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Appropriations Committee
March 10, 2011

[AGENCY 14]

SENATOR HEIDEMANN: Is anyone else wishing to testify on Agency 12? Seeing none, we will close the public hearing on Agency 12 and open up the public hearing on Agency 14, the Public Service Commission. Welcome. [AGENCY 12]

JERRY VAP: (Exhibit 4) Thank you. Good afternoon, Chairman Heidemann, members of the Appropriations Committee. I'm Jerry Vap and I'm the 5th District representative on the Public Service Commission. I represent 51 counties in western Nebraska. The commission is aware of the challenge faced by the Legislature in addressing the projected budget shortfall for 2011-2013. We appreciate the efforts made by the committee in its proposed budget to minimize the impact on the commission. As you know, the commission is unique in its blended constitutional and statutory authority, in its varied regulatory scope, and in its funding sources. We regulate telecommunications companies, jurisdictional natural gas utilities, rates for private water companies, intrastate transportation of household goods and passengers, grain buyers and sellers, grain warehouses, and the manufacture and sale of manufactured homes, modular housing units and recreational vehicles. Additionally, the commission administers the Nebraska Relay System, the Nebraska Internet Enhancement Fund, Nebraska Competitive Telephone Marketplace Fund, the Nebraska Universal Service Fund, and the Wireless E-911 Fund. Additionally, the commission is responsible for the testing of grain moisture meters, the evaluation of the location of electric transmission lines for safety, the inspection of railcars and railroad tracks and the investigation of railroad accidents. The budget proposed by the committee would require the elimination of the rail inspection programs as currently set forth in LB255, which you all debated this morning and passed on. Although elimination of this program was proposed as part of the LR542 process, we continue to feel strongly that Nebraska benefits greatly from the program and its loss will negatively impact rail safety in Nebraska. However, should the committee's preliminary budget remain unchanged, the commission needs the flexibility to minimize the impact of the budget cuts to the remainder of our agency and to

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continue to satisfy our remaining statutory and constitutional responsibilities. Any further reductions would prevent the commission from meeting its statutory obligations. The commission is comprised of five elected commissioners. We employ a staff of 46, which includes administrative staff, field examiners and inspectors. For budgetary purposes, staff is divided into general administration, grain warehousing, telecommunications, transportation, manufactured housing, natural gas, and Nebraska telecommunications infrastructure and public safety. Many of the staff employed by the commission have highly specialized knowledge and training necessary to address the unique issues presented by the technical aspects of the commission's regulatory authority.

Approximately half of the commission's operational and personnel budget is funded through General Funds and half by cash funds through the imposition of surcharges. General Funds are critical to the operation of the commission. Cuts beyond those proposed by the committee would require the elimination of indispensable staff members and would significantly impact our ability to function. Although the commission makes every attempt to rely on cash funds when appropriate, due to the nature of the commission's responsibility, we must have a base of General Funds for some of our programs. In the past, the commission has always come in under budget. At our hearing two years ago we were recognized for being good stewards of state funds. However, the previous across-the-board reductions required by the Legislature have eliminated much of that flexibility previously available to the commission in managing its budget. Due to prior transfers from cash funds and reductions in general funding, the commission has reached a point at which further cuts will severely impact its ability to provide the level of services to which the public and regulated industries are entitled. The committee's preliminary budget takes us to a place that is sustainable but dangerously so. The commission has continued to seek additional federal funding where available. First, the commission, at the request of the Governor, applied for and was awarded stimulus funding from the National Telecommunications and Information Administration for a national broadband mapping and planning project. The commission will need spending authority in the amount of \$1,251,513 for the 2011-2012 fiscal year, and \$1,072,357 for the 2012-2013 fiscal year to administer the mapping and planning

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project. Anyone interested in viewing the map, which will show broadband availability in Nebraska based upon data gathered to date, can do so at www.broadbandmap.Nebraska.gov. As the project progresses, the map will continue to be updated. In addition to the federal stimulus funds, the commission applied for and was awarded a grant in the amount of \$484,000 under the Enhanced 911 Act. These funds are being used to install IP-enabled equipment in four 911 centers in Morrill County, Pierce County, Region 24, and Garden County to complete the intertandem trunking needed to transfer location data between 911 centers. The commission has anticipated all the projects will be completed prior to this; however, some of the equipment is still in the process of being installed. In order to complete those projects, the commission will need spending authority for federal funds for the 911 projects in the amount of \$101,540 for fiscal year 2012. The commission would respectfully request that the committee consider the unique nature of the commission's budgetary challenges in making its recommendations. We would ask that you please advance the preliminary budget with no further educations to the commission and include the requested spending authority for federal grant funds. I would be happy to answer any questions that I could. [AGENCY 14]

SENATOR HEIDEMANN: Thank you, Commissioner Vap, for coming in today and testifying. Are there any questions? Senator Conrad. [AGENCY 14]

SENATOR CONRAD: Thank you. Thank you so much. I want to turn your attention to the Universal Service Fund for a moment... [AGENCY 14]

JERRY VAP: Uh-huh. [AGENCY 14]

SENATOR CONRAD: ...just because this is an area that I'm trying to quickly get up to speed on. I know that your agencies and commissioners and staff have a lot of expertise on and so I imagine we won't be able to cover it all today in a budget hearing. [AGENCY 14]

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JERRY VAP: I will answer. I will answer the questions that I can. [AGENCY 14]

SENATOR CONRAD: Yes. [AGENCY 14]

JERRY VAP: Commissioner Anne Boyle is here with me. [AGENCY 14]

SENATOR CONRAD: Great. [AGENCY 14]

JERRY VAP: Commissioner Boyle has been on the National Universal Service Fund, the federal fund board. She has left that board and on now a Joint Board for Intercarrier Compensation and Universal Service Fund, and she may have some better answers on some questions than I. But we'll go... [AGENCY 14]

SENATOR CONRAD: Okay. Well, the good news is my rudimentary understanding at this point in time could probably be handled by either, but if there's supplemental testimony that wants to...can be brought for later, that's just fine. In looking at what was actually spent in the Universal Service Fund in the 2009-2010 appropriation and what the request is from 2011-2012, there's a little less than \$50 million in the first and this request is a little under \$62 million, so that's almost a \$12 million increase in, you know, one budget cycle. And I'm wondering just what that relates to and how that can be justified. [AGENCY 14]

JERRY VAP: You've got some figures that I don't have in front of me right now. [AGENCY 14]

SENATOR CONRAD: Okay. And I'm looking at some of the preliminary budget materials that Fiscal staff prepares for us. So if those numbers are wrong...and I'd be happy to share them. [AGENCY 14]

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JERRY VAP: What I have is the actual... [AGENCY 14]

SENATOR CONRAD: Okay. [AGENCY 14]

JERRY VAP: ...2010 expenditures. [AGENCY 14]

SENATOR CONRAD: Okay. [AGENCY 14]

JERRY VAP: And I cannot tell you. We can get that information for you very quickly...
[AGENCY 14]

SENATOR CONRAD: Okay. [AGENCY 14]

JERRY VAP: ...but I can't tell you... [AGENCY 14]

SENATOR CONRAD: No rush, yeah. [AGENCY 14]

JERRY VAP: ...why the disparity there. [AGENCY 14]

SENATOR CONRAD: Okay. It just seems like a big jump at first blush. [AGENCY 14]

JERRY VAP: I can make a guess but I don't want to. [AGENCY 14]

SENATOR CONRAD: Yeah. Okay. No, we have plenty of time for accurate information and so it just seemed like a bit jump at first blush and I'm guessing there probably is a justifiable reason there and we can sort that out later. [AGENCY 14]

JERRY VAP: Yeah. Is that the total expenditures? [AGENCY 14]

SENATOR CONRAD: Yeah, I'm looking at cash funds, Program 686, Universal Service

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Fund, and it says actual expenditure in 2009-2010, \$49,987,669; request 2011-2012, \$61,678,947. So just...it's not perfect math, but roughly it's about a \$11 million, \$12 million jump. [AGENCY 14]

JERRY VAP: Okay. In seeing what was expended in 2010 on the Wireless Fund,... [AGENCY 14]

SENATOR CONRAD: Uh-huh. [AGENCY 14]

JERRY VAP: ...that's where we provide money for the wireless companies that apply for it to build towers and install equipment in areas that are either unserved or vastly underserved. We had granted, this will account for some of it, we granted \$5 million out of that and some of that money hadn't been spent at this point in time. There's been \$3,640,000 spent on that so...and we don't pay for anything until it's installed. And so even though it may have been budgeted, till they send us a bill for an installed project we don't pay for it. [AGENCY 14]

SENATOR CONRAD: No, I appreciate that. Thank you. [AGENCY 14]

JERRY VAP: Uh-huh. [AGENCY 14]

SENATOR CONRAD: And then just generally, in terms of the Universal Service Fund, can you tell me how much of that is really devoted to helping low-income consumers? Is it set in statute as a certain percentage or is it just as need arises or... [AGENCY 14]

JERRY VAP: It's as need arises. [AGENCY 14]

SENATOR CONRAD: Okay. [AGENCY 14]

JERRY VAP: There's no percentage because we don't really know from year to year...

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[AGENCY 14]

SENATOR CONRAD: Right. [AGENCY 14]

JERRY VAP: ...how many actually qualify. [AGENCY 14]

SENATOR CONRAD: Okay. [AGENCY 14]

JERRY VAP: We do an audit of those people as we can to make sure that people that deserve to be on there are still on it. Some end up getting better financial situations, which is the goal for everyone. [AGENCY 14]

SENATOR CONRAD: All of us, yeah. [AGENCY 14]

JERRY VAP: And we have to try and determine if they continue to be eligible. There's four programs in HHS that would qualify someone to be on that program. We do not spend any money to advertise or promote that, we're not sure that would be a good use of the money, but if directed by the Legislature we could definitely consider that. We work with HHS as best we can to make sure that the application form is in the pile of everything else someone has to fill out, and we have staff that is full-time dedicated to working on that. I believe we spent, in 2010, \$672,301 on the low-cost or the...what we call Nebraska Telephone Assistance Program. [AGENCY 14]

SENATOR CONRAD: Okay. [AGENCY 14]

JERRY VAP: Federally, they call it the Life Line Program. [AGENCY 14]

SENATOR CONRAD: Okay. So out of \$50 million or so, a little less than \$1 million was spent to help low-income Nebraskans. [AGENCY 14]

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JERRY VAP: That's correct. In 2009, it was \$806,000. [AGENCY 14]

SENATOR CONRAD: Okay. [AGENCY 14]

JERRY VAP: And \$861,000 in 2008. Now there's a decline and it may be that some people, because of their economic circumstance, dropped off. [AGENCY 14]

SENATOR CONRAD: Sure. [AGENCY 14]

JERRY VAP: Some people may have moved. But we try to make sure we keep it up-to-date and accurate. [AGENCY 14]

SENATOR CONRAD: No, I appreciate that. And then is that audit that you mentioned, is that public information? [AGENCY 14]

JERRY VAP: Yes. [AGENCY 14]

SENATOR CONRAD: Yeah. [AGENCY 14]

JERRY VAP: Everything we do is public information from the standpoint of these funds. [AGENCY 14]

SENATOR CONRAD: So the other funds in the Universal Service Fund that go to help subsidize equipment or materials or activities of smaller phone companies in rural Nebraska, for example, does the audit take into account any sort of clawback provisions or otherwise if those small companies are then bought or merged by larger companies later on down the line, or do we have any way to recapture that public aspect of those public funds, of those materials? [AGENCY 14]

JERRY VAP: Generally, that's not considered because it was money that was spent...

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[AGENCY 14]

SENATOR CONRAD: Okay. [AGENCY 14]

JERRY VAP: ...to provide communication services in what we call a high-cost area, and that's an area of service. A good example would be Cherry County or Valentine. Within the city of Valentine, there is no subsidy or no payment for any of those lines. And on a density...population density basis beyond the city limits determines what those lines are supported, how much money supports those lines. That particular exchange, the farthest customer is 65 miles from Valentine. Now if that person had to pay the actual cost of providing phone service to them, they couldn't afford it. That's what the Universal Service Fund is all about. That and originally there's a few of us in this room that remember when you used to have a long distance cost of about \$1.50 or more for a three-minute call anywhere in the state. Right now you can do that, of course, on your cell phone for what you think is nothing, but you're paying a lot of money for that on your cell phone. [AGENCY 14]

SENATOR CONRAD: Right. [AGENCY 14]

JERRY VAP: But if you do it on the toll basis, you're making that call for maybe 12 cents now, and the Universal Service Fund was put in there partly to eliminate access charges between companies. A lot of them were making their money off of saying if you want to complete a call on my exchange, here's what it's going to cost you, and there was no control of that it seemed like. But the Universal Service Fund said, okay, let's do away with those access charges and help everyone be able to make a long distance call but everyone chip in. But at the same time, we also have another fund there, I don't know if you want to talk about it, but that would be the Telehealth Fund. [AGENCY 14]

SENATOR CONRAD: Uh-huh. [AGENCY 14]

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JERRY VAP: Telehealth is extremely important. We've got 79 hospitals in the state that are taking advantage of the telehealth program and it is saving residents of the state an immense amount of money on travel who may have had healthcare in Lincoln, Omaha, Grand Island and they can do a lot of follow-up on the telehealth network. There's a lot of nurses training and other advanced training done over that, tremendous amount of mental health treatment is done over the telehealth network. And we budgeted a little over \$900,000 a year for that. Now over the past two or three years those costs have gone down considerably. Last year we spent about \$700,000, so that's as a result of some connection fees being reduced by the companies and efficiencies in the system. And so that has gone down a little bit. It's an extremely valuable component of the Universal Service Fund to the entire state. [AGENCY 14]

SENATOR CONRAD: I appreciate that. That's excellent information and I know that your agencies and commissioners and staff are always a great resource as we continue to learn more about these issues, but that's really helpful. Thank you. [AGENCY 14]

JERRY VAP: Okay. [AGENCY 14]

SENATOR HEIDEMANN: Just...thank you for the questions and it brings up something that I think someone had told me a while back that the Universal Service Fund was actually a directive that was given to the states by the federal government to be more transparent. These charges, as you was talking about, used to be access charges and used to be included in the bill. They wanted them on a separate line, to be not in the bill but more transparent, and that's the reason the state of Nebraska adopted the Universal Service Fund to accomplish the federal directive. Is that just... [AGENCY 14]

JERRY VAP: That's just a part of it. There were subsidies built into those phone bills. You used to get a phone that said your phone bill is \$25 or \$30 or whatever, and that included the long distance. Now everything is laid out with the Universal Service Fund surcharge, the relay surcharge, the 911, is all on your bill and it drives the public nuts.

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They don't like to see all those things on there. They were there before; they just didn't know it. The 911 stuff wasn't but...they just didn't know it was there. Now they do. But the main reason is that the federal government, 1996, said, we want to have universal service for everyone in the country and we will develop our universal service mechanism but that's not going to cover it all; we encourage states to do the same thing. And the state of Nebraska, the Legislature, chose to develop the fund and give it to the Public Service Commission to administer and that's what we do. And it has gone a long way to provide fiber to the home in a lot of rural exchanges today. Southeast Nebraska Telephone right now is in over a \$4 million project to do that. Cambridge Telephone is completing one in two communities. There's a lot of them around the state that are doing just that and providing higher broadband speeds in rural areas in some parts of the state than Lincoln or Omaha has. So I'll let the companies defend how they spend their money. The commission has been audited three times by the State Auditor's Office on that fund and we've complied with their requests and...or their suggestions. And the Legislature in 2001, I believe, did a study but they concluded that it was preliminary, that they shouldn't...they didn't really have enough data on the operation of the fund and that until...at that time, and they may want to do that again here in the future. But it is not entirely just one thing. There's a whole lot of components that it was there for and now it's...we've got a docket open, NUSF-77. That's a docket. It is studying how much of that money should go to providing broadband to everyone in the state and we'd welcome any ideas from anybody on that. The federal fund is also doing a very similar type study. But we can see the future is going to be in broadband as the major form of communications and we need to have someone in Harrison, Nebraska, have the same capabilities that Omaha or Lincoln or Grand Island has, and that's where this money is going to go. [AGENCY 14]

SENATOR HEIDEMANN: Senator Harms. [AGENCY 14]

SENATOR HARMS: Jerry, are you doing a mapping study? [AGENCY 14]

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JERRY VAP: Yes. [AGENCY 14]

SENATOR HARMS: Where are you with that mapping study? [AGENCY 14]

JERRY VAP: Well, that study is preliminarily complete for this year, but we have two more years of data to gather. [AGENCY 14]

SENATOR HARMS: So what are you actually finding? [AGENCY 14]

JERRY VAP: We're finding that just about everyone in the state has some form of broadband available. DSL, or digital subscriber line, is not available everywhere but there is wireless available in a lot of areas that don't have DSL. Of course, the satellite people say, we're everywhere, so they could say 100 percent of the state is covered, but that's a relatively expensive form compared to others. It's expensive to put out there and a lot of the companies have spent some of their universal service money for that purpose. Some of them have asked for grants and there are grants available through the rural utilities fund, which is a U.S. Department of Agriculture Fund, and some are taking advantage of that. Some have applied for some funds from the stimulus program. It's when they find out how many hoops they got to jump through sometimes it's not easy to get there. There's all kinds of wireless companies that are now in the process of putting out broadband if you have a certain cell phone provider. In many parts of the state you can, on your cell phone, you can call up the Internet. I find it's not easy to do with my clumsy fingers so...but it can be done. [AGENCY 14]

SENATOR HARMS: So in the next two years, what kind of data are you going to collect? [AGENCY 14]

JERRY VAP: Excuse me, John? [AGENCY 14]

SENATOR HARMS: In the next two years, what kind of data are you going to be

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actually trying to collect? [AGENCY 14]

JERRY VAP: It will be data that will provide...and it's only as good as the people that provide it to us. We have had some Internet providers that refuse to give us any information at all. And so there, when you go to this map here on your computer and click on a certain community or two, expecting to see that Internet provider's name on there, it's not going to be there because they didn't provide any information. I discovered that in McCook. My Internet provider in McCook basically didn't read the mail and didn't provide us any information. I called them and said, what's going on here? They said, oh, I didn't get around to reading the mail. They're now providing us information. It will tell...in every community it will tell how many Internet providers are there. You should be able to also figure out what the speed up and down they'll provide by...with this. There's going to be areas of the state where it's still going to show up as "limited" or "no" because of it's out in the countryside. But it...and this was a federal grant that's providing the funds to do this so we have to follow the federal guidelines. [AGENCY 14]

SENATOR HARMS: Could you share with us some of what you've got preliminary?
[AGENCY 14]

JERRY VAP: You can do that. I can. All we have to do is go to www.broadbandmap.Nebraska.gov, I believe is the address. It is www.broadbandmap.Nebraska.gov and you can do that when you go back to your office. [AGENCY 14]

SENATOR HARMS: Okay. Thank you. [AGENCY 14]

SENATOR HEIDEMANN: Senator Nordquist. [AGENCY 14]

SENATOR NORDQUIST: Yeah, thank you for being here. On the kind of four subfunds of the Universal Service Fund, if you will,... [AGENCY 14]

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JERRY VAP: Uh-huh. [AGENCY 14]

SENATOR NORDQUIST: ...you said but last year it was about 900,000 for the rural telehealth program. How are those breakouts determined? I mean is it based on need or... [AGENCY 14]

JERRY VAP: No. Every hospital... [AGENCY 14]

SENATOR NORDQUIST: I'm sorry. Between the four categories, how... [AGENCY 14]

JERRY VAP: Oh. The hospital people came to the commission and asked if we would, first of all, participate in this and we had them come up with a proposal and an estimated cost of what it would be, and it's based on what the telephone companies charge them for a connection to transfer the data. And at that time we determined that a little over \$900,000 would probably cover it for that period of time. And as I said earlier, as a result of some efficiencies and some lower rates, we dropped down to about \$700,000 this past year from a little over \$900,000, and it...as far as we're concerned, the need is there. [AGENCY 14]

SENATOR NORDQUIST: Yeah. Out of the money we appropriate, whatever, 59, is that's the number we're looking at this year,... [AGENCY 14]

JERRY VAP: Uh-huh. [AGENCY 14]

SENATOR NORDQUIST: ...how is it determined how much then is spent on High-Cost Program versus Nebraska Telephone Assistance Program? [AGENCY 14]

JERRY VAP: There's a cost model that we have and we can have our economist explain that to you. I tried having him explain it to me today, the whole thing, and I'm not

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sure you want to hear what he has to say. [AGENCY 14]

SENATOR NORDQUIST: Sure. [AGENCY 14]

JERRY VAP: He speaks a different language than I do. [AGENCY 14]

SENATOR NORDQUIST: Probably the same here. [AGENCY 14]

JERRY VAP: But we can certainly...it's population density is part of it but there's a lot of components go into it to make sure that all of the services that people have on their phones here in Lincoln are also available to people at a reasonable price in the farthest parts of the state. [AGENCY 14]

SENATOR NORDQUIST: Thank you. [AGENCY 14]

SENATOR HEIDEMANN: Are there any other questions? Seeing none, thanks for coming in today, Jerry. [AGENCY 14]

JERRY VAP: Okay. I'm not sure if Anne has anything she'd like to add but I'd appreciate it if you would. Thank you. [AGENCY 14]

SENATOR HEIDEMANN: Thank you. [AGENCY 14]

ANNE BOYLE: Good afternoon, Senators. My name is Anne Boyle and I am from District 2 in Omaha and I serve part of Douglas County, which kind of tells you, Commissioner Vap just told you he serves 51 counties, I serve a little bit more than half of the population of Omaha. The reason I'm up here is to answer one of your questions, Senator Nantkes or Conrad, and that was about low income. Across the nation it is underutilized and that study was done by the federal national...or General Accounting Office. In Nebraska, we are among the lowest in utilization and it is not because of

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efforts that have not been made by our commission. We visited several times with Health and Human Services and asked them to be sure that then anyone comes in and asks for any kind of help that they also let them know that this is a fund that will pay...assist in part of the cost of telephone service, not all of it. At our last meetings was several months ago and at that time they were still unaware that cell phones could be paid for from this fund, from the federal fund and the state fund. But it's almost embarrassing to say the national figures are of 8 percent usage in Nebraska for those who are eligible, and it's gone down now to 6.8 percent I believe. So it is an underutilized fund. It is something that is not being taken advantage of, and there are a variety of reasons why some people do not want that. One problem we do have is of TracFone, which came to Nebraska. They are prepaid. There is absolutely no way to authorize them because they will not provide the information as to what programs they are that is verified. We require it to be verified in Nebraska. And as in my role on the federal...or, I'm sorry, the federal-state joint board, which is comprised of four state commissioners and three FCC commissioners, we are looking at all of these programs. And if I could say anything to you, that it is premature to do anything right now, because the federal fund really drives what happens to us in Nebraska. And so they are looking not only at the low-income fund and how they can do better, oversee that, because that is one of the reasons the costs on the federal level have gone up. It is directly related to prepaid calling and it went up I think from \$900 million to a \$1.3 billion in costs. So they're looking at ways to audit that. But at the same time, to give you some insight to what we are trying to do, because the cost of cell phone service, for those of you who live in rural areas, it is still not perfect. It is still not even great. In Nebraska, and I just got these figures today because I thought it was important for us to frame this in these ways, we have well over 780,000 square miles in the state of Nebraska. Of that, 1,400 square miles are in three counties: Douglas, Sarpy, and Lancaster. So when you know that 1,400 square miles are only taking up about 1 million people or more in a state with 1.8 million, the rest of the state, and that's...and there's still a lot of urban areas out there as we go along the Interstate and we go up to Norfolk in Madison County or I mean Columbus, there are still more urban areas. But 99 percent of the funds that we

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expend go to 74,000 rural square miles in Nebraska. It is almost unbelievable. And as an example, an average in-town household density in Omaha is approximately 2,250 people per household...I mean per square mile. So 2,250 per square mile. In Mullen, Nebraska, it is .11 people per square mile. That's assuming no one is married and no children live with their parents, so it is even less than that. So when you understand, take, you know, just that picture of where we are trying to broaden service, it has to be stable and, if for no other reason, the most important one is public safety. We talk about satellite. We talk about using that as an alternative. But today the service is not nearly as good as it is for the land line services and even the wireless services in the state. And I can tell you this. My son lives in Omaha. I should say one of my three sons lives in Omaha. He lives on 98th and Center, which is a fairly dense area. Senator Nelson, you know exactly where that is, heavily trade. He had DTV. On a snowy day in Omaha his reception is terrible. If that is happening in Omaha, what is happening in greater Nebraska where they are miles and miles away from anything? So it is not a perfected system yet. It could be something that could be for areas where they have recreational homes or things like that or, you know, hunting lodges. That might work then for temporary use. But I would never today say that that is something that I should put my children's lives at risk because I cannot get a hold of public safety people. Regarding the question that you asked, Senator Conrad, which is about the \$61,000. While you were...while Commissioner Vap was up here, I was asking Mike Hybl who is our executive director, and John Burvainis, who does all our work in putting our budget together, and we...there must be some error that we can't find because we don't believe that the number is accurate. We requested \$61,000 and it was cut to \$59,000, and that is the only thing we have in our records. [AGENCY 14]

SENATOR CONRAD: Okay. [AGENCY 14]

ANNE BOYLE: So the increased costs, we're not sure where that's coming from.
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SENATOR CONRAD: Okay. And I'll double-check with our Fiscal Analyst too, because I might be misreading this page or...and it may just be a technical error between us, but it just definitely caused me to think, boy, that's a big jump, I wonder why, so you know.
[AGENCY 14]

ANNE BOYLE: And I certainly understand that and we don't understand it either.
[AGENCY 14]

SENATOR CONRAD: Sure. Okay. [AGENCY 14]

ANNE BOYLE: But lastly, as we move forward, I think just to remind you, when I came to the commission 14 years ago, nobody used e-mail to speak of and today it is the most frequently used way to communicate. Hardly anybody had cell phones until they were force-fed to this world, and today not only can you make a phone call but you can do a myriad of things. Recently, there was a study, and I don't believe the number is right as far as telling us, but they're saying that within a not too long period of time today that cable will go away, that laptops will go away, we will have these little iPods and we will be using phones and we can (inaudible) and through those systems we can watch television, we can almost even gear our refrigerators to them. [AGENCY 14]

SENATOR CONRAD: Yeah. [AGENCY 14]

ANNE BOYLE: Several years ago I was at a conference in Los Angeles that the wireless people held and I could not believe them, what they were telling me. I was mystified by it, that some of the things that they were showing me on television, on a phone and things like that, I thought no way, people are not going to do that. I'm wrong. They're doing it, and that's going to happen more and more frequently and it's going to be faster and faster. Broadband is being almost now shoved down our throats. It is forcing this country to deal with the technology of tomorrow. And so it is critically important that we continue to work toward getting those things done, especially for

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those parts of the state where they are not well served. And if we don't do that, we will not...we will probably be in violation of what the federal law says, which is everybody in this country should have access to telecommunication services. It does not explicitly say how or what, but it says everybody should. That is why in Omaha and Lincoln and the more populated areas we pay our own fee, 6.95 percent that's on our phone bills, and it goes to those areas, just like in other parts of the country where they pay a lot of taxes and we get federal funds for building roads. So we don't resent, it's something that's required and it is something that is for all people in this country to be able to benefit from, but it is difficult work. It is complicated work. And I would like to invite, on behalf of the commission, all of you when the session is over and you have some time, and not all of you at one time, but as you have time, welcome you to come to our office because there's much more to this. This is a high overview of the intricacies of the things that we do and we truly...we wish we were not in this budget crisis. We could more. But with what we have to work with, and assuming, regrettably, that the Railroad Safety Program is going to be gone, we will do well with what you are willing to provide for us today.
[AGENCY 14]

SENATOR CONRAD: Well, I appreciate that. That's an excellent overview. And again, I know that there are so many worthy intentions behind these funds and their use for a variety of different important purposes that serve the public interest, and so it's just been a real helpful and educational process for me. And I also want to thank you and the commission for working in a collaborative posture with HHS and other entities of government to try and increase utilization of those funds. That's a refreshing thing to hear on this committee. So thank you. [AGENCY 14]

SENATOR HEIDEMANN: Senator Nordquist. [AGENCY 14]

SENATOR NORDQUIST: Thank you, Mr. Chairman. Thank you for being here, Commissioner Boyle. A couple questions, first on the low-cost or the low-income support. How is eligibility for that currently determined? Is it just whoever HHS sees,

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when they see a need? [AGENCY 14]

ANNE BOYLE: No. They have to be on several programs. One is low-income heating assistance, one is Supplemental Social Security, one is...let's see, food stamps. There's a fourth one I can't recall. Then there are three federal programs as well. [AGENCY 14]

SENATOR NORDQUIST: Okay. So if they're eligible for one of those programs... [AGENCY 14]

ANNE BOYLE: Subsidized housing. So there are several that we look at, at the federal level and the state level, before they would even offer that. [AGENCY 14]

SENATOR NORDQUIST: Okay. [AGENCY 14]

ANNE BOYLE: I think they are so overloaded with a lot of work to do that perhaps when you get down through all the questions they have to respond do that they may not be thinking about the fact that telephone assistance, even with a cell phone...although the rule is one to a household. So many families today have two and three cell phones; only one. [AGENCY 14]

SENATOR NORDQUIST: Okay. And the other thing is...and maybe I should have asked this of Commissioner Vap as well, but one of the issues I hear a lot about when I travel to NCSL meetings or related to healthcare is the concern as we move to electronic medical records, the lack of broadband access for providers, both physicians, pharmacists. Not just in, obviously, they can convert their system to electronic medical records, but the real power of electronic medical records come alive when we're able to exchange information between providers. And has the commission been approached or looked at this issue at all about specifically access for healthcare providers in rural Nebraska to broadband? [AGENCY 14]

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ANNE BOYLE: That hasn't been brought to our attention. What we always do is the Hospital Association may come in with their recommendations and they have done very, very well by economizing, as Commissioner Vap mentioned. We offered \$900,000 a year to them and, because of economies of scale and everything else, that that's been dropped to \$700,000. But they still face some problems. On the federal level, they are looking at cutting Nebraska funds by \$225,000 of what they give. They have come now to us. They soon will be making a request to see if the FCC and/or Universal Service Administrative Company does not provide the funding for them that they've historically had, because of a change in their systems, that they are going to be asking us to help pick up that nearly quarter of a million dollars temporarily until they change their systems over to what the federal government has. So there's always...now that's a huge request but that's something, again, that we will grapple with. And all of this is about providing service. And I have to tell you that service has brought a great amount of ease in people's minds. It has helped in the fact that their costs are not as high because they don't have to travel to big cities. I think there are four hub hospitals where if, for example, I am close to Lincoln, they would go to, I think, Bryan Memorial, that they can telecommute with the doctors. [AGENCY 14]

SENATOR NORDQUIST: Sure. [AGENCY 14]

ANNE BOYLE: It is amazing and it is amazing what it does for the people who are ill. [AGENCY 14]

SENATOR HEIDEMANN: Senator Hansen. [AGENCY 14]

SENATOR HANSEN: Thank you. Commissioner Boyle, it's great to have you here today. You were talking about the progression of communication, where we've gone from telephone (inaudible) to broadband. So what's the next step beyond broadband? Do you have any ideas? We have satellite now, even though it's expensive. If we had more satellite would it become less expensive? [AGENCY 14]

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ANNE BOYLE: Well, it could be except for the fact that the service quality is not as good as it is in the telephone side. And so while that is something that can be used and if somebody wants to take that risk that it is always going to be capable, when you turn it on if there's a storm out there are you going to still get the quality in the transmission that you do if you picked up a phone and used a cell phone? My first...my first would be using a telephone, second would be cell phone, third would be satellite. Cell phones are coming a long way, and as that technology continues to move along it will be perhaps as good as, but I would not try today, maybe 14 years ago when I was new I would try to forecast what was going to happen 20 years, today I won't even forecast what's going to happen in 5 years. And it sounds funny but that technology is moving so quickly that we can't keep up with it legislatively or within the commission. They are doing things faster than we can do, than we can do it, and there is a...and in Congress the lobbying efforts there are enormous. We see them here. We hardly have scratched the surface when we see the lobbying efforts there. [AGENCY 14]

SENATOR HANSEN: I'm from a railroad town. You're from a railroad town. We discussed LB255 on the floor this morning and I was kind of disappointed in the outcome of that. But do you see anything in your budget, in the commission budget, that we could replace that with, the funding of the \$123,000 a year? [AGENCY 14]

ANNE BOYLE: Senator,... [AGENCY 14]

SENATOR HANSEN: I know that was your suggestion so... [AGENCY 14]

ANNE BOYLE: Well, the only thing that could be replaced would be perhaps controversial, and that is that in some states, and many of the states, the railroads pay for that program, and in the state of Nebraska we have been doing what the federal people have been doing. We are very, very concerned because the people that we had working for us, one of them has now taken a job in Iowa. They were subject matter

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experts. They were the first on the scene when there was any kind of an accident with the big companies, but they also did a lot of the work for the various...the short-line carriers. And so my concern is those short-line carriers are going to suffer for that, and that is where there may be a safety problem where people could be harmed or...because the track has not been inspected as frequently as it should have been. So my short answer is, if the railroads that come through Nebraska, and I'm sure they don't want to hear this but I'm not here to...I'm here for public safety, if they were required to help pay for those costs, I don't think that kind of money, \$123,000, is so overbearing that it could not be absorbed. [AGENCY 14]

SENATOR HANSEN: Comfort level was brought up this morning and I wasn't comfortable with what we did but...and you talked about the...another subject you talked about was the population density in Hooker County and at Mullen, and I was surprised it was that high. (Laughter) It's a great place to live. [AGENCY 14]

SENATOR CONRAD: During golf season. [AGENCY 14]

ANNE BOYLE: I've been there. [AGENCY 14]

SENATOR HANSEN: During golf season. [AGENCY 14]

ANNE BOYLE: I know two young doctors who are up there. [AGENCY 14]

SENATOR HANSEN: Thank you. [AGENCY 14]

ANNE BOYLE: Uh-huh. Thank you. [AGENCY 14]

SENATOR HEIDEMANN: Thank you. Are there any other questions? Seeing none, thank you for testifying today. [AGENCY 14]

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ANNE BOYLE: Thank you for your time. [AGENCY 14]

SENATOR HEIDEMANN: Is anyone else wishing to testify on Agency 14, the Public Service Commission? Seeing none, we will close the public hearing on Agency 14 and open up the public hearing on Agency 3, the Legislative Council. [AGENCY 14]