency clause attached will allow the Public Service Commission to utilize the entire fund in whatever way they see fit and where it is needed most. The bill does not increase the Telecommunications Relay System surcharge or allow the Public Service Commission to increase the surcharge beyond the current statutory cap. Representatives from the Commission for the Deaf and Hard of Hearing and the Public Service Commission are here today, and they will be better able to address any specific questions you might have about the funding. But it is Senator Pedersen's intent to ensure that the money that is allocated from this surcharge is utilized fully to benefit those who need it most. Thank you. [LB297]

SENATOR STUTHMAN: Thank you for your opening. Do any of the members of the committee have any questions? Seeing none, thank you. Are there any proponents for this bill? [LB297]

TANYA WENDEL: (Exhibits 1, 2) Good afternoon, Senator Stuthman, and I want to personally thank you for signing onto this bill, and members of the Transportation and Telecommunications Committee. I am Tanya, T-a-n-y-a Wendel, W-e-n-d-e-l, the director of the Nebraska Commission for the Deaf and Hard of Hearing. And I'm here to speak to more the issue of how it benefits individuals that have taken advantage of the

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

---

program. The Commission for the Deaf and Hard of Hearing reviews a majority of the applications for the Nebraska Specialized Telecommunications Equipment Program, and the acronym for that is NSTEP. We always have to create these wonderful acronyms. This program was created as a companion bill to the Statewide Relay Program, which is contracted through Hamilton Telecommunications in Aurora, Nebraska. I have administered and directed programs for more than 35 years throughout this state and in other states. And this program really is one of the most beneficial programs that people have taken advantage of. My staff, when individuals come into the office, we have three offices, and we have equipment demonstration centers set up in each office. And oftentimes, when people leave they have tears in their eyes, they've been able to contact one of the family members. Right now we're working with individuals that are older citizens. We're going to the homebound individuals. Oftentimes, they don't have a telephone that they can hear over, and so this program really is greatly benefitting those individuals. And even young children are taking advantage of the telecommunications and the specialized equipment. Really, technology has opened up the world for people with a hearing loss, but it has also created problems with compatibility of equipment. Especially those still using cell phones, there is still a lot of incompatibility with amplification that's created. So this program assists the individuals; they're able to come into our office, try the equipment, and then they can select what they want and what works for them, because each person has a different type of loss and certain equipment will not work for everyone. The equipment that they really take advantage of is amplified telephones. On this fact sheet that has been given out to you, you can see the average cost for the voucher that individuals are getting, about \$310. Generally, they're getting amplified telephones, they're getting a phone, new technology is called a caption telephone. So they're still able to hear well enough over the phone, and they get captioning, a printout. So those with a hearing loss are able to still speak and communicate with someone and also read those words that they may miss and be unable to hear. Hearing aides we think are always great and wonderful, but they really aren't. And they can cause a lot of compatibility issues, too, with phone equipment. That's why this program is so important. This legislation was brought to your attention since funds have been running out for three years. In fact, this year is really the worst because now the Public Service Commission has suspended the funding mid-December; so no one is going to get equipment for the rest of this fiscal year. Routinely, we get about 80 applications a month for the program. And we anticipate, by the end of June 30, we're going to have over 500 individuals on the waiting list. And I think that's what we've seen happen for the past three years is that once they suspend the vouchers, then we have a backlog, and so then the funding keeps continuing to run out sooner and sooner, and that's been the trend. I know the Public Service Commission will address this issue. We would expect that once we would serve these 500 individuals that are on the waiting list, that the funding, if the emergency clause is not put into place or it's not passed, that they would be out of funds probably within the first quarter of next year. I support this bill and encourage you to pass it. And I would be happy to answer any questions you may have

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

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at this time. [LB297]

SENATOR STUTHMAN: Thank you, Mrs. Wendel. Does the committee have any questions? Senator Louden. [LB297]

SENATOR LOUDEN: Yes. Thank you for testifying today. What is the cost of this equipment? I mean, what kind of money are we talking about? How much money is in that fund? [LB297]

TANYA WENDEL: The fund generates...one cent will generate approximately \$250,000. And so with the Public Service Commission, and they can correct me if I'm wrong, I think they generate, for the relay and the equipment bill, \$1.25 million a year. And so one cent of that is designated for the equipment program. [LB297]

SENATOR LOUDEN: Okay. Just the quarter of a million. How much will it take to take care of your needs then? I mean how much would they designate rather than the one cent? Would two cents do it or three or do you have any idea along that line? [LB297]

TANYA WENDEL: We just had a committee meeting last week, and we were discussing, I think it's going to be under two cents. And the fact that the relay costs have been going down, I believe that they are going to provide you with graphs showing you that they're not going to have to increase the surcharge; it may even go down from what it is now on your phone bill, which is five cents, and still be able to probably live under two cents for the equipment program. [LB297]

SENATOR LOUDEN: I guess my concern would be should we...who should decide the cap? Should the Legislature or the Public Service Commission or do you feel comfortable with letting the Public Service Commission decide the cap level? [LB297]

TANYA WENDEL: Well, they have been fiscally conservative in establishing the cap for the relay program. The legislation says that we can have up to twenty cents for the surcharge. It's always been below ten cents, oftentimes it's been seven cents. I think if we look at other states, our actually is very conservative in our approach, and we've been able to accomplish a lot of things with even five cents. And the funding level is there. [LB297]

SENATOR LOUDEN: Okay, thank you. [LB297]

TANYA WENDEL: You're welcome. [LB297]

SENATOR STUTHMAN: Thank you. Are there any other questions from the committee? Senator Schimek. [LB297]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

---

SENATOR SCHIMEK: Thank you, Mrs. Wendel for being here. I am looking over the existing language in statute. And I want to make sure I understand this. Right now, the commission's only imposing the five cents per month. But am I wrong when I look at the language existing, they could go up to twenty cents month? [LB297]

TANYA WENDEL: Um-hum. [LB297]

SENATOR SCHIMEK: That's correct. So conceivably, if they had to go up to six cents, they could or seven cents or whatever. So I just wanted to make sure I understood. I certainly don't have any problem with what you're trying to do here. And I wanted to know the question...the answer to the question that Senator Louden asked, too. So if we do it with the emergency clause, then it takes effect immediately, the next month. So we wouldn't have that shortage the rest of this year. Then hopefully, we wouldn't have a shortage next year either? [LB297]

TANYA WENDEL: That's correct. [LB297]

SENATOR SCHIMEK: Okay, thank you. [LB297]

SENATOR STUTHMAN: Thank you. Any other questions? I have one. Mrs. Wendel, only one cent of this five is going for your program, right? [LB297]

TANYA WENDEL: That's correct. [LB297]

SENATOR STUTHMAN: That's correct. So then if you could double that, do you feel that would be sufficient to take care of your present needs? [LB297]

TANYA WENDEL: Yes. And I think it's even going to be under two cents that would...maybe a penny and a half for being able to cover the requests that we see coming in. And we, annually, review about 1,000 individuals that we see within our office for this program. So that might help you understand the volume of requests that we're getting. [LB297]

SENATOR STUTHMAN: Okay, thank you very much. [LB297]

TANYA WENDEL: You're welcome. [LB297]

SENATOR STUTHMAN: Any other questions? Seeing none, thank you for your testimony. [LB297]

TANYA WENDEL: Thank you. [LB297]

SENATOR STUTHMAN: (Exhibit 3) Also at this time, I would like to add that for the

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

---

record we have a letter in support from Tami Richardson-Nelson from the Telecommunications Relay System, the TRS. There's a letter in your folder and a letter in support. I wanted to add that into the record. So we'll continue the hearing. Jerry. [LB297]

JERRY VAP: (Exhibit 4) Good afternoon, Senator Stuthman, members of the committee. My name is commissioner Jerry Vap, that's spelled J-e-r-r-y V-a-p. I'm a member of the Nebraska Public Service Commission and I represent the 5th District of the Commission. I'm here today in support of LB297. As has been stated already, the Telecommunications Relay System allows individuals who are deaf, hard of hearing or speech-impaired to place and receive telephone calls. The Public Service Commission administers the relay system. By law, every year the commission holds a hearing to determine the amount of the relay surcharge. The present monthly surcharge is five cents per telephone line. The surcharge is collected by telephone companies from their subscribers and remitted to the commission. As part of the relay system, the commission also administers the Nebraska Specialized Telecommunications Equipment Program, which I will refer to as the equipment program. We have provided a brochure for you today with information on the equipment program. It's a blue brochure in your packet. Under the equipment program, the commission issues vouchers to qualified applicants. The vouchers are used to defray the costs of purchasing specialized telephone equipment, such as caption telephones and text telephones. The Relay Act sets two caps on the relay program. First, is a twenty-cent cap on the surcharge for the entire program. The commission can assess no more than twenty cents on each telephone line per month. The second cap is a one-cent cap on the amount of surcharge funds that can be allocated to the equipment program. In other words, the commission can only spend one cent per telephone line per month on the equipment program. LB297 would remove the one-cent cap on the equipment program and allow the commission to apportion relay surcharge funds within the program as necessary. It is important to note that LB297 does not remove or affect the overall twenty-cent cap. I would also like to stress that LB297 will most likely not increase the relay surcharge. I'll explain that in a moment. The reason the commission supports LB297 is simple and, we believe, compelling. For the past two years, due to the one-cent cap, the equipment program has run out of funds before the end of the fiscal year. We've been forced to suspend the issuance of vouchers to those requesting specialized equipment because the money ran out. I would like to refer you to the bar graph that's in your packet. It shows the annual demand for vouchers received by the commission and the number of vouchers we issue each fiscal year, which runs from July through June. As you can see from the graph, in 2004-2005, we ran out of money and suspended vouchers on May 1. In 2005-2006, we stopped issuing vouchers March 1, four months before the end of the fiscal year. In the current fiscal year we have already suspended issuing vouchers; we did so on December 17. As with prior years, there is sufficient money in the overall Relay Fund to continue the vouchers, but because of the one-cent cap we simply can't give out any more vouchers to help individuals buy equipment. If LB297 does not pass,

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

---

we anticipate having to suspend the vouchers to those seeking assistance with equipment even earlier next year, possibly as early as October, due to the large number of voucher requests this year that will not be satisfied. If LB297 passes and the equipment cap is removed, we most likely not need to increase the overall surcharge from its present rate of five cents. Historically, the overall surcharge has remained low. We have provided a line graph as well today that shows the level of the overall relay surcharge from the inception of the program in 1991. The surcharge level has remained steady, only fluctuating a few cents, and has remained well below the twenty-cent cap imposed by the statute. It has never been more than half of that total cap. As you can see, the equipment program began in 1996 with no effect on the overall surcharge level. We anticipate no effect on the overall surcharge level if the equipment cap is removed. In fact, we have provided you a copy of a recommendation by the Relay Advisory Board to the commission for the surcharge amount for next year. The Advisory Board is recommending the overall surcharge be lowered by one cent to four cents per month. Thus, if the equipment cap is removed, we anticipate no effect on the overall surcharge level. LB297 would simply allow the commission, as administrators of the relay program, the flexibility to assess the need and demand that exists in the program and adjust the funds accordingly. The relay program was created to assist those with disabilities to be able to make any...to make and receive telephone calls. A significant part of that program is designed to assist in the purchase of the specialized equipment necessary to participate in the relay system. I urge your support of LB297 so the commission can be equipped to better assist those individuals that have requested our help. Be happy to answer any questions you may have. Thank you. [LB297]

SENATOR STUTHMAN: Thank you, Commissioner Vap. Do we have any questions from the committee? I have one. Commissioner Vap, in the earlier part of your testimony, this five cent surcharge is only on the telephone lines. That would be the land lines? [LB297]

JERRY VAP: No, it's on cell phones as well. [LB297]

SENATOR STUTHMAN: It is on cell phones, too. [LB297]

JERRY VAP: You could call it a telephone line, telephone numbers or customers, but it's...if you were to have, say, two lines coming into your house or business, you're going to pay two times, you're going to pay ten cents on two lines. So if you have a cell phone and one line to your house, you're going to pay five cents on each one of those. [LB297]

SENATOR STUTHMAN: So if you have two lines and three cell phones, you'd pay on every one of those? [LB297]

JERRY VAP: Yes. [LB297]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

---

SENATOR STUTHMAN: Every telephone number you'd be paying for that. [LB297]

JERRY VAP: Correct, yes. [LB297]

SENATOR STUTHMAN: Okay. Are there any other questions? Otherwise, I thank you for your testimony, Commissioner Vap. [LB297]

JERRY VAP: Thank you. [LB297]

SENATOR STUTHMAN: Are there any other testifiers, proponents, for LB297? Welcome. [LB297]

JOSEPH POSONT: Hello. My name is Joseph Posont, J-o-s-e-p-h P-o-s-o-n-t, and I represent businesses that have deaf employees. I currently have a deaf employee here in the city of Lincoln. I strongly support this bill, LB297. For my employee, Brian, this equipment is essential for him to complete his work for me. He currently is a maintenance person for me and we call him in at all times of the day and night. He's a great employee. We found out...he and I went over to the NCDHH office, looking to upgrade his equipment. We're currently working with equipment that's over seven years old. And we were told that he's now on the waiting list until July 1. And that's very frustrating to us because, you know, the equipment is over seven years old, and there's new technology out there that he could be utilizing right now. And not just for work, you know, in his every day life. Brian is a very strong individual, likes to mainstream. And it's...you know, this type of equipment is very important to him as a deaf person. And I just wanted to be here and have my opinion heard as a business manager with a deaf employee. Thank you. [LB297]

SENATOR STUTHMAN: Thank you, Mr. "Pozant"? [LB297]

JOSEPH POSONT: Posont. [LB297]

SENATOR STUTHMAN: Posont, Posont. Are there any questions from the committee? I see none. Thank you very much for your testimony. [LB297]

JOSEPH POSONT: Thank you. Thank you for your time. [LB297]

SENATOR STUTHMAN: Any other testifiers in the proponent side of it? Any testifiers as opponents for this bill? Any testifiers in the neutral position? Seeing none, I will close the hearing. And we will open on LB661. This bill is from the Transportation and Telecommunications Committee. And our legal aide for the committee will open on this bill. And I will open the hearing on LB661. And the opening testimony will be given by Dusty Vaughan. [LB297 LB661]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

---

DUSTY VAUGHAN: Thank you, Senator Stuthman. 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. This bill was brought to the committee. This is a Transportation Committee bill. It was brought to the committee by the Public Service Commission. It makes several changes to the practices of the telecommunications industry, including requiring Voice-over Internet Protocol or VoIPs, as they're commonly known to providers, to collect and remit the landline 911 surcharge and the relay surcharge. The bill also removes the one-cent cap on the amount of the Relay Fund available, which provides equipment to the deaf. That's the bill which you just heard, it's also included in LB661. LB661 also requires the cost of an audit to be paid by the audited wireless carrier and requires the wireless carrier to take legal action to collect enhanced wireless 911 and relay surcharges. The bill modifies the way prepaid carriers are to collect the wireless surcharge from the reseller of the prepaid service, and remit the surcharge to the commission. And the bill also modifies the makeup of the Enhanced Wireless 911 Advisory Board by replacing one representative from the telecommunications industry with a member of the public. As you all know, Commissioner Vap is here to explain the Public Service Commission's stance on this bill, and it has quite a few things in it. So I'll just end the introduction on the bill and try to answer your questions. [LB661]

SENATOR STUTHMAN: Thank you, Mr. Vaughan. Are there any questions? Seeing none, thank you. Are there any proponents for this bill, LB661? Can I have a show of hands as to how many people want to testify on this bill? Either in the proponent, opponent or neutral testimony? I see a possible five testifiers. Thank you. Commissioner Vap, welcome again. [LB661]

JERRY VAP: (Exhibit 1) Thank you and good afternoon again, Senator Stuthman and members of the Transportation and Telecommunications Committee. Again, my name is Jerry Vap and I represent the 5th District of the Nebraska Public Service Commission. I'm here today in support of LB661. LB661 amends three separate acts: the Telephone Relay System Act, the Emergency Telephone Communications Systems Act, and the Enhanced Wireless 911 Services Act. We believe most of these changes are technical in nature and relatively minor, but there are number of changes, and I would like to take a little time to address all of them. A little background first. Like I said, there are three acts affected. The Telephone Relay System Act, which I'll call the Relay Act, provides specialized communications equipment and services for qualified deaf, hard-of-hearing or speech-impaired persons in Nebraska. You heard about it during the testimony on LB297 earlier today. The Emergency Telephone Communications System Act, which I'll call the Landline 911 Act, allows local governing bodies to put a surcharge on local landline telephone services to provide funds for the landline 911 systems. And finally, the Enhanced Wireless 911 Services Act, which I'll call the 911...or the E911 Act, established the Enhanced Wireless 911 Fund to provide reimbursement to counties and municipalities, wireless carriers, and local exchange carriers for costs incurred in

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

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implementing enhanced wireless 911, which allows a 911 center to locate a wireless caller. The relay equipment cap...or LB661 removes the one-cent cap on the amount of the Relay Fund available to the Specialized Telecommunications Equipment Program which provides equipment to the deaf to allow them to use the relay system. This charge is part of LB297 discussed earlier this afternoon and the arguments in support of that part of the bill are applicable here and need not be repeated. Collection of relay and E911 surcharges and audit costs: LB661 also removes the requirement that the commission bear the cost of an audit under the E911 Act and the Relay Act, and removes language that relieve companies of the duty to take action to collect the E911 and relay surcharges. The commission seeks these changes in response to issues raised during its recent audit by the State Auditor. These changes are consistent with language in the Nebraska Telecommunications Universal Service Fund Act. Under the NUSF Act, companies must make the same effort to collect the surcharge as they do with any other portion of an unpaid bill. In other words, if I don't pay my cell phone bill, the company must try to collect the surcharge from me when it attempts to collect their own base charges. A similar policy should apply to the E911 and relay programs as well. The companies would not need to take any extra actions to collect these surcharges. The commission would offer an amendment to Section 86-313(b) to restore the language that states, the telephone companies are not liable for any surcharge not paid by a subscriber. This language was inadvertently deleted, and we've given that amendment to the committee counsel. Audits of carriers for relay and wireless E911 purposes can be combined with audits already conducted for NUSF purposes, therefore lowering the overall cost. Shifting the audit costs away from the commission lowers the cost of administering the Relay and Wireless 911 Funds and allows more of the funds to be used for their statutory purposes. Prepaid wireless: The bill changes portions of the E911 Act with respect to prepaid carriers. During the 2006 Legislative Session, LB1222 made several changes to the Wireless 911 Act. Under LB1222, prepaid carriers were given three options for calculating the surcharge and remitting that amount to the commission. Although these options were developed based on discussions with prepaid carriers, after the passage of LB1222, some carriers indicated that the methods were unworkable. After further discussions the commission proposed that the Legislature give the commission some flexibility to expand on the methods established by LB1222. Under LB661, prepaid carriers would be required to collect the surcharge from the reseller of the prepaid service and remit that amount to the commission. This would allow the commission to ensure that all users of prepaid wireless service pay an amount comparable to that paid by users of more traditional wireless services in support of the statewide wireless E911 service. LB661 is an attempt to expand and improve upon the options originally set out in LB1222 for prepaid carriers. If one of those original options has worked or would work better for a particular carrier, the commission will make sure to keep that option available. Wireless E911 Advisory Board: LB661 also modifies the makeup of the Wireless E911 Advisory Board by replacing one representative from the wireless phone industry with a representative of the public. Currently, the voting members of the board are local government officials and representatives from local

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

---

exchange carriers and wireless carriers. Replacing one member of the wireless telecommunications industry with a representative of the public will provide a more balanced perspective on the board. The public provides the funding for the implementation of E911 service through the surcharge and has a direct interest in successful implementation of the service. It is only fair that a representative of the public be included in making recommendations as to the provision and funding of that service. Paging customers: LB661 also exempts paging customers from having to pay the wireless E911 surcharge. We understand that was the intent of the original E911 Act, back in 2002, it just didn't get drafted into the bill. Paging customers cannot dial 911. They have no benefit from 911 with their paging system and should not have to pay the surcharge. LB661 makes it clear that they don't have to pay. Payment of relay and landline 911 surcharges by VoIP providers: LB661 also affects companies providing phone service through a new technology called Voice-over Internet Protocol, which you'll usually hear called VoIP service. The bill requires VoIP providers to collect and remit both the landline 911 surcharge, and the relay surcharge. VoIP providers are not required to collect and remit those charges under the current statutory language. The service provided is equivalent to additional landline telephone service and includes both 911 and relay services. As a matter of equity and sound public policy, these providers, like any telephone company, should be required to collect and remit the amounts necessary to support the systems which their customers use. I would also note that we have a fiscal note that states that there is no fiscal impact with any of the provisions in this bill. I ask for your support of LB661 and would be happy to answer any questions you may have. [LB661]

SENATOR STUTHMAN: Thank you, Commissioner Vap. Does the committee have any questions? Yes, Senator Mines. [LB661]

SENATOR MINES: Thank you, Senator Stuthman. Commissioner, I have a couple. The folks representing the wireless community have an issue with prepaid service and then ultimately how does the reseller of that service...why should they be entitled or why should they be charged with collecting the fee and then remitting to the commission? I think it's, from their perspective, it might problematic. And you're proposing that we work through that. That the commission be allowed to determine a rule making...through the rule making process, a formula, is that what you're saying? [LB661]

JERRY VAP: Well, basically what this bill would do is it would add one more option to the payment options they currently have. They currently have three options. And this one would add one more, which would say a retailer who is selling prepaid phone service would, in effect, collect a fee for the 911 system, and remit that to the company when they pay the company their monthly invoices. The company would then remit it back to the commission. [LB661]

SENATOR MINES: We're talking Wal-Mart, as an example. [LB661]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

---

JERRY VAP: That is one of the companies that sells prepaid service, yes. [LB661]

SENATOR MINES: Not to single them out, but that feels perhaps clumsy on a retailer. Does that make any sense? I'm not sure that they're inclined to do that. [LB661]

JERRY VAP: Well, they also remit sales tax to the state as well. [LB661]

SENATOR MINES: Right. [LB661]

JERRY VAP: This is one of the options that one or more companies have said they would prefer. [LB661]

SENATOR MINES: Okay. [LB661]

JERRY VAP: And with the other three options, we feel that that will give them all an opportunity to comply with what we feel is the fairness in the system and get the surcharge paid in so that everyone is paying for that system that we're so desperately trying to deploy at this time. [LB661]

SENATOR MINES: Okay. May I ask one more? [LB661]

SENATOR STUTHMAN: Yes, Senator Mines. [LB661]

SENATOR MINES: Thank you. Commissioner, I guess I have an issue with the Enhanced Wireless 911 Advisory Board. It appears to me, I've never sat in on one of their meetings, and I understand that it's clumsy at best, that the process is clumsy at best. But the Advisory Board consists, right now, of it appears like stakeholders, that each have something to gain from the process. It appears there's no objectivity. If you have an advisory board that's made up of, for instance, E911 advisory board is made up of a sheriff, they have a stake in any revenues that come through, county officials obviously do, as do municipal officials. You have two representatives from the wireless industry, as well as a manager from a safety answering point and two partridges in a pear tree, I think. But it...and your attempt at adding a member of the public, I think, is a step in the right direction. But let me ask you, how much value would you place on the Advisory Committee in the first place? What if we were just to eliminate it? How would that affect the commission? [LB661]

JERRY VAP: There are times when the value of that Advisory Board have been questioned, to a certain extent, because there are public safety answering point operators on this advisory board, and they are the ones that are in the trenches out there on a daily basis. I think they bring a lot of value. [LB661]

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Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

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SENATOR MINES: But they are advisory only. [LB661]

JERRY VAP: They are advisory only, and from time-to-time I sit on that as a... [LB661]

SENATOR MINES: You're ex officio, right? [LB661]

JERRY VAP: ...ex officio member; I don't vote. But from time-to-time, I've had to call time out and say, folks, remember you're not the policy makers here, you are an advisory board. They sometimes get off into areas where they think they should have a say, but they're still advisory in capacity. [LB661]

SENATOR MINES: But the commission has a...you have attorneys on staff. [LB661]

JERRY VAP: Yes. [LB661]

SENATOR MINES: You have, help me. I don't know what advisory capacity they could offer that you don't have on staff all ready? [LB661]

JERRY VAP: There is some expertise there from the standpoint of some of the equipment that's necessary and things of this type. We do have an economist on staff that is working on a cost model for us right now to determine just what kind of a surcharge we may need to deploy the entire system across the state. [LB661]

SENATOR MINES: Okay. [LB661]

JERRY VAP: If we can do it with existing funds and the current level of surcharge, that's what we are hoping to come up with an answer on. We also have accountants and we have attorneys that advise us as well. [LB661]

SENATOR MINES: Well, it appears though either we get more of the public on this committee or disband the committee, to me. Again, you've got people there with more than vested interest, all at the table. And again, they're self-serving, and should be, that's what they do. [LB661]

JERRY VAP: They look at, quite often they look at equipment reimbursement requests and often times they have been very valuable in saying this shouldn't be paid for and this should on certain requests, which is very good. [LB661]

SENATOR MINES: Okay. [LB661]

JERRY VAP: When it comes down to ultimately voting to recommend to the commission, many of them are placed in a position of conflicting interest. Sometimes they will state that and not vote, sometimes they go right ahead and vote. And I don't

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

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know that they're doing it purposely, in fact I'm sure they aren't, they're just not looking at it in that manner. [LB661]

SENATOR MINES: Okay. [LB661]

JERRY VAP: But it does place them in a position of conflicting interest. We just believe that the public is the ultimate beneficiary of the 911 system, be it the landline or the wireless, either one. And we should have minimum of one or more members of the public on this board to tell us what they would like to see. [LB661]

SENATOR MINES: Thank you. [LB661]

SENATOR STUTHMAN: Okay, thank you. Any other questions for the commissioner? Seeing none, thank you for your testimony. At this time I would also like to add that Senator Fischer has joined us at the committee. And I'm going to turn it back over to you, Senator Fischer, because I will have to leave shortly. Thank you. We are...that was the first testifier on LB661. [LB661]

SENATOR FISCHER: Thank you, Senator Stuthman. As most of you know in this room, you'll see senators up here coming and going, because we are introducing bills before other committees. So I apologize for being late, and I apologize when Senator Stuthman will be leaving, too. Welcome. [LB661]

PAUL O'HARA: Thank you, Senator Fischer, members of the Transportation and Telecommunications Committee. My name is Paul O'Hara, that's spelled O-'-H-a-r-a. I'm a registered lobbyist, appearing today on behalf of TracFone, and we're addressing only the portion of LB661 which deals with prepaid wireless. Almost all states fund the E911 by requiring that the telephone companies and wireless providers, on their monthly bills, remit to the state the surcharge to fund E911. And most of the states have as their goals that the funding of this be revenue neutral to all of the service providers, and that the service provider is not liable for amounts that can't be collected from the customer. And the issue is, how can customers of prepaid wireless services contribute to E911 in a way that meets these goals? Because with most of these...the services the provider does not send bills to the consumers, does not collect the purchase price from the customer, nor does the provider have any direct financial contact with the customer. Most prepaid wireless services are provided when, for example, TracFone purchases minutes from someone like Cingular or Verizon or one of the other majors. And then with those minutes they sell through a retailer, like a Wal-Mart or a Target Store, a phone, they would actually sell a telephone, like a Nokia or a Motorola Telephone at a loss. And then they sell cards and the cards then, when activated, provide minutes of usage for that phone. They're used mainly by military families who only have perhaps temporary duty in a state and don't know how long...they don't want to sign up for a year subscription or the elderly are major users, students are major users, parents who want

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

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their children to have a cell phone, but not the ability to text message them into bankruptcy, they have these, and a lot of immigrant families have the prepaid wireless because they are not...they don't have to have any credit record, and they don't have to sign up for any long period of time, and they're usually very low volume users of minutes because they're watching their minutes carefully, they're watching their money carefully. And last year in LB1222, as Commissioner Vap noted, they were offered...the prepaid wireless providers were offered three different choices of how to pay the surcharge. And one of them was through a formula, the second was to debit the accounts of their users by taking from their accounts minutes that would equate approximately to the cost of the surcharge. And the third was to remit the surcharge where the minutes were purchased or replenished. Now with a prepaid wireless company you can't do number one because we would simply be...there's no way to collect the surcharge from the customer, because there's no contact with the customer. So under option number one, these prepaid wireless customers would just have to pay the surcharge themselves. Where other wireless, prepaid wireless providers can bill the customers, they couldn't, so they'd have to just eat it, and provide it themselves. The second option to take minutes out of the account of the person who buys the card does not work, at least for TracFone, because we simply don't have that technology, cannot do it. The customer, when they buy their phone, has...they can press the buttons and find out exactly how many minutes they have left. But we don't have the ability then to go in and take minutes out. And the third, we can't collect when they purchase the card or replenish the card because we don't have that contact with the customer. So none of these options worked. And the commission, last year, then came to Senator Baker and the committee and asked that it be...to give them a year to try to find a way in which to come up with a fair way to allow the companies to pay the 911 surcharge, but in a way that didn't give someone else a competitive advantage or require them to pay out of their own pocket. So we have the two other elements that come into this. One is the federal Telecom Act of 1996, which says that all service providers should be treated equally; and the second, the Mobile Telecommunications Sourcing Act, which says that the imposing of charges on prepaids may be of questionable validity. And LB661 then is the product of the commission's work which they brought together the stakeholders, throughout the fall and in the winter, to try to find a way to fairly do this. And the solution that they are bringing forward to this committee is that the...in this one section of the bill, the prepaid, that it state the intent of the Legislature; and that intent is that the prepaid wireless providers shall, in an equitable way, pay this comparable to the way that the wireless providers must pay. And secondly, that they shall develop a mechanism to do this fairly. And we believe that the PSC is the appropriate body to develop and regulate and enforce this kind of methodology to charge for 911, and that the PSC has the ability then adapt. If technologies change, they can adapt to that very quickly. If another method of finding this in other states is found to work better, they can adapt more quickly and we don't have to return to the Legislature each time that one of these events occur to have the Legislature address this when they are the...they seem to be the appropriate body. So giving them that authority, we think, makes a lot of sense. We

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

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understand that there is some language that needs to be addressed. We have met with some of our colleagues who will appear here later, some neutral, some in opposition, and have agreed that we would be working with them and see if we can craft something that is fair. With that, I'd be happy to answer any questions you might have. [LB661]

SENATOR FISCHER: Thank you, Mr. O'Hara. Are there any questions? You were very thorough. Thank you. [LB661]

PAUL O'HARA: Thank you. [LB661]

SENATOR FISCHER: Are there other proponents? I see none. Are there opponents to the bill? If you would step forward, please. Welcome. [LB661]

BETH CANUTESON: Thank you, Senator Fischer and members of the committee. My name is Beth Canuteson. It's spelled B-e-t-h C-a-n-u-t-e-s-o-n, and I represent today AT&T Cingular Wireless, the new AT&T. We're working on our name change here. I want to first state that AT&T understands that the technology that we offer our customers, be it Voice-over Internet Protocol, post pay, traditional wireless or prepaid wireless services, that technology is the link between them when they're in trouble and help. And so we take that commitment very seriously. And we believe that we should be paying...all those services should be paying in towards 911 implementation. And to the extent that we have to protect ourselves from liability, we only do that in states where it's mandated, and so we applaud the effort to move forward to ensure that proper funding and the proper 911 services are available. We are concerned that the way the bill is currently drafted not all providers would be treated the same. And I know that I think we share common goals with the commission and with the representative here from TracFone today. And so I believe that moving forward, hopefully, we can work out some of the details, work out some of that language and hopefully come back here in support at some point. So we look forward to doing that. I'm happy to answer any questions. [LB661]

SENATOR FISCHER: Thank you, Ms. Canuteson. Are there questions? Senator Mines. [LB661]

SENATOR MINES: Thank you, Madam Chair. Beth, AT&T Cingular does support the concept that prepaid users should pay into the E911 service. What are they doing in other states? What are other states doing? [LB661]

BETH CANUTESON: There have been about seven states that have passed what we refer to as the Tennessee Model, which is similar to what's already in the existing statutes, in 86-457, which in this bill look like they're deleted, although the commissioners have said that, you know, they intend to keep those options open. What Cingular does currently is we do what's called sufficient positive balance. We're able to

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

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look at the accounts of our prepaid wireless service customers and determine if they have at least, in this case, fifty cents in their account. So we decrement it monthly. So that's currently one method. Another is what we call average revenue per user or ARPU method, which we look at...if we sell \$100 worth of prepaid services, we've done studies nationally, I mean throughout the industry, and we average roughly \$50 per customer in revenue. So we look at that and we say, okay, that means we basically sold two units of service of average monthly use. And so we would remit \$1 based on that. [LB661]

SENATOR MINES: So you support the burden falling back to the provider of the service, not the provider of the equipment? Is that...is...I heard... [LB661]

BETH CANUTESON: Yes, right. And then... [LB661]

SENATOR MINES: If I understood Paul right, their company doesn't have the ability to do that. [LB661]

BETH CANUTESON: Their company has the ability to do the ARPU method, but they have to eat the costs, just like the other carriers do. And that's where the problem occurs. [LB661]

SENATOR MINES: Okay, thanks. [LB661]

BETH CANUTESON: Thank you. [LB661]

SENATOR FISCHER: Other questions? Senator Stuthman. [LB661]

SENATOR STUTHMAN: Thank you, Senator Fischer. Ms. Canuteson, in your testimony you made the statement as to you felt some companies wouldn't be treated as equally as other companies. Would you care to elaborate on that or have... [LB661]

BETH CANUTESON: I'd be happy to. The concern is that the way the language is currently drafted, if for example Wal-Mart is selling Virgin Mobile prepaid services or TracFone, in this case, there could be the concern that if Wal-Mart doesn't collect and remit to TracFone, then TracFone has no obligation to then remit to the commission any fees, which is fine, except that Cingular sells prepaid services in our stores already, and we will have the ability to collect that fee and remit it. And so then we become at a slight disadvantage to our competitor in that regard, and that's a concern for us. [LB661]

SENATOR STUTHMAN: Okay, thank you very much, Beth. [LB661]

BETH CANUTESON: Thank you. [LB661]

SENATOR FISCHER: Other questions? I was wondering, Beth, if you could...you

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

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mentioned the Tennessee Model... [LB661]

BETH CANUTESON: Yes. [LB661]

SENATOR FISCHER: ...that was passed by seven other states. Could you give us an outline, maybe, of what that is. [LB661]

BETH CANUTESON: Yeah. It basically allows the two alternatives that are addressed sort of in your statute from LB1222 last year, the one is the ARPU method. And I can explain that again, if you want. But... [LB661]

SENATOR FISCHER: Please do. [LB661]

BETH CANUTESON: Okay. That is we've determined nationally, on all wireless customers, that the average revenue per user or ARPU, is \$50. So on average most customers spend about \$50 with us a month. And so what we do is we take the total amount of revenue on prepaid...excuse me, prepaid revenue, then we divide that by \$50, and that's what we assume to be the number of customers and remit that amount, you know, per customer fee, monthly. [LB661]

SENATOR FISCHER: Does every company do that differently, based on what they have for an average per user? [LB661]

BETH CANUTESON: No, it's an average... [LB661]

SENATOR FISCHER: It's a national average? [LB661]

BETH CANUTESON: ...national average of wireless providers industry average. And then the second method is sufficient positive balance, which is just a method of saying, if you have at least fifty cents, in the case of Nebraska, in your account, we can decrement that. And Cingular's billing platform allows us to do that. Not everyone's does, and that is where a problem occurs. [LB661]

SENATOR FISCHER: Okay, thank you. Other questions? I see none, thank you very much. [LB661]

BETH CANUTESON: All right. Thank you very much. [LB661]

SENATOR FISCHER: Would the next opponent like to step forward, please. Welcome. [LB661]

JIM OTTO: Thank you. Senator Fischer, members of the committee, my name is Jim Otto, J-i-m O-t-t-o. I'm a registered lobbyist for the Nebraska Retail Federation and am

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

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here today on behalf of the Nebraska Retail Federation testifying in opposition to LB661. I want to make it very clear that the Retail Federation supports the intent of the enhanced 911 completely. And actually thought long and hard about testifying neutral, but I felt that that wouldn't reflect our sincere opposition to the way that prepaid wireless is itemized in the bill. It is actually on page 11, lines 18 through 22. It says, all wireless carriers shall collect as a separate charge from any entity that resells the carriers prepaid wireless service the surcharge established by the commission. In other words, it doesn't appear to me that they have three other options. It says, all wireless carriers. And the three other options that were itemized earlier by Commissioner Vap are actually crossed out of this bill. So I realize that we're entrusting this to the commission, but if...it appears to me that it isn't a choice. And the...so our real opposition is not to the intent of the bill, but to the collection of prepaid wireless. And we have been talking about the fact that we're talking about Wal-Mart. We're talking about everybody that resells prepaid phones, which would include Best Buy, Target, Walgreens. Many of your local businesses and local towns would then be required to step forward and collect this for the company. And I'd also like to submit that in my opinion, I'm not a telecommunications expert, but it was testified to earlier that all users would pay a fair amount. And I assume they were talking about all Nebraska users. But you can buy a TracFone in Nebraska and activate it in Virginia. You can buy a TracFone in anyplace and activate it in Nebraska. So the real question of who is using the enhanced 911 service in Nebraska is not, who buys a phone in Nebraska or buys a prepaid card in Nebraska? It's, who activates it? And the only company that knows who activates it or in what territory, what area code, what home area you establish to be your home area so that out of that area you are actually roaming, I could go...if my child were in Washington, D.C., I could actually buy a TracFone in Nebraska, go online, activate it in the Washington, D.C. area code, and they would be, I guess, on that enhanced 911. So to really determine who's using the 911 system, it really has nothing to do with who buys phones...or where the phone is purchased or where the prepaid card is purchased. It has to do with where that user activates it. And the only company that knows where it is activated is the actual service provider. It was brought up earlier that, you know, it's kind of surprising that Alltel can collect it prepaid, Cingular can collect it prepaid, but somehow TracFone can't. I don't know. That doesn't speak well to...doesn't seem quite right to me. And also I have purchased a TracFone in the past because I just wanted another phone for somebody to use; activated it, there's all kinds of specials. If you buy this now you'll get 40 minutes, but we'll only charge you 30; you'll get...I mean, they run specials every which way. But all of a sudden they can't figure out how to do this and collect it instead of the retailer. I'd like to just appeal, in closing, to the things that we already have retailers collecting. We already have, as was mentioned earlier, that retailers already collect sales tax. It's interesting to note that a Legislature in the past, several years ago, actually took the reimbursement or paying the retailer for collecting that sales tax and the amount of work it takes, scaled that back significantly. Presently, you pay a retailer \$75 a month maximum. It doesn't make any difference how many tens of thousands or hundreds of thousands of dollars they collect in sales tax for the state of

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

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Nebraska, they will receive a maximum of \$75 a month for that service. And this is another point that really...you know, remember that while, you know, things are categorized in primary employment, benefits like LB775 don't go to retailers, not trying to say they should, but it really seems like we actually ask retailers to do much more than we ask any other section of the economy to do for us. And I guess that is because they have that direct contact with customers. But just think about it for a minute. This is a little bit of a separate subject, but just kind of emphasizes what we ask retailers to do. Supposedly, 60 to 70 percent of retail sales today are on credit cards. When a retailer charges \$100...or when you buy something for \$100 on a credit card, the retailer does not get \$100, the retailer gets somewhere between \$97.90 and \$98.50, depending on how large they are and what they've been able to negotiate with MasterCard or Visa. Think about the fact that we reimburse retailers practically nothing for collecting the sales tax. And when they collect that \$7 in sales tax they actually paid 2 percent of that \$7 to the credit card company. We're asking retailers to pay in sales tax more than they collect in sales tax as a bottom line figure. And so I would just appeal to you that this is another issue to put on retailers that it really doesn't belong there, and would appeal to the committee to not shift this burden to the retailer. Any questions? [LB661]

SENATOR FISCHER: Thank you, Mr. Otto. Are there questions? While I can certainly sympathize with all the burdens that retailers in this state have to bear, I guess I understand from your testimony you just don't want to have another one,... [LB661]

JIM OTTO: That's correct. [LB661]

SENATOR FISCHER: ...is that correct? When you spoke about in this bill the options are being taken away, and you mentioned on page 11, lines 18 to 22, with the word "all", all wireless carriers shall collect. When you were referring to the options taken away, are you referring to page 9 then? Do you have a copy of the bill? [LB661]

JIM OTTO: I do not have a copy of page 9, I made a copy of page 11, and brought that with me. I believe it's on page 9. It's the options that were in the original bill that are now crossed off. [LB661]

SENATOR FISCHER: The three methods that were crossed out? [LB661]

JIM OTTO: Yeah. [LB661]

SENATOR FISCHER: Okay. Thank you for that clarification. Other questions? Thank you, Mr. Otto. [LB661]

JIM OTTO: Thank you. [LB661]

SENATOR FISCHER: Any other opponents? I see none. Is there anyone who would

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

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like to testify in the neutral capacity? Welcome. [LB661]

JUSTIN BRADY: Senator Fischer and members of the committee, my name is Justin Brady, J-u-s-t-i-n B-r-a-d-y. I appear before you today as the registered lobbyist of Alltel. And I appear in a neutral capacity just to follow up on what Mr. O'Hara had indicated that he is working with the interested parties. And we have been in contact with the legal counsel of this committee, as well as the Public Service Commission on...we are not opposed to the concepts in this bill. There is just some technical wording changes that we've been working with, and we'll get to the committee when we get those worked out with the Public Service Commission. With that would try to answer any questions. I could tell you what those are, if they would mean anything to you, but I will try. [LB661]

SENATOR FISCHER: Any questions? I see none. And I look forward to having a compromise reached on this. Thank you, Mr. Brady. [LB661]

JUSTIN BRADY: Thank you. [LB661]

SENATOR FISCHER: We will have no closing on the bill, and so that will conclude the hearing on LB661. Next I will open the hearing on LB660. And if, Mr. Vaughan, would give the opening on that, please. [LB661 LB660]

DUSTY VAUGHAN: Senator Fischer and members of the Transportation and Telecommunications Committee, for the record once again, my name is Dusty Vaughan, spelled V-a-u-g-h-a-n, and I am the legal counsel to the committee. I am introducing LB660 on behalf of the committee. This bill was, once again, brought to us by the Public Service Commission. LB660 amends the Nebraska Telecommunications Universal Service Fund Act to ensure language is consistent with federal statute in light of recent FCC decisions requiring Voice-over Internet Protocol providers, also known as VoIP providers, like we talked about before, to contribute to the Federal Universal Service Fund. The changes in this bill will clarify that VoIP providers are to contribute to the Nebraska Universal Service Fund as well. The bill adds a new definition of telecommunications to the act. Telecommunications will mean the transmission between or among points specified by the user of information of the user's choosing, without change in the form or content of the information as sent and received. This definition widens the scope to include VoIP providers as offering telecommunications, thus requiring them to contribute to the Nebraska Universal Service Fund, as any other company does that offers telecommunications. Section 4 of the bill makes small, but significant changes to the definition of telecommunications company by substituting the word "providing" for the word "offering", and striking the word "services" after "telecommunications". With the changes, telecommunications company means any entity "providing telecommunications for hire in Nebraska". This wording broadens the definition of a telecommunications company and keeps Nebraska's statutory definition consistent with recent FCC rulings. Section 5 makes another small change to Section

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

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86-323, by striking the words "services" after "telecommunications", so that the subsection reads, all providers of telecommunications should make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service. This wording keeps Nebraska definitions consistent with recent FCC rulings and conveys the intent of the Legislature that all providers of telecommunications, including VoIP providers, should contribute to the fund. Commissioner Vap is here to testify on behalf of the PSC, so I will let him take over and answer technical questions. So if you have any questions for me, I will be happy to answer them. [LB660]

SENATOR FISCHER: Thank you, Dusty. Are there any questions? Thank you very much. Would proponents of the bill please step forward. Good afternoon. [LB660]

JERRY VAP: (Exhibit 1) Good afternoon, Senator Fischer and members of the committee. Again, my name is Jerry Vap and I'm a member of the Nebraska Public Service Commission, representing the 5th District. We appreciate the committee's efforts to coordinate Nebraska's Universal Service policies with those of the commissions federal counterpart and the opportunity to be a part of the discussion on this issue. The PSC urges the adoption of LB660. At first glance, and probably second, the changes you see in LB660 might seem absurd and trivial. They did to me when I first looked at it. My testimony will be brief and hopefully simple. What I want to do is explain the basic reason for the changes and policy reasons. Our legal counsel has drafted a more expansive and technical explanation of the need for LB660, and I have submitted that to you with my testimony. I won't read that technical explanation, unless you really would like to hear it. I take that as a no. The Federal Communications Commission or FCC, in recent decisions has changed the way certain telecommunications terms are defined. In essence, the reason for the change is to make it clear that providers of Voice-over Internet Protocol or VoIP, have a duty to contribute their fair share to the Federal Universal Service Fund. What we are doing with LB660 is making Nebraska law consistent with those FCC decisions. We're making our definitions the same as the FCC's, that's the basic reason for LB660. The general policy reason for LB660 is the same as the FCC's reason for the changes it made; the policy reason for LB660 is to make it clear that VoIP providers clearly know their duty--to contribute their fair share to the Nebraska Universal Fund. This fund keeps local phone service affordable in rural areas of the state where it may cost several hundred dollars a month to provide local service. The commission believes that VoIP providers have a duty under current state law to contribute to the Nebraska fund. Today in fact some VoIP providers are contributing. Time Warner, for example, which provides local phone service in the Lincoln area, contributes to the Nebraska fund. Though there may be disagreement about whether Time Warner has a statutory duty to contribute, it does contribute nonetheless. Other VoIP providers, however, do not contribute; they disagree with the commissions interpretation of Nebraska law and have refused to contribute to the Nebraska Universal Service Fund. LB660 would clarify their obligation and eliminate the disagreement. Additional policy reasons support LB660. First, it is

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

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unfair for some local telephone providers, including wireless companies, to contribute to Universal Service and not others. A level playing field is needed in today's competitive marketplace. Second, if we don't require all providers to contribute their fair share, then there is a risk to the stability of the Universal Service Fund and its support of high cost service in rural areas. The risk may not be urgent, but there is no doubt that VoIP providers are successfully establishing themselves in the local phone market. We are pleased with their success. It offers consumers a choice. Competition is good. But the policy of affordable service for all Nebraskans should not be jeopardized because of a new technology. New technologies should have to play a part in supporting universal service, which means affordable local phone service for all Nebraskans. That local service includes wireless service and the commission is in the process of carefully constructing a program to help support wireless service in rural areas of the state as well. For these basic and policy reasons, the commission urges you to advance LB660. Be happy to answer any questions. [LB660]

SENATOR FISCHER: Thank you, Mr. Vap. Are there any questions? I see none. Thank you very much. [LB660]

JERRY VAP: Thank you. [LB660]

SENATOR FISCHER: Are there other proponents to LB660? Welcome. [LB660]

JOHN JORDISON: (Exhibit 2) Thank you, Senator Fischer and members of the committee. My name is John Jordison, that's spelled J-o-h-n J-o-r-d-i-s-o-n, and I'm here as a proponent of LB660 on behalf of my employer, Great Plains Communications. Great Plains serves 84 communities across Nebraska with voice, cable television, and broadband services. I would like to thank both the Public Service Commission and the committee for bringing this bill. You have my written testimony. I simply want to state that we endorse the concept behind LB660, and that is to keep a level playing field among those who are providing identical services. As Commissioner Vap referenced in the previous bill, it is a matter of equity. We applaud the commission's effort that regardless of the technology employed that the principles behind the Nebraska Universal Service Fund would still apply, and that would include provision of voice service through facilities-based Voice-over Internet Protocol. We believe that the bill adequately addresses the issue. If there are, however, refinements that are needed, we would pledge to work with the commission and with the committee. Be happy to answer any questions. [LB660]

SENATOR FISCHER: Are there any questions for Mr. Jordison? I have one. Can you give us a brief definition and example of what a facility-based VoIP provider would be? [LB660]

JOHN JORDISON: I'll do my best, Senator. My understanding is that any transmission

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

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of voice service, whether it is just that, a service, whether it is the traditional telecommunications, technology of copper or cable or in the case of Voice-over Internet Protocol, it would involve, instead of an electrical transmission of that voice it would be digitizing the voice, sending it as a series of 1s and 0s over a broadband connection to another...to a recipient where it is turned...changed into the voice. Great Plains has one example, currently, where we have a customer in Snyder, Nebraska, they opened up a facility, another manufacturing facility in Neligh, Nebraska, which we do not serve. But nonetheless, we were able to provide a broadband connection to their new factory, and through VoIP we are...we have established a service where it's just as if they were two blocks away, still in Snyder. And we do assess on that service, that VoIP service we do assess the NUSF surcharge. [LB660]

SENATOR FISCHER: And we do appreciate that. Does it take a broadband connection in order to have this? [LB660]

JOHN JORDISON: It does, my understanding it does. [LB660]

SENATOR FISCHER: Thank you. Other questions? Senator Louden. [LB660]

SENATOR LOUDEN: Yeah. Thank you, John. I guess one question I have, when you're talking about this kind of transmission, is this voice, is this wording or voices, is that recorded and sent or is that, you know, real live, like over a telephone? [LB660]

JOHN JORDISON: No, it is my understanding, Senator, and it's a good question. My understanding is that it is virtually a real time conduction of your voice to my voice over the Internet connection and it's not a recording. It's not Memorex, it's live. [LB660]

SENATOR LOUDEN: Well, I guess what I'm thinking about is like if you want to put an ad on the radio or something, you can go into a radio station someplace and record it, and then they run it over the e-mail and send it all over the world. And that isn't exactly real time, because that's, I guess to me, that's a recorded situation. Would this come under this same law, that type of work? [LB660]

JOHN JORDISON: As I understand your question, Senator, I don't believe it does. It is just a different technology for delivering that same conversation that you and I would have over traditional telecommunications technology. [LB660]

SENATOR LOUDEN: Okay, thank you. [LB660]

JOHN JORDISON: You're welcome. [LB660]

SENATOR FISCHER: Other questions? Senator Mines. [LB660]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

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SENATOR MINES: Thank you, Madam Chair. Jordi, I should ask, this may be unfair. Do you happen to know if the Universal Service Fund is paid on a broadband telecommunication line? That may be not fair, because you might not know that. I don't know, but my follow up would be, if in fact broadband...a broadband user does pay NUSF, and then if they subscribe to VoIP, they'd be paying NUSF twice. Is that a reasonable... [LB660]

JOHN JORDISON: I think I understand your question. I would defer, except to the extent that I think that there are instances where we're not aware if a customer of ours who has a broadband connection is making Voice-over Internet Protocol phone calls. I don't know that we know the answer to that. [LB660]

SENATOR MINES: Good point. Maybe someone will follow up with... [LB660]

JOHN JORDISON: There are certainly people far more knowledgeable than I am that will follow. [LB660]

SENATOR MINES: Yeah, thanks. [LB660]

SENATOR FISCHER: Other questions? Thank you, Mr. Jordison. [LB660]

JOHN JORDISON: Thank you. [LB660]

SENATOR FISCHER: Other proponents to LB660, please? I see none. Are there opponents to LB660? Please step forward. Good afternoon. [LB660]

REX FISHER: Good afternoon, Senator Fischer and committee. My name is Rex Fisher, F-i-s-h-e-r, no C. President of Nebraska for Qwest Communications. I stand here opposed to LB660 for the following reasons, and I'm going to be very brief. The bill is intended to apply VoIP...USF to VoIP service. But instead of saying integrated VoIP, the bill uses a very broad term "telecommunications", which can encompass various services, definitions or implications. Second, while this bill is modeled after what the FCC is doing, the FCC order right now is interim and not final, and therefore if it changes Nebraska risks having legislation that is actually not consistent with the FCC. I'll take any questions. [LB660]

SENATOR FISCHER: Any questions for Mr. Fisher, without the C? (Laughter) I have one. Oh, Senator Mines. [LB660]

SENATOR MINES: Thank you, thank you, Rex. But do you agree in concept with what the bill is doing? If we get the language straightened out and we... [LB660]

REX FISHER: In the concept of USF? [LB660]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

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SENATOR MINES: Yeah. [LB660]

REX FISHER: Yeah. We've been a supporter of USF. It's not...USF is not the issue here. [LB660]

SENATOR MINES: Okay, thanks. [LB660]

SENATOR FISCHER: Any other questions? Mr. Fisher, would you support an amendment changing the language to integrated then when you said for VoIP there? [LB660]

REX FISHER: Well, as long as it ends up being consistent with the FCC. It's hard to say we'd support it, until we see where the FCC ends up on a final order, because it could make variations on where you have to pay on VoIP, whether it's in an area that has enhanced 911 or not, whether you're wholesaling or retailing VoIP, whether it's business VoIP or consumer VoIP. So we'd like to know that it's consistent, and that's really our biggest issue. [LB660]

SENATOR FISCHER: So what you are asking the committee to do then is to hold this bill until the feds take action on it? Am I putting words in your mouth or is that what you're asking us to do? [LB660]

REX FISHER: I'm not sure all the implications of hold it, and the timing, but that certainly could resolve it. [LB660]

SENATOR FISCHER: Okay. Oh, Senator Hudkins. [LB660]

SENATOR HUDKINS: Thank you. Mr. Fisher, I want to set up a VoIP communications in my home. What do I do? [LB660]

REX FISHER: You can call providers of VoIP. We provide VoIP services, there's lot of different companies that do. And you can call one of those companies and they may provide VoIP over your computer, so you can make a call actually when you're on the Internet, that way. There are also VoIP compatible telephones, businesses when they put VoIP in have to have a telephone switch that is VoIP compatible. So you can make VoIP calls either of those two ways. There are two for you to do it in your home. [LB660]

SENATOR HUDKINS: Okay. [LB660]

REX FISHER: Same way in business. [LB660]

SENATOR HUDKINS: Why is that better or how is that better than the phones we have

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

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now? [LB660]

REX FISHER: I don't know that it's an issue of better, it's just another way to complete a call. We find that an individual or businesses circumstances, calling patterns, what they're trying to do can determine whether VoIP works better for them or not or saves them money over what they're doing today. Because it's not just automatic. I think there was a question earlier where you need a broadband connection. So you need to have that ability to get to the Internet, so it's not just the cost of the VoIP service, but it's the cost of that bandwidth that you need to get out. So every individual is different, based on their calling patterns and their individual circumstances. [LB660]

SENATOR HUDKINS: What would it cost, roughly, per month to have this service? [LB660]

REX FISHER: You know providers have various ranges, depending on what else they might be selling, whether it's part of a bundle. You know, in most cases it's somewhat similar to what you'd be paying for regular voice line. There may not be as many surcharges and other components on that. But again, depending on how you call and how you use it, it can cost less, it can cost more. [LB660]

SENATOR HUDKINS: Thank you. [LB660]

SENATOR FISCHER: Other questions? Mr. Fisher, when would you expect the feds to have their study complete and a ruling made? [LB660]

REX FISHER: You know, I've learned not to guess when the FCC is going to come out with an order. You know sometimes they'll surprise us. We were surprised on something today from the FCC. Sometimes it can take a while. You know I can go back and try to get more on that, but I'm not sure. [LB660]

SENATOR FISCHER: I guess my concern would be that while we're waiting for the FCC to come up with their final recommendations on this, we're not seeing any money going into the Nebraska Universal Services Fund. Would you agree with that or not? [LB660]

REX FISHER: I understand that. [LB660]

SENATOR FISCHER: You understand that. [LB660]

REX FISHER: I understand that. [LB660]

SENATOR FISCHER: Okay. Thank you very much. Are there other opponents to the bill? Please step forward. Good afternoon. [LB660]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

---

WAUNETA BROWNE: Good afternoon, Senator Fischer and members of the committee. My name is Wauneta Browne, W-a-u-n-e-t-a B-r-o-w-n-e. I am regional vice president for AT&T, responsible for Nebraska and many other states across this area of the country. First off, I want to start off today by saying AT&T supports the goal of universal service. We want to ensure that all citizens here in Nebraska are able to have telephone service. We are concerned about LB660 and we oppose it in its current form. Primarily what LB660 is doing is assessing universal service obligations on interstate revenues. I disagree that this bill will make VoIP consistent in Nebraska with what is happening in the federal arena. Because in the federal arena there really are two issues that are at play. Is VoIP an information service or is it a telecommunications service? Which is up for debate, and then, are the revenues associated with VoIP interstate revenues or are they intrastate revenues? Depending upon where the FCC finally determines on those, what they determine on those two issues will determine whether or not the bill that is in front of you will be sustained and be able to be implemented here in Nebraska. So AT&T, like Qwest, believes that it is premature to adopt language on this issue at this point, and we should allow the FCC to make these decisions so that we can all avoid unwanted litigation. I think the other thing I'd like to mention is this issue has been litigated in the state of Minnesota. In Minnesota, the Minnesota commission tried to regulate VoIP providers. And when they did that, that issue went to the courts, it also went to the FCC. And in the Vonage order, the FCC held that VoIP services are primarily interstate services and they're subject to federal jurisdiction. The FCC preempted the application of traditional state regulatory requirements to VoIP, including obligations to contribute to state universal service funds. Now the FCC is requiring VoIP to pay into the federal fund, because the federal fund is based upon an assessment based on interstate revenues. And because VoIP is categorized as an interstate, that's why that obligation is being imposed. Now AT&T is not opposed to paying universal service obligations for VoIP, but it's the methodology that is being proposed here. Current statutes in Nebraska will allow the commission to assess universal service obligations on VoIP today without any modifications. It's just the concern we have is the methodology that is being chosen. And so we would be very willing to talk about methodologies which would be acceptable, such as making those assessments based upon telephone numbers. I think the commission today, with the current statutes, without any modification, could assess VoIP services, universal service obligations based on telephone numbers. It's just the revenue-based approach that we find problematic. If you have any questions, I'd be happy to answer them at this time. [LB660]

SENATOR FISCHER: Thank you, Ms. Browne. Any questions? Senator Mines. [LB660]

SENATOR MINES: I'm sorry. It's a fair argument that VoIP traffic does include intrastate calls. If I understand, the FCC has ruled that it's interesting. Can you tell me, in the Minnesota case, is that the definitive stance of the FCC or are we to expect something different after a ruling comes down? What do we expect in the future? [LB660]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

---

WAUNETA BROWNE: There is still decisions that are pending at the FCC that need to make the determinations, as you point out, you know, is VoIP a telecom service versus an information service? Are the revenues, are any portion of those revenues intrastate? So those decisions were not affirmatively made one way or the other, and they were put into future proceedings, which that's what we're really waiting on for decisions now. [LB660]

SENATOR MINES: And if the Legislature of Nebraska were to pass something like this and the FCC comes down with a decision in opposition or on the other side, we would have to rescind our statute. Is that correct? [LB660]

WAUNETA BROWNE: That's correct. But I think if the legislation is passed in its current form and, let's say a year from now the FCC makes that decision, I think that companies will have to take a hard look at whether or not, just like they did in Minnesota, whether they actually take that statute to court. And that's the unneeded litigation that I'm concerned about, the expenses associated with that. It doesn't really...I mean what we're really trying to do here, I think, is give universal service funding some certainty. And really a bill like this causes greater uncertainty. Because if it's litigated, then, you know, is it stayed? Do you go ahead and implement it? It requires carriers to pay, and then you have to give refunds. I mean there's no... [LB660]

SENATOR MINES: Well, what a bill like this also does is create a level playing field for those competitors that are already paying universal service fees. And VoIP providers don't have to pay that fee, so that it's an unlevel playing field. And I think this body needs to weigh you know, both sides of that. Thank you. [LB660]

SENATOR FISCHER: Other questions? When you were talking about the methodology needed to be changed and that it shouldn't be funded based on revenue but on phone numbers, telephone numbers. [LB660]

WAUNETA BROWNE: Yes. [LB660]

SENATOR FISCHER: Explain that a little bit. [LB660]

WAUNETA BROWNE: Well, what we are advocating is that today, when you look at the funding of the state USF, what it does is it takes the needs and it distributes it based upon the revenues each provider collects in this state, intrastate. In fact, today's current Nebraska statute limits what can be collected on intrastate, and it prohibits interstate revenues from being assessed state USF obligations. What I was proposing about, when talking about a number-based solution would be as opposed to revenues being the allocator, what you would do is any telephone number that is in operation in the state would be assessed equally so that all telephone users in the state will pay on a

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

---

level playing field. And so that's the proposal that we would put forth. [LB660]

SENATOR FISCHER: What is the limit that we have currently in statute, when you said on what's collected intrastate, the limit in statute, what is that? [LB660]

WAUNETA BROWNE: Let's see here, I thought I brought up here with me, but I'm not seeing it at the moment, the statute. What I brought up here is the rule that was adopted by the commission. It is Rule 002.01D, and it defines excluded services from the state USF. And in the language there says that those excluded services include interstate telecom services, and specifically states that the NUSF surcharge shall not be assessed on interstate services. [LB660]

SENATOR FISCHER: Okay. Thank you. Other questions? I see none. Thank you very much. [LB660]

WAUNETA BROWNE: Thank you. [LB660]

SENATOR FISCHER: Are there other opponents to LB660? I see none. Is there anyone who wishes to testify in the neutral capacity? I see none. With that, we will close the hearing on LB660. The next bill we have is LB560, and Mr. Vaughan will also be introducing that bill. [LB660 LB560]

DUSTY VAUGHAN: Senator Fischer, members of the Transportation Committee...Transportation and Telecommunications Committee, for the record again, my name is Dusty Vaughan, spelled V-a-u-g-h-a-n, and I'm the legal counsel for the committee. LB560 amends the current Wireless Telecommunications Registry to require that all communication providers who are not certified by the Public Service Commission file limited contact information with the commission and pay a one-time \$50 registration fee. Currently, this registry only includes wireless carriers. The change in definitions outlined in LB560 would make the registry to include providers who offer Voice-over Internet Protocol service, VoIP providers again, as well as information service providers or ISPs. This will ensure that the commission has sufficient contact information for purposes of the Nebraska Universal Service Fund, wireless E911, relay services, and consumer complaints. The commission has also had a difficult time assessing broadband deployment in the state due to the unknown number of broadband providers. This registry will help the commission gather data in this field and better determine whether Nebraska has a sufficient broadband infrastructure. It will also help them respond accurately to the questions they have received in the recent past regarding broadband from the Governor, Legislature, businesses looking to locate in Nebraska, and the ordinary citizen wanting to know where they can get broadband service in the state. LB560 will apply to all communication providers, except those who are otherwise regulated under the Nebraska Telecommunications Act, in other words, landline telephone companies. In a separate matter, the bill also amends the period of

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

---

time that the commission is required to set access charges after the close of a hearing. And actually there is an amendment that the commission is bringing. There was an oversight on what date, that actually is changing. It actually applies to setting the date for hearing, giving an extra 30 days to set the date in regards to discovery time, time to allow companies to discover and prepare for the hearing. I'll let the commission tell you a little bit about that amendment. With that, I'll take any questions you have. [LB560]

SENATOR FISCHER: Thank you. Any questions? Thank you, Dusty. Could we have the first proponent for the bill? Welcome. [LB560]

JERRY VAP: (Exhibit 1) Last time today. [LB560]

SENATOR FISCHER: You think. [LB560]

JERRY VAP: I think so. (Laughter) Good afternoon, Senator Fischer, members of the committee. Again, my name is Commissioner Jerry Vap and I represent the 5th District of the Nebraska Public Service Commission. I'm here today in support of LB560. Communications is a dynamic and quickly changing industry. Advancements in technology frequently outpace regulatory programs at the federal and state level. Today, only wireless telecommunication providers are required to register with the Nebraska commission. New providers of telecommunications and broadband services are entering the market every day, offering the latest technological innovations. Consumers and other agencies look to the PSC as an agency with the knowledge of and expertise in these new innovations and the status of their deployment. Under the current statutory framework, the PSC tracks the deployment of landline telecommunication services, both local and long distance, through a certification process. Wireless carriers entering the state are required only to register with the PSC. Unregulated voice communications services: LB560 serves two main goals of the PSC. The first purpose of LB560 is to simply require that any company offering a voice-based communication service to register with the PSC. This would include VoIP providers, which you heard about earlier this afternoon. Companies that are regulated by the PSC would not have to register. These companies are already required by law to have a certain...to have a certificate of authority to provide service. There are several important reasons for this registry. Registration would allow the commission to better manage the state's limited pool of telephone numbers, which is especially important given that availability of numbers in the 402 area code is rapidly being exhausted. Registration of unregulated communication providers gives the PSC information crucial for E911 deployment and emergency location and identification. Registration also would allow the commission to ensure that applicable surcharges, like E911, universal service, and relay, are being assessed properly. The registry also will give the commission correct contact information so that we know whom to contact when we need to help consumers who have issues with their services or bills. As I mentioned, wireless phone companies are already required to register under the law that would be amended. We have heard

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

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no complaints that the registration requirements or the one-time \$50 filing fee have been a burden for wireless companies. Broadband services: Second, LB560 would require broadband providers to register only for the purpose of telling us that they have a presence in the state. This provision is very limited. Broadband providers would not be required to give the PSC contact information for E911, universal service, the relay surcharge or for customer contacts. They would simply have to provide contact information for their Nebraska manager. With respect to the broadband providers, there is no question that everyone wants to know who is out there providing broadband services. The Governor's office has asked the PSC for information, as have the Legislature and LB645 Broadband Task Force. The Department of Economic Development, as well as businesses and consumers, will benefit from having this information. Regardless of your position on the question of public entry into broadband, knowing the level of broadband deployment will be a crucial piece of information for the entire state. Unless we have a unified registration process, we will not be able to properly assess broadband deployment in Nebraska. With regard to both aspects of LB560, the legislation is not an attempt to broaden the commission's regulatory scope or authority. The bill does not give us any additional regulatory oversight. Those communication providers that fall under the provisions of LB560 will only be required to register with the commission and keep the information current. Our purpose in this bill is purely informational. Changes regarding hearings on the access charges: LB560 was also intended to change the number of days to hold a hearing on applications for review of access charges from 60 days to 90 days. Such a change would allow the parties sufficient time to conduct any necessary discovery. Unfortunately, due to a drafting error, the change extended the time to enter an order rather than the time to hold a hearing. The commission intends to offer an amendment to fix that language. This change is minor and noncontroversial. I would remind you also that LB560 and LB660 both have no fiscal impact on the state's General Fund. I would ask for your support of LB560 and would be happy to answer any questions you may have. [LB560]

SENATOR FISCHER: Any questions for Mr. Vap? I have a question. [LB560]

JERRY VAP: Yes. [LB560]

SENATOR FISCHER: You want contact or I do, since this is my bill, I want contact to know the managers here in Nebraska on this. Why doesn't the PSC want the rest of the information that goes with that? [LB560]

JERRY VAP: Some of the information... [LB560]

SENATOR FISCHER: Why just that piece? [LB560]

JERRY VAP: This really is just for informational gathering purposes. And we are just about ready to come out with a second broadband deployment report. And we

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

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requested from as many broadband providers as we could discern were out there for information on what they were providing as far as speed of broadband services and where they were providing, what communities they may be providing it in. We got very limited response. This would at least give us a person to contact and at least meet with them to determine what kind of information would be helpful for them and the commission and the rest of the state in determining the extent of broadband deployment in the state. At least one out right refused to offer any information. So this still wouldn't require them to give us any information, but it would at least require them to register with us so that we could at least perhaps set up a meeting and visit with them to see how we could gain some cooperation. I think that the broadband deployment in the state is on the high...on the top of everyone's list in providing services. And it would be good if we could have complete report as to what's available in the state for a lot of purposes, including economic development. [LB560]

SENATOR FISCHER: How accurate do you think that LB645 Broadband Task Force report is, if that task force was not able to get this information? [LB560]

JERRY VAP: Well, their, first of all, their report was really based on should there be public entry. And it was a requirement... [LB560]

SENATOR FISCHER: But you also, but you also were looking at, in that study on the percentage of people across this state that have access. [LB560]

JERRY VAP: And that information was provided by both the telecommunications industry and the commission. The information we gathered in an independent manner was not very complete because we had very little cooperation from some providers that we have no regulatory authority over. [LB560]

SENATOR FISCHER: I love tearing apart my own bills. If you're just going to have them provide a contact person, do you see in the future if these companies aren't, I guess, forthcoming with information, would you want to see that expanded and would the Public Service Commission be asking for more authority and more requirements? [LB560]

JERRY VAP: I don't see that at this time. I think maybe we can visit with those folks and help them realize that we don't want to regulate them and it may be in their interest to let more people know that they exist and where they exist. [LB560]

SENATOR FISCHER: Okay. Thank you, Mr. Vap. Other questions? Thank you very much. [LB560]

JERRY VAP: Thank you. [LB560]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

---

SENATOR FISCHER: Are there other proponents to the bill? Good afternoon. [LB560]

ERIC CARSTENSON: (Exhibit 2) Good afternoon, Senator Fischer and members of the Transportation and Telecommunications Committee. My name is Eric Carstenson, last name is spelled C-a-r-s-t-e-n-s-o-n. I'm the president of the Nebraska Telecommunications Association. We're a trade association that represents the local exchange industry in Nebraska. I'm before you today to talk about our support for LB560. We support the Public Service Commission's initiative to, at a minimum, require the registration of those who provide or offer advanced telecommunications services. This bill accomplishes that by authorizing the collection of data which will be used only for informational purposes. LB560 provides for at least the base information for you as policymakers to answer the question of, who's out there offering these kinds of services? Recently, there's been a lot of discussion and concern regarding broadband services and where it is or is not available. We've seen something as simple as a Public Service Commission attempting to undertake a study of who's providing broadband services became a difficult task for them to complete. It's unfortunate that the commission didn't receive broader cooperation from some of the broadband providers in Nebraska because that's the kind of information you need as a policymaker to take action. The NTA recognizes that broadband plays an important role in contributing to the high quality of life here in Nebraska. To show where broadband is offered, the NTA maintains an extensive data base of broadband providers throughout Nebraska. And with the senators permission, I'd like to offer that study. The NTA data base includes broadband offered by telephone and cable companies, as well as wireless and satellite providers. It's interesting to see how much competition has developed throughout Nebraska in the last few years. Now the NTA can vouch for the accuracy of the broadband providers that are NTA members because they are required to report that information to the Public Service Commission. They are regulated. But it's hard to verify the accuracy of broadband offered by nonregulated companies or entities because they are not necessarily required to provide that information. Now the lack of verifiable information has a consequence for U.S. policymakers because you don't have the entire picture. Let me tell you a little bit, since you have the study now, let me tell you a little bit about how what you're looking at was prepared. First of all, we took the foundation of the Public Service Commission study, which was delivered last June. We took that study and then some telecom experts sat down and compared data that we'd collected with what the commission was able to discern through their process. You can see that the bolded instances are where we found a difference with our data and what the Public Service Commission has. Now the way we collect our data is on a voluntary basis. We go out, and as I travel the state, if I see a billboard that says, in Kearney, Nebraska this company is offering broadband, and we can find that company, that company is advertising and offering broadband in Kearney, Nebraska. If we see a cable company advertising that they're offering broadband in another community, then that's...an advertised and available broadband offering. You can see...we also update this every Wednesday. So you can go to the NTA web site and you can see what the most recent

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

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iteration of this study is. It's updated every Wednesday morning. One of the interesting things, as you go through that report, that you can see is how quickly broadband has developed. Because you're going to find some instances where it says, no broadband available. When you see that, what that means is in the June delivery of the Public Service Commission's report until we updated last week, there is broadband offered. So as you go through you can see there is a total of under 400...the total population of people living in incorporated communities in Nebraska is under 400 where broadband is not offered in some form. So, generally, throughout Nebraska broadband is largely offered by somebody, not necessarily by an NTA member, it could be by a wireless offering or some other kind of offering. The NTA supports LB560 because it will paint for you a more complete picture of broadband in Nebraska while it avoids a burdensome regulatory scheme. That concludes my testimony, but I'd be happy to answer question. [LB560]

SENATOR FISCHER: Are there questions for Mr. Carstenson? What did you say the bold print on this was again? [LB560]

ERIC CARSTENSON: That's where... [LB560]

SENATOR FISCHER: You observe? [LB560]

ERIC CARSTENSON: ...the data that we had was different from what the Public Service Commission was able to determine from its research. [LB560]

SENATOR FISCHER: Okay. Off the top of your head, can you tell me how many broadband providers are in Nebraska? [LB560]

ERIC CARSTENSON: There's in excess of 60. And we've got a list of who we know about that I'd be happy to deliver to the committee. [LB560]

SENATOR FISCHER: Sixty that you know of? [LB560]

ERIC CARSTENSON: Yeah. [LB560]

SENATOR FISCHER: What's the breakdown between the telephone, cable, wireless and satellite? [LB560]

ERIC CARSTENSON: Well, there are going to be 36... [LB560]

SENATOR FISCHER: Just don't tell me to read the report and figure it out. (Laughter) [LB560]

ERIC CARSTENSON: I can break it down for you and deliver that to you. [LB560]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

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SENATOR FISCHER: Okay. [LB560]

ERIC CARSTENSON: But I know that at least 36 of those would be telecommunications companies. Now, some telecommunications companies will also have a wireless. And off the top of my head, that's what I don't know and would like to offer to the committee. [LB560]

SENATOR FISCHER: Okay. You can let me know though, it would be interesting. [LB560]

ERIC CARSTENSON: I'd like to. [LB560]

SENATOR FISCHER: Thank you. Other questions? I see none. Thank you very much. Are there other proponents to the bill? Are there opponents to the bill? I see none. Anyone wishing to testify in the neutral capacity? I see none. With that, I will close the hearing on LB560. And our last bill for the day is LB330. And, Senator Schimek, would you like to introduce that, please. [LB560 LB330]

SENATOR SCHIMEK: Good afternoon, Madam Chair, and members of the Telecommunications and Transportation Committee or vice versa, I guess. For the record, my name is DiAnna Schimek. I represent the 27th Legislative District in southwest Lincoln. LB330 is a bill that was brought to me by this Public Service Commission. The bill provides the Public Service Commission with limited authority to resolve disputes between wireless telephone companies and consumers regarding billing and service agreements. As we all know, the wireless industry is growing steadily in the state of Nebraska. In 2006, the number of wireless customers exceeded the number of landline telephone companies for the first time. There are approximately 998,000 wireless customers in Nebraska as of June 30, 2006. It may be safe to assume that the number of disputes will increase along with the number of wireless customers. But there are additional reasons for introducing such a bill. First of all, the PSC already receives complaints from wireless customers, some of which are referred to the commission by the Attorney General, the agency with which some wireless providers want dispute resolution authority to rest. Second, LB330 validates the PSC's current efforts to attempt to resolve issues and disputes between wireless telephone companies and their customers. If the PSC did not handle these disputes, consumers would have virtually no place to turn for assistance, except the Federal Communications Commission in Washington, D.C. The FCC typically refers such cases back to the wireless company. LB330 imposes no additional costs to wireless companies, consumers, or to the PSC. It actually provides a local and cost-effective way for individual consumers to address billing and service agreement disputes. Representatives from the PSC are here today to further describe this aspect. Industry representatives have objected to any state regulation of the wireless industry. But

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Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

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contrary to popular belief within the industry, LB330 is not preempted by federal law. Federal law actually permits states to regulate terms, and I'm quoting now, terms and conditions of wireless service, unquote, other than market entry or rates. Courts have held that this permits the enactment of laws, like LB330, which gives limited authority over billing and contract issues. Also, LB330 expressly limits the PSC's authority; it does not allow regulation of market entry or rates. LB330 will not necessarily lead to only hearings and fines. The fining authority in LB330 will not be used if wireless companies continue to cooperate with the PSC in resolving disputes. This is the goal of all parties involved; therefore the risk of fines will encourage continued cooperation. Some people may argue that existing laws and the competitive market already address consumer concerns. However, the competitive market is short-circuited by long-term service contracts. Consumers locked in to long-term service agreements cannot change carriers without incurring significant early termination penalties, as all of you probably know who have cell phones. Popular belief is that access to universal service funds would provide sufficient funds to remedy coverage and service quality issues. However, issues related to united...excuse me, universal service funds and service quality are not implicated by LB330. The PSC only seeks to assist in resolving disputes about wireless bills and contracts. Also, several wireless companies have been certified by the PSC to obtain federal universal service support, and the PSC is in the process of allocating a portion of the state fund to support wireless service in rural Nebraska. The purpose of LB330 is to facilitate both consumer and provider through authority granted to the PSC. The PSC already has this authority with land-based telephone service companies. It may only be a matter of time before this authority is handed over to the PSC. And as I mentioned before, there are representatives here from the PSC to try to answer questions that this committee might have. I would just note, in closing, that I have a lot of confidence in the Public Service Commission; I think it's a well-run agency. I think that they have the ability to implement this bill without a lot of stirring up of trouble, if you will. I think that sooner or later we will have PSC oversight of wireless telephone, and I think that it's really better now than to wait another few years. Thank you. [LB330]

SENATOR FISCHER: Thank you, Senator Schimek. Are there questions? I see none. Thank you. [LB330]

SENATOR SCHIMEK: Thank you. [LB330]

SENATOR FISCHER: Next we will have the proponents for LB330. Please step forward. If you could bring up your yellow sheet and hand it to Pauline, please. [LB330]

ANNE BOYLE: Thank you, sorry. [LB330]

SENATOR FISCHER: Oh, the page will get it. Thank you. Welcome. [LB330]

ANNE BOYLE: (Exhibit 1) Thank you. Good afternoon. Madam Chairperson and

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

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members of the committee, I'm commissioner Anne Boyle with the Public Service Commission. And much of what Senator Schimek has just stated is also contained within the testimony that is being given to you right now. However, I will restate it to reinforce it and try to skip over, lightly, what may be too redundant. The commission supports LB330 and thank Senators Schimek, Hudkins, and Mines, and Howard for introducing this important consumer protection legislation on behalf of Nebraska cell phone users. As you know, today consumers are choosing wireless service over traditional telephones in greater numbers than ever before. And as Senator Schimek mentioned, as of June last year, there are nearly one million cell phone users in the state of Nebraska. This lightening speed growth compared to the many years it took...this is lightening speed growth compared to the many years it took to establish traditional phone service. In order to spur growth, Congress did not heavily impose regulation on the industry as it began. However, it is logical to conclude that with the rapid increase in customers, consumer problems will occur. And they have. And they will continue. It is commonly accepted that wireless service is the wave of tomorrow, and over time the number of consumers using traditional phone service may decrease. Today, wireless complaints at the federal level are at an all time high. In consumer studies, wireless complaints are ranked in the top ten of consumer problems. We are here today to ask you to advance a bill that brings balance and fairness between carriers and the customers they serve. Wireless phone companies are at a clear advantage in dispute over service agreements on billing issues. Unless problems are discovered shortly after purchase, consumers are trapped in long-term service agreements. While at least one carrier has begun to prorate contracts, most require consumers to pay the entire contract if they wish to switch companies. Further, if a customer changes the terms of a contract, usually the carrier automatically extends the contract. LB330 represents a common sense approach to consumer assistance in a rapidly changing and sometimes confusing market that includes a myriad of plans and fine print contracts. Some of those who may object to LB330 might suggest that we are attempting to regulate wireless companies. However, Congress clearly stated that we may not oversee carriers. LB330 does not allow the commission to regulate wireless companies and we cannot override Congress. This legislation will not put a burden on the wireless industry; this legislation merely gives the commission limited authority to resolve disputes regarding services agreements and billings between wireless companies and their customers and provides necessary tools for enforcement through possible fines for the most egregious offenders. The commission has been working to resolve consumer disputes with carriers for several years without authority or any enforcement tools as a service to Nebraska ratepayers who have tried to resolve the disputes with carriers to no avail. LB330 imposes no additional cost to wireless companies, consumers or the PSC. The fiscal note is zero. Before I continue, please let me take a moment to dwell a bit on the point I just made. I commit, on behalf of the commission, that if LB330 passes, we will continue to work with wireless companies in the same manner as we have for the past five years. If they continue to cooperate with us here in Nebraska, like they have, in resolving consumer complaints, there will be no

need for hearings. There will be no need for fines. We have an excellent track record with companies like Alltel, AT&T, Cingular, Sprint/Nextel, U.S. Cellular and Verizon. Under LB330, we expect nothing to change. Nothing that is, except that we will have the Legislature's blessing to do what we are doing today. Some have suggested that this bill would pass easily if the enforcement section were deleted; however, how logical would that be? A carrier could simply tell the commission they refused to acknowledge an error, and the commission would have no way to require compliance no matter how outrageous an offense might be. I should add that the commission does not always agree with the customer. Sometimes they are mistaken and our intervention unravels confusing information or terms. To be clear, federal law does not preempt this legislation. Federal law expressly allows states to regulate terms and conditions of wireless service. We may not regulate rates or entry. While it is not necessary, in order to make it clear, we have added section 6 to LB330, stating that this bill does not regulate service quality, market entry, rates or tower placement. Wireless companies may say that this bill is the proverbial camel's nose under the tent and is just the first step in the commission's plan to exert broad regulatory authority over wireless companies. This is simply not the case. Not only did the commission itself limit the authority sought by including Section 6, the commission possesses only the authority granted by you, the Legislature. The commission cannot unilaterally expand its authority. While we feel that LB330 is fair and balanced to resolving consumer problems, in our opinion, the agenda of the wireless industry is to the contrary. Their own actions are evidence that they intend to preempt all states from ever enacting even the most modest consumer protection, like LB330. After ongoing discussions with the National Association of Regulatory Utility Commissioners, an association of state public service commissions, without a word and in the eleventh hour of the last session of Congress, the wireless industry succeeded in getting an amendment attached to a bill that would preempt all wireless regulation by states. The industry attempted to remove all traces of consumer protection that the 1996 Telecommunications Act gave to the states. Fortunately, the bill did not pass and Congress adjourned. The industry will tell you there would have been avenues for consumers to seek relief, however, I am here to tell you that those avenues were difficult, time-consuming, expensive and, most likely, would never have been followed by the average consumer. The industry's effort at the federal level was an all out attempt to prevent you from ever touching them and to keep customers at bay. Frankly, it is difficult to think of any industry with as much arrogance. As I consider your jobs, I am hard pressed to identify many businesses that are immune from state oversight if you deem such oversight is necessary. Arguably, the industry's effort in Congress last year would have made it illegal for the Nebraska commission to do what it is doing today on an informal basis, and would have prevented you from ever allowing us to do so. LB330 is a light-handed way to help consumers. The radical measures used by the industry in Washington and the extreme opposition they've mounted to previous efforts by this Legislature to offer some modest consumer protection begs the question: what are they afraid of? LB330 is not a threat to the industry. It will not affect the industry's ability to offer the same services or prices it

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

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offers today. Look at the bill. All it does is give the commission the ability to do what it does today. It gives the commission the authority to resolve disputes between wireless companies and their customers on billing and contract issues and adds some enforcement tools for doing so. That's it. LB330 is intended only to provide the commission with the tools necessary to make sure that consumers are receiving the service they are promised in their contracts. These are tools we do not now have. I want to be clear and forthright about that. It gives the commission the power to discharge or order payment of disputed charges on a bill, void a service agreement or fine a wireless carrier. All of these actions may only be taken after a hearing at which evidence is received, if a hearing is held. The commission would offer one amendment to the bill. The amendment addresses hearings before the commission. Currently, the bill states in Section 5(3) that if the dispute is not resolved after investigation, that the commission shall set the matter for hearing. We have heard that some wireless companies were concerned about this language and suggested that the commission would be holding hearings on every complaint. Anyone familiar with the commission would know that this is absurd. However, in order to allay any concerns with no hesitation or reservations we would suggest that the word "shall" be changed to "may". Without commission assistance, consumers are faced with costly and time-consuming options. Consumers would have the choice of suing the wireless company in a formal legal proceeding or pursuing action through the Attorney General. Neither of these options is viable. The Attorney General's Office is not likely to step in to help each and every subscriber resolve a \$50 billing dispute. In fact, the Attorney General refers most wireless complaints to the commission today. Likewise, lawsuits are expensive and time-consuming for consumers. The amounts usually in dispute would not justify either the AG or lawsuit options. Moreover, because of our work, the commission has in depth technical expertise and industry relationships that the courts and Attorney General may not otherwise have. In theory, a wireless consumer could contact the FCC directly. The FCC, however, frequently just refers complaints back to the wireless carrier. The customer winds up back with the very carrier that refused to help in the first place. Most complaints are filed via the Internet. However, some elderly and low-income individuals do not have access to the Internet and simply do not file a complaint. Granting the commission authority to resolve disputes simply makes sense. LB330 provides consumers and the industry a cost-effective and efficient method for resolving disputes. It would also validate the commission's current informal efforts and use of resources. The commission's involvement has benefitted both the carriers and consumers. As just one example, a consumer called the commission because he was being charged a city tax but did not live within the city limits. The carrier told him they charge by zip code; however, the zip code extended beyond the city limits. The company service department was unable to help; however, the commission successfully worked with the company to resolve the matter, enlightened them that taxes were being collected in a territory that should be exempt, and recovered a refund for the customer. With all due respect, it is doubtful that the FCC would have involved itself with the nuances of a territorial billing problem. If we cannot provide this type of assistance to Nebraska

consumers, where should we send them? LB330 provides a pragmatic solution. It simply requires a wireless company to continue to cooperate with the commission in resolving billing and contract issues. Wireless companies constantly state that there is no need for state involvement because customers are free to choose another carrier if they want. The comment would be laughable if it were not so disingenuous. Lengthy service agreements, early termination fees and mid-term extensions prevent consumers from changing from changing carriers without extraordinary costs. Consumers are, in effect, held hostage by a carrier because of the high cost of switching to a competitor. LB330 promotes the very competitive market that wireless companies say they want by protecting consumer choice. By providing a way for consumers with a legitimate billing or contract issues to be freed from their service contract, the competitive market will be allowed to actually work. LB330 imposes no additional costs to carriers, consumers or the commission, so long as carriers continue to cooperate as they do today. The hearings and fines are only an enforcement tool and become necessary only if such cooperation ceased or if a company's conduct was egregious. The commission has a long history of even-handed and fair regulation of the landline industry. I think all landline telephone companies would agree. Let me give you one recent example of our common sense approach of regulation of the landline industry. Remember first that the commission has much broader authority over landline companies, very different from the limited authority sought in LB330. We regulate market entry for landline companies. This means companies must have a certificate of authority before providing service in Nebraska. We also regulate service quality. We impose detailed technical requirements on local landline phone service. Last summer the commission conducted a hearing in north central Nebraska to address service quality complaints from local phone customers that had been without phone service for days at a time after months of broken promises that permanent repairs were being made. After an extensive investigation and a hearing, what did the commission do? Did it fine the company hundreds of thousands of dollars, as it had the authority to do? No. After much deliberation, we came to the conclusion that fines did not fix the problem. The commission ordered the company to follow a strict compliance plan with fixed deadlines by which the company had to restore reliable service, and in some cases, replace entire sections of equipment. The commission also ordered credits for customers who had been substantially harmed by the company. It is a plan to solve the problem and provide credits to the harmed parties. We did not fine the company. Only if you believe that this is heavy-handed regulation that will stymie an industry should you be worried about LB330. LB330 would not give us service quality regulation like we exercised in that example. It would only give us authority to resolve billing and contract disputes. The commission prides itself on its even-handed regulation, as the example I just gave bears out. I submit that the industry's over-reaction to the commission's modest proposal for dispute resolution is tantamount to using a sledgehammer to crack a peanut. LB330 would give the commission authority to do what it is doing today, including enforcement tools, if necessary. It would impose no additional costs on the state, wireless companies or consumers. It is needed for Nebraska consumers in an

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

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ever-changing environment and rapidly growing industry. With all due respect, these modest protections simply bring balance and fairness to consumers and are not heavy-handed. In closing, LB330 is a sensible, light-handed, no-cost consumer protection bill; and we ask you to advance it. If you have questions, I'd be pleased to answer. I thank you for your consideration. [LB330]

SENATOR FISCHER: Thank you, Commissioner Boyle. Are there questions? Senator Louden. [LB330]

SENATOR LOUDEN: Yes, if I can remember back here for a while. On page three there you talk about the actions that the Public Service Commission can take. You can order a payment or discharge bills, and also you can impose an administrative fine on the wireless carrier. What, in fact, would be any kind of a fine if a person, you know, decided they didn't want to pay it, other than the fact that you can order them to pay it and about all the wireless carrier has to do, in order to recover their fees would be send it to the collection agency. Shouldn't there be something in there to level up the playing field or else take that part out where you'd impose an administrative fine on a wireless carrier? [LB330]

ANNE BOYLE: Right now we have fining authority on the landline side, Senator. And that would be the kind of fining authority that we would also use for resolution. [LB330]

SENATOR SCHIMEK: Madam Chair, excuse me. Could she speak into the mike, so we can all hear? Sorry. [LB330]

ANNE BOYLE: Sorry. [LB330]

SENATOR FISCHER: Thank you, Senator Schimek. [LB330]

ANNE BOYLE: Right now the commission does have fining authority for the landline, and that would be the same fining authority that we would use. [LB330]

SENATOR LOUDEN: Okay. Do you have fining authority over the customer? [LB330]

ANNE BOYLE: The customer, we would not have fining authority over a customer. But we would not...I'm not sure. They would file a complaint, but we would not resolve it on their side if we felt that their complaint was not merited. [LB330]

SENATOR LOUDEN: In other words, with the commission, the way this is, you would be, usually, representing the customer more than you would ever be representing the carrier, is that correct? [LB330]

ANNE BOYLE: That could be, Senator. But first, when a customer calls and they say

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

---

they have a problem, the first thing we ask them is if they have tried to resolve the problem with their carrier. Because we're not looking for work, that is we're not looking to be a problem-solver, if somebody else has not tried to solve their own problems. And secondly, in my testimony I only touched on it lightly, and I know it may sound as if we are only looking at the carriers, but I did state that we do not always find for the customer, that we sometimes find a customer is confused, they don't understand, the contracts, as you probably know, are multiple pages and fine print, and there are multiple plans that you can choose from, and so they become confused. And so with the call to us, we may contact a carrier, and in discussing the issues with them find that the customer does not understand it and we will call that customer back and go through the nuances of it and tell them there is nothing we can do for them. In that... [LB330]

SENATOR LOUDEN: Now you are telling me then that usually the carrier never contacts the PSC to settle any disputes between them and a customer, it's usually the customer that contacts the PSC? [LB330]

ANNE BOYLE: I cannot recall a time when a carrier would call the commission. If they feel they that they've resolved the issue themselves, then they will...I can't...don't believe that they feel there would be a reason to call us to solve the problem. [LB330]

SENATOR LOUDEN: Okay, thank you. [LB330]

SENATOR FISCHER: Are there other questions? Commissioner Boyle, you say that you're resolving these disputes right now. About how many have you handled say in the last year? [LB330]

ANNE BOYLE: Oh, I don't have the number in front of me, but I think it's several hundred. And I would also... [LB330]

SENATOR FISCHER: Why would you need this bill, if you're already doing it now? You need the enforcement part of it, do you feel? [LB330]

ANNE BOYLE: Yes, Senator, I do. The reason is this, there is no reason for the carriers to work with us. And as I mentioned, just last summer the carriers attempted to preempt states from ever having any oversight over them. If that took place, any cooperation that we have with them today, easily could be said, we don't need to do this with you any more. You would have to send everything to the FCC. And frankly, I think the commission believes that in a rapidly growing industry where we have seen phenomenal growth, that when we make it more difficult for people in our own state to access any kind of relief that is just going in the wrong direction. [LB330]

SENATOR FISCHER: Have you had problems dealing with characters...characters, that's probably appropriate, but with carriers in the past without the enforcement tied

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

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into it? Has a carrier just said to you, you know, you have no authority over us; we're not going to deal with you on this, we'll handle it ourselves? [LB330]

ANNE BOYLE: You are talking to the right commissioner. Early on, when wireless was fairly new and I was a new commissioner, the consumer issues have been something that have always been very important to me. I was one of the few commissioners in the country who cared about this. And if I may take your time to give you a little background. I can remember the first National Association meeting I went to when the wireless carriers attended. And a lobbyist from, if I can name names, from Verizon met me and he looked at me, and he said, why are you doing this to us? And I simply said to him, I said, because when your customers are paying their hard earned income after he taxes dollars for a service, they should expect to get good service, and right now because you are growing so quickly, you're not providing it, sir. At that meeting there was an invitation from a man by the name of Dane Snowden, who at that time worked for the FCC in the consumer division, and he invited me and two other commissioners, one from California, and one from South Dakota, to come to the offices of the FCC and sit down with the wireless carriers, which we did. There were two more who were on a conference call. And at that meeting, after we had quite a few discussions, that is where we began the discussion of having at least some kind of relationship with one another. And so, the answer to your question is, we do have cooperation. The concern is with the actions of last summer, where they attempted to preempt states so that they would never have to answer to states, that there would never be a need for them to answer to us ever again, and thereby making their own customers have to answer to the people in Washington as opposed to the people in their own state. [LB330]

SENATOR FISCHER: And you believe that, if LB330 is passed, then this state law cannot be preempted by federal law in the future? [LB330]

ANNE BOYLE: I know full well that if the wireless carriers go back to Washington this year that they will probably again try to preempt the states. And if they do, LB330 will have no merit. But that does not mean that we should not continue to get this done this year. And we will continue, the National Association I work with will continue to fight them from the other side. [LB330]

SENATOR FISCHER: Thank you, Commissioner. Other questions? I see none. Oh, Senator Mines. [LB330]

SENATOR MINES: Thank you, Madam Chair. Commissioner Boyle, this is a big public policy shift in the regulation or the oversight of wireless providers. However, again I'm glad to see that the commission has agreed to change "shall" to "may" in their investigation and resolution of disputes. Help me understand as well the actions that can be taken by the commission appear to me to be very limited. You can take action, you can order payment or discharge of a disputed bill, that's one thing. You can order a

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

---

disputed service agreement voided, that's two things. Or you can impose an administrative fine on a wireless carrier. That's it. [LB330]

ANNE BOYLE: Very limited. [LB330]

SENATOR MINES: That's it. You're not asking for regulation of the industry. You're not asking for any other authority, is that fair? Now the argument, I would imagine, the wireless folks will make is it's the proverbial camel's nose under the tent. And I can't hold you to future sessions, but even in this session will you look for further regulation or is this it? [LB330]

ANNE BOYLE: Well, we cannot do anything. We are...you, this Legislature dictates what we may do. [LB330]

SENATOR MINES: Exactly. [LB330]

ANNE BOYLE: And so only with your permission will we be able to do anything. And so the answer to you is, no, we are not coming back here, this session, and I cannot think of anything in the future. Although, nobody can predict tomorrow. But I...at the present this is...we are not thinking of anything further. This is the third year in a row that we have been before this body. And the industry has managed to kill the bill in committee. And so this year is the first time we have had four senators, including yourself, who have been willing to be cosponsors of our legislation. And we are very grateful for that. Perhaps we are starting to recognize that with a million consumers in Nebraska alone, and recognizing just people on the street will tell you the problems that they have had trying to solve these problems. I am a little frustrated because we have no budget to advertise and let people know that we are there and able to help them. The case I mentioned in here about the man who called with the problem with the zip code problem, that man called and the carrier asked him when he asked...when he was asked what else they could do to help him, he said, well who else can I call if you can't help me? They said, call the Chamber of Commerce, which he did, and then they told him to call the mayor, and the mayor told him to call somebody else. He finally called me because a television reporter told him to call me. And that was after he had called 21 different parties. And that is how we finally resolved the problem. [LB330]

SENATOR MINES: Thank you. [LB330]

SENATOR FISCHER: Other questions? I see none. Thank you, Commissioner Boyle. [LB330]

ANNE BOYLE: Thank you. [LB330]

SENATOR FISCHER: Are there other proponents to LB330, please? Welcome. [LB330]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

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MARK INTERMILL: (Exhibit 2) Thank you. My name is Mark Intermill, that's M-a-r-k I-n-t-e-r-m-i-l-l, and I'm here representing AARP to lend our voice to support LB330. AARP surveys its members on a fairly regular basis. And in 2003, we did conduct a survey about the experiences that our members had with wireless telecommunications. A couple of those findings are included in my brief statement. One is that we know that about half of Americans between the ages of 50 and 64 are now wireless customers, and about a third over 65, including, as of about a month ago, my 85-year-old mother, have cell phones. So we, AARP has a growing interest in wireless communications. And as Senator Schimek said, we recognize that the wireless communications industry is a new industry and that federal regulators have been reluctant to impose regulatory restrictions that might impede the development of competition. But the advantage we see in LB330 is that it addresses another finding of our survey, which was that about half of our members who were surveyed didn't know where to turn if they had a complaint about wireless services. This bill would establish a place in Nebraska where consumers could turn to if they had a problem solely with their billing or their service agreement in terms of wireless communication. For that reason, we support LB330 and we would encourage the committee to move it to General File. With that, I'd answer any questions, if there are some. [LB330]

SENATOR FISCHER: Thank you, Mr. Intermill. Are there questions? I see none. Thank you very much. [LB330]

MARK INTERMILL: Thank you. [LB330]

SENATOR FISCHER: Other proponents? Good afternoon. [LB330]

TOM SCHWARZ: Madam Chair, members of the committee, my name is Tom Schwarz, T-o-m S-c-h-w-a-r-z. I'm a farmer and businessman from Bertrand and testifying on behalf of myself. I'm considered a conservative by most of my friends. So some would be surprised at some of the things I'll be saying here. Unchecked power, it's been said, breeds arrogance. And I'm afraid we've seen a lot of that take place in the cellular industry in Nebraska. I think a lot of that comes from the fact that we've tried to take a hands-off approach to the cellular corporations and let them do business. But I think there are places for regulation. And I think LB330 provides a tool to check some of the abuse of power that we have seen in the state. Just recently during the ice storm, my daughter had a little mishap. She slipped on the ice and fell and broke her cell phone. And faced with the prospect of returning to UNL without a cell phone, of course, was a horror that she couldn't even comprehend, so we had to immediately replace the phone. Went into Alltel. She hadn't gone through the course of her two-year contract yet, of course. And routinely we have...in my business we operate a number of cell phones. We...when we do have that situation, they would allow us to use another phone to replace the phone on the contract that was not up. This time they decided, no, we're not

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

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going to let you do it. And we discussed this for some time, and of course could be the stress from two weeks of waking up every morning to a cold, dark house, but I got pretty upset. And I flat told the lady, I would like to have the supervisor come out, I'm going to cancel all my phones. And they informed me it would be \$200 per phone to cancel, and I said, I didn't care. We quickly went through the channels. The supervisor called her supervisor, and in the end Alltel decided that, you know, I guess we'll let him go ahead and do this. So we did our phone. She returned to Lincoln and she's happy. I do thousands of dollars of business with Alltel. I'm not a big customer of theirs, but I do a lot of business with them. So they obviously looked at my account, decided that I was probably worth hanging onto. But what happens to that individual that just has one or two phones? You know, they just get ignored. A big company just says, no, this is the way it's going to be, that's it. You know, you have no recourse. And I really think it's important that we offer some recourse to them through the Public Service Commission. I firmly believe that this bill can do a lot of good things for the people of the state and would like to see it adopted as is. [LB330]

SENATOR FISCHER: (Exhibit 3) Thank you, Mr. Schwarz. Any questions? I see none. Thank you. Other proponents? Are there any other proponents? I have a letter here from the Nebraska Appleseed in support of LB330. That will be included in the record. Next we will take any opposition to the bill. Are there opponents to LB330? Please step forward. Good afternoon. [LB330]

DAVID ARMEY: Hello. Thank you, Senator Fischer and members of the committee. My name is David Arme, D-a-v-i-d A-r-m-e-y. I'm a director of state public policy for Verizon Wireless in the Midwest region. I'm here to testify against LB330 and explain why I believe that this bill is unnecessary for the consumers of Nebraska. The wireless industry is highly competitive and it picks winners and losers. The consumers, not regulators exercise the most effective control when it comes to consumer...customer issues. Wireless customers will reward positive performance every time by choosing to continue to do business with companies they like and punish wireless carriers that provide poor service by refusing to do business with them. With policies like local number portability and pro-rating early termination fees, which Verizon Wireless has instated, it's easier now, more than ever, to switch carriers if you are dissatisfied. Due to the competitive nature of the wireless industry, there are 29 states and the District of Columbia that have laws in place that prohibit utility commissions from regulating the wireless service. There is also an additional 12 states that have decided not to regulate wireless services either through the utility commission. We have a market-driven interest in resolving each and every complaint brought to us by our customers in a timely manner. To keep our customers satisfied with our service, just like with the airlines, we know that you have a choice and we want to keep your business, and we do that by resolving our complaints in a timely and effective manner. Verizon Wireless customers have many options for resolving their issues. They can dial 611 and talk immediately and directly to a customer care representative without being billed and not

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

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having it taken away from their minutes. They can contact us via e-mail, they can go to our Internet web site, they can send us a letter or they can go to our store where we have dedicated, on-site personnel to deal with service and billing issues. We also make our contact, customer care contact information available on every monthly bill. And any time there's a change in fees or service to our customers, we provide them with bill messages and bill inserts every month in advance of those fees or services changing. Along with the contact information, we also have signed onto the Assurance of Voluntary Compliance Agreement, it's a multistate AG agreement that we will provide terms and conditions to our customers and lay out information to them at the time of contracting. And you should be getting a copy of that with some of the other folks here to testify. We've also signed onto the CTIA Consumer Code to make clear that we hold ourselves to the highest standard when it comes to customer care. In 2006, we had 15 complaints that were registered at the Nebraska Public Service Commission, each and every one was settled without further escalation, and it was all resolved in a timely manner using the resources within our company. As we grow our business, we also grow our investment in support of our customers. We are currently in the process of building an 800-employee call center here in the city of Lincoln that will be used to address the customer concerns in the entire Midwest. This will be almost solely used for incoming calls from our consumers where they have customer issues. This will not be used for marketing purposes to go out to get new customers. This center will also be used to take spill from other centers, if there is a spike in customer complaints. We will be investing millions of dollars in this facility and to train and educate our employees to be able to address a variety of issues that our consumers are facing. As a responsible corporate citizen, we know that we have to expand our customer care facilities at the same time we expand our customer base, to ensure that the people that use our service get the best care possible. Finally, when investing resources on behalf of the company, like the building of the Lincoln call center, our business and real estate people take several criteria to examine before they deploy. And some of the big issues for us in coming to Lincoln was an educated workforce, tax incentives, but also a light regulatory climate. We believe that Verizon (sic) is a great state to do business in, and stay free of unnecessary regulation. Thank you for your time. And if you have any questions, I'll attempt to answer them. [LB330]

SENATOR FISCHER: Thank you, Mr. Arme. Are there any questions? Senator Mines. [LB330]

SENATOR MINES: Dave, are you saying that Verizon wouldn't build their 800-person call center if this was in place? [LB330]

DAVID ARMEY: No, absolutely not. That was a business decision that was made on behalf of our company based on the criteria that already existed in the state. And we would never certainly pull up stakes or anything like that. But one of the attractions was the light regulatory climate of the state. [LB330]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

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SENATOR MINES: You've listed why your company doesn't like this bill. Can you tell me why it wouldn't be good for customers? [LB330]

DAVID ARMEY: I think any time that you start bringing regulation into a free market or a highly competitive model, like the one that you've seen with the wireless industry, which I think is pretty unique, that eventually it's going to be the consumers that suffer for it. I can tell you that we've heard that there's a growing number of wireless carriers in this state, as there is everywhere, and that the trend would be that you're going to see more and more complaints. But actually, the facts are that the numbers are actually going down in wireless complaints. And this is probably due to the fact that we're signing onto these kind of agreements, that we're making ourselves more available to our customers, and doing the things to let them know where to come to complain. But also our coverage is getting better as we build out areas. And there are just becoming less problems. [LB330]

SENATOR MINES: But would it actually harm customers, if this were in place? [LB330]

DAVID ARMEY: I think, long-term, eventually once...if you...when you impose government in there that you, that regulation is bad. [LB330]

SENATOR MINES: You think it will increase rates? Will it degrade service? Will it increase rates? [LB330]

DAVID ARMEY: I don't know that it will increase rates in itself. But to say that this bill does not regulate the wireless industry, I think, is false because I think it goes into the heart of regulating when you're talking about terminating contracts and things of that nature, and actually going in and telling the business how they can and can't operate as far as... [LB330]

SENATOR MINES: Well, this isn't telling business how to operate, in my perspective. [LB330]

DAVID ARMEY: Um-hum. [LB330]

SENATOR MINES: And I did sign onto the bill. But I'm just being objective as I was talking to Commissioner Boyle, this doesn't get into your business, other than it allows the commission to resolve a dispute either in your favor or a customers favor, and it can order disputed service to be voided,... [LB330]

DAVID ARMEY: Right. [LB330]

SENATOR MINES: ...and then finally, it can impose an administrative fee if you or your

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

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company don't buck up. This doesn't tell you how to operate. This doesn't regulate how you operate. This is geared at customer service. When they call your 800-person center and don't feel that their problem is resolved, who do they go to? [LB330]

DAVID ARMEY: The AG's office, I would say, locally, because they've already got a consumer protection agency in there. [LB330]

SENATOR MINES: Why do we want customers to go to an AG's office as opposed to a regulatory body that's used to dealing with this? [LB330]

DAVID ARMEY: I would say because the agency...the AG's office is already set up to handle these kind of complaints and is doing so now as opposed to opening... [LB330]

SENATOR MINES: The commission is set up to do it and they are doing it now, I guess is the argument. [LB330]

DAVID ARMEY: Essentially, what the commission is doing now is taking a complaint from a customer and then forwarding it as a point of contact onto the wireless carriers. And then we're resolving it. I don't know of any case where a customer has complained and then has had to be accelerated to another forum, like the AG's office or the FCC... [LB330]

SENATOR MINES: Right. [LB330]

DAVID ARMEY: ...where we didn't internally resolve the problem. [LB330]

SENATOR MINES: Thank you. [LB330]

DAVID ARMEY: Yeah, thank you. [LB330]

SENATOR FISCHER: Other questions? I see none. Thank you very much. [LB330]

DAVID ARMEY: Okay, thank you. [LB330]

SENATOR FISCHER: Next opponent, please? Good afternoon. [LB330]

JUSTIN BRADY: Good afternoon, Senator Fischer and members of the committee. My name is Justin Brady, J-u-s-t-i-n B-r-a-d-y. I appear before you today as the registered lobbyist on behalf of Alltel Communications in opposition to LB330. I would just focus on one aspect of that. And that is whether or not there is even a need to do this. Both Senator Schimek and Commissioner Boyle, as well as one of the previous testifiers, indicated that right now there is cooperation happening between all the carriers and the commission to resolve these issues. Therefore, I don't know that from that standpoint

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

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there was a need. I mean, if they would have come to you and said, the carriers aren't responding to us; they're thumbing their noses at us, that would be one thing, but they aren't. They are saying there is cooperation and therefore I'd submit there isn't a need. Another way I say there isn't a need is of the roughly 11 million bills that went out last year, according to the PSC report, there were 131 of them that dealt with billing issues. All of those were resolved. So again I would submit, 11 million bills, 131 complaints, all resolved, doesn't demonstrate a need. So with that, I'd try to answer any questions. [LB330]

SENATOR FISCHER: Any questions for Mr. Brady? Senator Louden. [LB330]

SENATOR LOUDEN: Thank you, Senator Fischer. Justin, you got to...something dear to my heart here. I've been sitting here all afternoon waiting for this question. I'm an Alltel customer and I was for a long time, long before Alltel bought out Nebraska Cellular and everything. And I had a bag phone out there on the ranch, liked it dearly, you know. I could call a long ways and everything. But as time went on or whatever the technology or something got so the thing dropped the calls and all that. So I called the company up. You know, what can you do for me? And they said, well, you can go buy a new phone. And I said, well, what about my old one? It still works; what do I do with that? And they said, well, you can do whatever you want to with it; you can use it for a doorstop or whatever, but if you want Alltel service out there, you're going to have to go buy a new phone. And I had no alternative but to go buy a new phone. They offered to sell me one for, I think, 600 bucks or something like that, you can get this big bag phone now, whatever it is. But that was the only alternative I had, nothing else. There was nothing in between for customers that had been there a long time or for customers in rural areas that needed something that would come for long distance. So I question when they say that these carriers resolve all problems, you know, and everybody is happy. I wasn't happy with it. But we resolved it like they wanted it done. [LB330]

JUSTIN BRADY: Senator, to say all issues of every customer of every wireless carrier, the customers walk away happy, I did not mean to leave that impression, I meant the 131 complaints about billing issues. As I understand, yours was...is more of a coverage service area issue, which this bill wouldn't even touch, nor, as Commissioner Boyle indicated, under the federal rules you aren't allowed to come in as a state and regulate where and how they can do service and what type of service they can provide or shall provide. But if I...I did not mean to indicate that all customers were happy, Senator. [LB330]

SENATOR LOUDEN: Then you're telling me this bill doesn't have anything to do with service? All it has to do with is billing? [LB330]

JUSTIN BRADY: Correct. [LB330]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

---

SENATOR LOUDEN: Okay, thanks. [LB330]

SENATOR FISCHER: Other questions for Mr. Brady? I have some, Justin. Landline carriers are already regulated by the Public Service Commission. [LB330]

JUSTIN BRADY: Right. [LB330]

SENATOR FISCHER: Can you tell me, are they regulated just on billing as this bill would do with wireless or are they regulated in other ways? [LB330]

JUSTIN BRADY: I'm by no means an expert on this, but it's my understanding they are regulated in other ways. I think it's my understanding when those regulations were put in place, you had a very...didn't really have a competitive market, you had monopolies, and therefore regulation made sense. I would submit to you that probably with the competition there that those companies would say that they, too, probably need less regulation to be able to compete in the market. But that's not what you were asking, that's just...I don't...I assume it goes beyond just billing. [LB330]

SENATOR FISCHER: Give me a good reason why wireless companies shouldn't have some kind of regulation by the Public Service Commission over their billing and contracts? [LB330]

JUSTIN BRADY: I'd submit that one reason is, as far as Alltel at least, and I would assume it carries over to other carriers, any customer that walks through the door does not have to sign a contract. They could pay X dollars for the phone and just start paying a monthly fee and quit whenever they wanted. No one is saying you have to sign a contract. You have to sign a contract if you want to get the phone for free or you want a 99 cent phone, but that is also billed into knowing then that the customer is willing to commit to stay for two years or one year, whatever they signed the contract, they will look at recouping the cost of that phone over time. I would say that this also goes some to Senator Mines question of is there a cost to the carriers which would go onto the consumers, and I'd say it could be. I mean, if contracts are starting to be voided, which then leaves the carriers saying, well, we've got half this phone we never paid for, the way that they can recoup that is they may have to look at raising rates or not do the free phones. So that would be along those lines. [LB330]

SENATOR FISCHER: Do you know other cases where an agency that has the power to regulate can void contracts? [LB330]

JUSTIN BRADY: I'm not aware of one. But... [LB330]

SENATOR FISCHER: Okay, thank you very much. Other questions? I see none. Thank you, Mr. Brady. Other opponents? Good afternoon. [LB330]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

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REX FISHER: Thank you, Senator Fischer, members of the committee. Again, Rex Fisher, F-i-s-h-e-r, president of Qwest in Nebraska. Qwest is opposed to LB330. Nebraska has always been very progressive in the telecommunications arena. If you go back to 1987, we were the first state to deregulate telecommunications. Today, Nebraska is one of only two states in Qwest territory to have high-speed Internet to 100 percent of all switch serve communities. Nebraska has one of the countries best telehelp networks, distance learning networks and a state telecommunications backbone network. Much of this and other initiatives are the result of a strong public and private partnership that exists in this state. LB330 would now make Nebraska the first state, in Qwest's 14 states, to successfully regulate wireless billing and service agreements. We do not see why such legislation is needed when, number one, complaints at Qwest are decreasing year-over-year. Number two, we already work with the PSC when a wireless issue comes up and requires attention. Qwest is also on the voluntary adopted Consumer Code for Wireless Service which lists all the information we have agreed to make available to consumers on their wireless contract. And I think you'll be hearing all the items that are included in this Consumer Code. We are also part of the assurance of voluntary compliance entered into that you heard about with the State Attorney General that resolves consumer issues that cannot otherwise be resolved. I am the person responsible for Qwest in Nebraska. And along with my staff here in Nebraska, we take all complaints seriously and we respond to those complaints. I am not aware or have been told by the commission that we have not handled and responded to any wireless complaints. I take our relationship with our customers and with the Public Service Commission very seriously. This bill just moves to provide more governmental power and oversight to control a highly competitive business. [LB330]

SENATOR FISCHER: Thank you, Mr. Fisher. Any questions? I have one...oh, Senator Aguilar. [LB330]

SENATOR AGUILAR: Yeah. Mr. Fisher, have you or your company or do know of any other carrier that has refused to work with the PSC on any problems that they've come to you with? [LB330]

REX FISHER: I'm not aware of other companies. I mean, I think that the PSC would have to respond to that. I just know we've responded to them all. So I'm not aware of that with other companies. [LB330]

SENATOR AGUILAR: Thank you. [LB330]

SENATOR FISCHER: Mr. Fisher, how many wireless complaints does Qwest receive in a year, here in Nebraska? [LB330]

REX FISHER: I don't have those numbers with me. [LB330]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

---

SENATOR FISCHER: Would you say that all those complaints have reached a favorable dissolve on the sides of both parties then? [LB330]

REX FISHER: I guess you'd have to look at the definition of a complaint. You know, you get all kinds of complaints. You get complaints, I don't really want to be in a contract anymore. You get complaints, you know, that my calling patterns have changed. You can get complaints that, something, you know, has changed or maybe there's a service issue or something like that. So again, we take them seriously. And we work to resolve those. And can I say that every, single customer will tell you that they've been able to get what they wanted in terms of their issue or complaint? No, because sometimes, you know, there are things that are done up front, as you heard earlier, you know, phones are typically made less expensive, rates are different if you sign up for a contract. So, I guess, that's how I'd respond to that. [LB330]

SENATOR FISCHER: Okay. You said that if Nebraska would pass LB330, this would be the first state in the 14 states that Qwest serves that would have those regulations. Do you know how many states permit regulation over wireless billing practices? Although, obviously they're not in your 14 states. [LB330]

REX FISHER: Right. It's my understanding there is somewhere...something around 15 to 20 states that have some form of this type of oversight. Now they may go further or not as far. I'm not sure of the details on that. [LB330]

SENATOR FISCHER: Do you know where those... [LB330]

REX FISHER: I just know that's all I really know about that. [LB330]

SENATOR FISCHER: Do you know where those states are located? Is there any rhyme or reason or are they scattered all over? [LB330]

REX FISHER: I think they are scattered, but you know, I don't really have a lot of background on what's going on in other states. [LB330]

SENATOR FISCHER: Okay, thank you. Other questions? I see none. Thank you, Mr. Fisher. [LB330]

REX FISHER: Thank you. [LB330]

SENATOR FISCHER: Are there other opponents to the bill? [LB330]

BETH CANUTESON: (Exhibit 4) Hello, Senator Fischer. Thank you again. My name is Beth Canuteson and I'm with AT&T. [LB330]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

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SENATOR FISCHER: And could you spell your last name. [LB330]

BETH CANUTESON: Oh, I'm sorry. Again, it's C-a-n-u-t-e-s-o-n. [LB330]

SENATOR FISCHER: Thank you. [LB330]

BETH CANUTESON: I've got here, first of all, they're passing around packets for you. I'm probably killing you with too much information. But this shows...there were several statements made in earlier testimony about how as we see subscribership increase we will continue to see complaints increase. And I wanted to show you that that is just not accurate. As we've seen in the last four years, subscribers in Nebraska have increased 48 percent, and complaints in the state, according to the PSC numbers, have dropped 23 percent. That's pretty serious. I mean, that really shows. And then in your packet there is also statistics available for national rates. And it shows an overall drop in national complaint rates, according to the FCC in this document, 51 percent nationally since fourth quarter of 2003, and that's fewer than twenty complaints per one million customers sent to the FCC. Obviously, we oppose this legislation. There's the axiom that the government that governs best, governs least. We just don't see a need for it. We've heard time and time again that all the complaints are addressed. Of the 100 or 281 that were received last year, all were addressed. We have signed the AVC with your Attorney General, that we respond to all complaints in writing within 30 days. Further, the Cellular Telephone Industry Association adopted what we call the Consumer Code, there's a copy of it in your packet that, although it's voluntary, in order to be able to utilize the code in advertising and what not, we are mandated to comply with it. And again, it mandates that we provide written resolution to the commission or Better Business Bureau or AG or whomever we receive the complaint from. There was some information, too, raised about the Better Business Bureau and there...you know, and how everybody says you hear the credits were in the top ten of the Better Business Bureau complaint rates. If you look at, like as far as car dealers, there are actually four separate categories of car dealers. If you combine those, you know, they...I think, let's see, 68 percent more than complaints for wireless industry. So, I mean, it's sort of misleading. Further, we have an 89 percent resolution with the Better Business Bureau, one of the best resolution, you know, rates in the country as far as organizations or industries. So we're pretty proud of that. We continue to work with the Better Business Bureau. I want to talk a little bit about what Cingular is doing, just as far as being customer friendly. We went to consumer groups, we've worked with the AARP, we've worked with the Better Business Bureau, we've worked with, you know, several other organizations of that nature and we went to them and said, okay, here's our complaints. Typically, they were about billing. So in your packet we developed, with those organizations, what we call our customer service summary. And when a customer comes in to sign up for Cingular service, they are given this, it looks just like their first bill. It explains everything about their bill. And what I want to really show you here that's

kind of revolutionary in our minds, with the first month's bill you often have...you pay for a month and a half of service the first time. You know, you have potentially additional usage things that are different on your first month's bill. So a lot of times we'd get a call, why is my first month's bill more than what you said it was going to be? So as you can see in this estimated it was \$130.60. And then their ongoing monthly bill will be around \$85 for this particular customer. So by giving them this and helping them to understand their bill and walk through that, and not only have we done it one time, but we took it back then to consumer groups after we had used it for a while, and we said, what would you change? And we improved upon it then. That was in response to complaints from the AG's about, you know, we're getting all these questions about bills. Regarding mapping and where does my phone work, and why won't it work here, those kinds of things. T-Mobile came out with an online mapping tool and it was pretty good; we did better. We came out with an online mapping tool that instead of having five shades, which were kind of confusing, we have three shades, and of course, they're orange for Cingular Jack, which is out the window now, so we'll probably change it to blue. I don't know. But we improved upon that. These are the kinds of things that competition does. Now Sprint has an online mapping tool that is comparable to ours. Okay? You heard that Verizon has now come out with their pro-rated early termination fees. Well, I'm guessing it's not going to be long before you see other companies coming out with pro-rated early termination fees. So we have seen competition working to improve customer service. We heard a lot today about contracts. And, you know, I just...you sign a contract, and I think people, for the most part, know that when they're signing a contract they're getting something in return, reduced price on a phone, maybe a reduced price on service in exchange for that. And, you know, if you lease a car and you wreck the car, they don't typically give you a brand new car. So, you know, to call the industry arrogant amazes me. But I'm happy to answer any questions. I haven't really gone through the testimony. I hope you have an opportunity at least to look at the bullet points that are provided here. I can answer any questions about...there are 39 states that do not regulate the wireless industry, only 11 that do in some form. I don't have a list of those states, but I could get those to you, Senator. And that was one question that came up. I'm happy to answer other questions. [LB330]

SENATOR FISCHER: Okay. Thank you, Ms. Canuteson. Any other questions? Senator Stuthman. [LB330]

SENATOR STUTHMAN: Thank you, Senator Fischer. I apologize for not being here earlier on the complete testimony of the bill. But the majority of your complaints are there because of billing or of service? [LB330]

BETH CANUTESON: We...I don't know the exact breakdown. Originally, it was because of billing, a few years back it was because of billing. And that's why we instituted our customer service survey. And our...let me pull out the exact...our churn rate, Cingular's churn rate has dropped 50 percent in the last two years. We...I mean, we are showing

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

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great strides in the measures that we look at to determine customer satisfaction. And we think a lot of it is based on our mapping. We were the first in the industry to offer a 30-day return policy. So you go on line, you look at the map, does it work where it's supposed to work for me? You know, you sign up for your contract. You see what the bill is going to look like. You take it home, you use it. You still don't like it, on day 29 you bring it back, you pay for the usage, you don't pay for the phone, and you know, you had that opportunity to test market it, so to speak. [LB330]

SENATOR STUTHMAN: Okay. Ms. Canuteson, do you feel you've been able to satisfy all of your complaints just by communicating and having them understand, you know, what they have really done or what their complaint is about? [LB330]

BETH CANUTESON: You know, sometimes we are...there are problems that we have...it was a great example of, you know, all our billing codes were based on zip codes two, three years ago. And that was an issue that came up in several states. And we revamped our entire...I mean, even states that hadn't complained yet, we relooked at of those, because as cities began to institute taxes and people were in zip codes, we revamped our entire billing system nationally. And I think that's part of the reason why we believe so strongly that we are a national...I've got my phone with me, and I live in Kansas City, and I'm using it here in Nebraska. And if I dial 911, I'm going to be using your PSAP services. I want to be able to use that ubiquitously. I want to be able to get my voice mail wherever I am. And federal regulation, we feel, is the best way to do that. And we fundamentally disagree... [LB330]

SENATOR STUTHMAN: Okay, thank you. [LB330]

BETH CANUTESON: ...regarding the state legislation. Thank you. [LB330]

SENATOR FISCHER: Other questions? I see none. Thank you very much. [LB330]

BETH CANUTESON: Thank you. [LB330]

SENATOR FISCHER: (Exhibits 5, 6, and 7) Are there other opponents to LB330? Other opponents? I do have then some letters in opposition that we need in the record. We have one from U.S. Cellular in opposition to LB330 by Grant Spellmeyer, S-p-e-l-l-m-e-y-e-r; we also have a letter from Sprint in opposition, from John K. Jones, J-o-n-e-s; and one from Steve Largent, L-a-r-g-e-n-t, who is the president and CEO of is it STIA? Or SITA? Oh, CTIA, thank you. [LB330]

SENATOR MINES: Class I school. [LB330]

SENATOR FISCHER: No, I'm a graduate of Lincoln Southeast. (Laughter) Senator Schimek, would you like to close? Oh, I'm sorry, Senator Schimek. Did I not ask for

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2007

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neutral testimony? [LB330]

SENATOR SCHIMEK: I thought you did, but maybe not. [LB330]

SENATOR FISCHER: No, I didn't. [LB330]

SENATOR SCHIMEK: I don't think anybody is neutral. (Laughter) [LB330]

SENATOR FISCHER: I see none, I see none. Senator Schimek. [LB330]

SENATOR SCHIMEK: (Exhibit 8) Thank you, Madam Chair and members. I actually have a chart here that does show where the PSC or PUC, whatever you want to call it, does have authority in different states. So I'll give that to the committee for their information. For the record, my name is DiAnna Schimek, and I'm closing on LB330. First of all, I would like to congratulate the carriers for working on the issue of customer satisfaction. I think that that's the responsible thing to do. And they are being, obviously from some of their testimony, proactive. And I think any good company will do that. And I want them to know that this bill is not about any particular situation or any particular company as far as I'm concerned. It's really about the principle of the matter. I don't know about you, but I didn't know that you had an alternative to purchasing a phone at a low cost and being able to pay more for it and not having to enter into a one-year or a two-year contract. I didn't know that. And I'm not a...I don't think I'm an ignorant consumer. I think I'm fairly well informed. And maybe I didn't ask enough questions in this instance. But I'm not sure that the average person does know that you can buy a cell phone at a much larger price and not sign that lengthy contract. And that's just one little part of the puzzle here that we're talking about. You know, the complaints, apparently, have gone down some. But I also understand from speaking with the commission that back in the early part of this decade, back in 2001, 2002, I don't remember exactly when it was, there was a big brouhaha about telephone service regarding a certain company that's based in Lincoln. And there were public hearings about it. And I think people became more aware of the PSC and their regulatory function. And at that time they also had a spike in the numbers of calls and complaints they were getting regarding wireless service. So I think people becoming aware may have contributed to that. And it has gone down. That doesn't mean that there aren't any complaints. And I think we may only be seeing a small piece of the pie here, because obviously the testimony said that some of these complaints are going to the Better Business Bureaus, some of the complaints are going to the Attorney General's Office. So I don't know. I don't think any of us know how many complaints there are out there. And that really, the number really doesn't even matter. The principal of it is that we as a government, we as the policymaking body provide some kind of mechanism for consumers to make those complaints. We do it as a Legislature. We provide an Ombudsman's Office, and that is where constituents can be referred to get their complaints about a state agency taken care of, for one thing. And they don't generally

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Transportation and Telecommunications Committee  
January 30, 2007

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issue fines or do anything like that, they just try to work things out. I find that I use that office quite often for a citizen complaint. Senator Mines, I don't think this is a big public policy decision in the sense that PSC already regulates a number of industries in this state. And I think that there's good precedence for this. I don't think that they are known as being real heavy-handed. And I don't think they're looking to expand their powers here. So I think it would be a good thing for us to do. And with that, Madam Chair, I'd be happy to answer any questions if I might. [LB330]

SENATOR FISCHER: Thank you, Senator Schimek. Are there questions? I see none. Thank you very much. [LB330]

SENATOR SCHIMEK: Thank you. [LB330]

SENATOR FISCHER: With that, I will close LB330, and that closes the hearings for the day. [LB330]

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Disposition of Bills:

LB297 - Indefinitely postponed.  
LB661 - Advanced to General File, as amended.  
LB660 - Held in committee.  
LB560 - Indefinitely postponed.  
LB330 - Held in committee.

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Chairperson

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Committee Clerk