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Transcriber's Office

Transportation and Telecommunications Committee
February 29, 2016

[LB938 CONFIRMATION]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Monday, February 29, 2016, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on confirmations for the Board of Public Roads Classifications and Standards; and LB938. Senators present: Jim Smith, Chairperson; Lydia Brasch, Vice Chairperson; Al Davis; Curt Friesen; Beau McCoy; John Murante; and Les Seiler. Senators absent: Tommy Garrett.

SENATOR SMITH: Good afternoon and welcome to the Transportation and Telecommunications hearing. I am Jim Smith. I am the Chair of the committee and I represent the 14th Legislative District in Papillion. We appreciate you being here today. We have four confirmation hearings and then one rehearing on LB938. Let me start out with an introduction of my colleagues. To my far left, your right, will be Senator Tommy Garrett from Bellevue. He is currently not present with us, I believe he will be joining us a bit later. Next we have Senator Les Seiler from Hastings. Also that's on the committee but is not present today is Senator Beau McCoy from Omaha. To my far right, your left, we have Senator Curt Friesen from Henderson. Next to Senator Friesen will be Senator Al Davis from Hyannis. And then we have Senator John Murante from Gretna. And Vice Chair of the committee is Senator Lydia Brasch from Bancroft. To my right is Mike Hybl, Mike is the legal counsel to the Transportation and Telecommunications Committee. And to my left is Paul Henderson, and Paul is the committee clerk. We also have two pages with us today and they will be assisting you when you come to the table to testify. We have Alex Brechbill from Aurora, Nebraska; Alex is a junior at Nebraska Wesleyan. And we have Kaylee Hartman from Syracuse, and Kaylee is a freshman at UNL. We will be hearing the bills and going through the confirmation hearings in the order that's listed on the agenda. If you are planning to testify on a confirmation hearing or on the bill be ready to come to the front of the room and testify so we can keep the process moving. If you are testifying, please complete the sign-in sheet that's on the table as you came into the room. And when you come to the table to testify, hand that sheet to one of the pages and they'll process it for you. When you approach the table and being your testimony, if you would please begin by stating and spelling your name, so that we can get that into the record accurately, that would be a great help to us. If you do not wish to testify but you want to voice your support or your opposition to a confirmation or to the bill, you can indicate so on this form as well...on that sheet, and provide that to the page and it will become part of the official record of the hearing, regardless as to whether you want to testify or not. We ask that you silence your cell phones so we don't have any disruptions during the hearing and also please recognize that we do use electronic devices, laptop computers, around the table to capture some of the information on the bills and the legislation. So please be aware of that, if you see us referencing our laptop computers, that's the purpose of that. I think this is going to be our last hearing of the session, or our last scheduled hearing of the session. We may have some confirmation hearings as we move

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towards the end of the session. But today we do have a number of confirmations and we want to begin with Timothy Weander, who is a gubernatorial appointment to the Board of Public Roads Classification and Standards. And my understanding, this is a reappointment. And we appreciate you being here today. [CONFIRMATION]

TIMOTHY WEANDER: Thank you. My name is Tim or Timothy, T-i-m-o-t-h-y, Weander, W-e-a-n-d-e-r. [CONFIRMATION]

SENATOR SMITH: And Mr. Weander, can you tell us a little bit about yourself and maybe any revelations that you've experienced while being on this board? [CONFIRMATION]

TIMOTHY WEANDER: (Exhibit 1) About myself, I'm a 33-year employee with the Department of Roads, 40 of those years has been as district engineer position, 7 years in the Panhandle district--District 5, out of Bridgeport at the time, and I've been in Omaha now for 13 years as district engineer. I've been on the Board of Classifications and Standards...this is my third reappointment. I started I think in 2009 or 2010 as a filled out a position and then one full term and then this new term here. [CONFIRMATION]

SENATOR SMITH: Well, we greatly appreciate your service on the board. Do we have questions from the committee? Senator Brasch. [CONFIRMATION]

SENATOR BRASCH: Thank you, Mr. Weander, for coming forward today. And I do want to thank you for your willingness to be reappointed, and the complexity of all the counties you serve is certainly a true tribute to your abilities. How many counties are there again that are in your... [CONFIRMATION]

TIMOTHY WEANDER: In District 2, where I currently serve, there's 5 counties...4.5. It's Washington, Douglas, Sarpy, Cass, and then Dodge County--north half of Cass. [CONFIRMATION]

SENATOR BRASCH: And I've been admiring the work being done on 133. And what is your biggest challenge moving forward do you believe now with changes you're seeing and the potential legislation we have? Are those wheels turning on something else? What's the next big... [CONFIRMATION]

TIMOTHY WEANDER: As always, funding is a big issue. I'm not here as a representative of the department, but what I see in our district, District 2, is that we have the capacity need issues. We have our greatest for us versus our condition issues. And so the Department of Roads, when we

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went ask that preservation back in 2008, the funding level dropped in District 2 dramatically because we were in the road building process at that time. Not that so much money went into maintenance, but now it's all maintenance except for the new bills that are coming through and the funding issues. We always have capacity issues, we are currently going through a study for the next iteration of the freeway system through Omaha. A transportation study determined what needs to happen on the freeway system and also along the city arterial routes, along with the transportation or transit system for our next improvements, to see how we can better the metro area. Now that's just in the metro, we also have concerns going in our rural areas with the high-capacity, high volume of traffic that comes into the metro area. [CONFIRMATION]

SENATOR BRASCH: Very good. I do want to thank you for your willingness to always work with the constituents in the area and your responsiveness has been greatly appreciated. Thank you. [CONFIRMATION]

SENATOR SMITH: Okay. Additional questions from the committee? I see none, thank you, Mr. Weander. [CONFIRMATION]

TIMOTHY WEANDER: Thank you. [CONFIRMATION]

SENATOR SMITH: We now will open the appointment hearing, Mr. Weander, to those who would like to speak in support of this appointment. Seeing none, anyone wishing to testify in opposition to this appointment? In a neutral capacity? Okay, very good. Thank you again, Mr. Weander. And congratulations on your reappointment. We now move to the appointment hearing to the Board of Public Roads Classifications and Standards, Mr. John Krager III. Welcome. [CONFIRMATION]

JOHN KRAGER III: Thank you. John Krager, K-r-a-g-e-r. [CONFIRMATION]

SENATOR SMITH: And Mr. Krager, tell us a little bit about yourself as well. [CONFIRMATION]

JOHN KRAGER III: (Exhibit 1) I am a civil engineer. I work for a firm in Omaha, Nebraska--HGM Associates--as a civil engineer. I have done everything from waste water treatment to roadway design work to trail work. I've been in Omaha all my life and have been a civil engineer for about 26, 27 years. [CONFIRMATION]

SENATOR SMITH: All right. Well, thank you very much for your willingness to continue to serve on this board, and I understand this is a reappointment for you. [CONFIRMATION]

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JOHN KRAGER III: That's correct. [CONFIRMATION]

SENATOR SMITH: And tell me again, how long have you served on this board?
[CONFIRMATION]

JOHN KRAGER III: I've only been on for about two years. I didn't serve a full appointment the first time around. [CONFIRMATION]

SENATOR SMITH: All right, very good. Do we have questions for Mr. Krager? I see none, we'll make it painless for you. Thank you very much for being here. [CONFIRMATION]

JOHN KRAGER III: Thank you. [CONFIRMATION]

SENATOR SMITH: Do we have anyone wishing to testify in support as a proponent of Mr. Krager's appointment? Seeing none, anyone wishing to testify in opposition? Anyone wishing to testify in a neutral capacity? Seeing none, again, thank you, Mr. Krager. And congratulations to you. We now move to Mr. Roger Figard. Mr. Figard, too, is being reappointed to the Board of Public Roads Classifications and Standards. Welcome. [CONFIRMATION]

ROGER FIGARD: (Exhibit 1) Afternoon. Roger Figard, R-o-g-e-r F-i-g-a-r-d.
[CONFIRMATION]

SENATOR SMITH: And please share with us a little bit about yourself. [CONFIRMATION]

ROGER FIGARD: Okay. Currently, I serve on the board in the capacity representing the municipalities over 50,000. I'm currently the city engineer for the city of Lincoln, I've been in that capacity since 1991. Part of that, I worked for the Highway Department for about six years. I think I bring unique qualifications to the board because I grew up in the Sandhills on a ranch and understand the broad complexity of issues from a county road to a municipal street in a small town, as well as the State Highway System. So I've been on the board since 2008, it has been a privilege and humbling to serve in that capacity and try to carry out what I believe the wishes and the intent for safe transportation system and providing the ability to do more with the limited dollars that we have for the board. [CONFIRMATION]

SENATOR SMITH: Mr. Figard, we really appreciate that perspective that you do bring. And I'm going to put you on the spot a little bit, what do you think specifically that perspective does with some of the decision making and reviews that you do? [CONFIRMATION]

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ROGER FIGARD: Well, I think it gives you that perspective to look outside just your own area. I guess I'd like to coin it and say I think it's the Nebraska way, common sense, what's best for all of us, not just necessarily one area. And I think that on the board we have compromised and then a number of things, significantly over the last three years the board has brought forward and is promulgating new minimum design standards 3R: resurfacing, restoration, rehabilitation for county roads and municipal streets. And that was not available in the past, and that will allow cities and counties to take their dollars and maybe do more repair and more fixing with the dollars they have, without having to meet some of those. So I think my experience there again just, even though I live in Lincoln, I really have the broad perspective from the very smallest community to the largest. And we need to try to meet the needs of all of those in a safe manner. [CONFIRMATION]

SENATOR SMITH: Okay, very good. Senator Friesen. [CONFIRMATION]

SENATOR FRIESEN: Thank you, Chairman Smith. Mr. Figard, I noticed in your references you have a Roger Patterson. Is he the same individual that helped us with our water issues a few years back? [CONFIRMATION]

ROGER FIGARD: He did. Roger Patterson and I went to junior college in McCook, I was his best man at his wedding. He served at the Bureau of Reclamation and then came back and served here in Nebraska for a while and we're still good friends, yes. [CONFIRMATION]

SENATOR FRIESEN: Thank you. I do appreciate it, Roger. Thank you. [CONFIRMATION]

SENATOR SMITH: Other questions from the committee? I see none, thank you, Mr. Figard, for your willingness to serve. [CONFIRMATION]

ROGER FIGARD: You're welcome. [CONFIRMATION]

SENATOR SMITH: (Exhibit 2) Anyone wishing to testify as a proponent for the appointment of Mr. Figard? Proponent, those wishing to testify in support? We do have a letter in support of Mr. Figard's appointment. Gary Krumland, on behalf of the League of Nebraska Municipalities, has sent a letter in. Anyone wishing to testify in opposition to the appointment? Anyone in a neutral capacity? Seeing none, again thank you, Mr. Figard. Appreciate your willingness to serve. And our last appointment of the day, again a reappointment to the Board of Public Roads Classifications and Standards, is Mr. David Wacker. Did I pronounce that correctly? Welcome and please share a little bit about yourself. [CONFIRMATION]

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DAVID WACKER: (Exhibit 1) Good afternoon. My name is David Wacker, W-a-c-k-e-r. I grew up in Nebraska, my folks moved here when I was five years old. I grew up in Edgar, Nebraska, which is southeast of Hastings. I attended the University of Nebraska and received a degree in civil engineering. I began my career with the city of Hastings, May 26, 1976, so in a few months I'll have 40 years of service with the city of Hastings. I initially started at 23 as the assistant city engineer, at the age of 25 I've held a position that I currently hold. I've got I guess a broad range of municipal experience, also in charge of a landfill, I've got a full service engineering department. We have nine superfunds in Hastings, the city is involved in three superfunds, so I have oversight over that. About 13 years ago, I was also requested to serve as the airport manager. So I've also had experience in dealing on another transportation entity, being the airport. So I've worked in my career with a lot of individuals from FHWA, FAA, and State Department of Roads, colleagues, and a tremendous amount of municipal officials. I was appointed to the board about six years ago and it has been a very rewarding experience. I've been kind of a change agent on the board, I've been one of the individuals that's been on the subcommittee for the 3R standards. We've probably got the best chairman that we could have leading the group right now, and that's Roger Figard. And I'm looking forward to continuing in my capacity and, you know, working on several challenges that we have here in the state. Hastings is a town of about 25,000 people. In the last five years, we've done 11 federal aid projects that I've been involved with, and that's from design to construction and inspection. I boast that from, you know, it's only been Lincoln, Omaha, Lancaster County, and the city of Hastings that had I guess that experience. So I'd answer any questions that you may have. [CONFIRMATION]

SENATOR SMITH: Thank you, Mr. Wacker, and it looks like you bring a wealth of experience to this. So I appreciate your willingness to serve. Do we have anyone wishing...any of the members of the committee wishing to ask Mr. Wacker any questions? I see none, again thank you for your willingness to serve. [CONFIRMATION]

DAVID WACKER: Thank you, sir. [CONFIRMATION]

SENATOR SMITH: (Exhibit 2) Do we have anyone wishing to testify in support of this appointment of Mr. Wacker? We do have a letter in support of Mr. Wacker's appointment. Again, Gary Krumland, on behalf of the League of Nebraska Municipalities, has sent a letter in. Do we have anyone wishing to testify in opposition? Seeing none, anyone in a neutral capacity? Very good. Well gentlemen, thank you again for your willingness to serve and thank you for coming and testifying before us today. And that concludes our confirmation hearings for today and we're now going to move to a rehearing on LB938. And again, this is a rehearing on a bill that we had heard earlier in the session and there is a pending amendment with some discussion. And this relates to the adoption of the 911 Service System Act and the transfer of funds from the Enhanced Wireless 911 Fund to the 911 Service System Fund. And we've asked the legal

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counsel to the committee to introduce this bill and to answer questions for the committee. So Mr. Hybl... [CONFIRMATION]

MIKE HYBL: (Exhibit 1, 2, 3) Thank you, Senator Smith. For the record, My name is Mike Hybl, that's M-i-k-e H-y-b-l, and I am the legal counsel for the Transportation and Telecommunications Committee. The purpose of the hearing this afternoon is to discuss an amendment that was printed by Senator Smith last week to LB938, that's AM2103 (sic). And you should have in your bill books or in front of you a copy of that amendment, a proposed technical amendment that I will cover briefly, a memo that was prepared for you that shows the major differences between LB938 as introduced and AM2103 (sic), and then just basically for your information and reference, an excerpt from the FCC's wireless E911 location accuracy requirement order that was released in February last year. Since we had the original hearing on February 1 on LB938, there's been significant conversations that have been going on with a number of the parties that are interested in the bill, primarily between the wireless telephone industry, the Public Service Commission, and our office. We've gone through a number of different exchanges of language back and forth. I think where we are with AM2103 (sic)...I think what we will hear today is that there is fairly broad agreement on the language that's in AM2103 (sic), with one change I'll discuss, and that we can go forward with the bill. AM2103 (sic) basically addresses three major areas in LB938. The first is the definitions that have been provided for purposes of the act have been significantly reworked and changed. There are five definitions in the original bill that have been eliminated, two new definitions have been added in, and several of the other definitions have been fairly...significantly, and to some extent revised or modified. There are changes that have been made to address and clarify the authority of the Public Service Commission and the administration of the 911 Service Act. In Section 3, there are two new subsections added, that would be Subsection 7 and Subsection 8 in Section 3 of AM2103 (sic), and Section 30, which is new language which has been added to the bill. And the general theme and intent of these changes are to state that the bill does not expand the existing authority that the Public Service Commission has over wireless carriers. Section 26 of the bill clarifies the authority over the 911 department that is established, and the 911 directors position. And if you will recall in the previous hearing on the bill, the commission proposed an amendment to that section of the bill to clarify that actions taken by the 911 director must be done in concert with and with the approval of the commission. And the language is revised basically to reflect that effect. As introduced, the bill required that there be two...excuse me, one public hearing held on the final plan that the commission is to adopt regarding implementation of the next-gen proposal. That has been revised that there will be, under the amendment, two public hearings held, one 90 days prior to enactment of the final plan and a second one 30 days prior. The bill...or excuse me, the amendment, raises a new issue into the bill that has come out of some of the recent news reports regarding wireless 911 call accuracy location out of the incident that occurred up in Douglas County a few weeks ago. Section 32 is added to the bill, and that directs the Public Service Commission to include in the agency's annual report to the Legislature

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on the status of telecommunications an assessment of the level of wireless location accuracy compliance. The draft amendment AM2103 (sic) also had in it Section 29, which was basically a requirement for the Public Service Commission to obtain live call data from public safety answering points. Following the printing of the amendment and discussions that a number of the parties had, I've included on the list of technical amendments that we strike that amendment. I think, following some review and discussion on that, I think there's a determination that that section is not required to carry out that specific intent. The Federal Communication Commission's regulations are very clear, the public safety answering point has the authority to request live call data from wireless carriers and then the Public Service Commission under this bill is given specific 911 management authority. And I would specifically refer to Section 25 of the amendment, that the commission has been established as the statewide coordinating authority for 911. The Public Service Commission is the planning, implementation, coordinating, and management entity for state 911 service and the commission is responsible for establishing mandatory and uniform technical standards for public safety answering points and for adopting rules applicable to public safety answering points for quality assurance standards. I think that the intent that was trying to be addressed in Section 29 of the amendment remains whether that section is or is not in the bill. I know there were some objections to that, I'm assuming we'll hear some testimony from some of the parties about the issues that they had with that specific language. The amendment also adds a sunset date of June 30, 2018 to the bill. And then in the technical amendments that I've provided to you, I'm also suggesting that we add the emergency clause. I know some of the parties that have been involved in these discussions will probably want to speak also to the amendment and where they are on it, it's been a...this is a highly technical area. I think where we're all coming together last week, I think we're probably as close to a consensus as we can get on that, but I'll let the folks behind me speak to that. With that, I'd take any questions that you may have on the amendment. [LB938]

SENATOR SMITH: Mr. Hybl, can you clarify and expand upon the purpose of the sunset date of June 30 of 2018? [LB938]

MIKE HYBL: The purpose for the sunset date is the bill as drafted and as it will be amended requires the Public Service Commission to go out and begin the process of preparing an implementation plan for the next-gen 911 function. And there will be a report back to the Legislature, a final report, on December 1 of 2017. The bill was designed so that there would be an intervening legislative session in 2018, to make any additional changes to the law that may be necessary. And I'm sure there will be follow-on changes. One of the issues that folks wrestled with over the past month is clarifying and being comfortable with the fact that the PSC, as the 911 management entity, was not going to be crossing in to any other lines, in terms of regulation of wireless carriers. Some of the changes we made in AM2103 (sic) address that issue as well, but I think in terms of making sure all parties understand what the purpose of the bill is and what the goal of the bill is, I think having the sunset date will...A, it's an issue we're going to have to

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come back and visit anyway, and it creates I think just a safer environment for some of the parties that had concerns with how this function was being structured. This is not uncommon. In 1997, when the state Universal Service Fund...when that act was enacted, essentially the same thing was done. We had a three or four-year sunset date out there that a great deal of authority, and very broad authority, was given to the commission to establish and set up and operate the Universal Service Fund. There were those that were involved in the process that wanted to have the opportunity to have a date certain when the legislation would come back, be reviewed, and then basically the Legislature would have to pull that sunset date off to have the program continue before. So I think it's something the commission has worked with in the past. I don't see it being a real impediment from their end, as far as the work they need to do. [LB938]

SENATOR SMITH: So it ensures that there is engagement and involvement by the Legislature in that next step? [LB938]

MIKE HYBL: It will require the Legislature to come back and act in 2018. [LB938]

SENATOR SMITH: Did I see a... [LB938]

SENATOR SEILER: You asked my question. [LB938]

SENATOR SMITH: Okay. Further questions from the committee? And so again, this amendment will firm up the authority of the Public Service Commission to recover the data related to experience from the PSAP. So it firms that step up between the PSAPs and the Public Service Commission. [LB938]

MIKE HYBL: Yes, and there will be a reporting requirement back to the Legislature as well, just on overall accuracy compliance. [LB938]

SENATOR SMITH: Great. All right, thank you, Mr. Hybl. And Mr. Hybl is going to join us back up here at the committee table and now we open the hearing up to those wishing to testify as a proponent in support of the rehearing of LB938. Welcome, Commissioner. [LB938]

JERRY VAP: Good afternoon, Senator Smith, members of the committee. My name is Jerry Vap and I'm a member of the Public Service Commission. I'm here today to provide testimony in support of LB938 and the committee amendment. The commission thanks Chairman Smith, Mike Hybl, and others for their efforts in finding consensus with this bill. The tragic standoff in Douglas County has illustrated exactly why Next Generation 911 is needed in Nebraska. The public has an expectation that first responders will be able to find them whenever they need help,

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and this bill will help ensure that we are on the path to meeting that expectation. Thank you for your attention. I urge your support of LB938 with the committee amendments. I'd be happy to answer any questions you may have. [LB938]

SENATOR SMITH: Thank you, Commissioner. Questions from the committee? I see none, thank you. [LB938]

JERRY VAP: Thank you. [LB938]

SENATOR SMITH: Next proponent of LB938. Welcome. [LB938]

KARA THIELEN: (Exhibit 4) Good afternoon, Senator Smith and committee. My name is Kara Thielen, T-h-i-e-l-e-n. I'm testifying today on behalf of Colorado Cellular, which we do business in Nebraska as Viaero Wireless. Viaero is a wireless carrier that operates primarily in rural Nebraska, covering all but 15 of the state's 93 counties. I'm speaking today as a proponent of the amendments proposed today. Viaero is supportive with the removal of Section 29 and the adoption of the other wireless industry recommendations advanced today. I am Viaero's 911 director and I work regularly with most of the Nebraska's 76 PSAPs to ensure that Viaero's 911 system operates correctly. I have over 20 years of experience in 911 services, including as the Nebraska Public Service Commission's 911 director from 2001 to 2006, where I designed and led the statewide implementation and operation of the 911 wireless system for the state of Nebraska. LB938 has emerged as an alternative to LB652, introduced in January of 2015, which was not advanced from this committee. At the public hearing on LB652 last year, Viaero recommended that the broad terms of LB652 be streamlined to accomplish three essential objectives. The first one: establish a statewide authority, through a state agency or department, over all 911 communications, including our legacy system, as well as NG911. Second, the new authority should develop a plan for a new statewide 911 system, including NG911. And third, the statewide authority should be initially funded for the purpose of developing the plan and convening all participants and stakeholders, including local government entities, PSAPs in the plan's development process. Over the past year, a broad coalition of stakeholders has continued to evaluate and revise the alternate version. I've also participated in extensive communications with my colleagues representing other wireless carriers and support their collective recommendations for some helpful revisions to the bill, including a provision that specifically states that nothing in the bill supersedes or effects or modifies existing law that prohibits the PSE from regulating wireless telecommunication services. I believe these collaborative efforts have resulted in a bill and associated amendments which accomplishes all three of these critical objectives. While Viaero is appearing as a proponent of LB938 and the amendment proposed today by Mr. Hybl, Viaero hopes that the committee will advance the bill with the wireless industry-recommended amendments. Viaero is delighted to have been involved in shaping this

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bill and for the opportunity to have collaborated with so many vital stakeholders in helping bringing this bill and the wireless industry recommendations forward to the committee. Viaero believes that this bill as amended is essential to public safety of all Nebraska residents and all who travel throughout this fine state. And on behalf of Viaero, I would like to extend our thank you to all stakeholders that worked together on this bill. Thank you. [LB938]

SENATOR SMITH: Thank you, Ms. Thielen. Senator Davis. [LB938]

SENATOR DAVIS: Thank you, Senator Smith. Thank you, Ms. Thielen. Just a question. Your testimony is written up as neutral but changes to proponent and I was just wondering why that was. [LB938]

KARA THIELEN: Yeah, so we...well, we just didn't know where we would be with the amendments that we had talked earlier last week. And Mike, Mr. Hybl, brought those forward today, so that's why we're now proponent. [LB938]

SENATOR DAVIS: So because of the amendment changes you've changed to proponent? [LB938]

KARA THIELEN: Correct. [LB938]

SENATOR DAVIS: Thank you. [LB938]

KARA THIELEN: You're welcome. [LB938]

SENATOR SMITH: All right, further questions from the committee? I see none, thank you for your testimony. [LB938]

KARA THIELEN: Thank you for your time. All right. [LB938]

SENATOR SMITH: Additional proponents, those wishing to testify in support of LB938? Welcome. [LB938]

MICHAEL BAGLEY: All right, thanks, Senator Smith. My name is Michael Bagley, I'm with Verizon. That's M-i-c-h-a-e-l, last name Bagley, B-a-g-l-e-y. When the bill came up initially in its first hearing, Verizon had testified as neutral. And since that time, we have worked with the committee and particularly appreciate the opportunity to work with legal counsel. We raised

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some concerns and we worked within the coalition. We definitely want to see Nebraska have a very broad, vibrant, and robust 911 system. We understand that giving the jurisdiction to the PSC to coordinate with the PSAPs is a great way to do that. We are very pleased that our technology is able to help save lives and we want to continue to cooperate with the state. We think this bill strikes the right balance and so with the adoption by the committee of the amendment proposed by legal counsel, Verizon would change its position to support of the bill. And we appreciate the cooperation again and look forward to continue to work with you all. Thank you. [LB938]

SENATOR SMITH: Thank you, Mr. Bagley. Just a moment to see if we have any questions from the committee members. I see none. I know you and I have met before and I think this is the first time for you in front of our committee in Nebraska, if I'm not mistaken. So welcome, and thanks for your company's investment in Nebraska. [LB938]

MICHAEL BAGLEY: Thank you, sir. Thank you very much. [LB938]

SENATOR SMITH: Next person wishing to testify in support of LB938. Welcome. [LB938]

JENNY HANSEN: Good afternoon, Senator and committee members and colleagues. My name is Jenny Hansen, J-e-n-n-y H-a-n-s-e-n, I'm the 911 director for Douglas County. I wish to thank you for putting this bill before us and including Nebraska as a statewide single point of contact and embracing vital technology services and management for 911 in this state. Having managed a number of similar public safety projects in my career, especially at a state level, including land mobile radio and statewide 911 at the state level and also at the federal level for US Department of Transportation, as the project coordinator for Next Generation 911 initiative, I understand the complexities, the challenges, and the opportunities ahead in this effort. I offer our full support as we roll up our sleeves together on the work ahead. Thanks for the opportunity for allowing me to speak on behalf of Douglas County Emergency Communications and thank you for your continued support in public safety. [LB938]

SENATOR SMITH: Thank you, Ms. Hansen. Do we have questions from the committee members? I see none, and I know the 911 centers do a tremendous service to our state. Thank you for your efforts there. [LB938]

JENNY HANSEN: They do, thank you. [LB938]

SENATOR SMITH: Next proponent of LB938. Seeing no other proponents, we now move to...oh, I'm sorry. [LB938]

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ERIC CARSTENSON: I, too, was surprised by the lack of proponents. [LB938]

SENATOR SMITH: Welcome. [LB938]

ERIC CARSTENSON: Good afternoon, Senator Smith, members of the committee. My name is Eric Carstenson, that's E-r-i-c, Carstenson is C-a-r-s-t-e-n-s-o-n. I'm the president of the Nebraska Telecommunications Association. NTA is a trade association that represents the majority of local exchange carriers in Nebraska. I'm a registered lobbyist for them and I'm here today to present our support for this amendment. Briefly said and in summary, we've looked at the amendment and we don't have any problems with it. That probably is the briefest testimony that you have ever heard or will ever hear me do again. With that, that concludes my testimony. [LB938]

SENATOR SMITH: Thank you, Mr. Carstenson. And those types of testimonies are always welcome. Any comments or questions from our committee members? I see none, thank you. Any remaining proponents of LB938? All right, seeing none, anyone wishing to testify in opposition? Opponents to LB938? Welcome. [LB938]

BILL MUELLER: (Exhibit 5, 6) Thank you, Chairman Smith. For the record, my name is Bill Mueller, M-u-e-l-l-e-r. I appear here today on behalf of AT&T. I'm signed-in in opposition, but as all of you know, there are different kinds of opposition testimony that people can give. Today, mine will be pretty positive opposition testimony. I want to start out by thanking Senator Smith and Mike Hybl, legal counsel of the committee, as well as the Public Service Commission and others involved in this issue. AT&T certainly does not oppose the intent behind the bill, our concern is on two fronts. Number one, Mr. Hybl has presented his suggestions for an amendment to the bill. We support that amendment and if that amendment is adopted that would certainly change our opposition testimony. Secondly, I've asked the page to hand out to you a proposed amendment that addresses the Public Service Commission's authority to impose rules, regulations on Next Gen 911 providers and the internet protocol network providers. We in Nebraska I believe are somewhat unique in that most states separate their 911 boards or similar state-level governmental entities that provide technical and operational standards for PSAPs as well as oversee funding. These same entities are most often highly involved in evaluating and implementing Next Gen 911 networks without imposing regulations or rules on the Next Gen 911 providers and the IP network providers. We understand that in Nebraska our Public Service Commission will be that state entity, however, we are concerned that because the commission has been organized as a regulatory body, as opposed to simply a body that provides technical and operational standards for PSAPs, we believe that specific language is needed concerning the authority of the commission on the IP-enabled networks on Next Gen 911 will bring many benefits to the state of Nebraska over the existing 911 system. This is possible due to the use of

internet protocol technology. To date, the Public Service Commission has not asserted jurisdiction over IP-enabled services. We believe that the status quo should be maintained in this bill, but that the commission's authority should be limited to the IP-enabled networks used in the provisioning of Next Gen 911 service. That is what the language that you have in front of you does. This bill is silent on whether the commission intends on imposing any rules or regulations on IP network providers. If it does that, we believe that it will significantly deter alternative 911 service providers from bidding on Nebraska's statewide network. Only those providers that are already providing 911 service in the state will likely respond to any RFP. In states where it is clear that the state does not intend on regulating Next Gen 911 service providers, there have been an influx of providers interested in bidding on the Next Gen 911 system. Examples are North Carolina, Tennessee, Alabama, Texas, where over half a dozen suppliers have submitted bids for the providing of Next Gen 911 networks. There are national standards being developed for Next Gen 911, IP networks used in the providing of regional or statewide Next Gen systems should not be regulated by the Public Service Commission. The FCC has been and continues to be actively involved in addressing all 911 issues from a national perspective, including Next Gen 911. They worked with the industry and national standards setting organizations, such as the National Emergency Number Association, on this initiative. States should be the authority for planning, procurement, and implementing, and funding for Next Gen 911, and not regulating those providing these services. I'll be the first one to acknowledge that we have attempted to address this issue in the bill. The language that you have before you in the amendment, with the changes that Mr. Hybl proposes, are certainly an improvement. AT&T believes...our preference is that we go further and specifically provide that the Public Service Commission does not have regulatory authority in the IP area. My hope is that we can continue having discussions on this subject and perhaps come up with language that addresses the Public Service Commission really being the customer and the Public Service Commission being the regulatory entity of these services. That poses challenges for us and that's nobody's fault, that's just the way that our system is going to be established here. I'd be happy to answer any questions that the committee may have. Again, I thank you for all the work that you've done. We certainly support the amendments that Mr. Hybl has proposed, we would like you to go a step further and adopt our amendment, but we will continue working with the committee and other interested parties on this issue. Be happy to answer any questions you may have. [LB938]

SENATOR SMITH: Do we have questions from the committee? Senator Seiler. [LB938]

SENATOR SEILER: Yes, Mr. Mueller. If you keep...or you separate the two powers between the Public Service Commission, who is the other power? [LB938]

BILL MUELLER: Well, my understanding is in some states you would have another entity that... [LB938]

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SENATOR SEILER: Who are you suggest being the entity? [LB938]

BILL MUELLER: Well, I mean we've talked about that. I mean, there was some thought that maybe this should be a function taken within the executive branch, maybe in the Chief Information Officer's Office. My understanding is that was not the preference of our Governor, to do it that way. Some states have done it that way and that would make the lines more clear between the operator...that may not even be the right word, but between the operator and the regulator. And that's our challenge here. [LB938]

SENATOR SMITH: And Mr. Mueller, I know there's certainly a number of different models out there as to how this is handled. I think, as you mentioned during our interim discussions last year, one of those such models was it falling inside the scope of the CIO's Office and there was a determination that that would not be the preferred location by the administration. And so that landed us where we are today. So you're not necessarily saying that you think it should be under a specific other area of jurisdiction, you're just saying not the Public Service Commission. Is that correct? Is that how I'm interpreting that as far as the IP? [LB938]

BILL MUELLER: What we're saying is if it is going to be housed with the Public Service Commission, which we believe it will be, we have to be very cognizant of the PSC's authority as a regulator and as the operator of the system. We're not saying that we object to the PSC doing this, we're not saying that at all, Senator. And if I said that, I misspoke. It makes sense to have them do it here, we just have to be very careful when they're regulators and when they're operators. And the commission is aware of this challenge, we've been in discussions with them and they've been very cooperative. I hope that they're not surprised that I'm here today talking about this. They shouldn't be. [LB938]

SENATOR SMITH: Thank you for that clarification, I appreciate it. Any remaining questions from the committee? I see none. [LB938]

BILL MUELLER: Thank you. [LB938]

SENATOR SMITH: Thank you. Next person wishing to testify in opposition to LB938? Seeing none, anyone wishing to testify in a neutral capacity to LB938? Seeing none, that concludes our rehearing on LB938 for the day. Thank you very much, and our hearings for the day... [LB938]