

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 3, 2020  
Rough Draft

**FRIESEN:** Welcome to this afternoon's public hearing of the Transportation and Telecommunications Committee. I'm Curt Friesen, from Henderson, Chairperson of the committee. I represent District 34. A few things that I'll ask is that please silence all your cell phones and electronic devices. We will be hearing the bills in order listed on the agenda. Those wishing to testify on a bill should move to the front of the room and be ready to testify. We have two on-deck chairs up front here, and that way you'll be ready to go when the person leaves the testifying stand. If you will be testifying, legibly complete one of the green testifier sheets located at the table-- on the table just inside the entrance. Give the completed testifier sheet to the page when you sit down to testify. Handouts are not required, but if you do have a handout, we need ten copies. One of the pages will assist you if you need help. When you begin your testimony, it's very important that you clearly state and spell your first and last names, and that's just so we get it right in the record. If you happen to forget this, I will stop you and ask you to do it. We will be using the light system today. How many people plan on testifying today? I think we'll-- we'll do three-minute testifying today. So we'll have the green light; the yellow light allows one minute to wrap up. And one the red light comes on, I'd ask that you wrap up your testimony. Those not wishing to testify may sign in on the sheet by the door to indicate their support or opposition to a bill. And with that, I'll introduce the staff. I have Tip O'Neill, my committee counsel. Sally Schultz is the committee clerk. And then we have Ashton and Michaela-- Ashton-- are here as pages to help us out, so I appreciate them coming. And there will be senators coming and going during the hearing, and they'll probably either have bills that they have to introduce in other committees or things like that, so they'll be coming and going. Senator Hughes is on the on the end, and then we'll start, with Senator Bostelman, introductions.

**BOSTELMAN:** Good afternoon. Bruce Bostelman, Legislative District 23, Saunders, Butler, and Colfax Counties.

**ALBRECHT:** Hi. Joni Albrecht, northeast Nebraska, District 17, Wayne, Thurston, and Dakota Counties.

**GEIST:** Good afternoon. Suzanne Geist from District 25, which is the east side of Lincoln and Lancaster County.

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**DeBOER:** Wendy DeBoer. I'm northwest Omaha, Bennington and the surrounding areas.

**FRIESEN:** Then we have Senator Hilgers and Senator Cavanaugh will probably be joining us.

**GEIST:** And, Senator Friesen, you are welcome to open on LB898.

**FRIESEN:** Members of the committee, my name is Curt Friesen, C-u-r-t F-r-i-e-s-e-n. I represent District 34. I'm the introducer of LB898, a bill that relates to the collocation and construction of large wireless facilities. As you recall, we passed a bill last session dealing with the collocation of small cell facilities. This bill would provide uniformity in the way we treat larger facilities and the way with-- they are regulated by political subdivisions and state agencies. We would incorporate federal definitions into our laws relating to the nonsubstantial changes and substantial changes. Those provisions would limit the authorized charges for application fees and set standards and limits for those fees. For each application, a single fee may be charged, but it is limited by an authority's actual direct and objectively reasonable costs for reviewing applications. Also, any costs, including consulting fees, must fall within a single fee. Some costs would not be recoverable, such as travel costs for a consultant. Also, no consultant contingency fees would be allowed. The cap on application fees would be \$500 for a nonsubstantial change or for collation-- collocation applications, and a \$1,000 cap would be set for the applications for a new tower and associated wireless facilities. Again, these caps do not apply to applications for small wireless facilities. Our goal in Nebraska is to get superior telecommunications services to all of our citizens. By providing limitations on fees for applications to improve those services, we do a service to Nebraskans. Also, I have drafted a technical amendment for your consideration as a committee amendment. It is AM2175 and its purpose is to incorporate language from regulations of the Federal Communications Commission. And we have also received a proposed amendment from the Nebraska Department of Transportation, AM2250, that we will be reviewing before our Exec Session. I urge you to advance LB898 to the General File with the amendment and thank you for your consideration. I would be happy to answer any questions.

**GEIST:** Thank you, Senator Friesen. Are there any questions from that committee? Seeing none, do you plan to stick around to close?

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**FRIESEN:** I will stick around.

**GEIST:** Thank you. Are there any proponents for LB898? If you'd come forward. And if there are any behind him, you can come and fill the chairs here. Thank you. Good afternoon.

**MIKE HARMS:** Good afternoon. My name is Mike Harms, M-i-k-e H-a-r-m-s. I'm a site acquisition specialist for Viaero Wireless. I live in Grand Island and work on site acquisition and permitting for cell tower construction and equipment upgrades across the state. I'm here to testify in support of LB898 on behalf of Viaero Wireless. Viaero Wireless is leading the rural provider-- is-- is a leading rural provider of wireless services. We have several cell phone towers in rural Nebraska, over 600, with over 200 scheduled for our first net collocation. We are constantly striving to expand and improve our cellular and high-speed Internet coverage in rural communities. FirstNet is poised to transform the future of public safety communications for first responders, including firefighters, law enforcement, and emergency medical service and personnel in the 50 states. This is through a public-private partnership with the First Responder Network Authority that will build, deploy, operate, and provide services on the Nationwide Public Safety Broadband Network. We strong-- we are strongly in support of this bill because it will allow us to do our job to provide wireless facilities and services that benefits Nebraskans without facing undue fees and the stringent processes that add no value to the project. The access fees and burdens-- burdensome requirements put in place by consulting groups used in a few Nebraska towns and counties have unfortunately put a strain on a development to the point where we are now avoiding building anywhere such group is retained. The consultant will generally have the local governing authorities adopt a model ordinance or process. Then it must be followed and impo-- and imposes fees and requirements. The group requires up-front escrow accounts or retainers for any application to build a new tower or even make upgrades. A deposit of at least \$8,500 is required to set up an escrow account with a governing body for just a start. This is followed with on-site inspections, preliminary recommendations from the consultant which follows the zoning or-- ordinances for that jurisdiction. These ordinance [SIC] are generally prepared by the consultant and adopted by the jurisdiction. The consultant group draws from these funds, which must maintain a present balance. If the balance drops down below \$2,500 in that escrow account, it must be flushed back to \$5,000 for you to continue with that project. The process imposed added paperwork

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time, even for simple projects. If this is a FirstNet project, we have to build it where we have to build it. These are-- requirements are slowing down our work to support first responders. If it is a wireless tower for our subscribers and we are planning to build in a community using consultants with these unnecessary hurdles, we may not continue building in that area. These consultants are hard to work with. We have started to make business decisions based on where they are located, and Nebraskans are losing out. We respect local governments that should have the option to engage consultants to review more technical applications and to help properly manage public infrastructure. This bill would still allow the legitimate consulting work that is occurring in the majority of Nebraska communities while barring those that are abusing the process. I want to thank you for consideration of this important legis-- legislation and help to advance wire-- Nebraska's wireless services in a fair manner. I would be happy to answer any questions.

**GEIST:** Thank you. Are there any questions from the committee? Yes.  
Senator Bostelman.

**BOSTELMAN:** Thank you, Vice Chairwoman Geist. Mr. Harms, thank you for being here today. Some clarification for myself, just so I understand, FirstNet is what Viaero is-- is that right-- building out [INAUDIBLE]

**MIKE HARMS:** FirstNet is what we're working on in the latest expansion, yes.

**BOSTELMAN:** So is that a federally funded project?

**MIKE HARMS:** It was a federally funded project and the bid was awarded to AT&T, and those collocations are taking place.

**BOSTELMAN:** So as this is being built out and we're going to, is what challenges this faces with you as far as being able to complete the responsibility of-- of-- of the complete build out, I guess, and how-- is that going to affect federal funding? Is that just going to slow you down? How does that affect it?

**MIKE HARMS:** Probably the biggest-- the biggest challenge that would be is that, as with all federally funded projects, they have a timeline associated with it. This one has a very tight timeline that, you know, I think all the towers with-- have to be on-line within a year and a half.

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**BOSTELMAN:** And the time, you have to have that done by 2023, 2025?

**MIKE HARMS:** I believe it's 2021.

**BOSTELMAN:** And how many sites do you feel you have-- that this would-- you have conflict with, I'll put--

**MIKE HARMS:** Currently we've got three sites that we're working with, with these kind of constraints.

**BOSTELMAN:** And then how many more, do you have any idea, that you have to do?

**MIKE HARMS:** We've got in excess of 200 sites just in the Nebraska area. We've got 400 sites totally within our Viaero network.

**BOSTELMAN:** So are you the only ones building this or is others building towers under-- with this?

**MIKE HARMS:** I'm not aware of anybody else in the state of Nebraska building with the FirstNet towers.

**BOSTELMAN:** OK, thank you.

**GEIST:** Are there any other questions from the committee?

**ALBRECHT:** [INAUDIBLE]

**GEIST:** Just over here. Seeing none, thank you for your testimony.

**MIKE HARMS:** Thank you.

**GEIST:** Any other proponents?

**KENT ROBERT:** Good afternoon, members of the Telecommunications and Transportation Committee. My name is Kent Rogert, K-e-n-t R-o-g-e-r-t, and I'm here today on behalf of AT&T and the Nebraska Telecommunications Association. I won't reiterate a whole lot, but I will try and go answer some of Senator Bostelman's questions as I go through here. AT&T and others in the wireless industry are continually investing in Nebraska's wireless infrastructure to deliver a better wireless broadband experience for residents and prepare for superfast 5G next-generation mobile technology tomorrow. Many municipalities welcome us with open arms and work diligently with us on zoning, land use, planning and permitting. Working with these folks is generally

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very efficient and effective. However, we run into trouble in places that have certain third-party consultants who impede the siting process unnecessarily and cause excessive delays through roadblocks and fees and implement useless requirements. For example, in one jurisdiction, it can take up for ten months for that jurisdiction to simply approve an application for a collocation, and in another jurisdiction it's virtually impossible to erect new macro-towers altogether. Such a scenario forces a provider to deploy-- deploy in an adjacent jurisdiction, hoping coverage extends to that nearby community. The piece of paper I'm handing you-- I've handed around shows some examples in different cities and counties in Nebraska-- I've removed the names to protect the innocent-- but what's going on out there. Bottom line, it takes over three times longer to deploy in some of these jurisdictions. Additionally, consultants are imposing egregious permitting fees. The previous testifier mentioned the \$8,500 escrow that must be started for each tower, every time we get going on these, and as well as regular retaining escrow accounts before we even get-- can get started. Senator Bostelman, you asked about a timeline. In 2009, the Federal Communications Commission established a "shot clock," requiring local governments make final decisions on all-- all proposed wireless facilities. A decision is required within 150 days of receipt of a complete application for a new tower and within 90 days of receipt of an application for proposed wireless facilities on existing structures. In addition, Congress requires localities to approve applications for nonsubstantial collocations, removals, modifications on existing structure within 60 days. More importantly, however, the excessive delays and costly fees are slowing down our deployment across the state, thus give-- giving folks the inability to use the technology. Wireless infrastructure is the first point of network contact for all of our smart-- smartphones, tablets, and wireless devices, especially when we're out in the rural areas calling for 911, doing business, or communicating with family. Trying not to repeat here. AT&T is committed to being a partner with the communities in which we deploy our network infrastructure. We feel a legislative solution to address the third-party consultant delays and red tape, complicated and time-consuming requirements, and inefficient practices and procedures, as well as a cap to their fees, not only will speed deployment but benefit Nebraska municipalities, residents, and businesses. I'll answer any questions that I can.

**GEIST:** Yes. Thank you for your testimony. Are there any questions from the committee? I do have one--

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**KENT ROBERT:** Sure.

**GEIST:** --if you don't mind. The gentleman before you, Mr. Harms, spoke about if an account went below a certain amount, they would have to recharge that account. And you mentioned an escrow of \$8,500 per tower. That account would be in total, wouldn't it, not per tower?

**KENT ROBERT:** So each project, meaning each tower that we try to put up, we've got to establish a separate \$8,500 escrow account--

**GEIST:** Oh, OK.

**KENT ROBERT:** --with these folks. And then as the cities, through their consultants or county, start charging fees back to the-- either the owner of the system or the erector of the tower, those fees start eating into that account. And once it gets to a certain level, then we have to replenish it and keep going, which means we've already spent more than the \$8,500, probably, like-- so it starts getting pretty out of hand.

**GEIST:** OK. OK, thank you. Any other questions?

**KENT ROBERT:** Thank you.

**GEIST:** Seeing none, thank you. Any other proponents? Good afternoon.

**MARY JACOBSON:** Good afternoon, Senators. My name is Mary Jacobson, M-a-r-y J-a-c-o-b-s-o-n, and I'm here today in support of LB898 and AM2175 on behalf of U.S. Cellular. U.S. Cellular has been providing wireless service in Nebraska since 2003. We take pride in the strength of our network, both in the urban and rural areas of Nebraska. We regularly participate in the Nebraska Public Service Commission's broadband program to bring wireless broadband to some of the most rural areas of the state. We are so pleased that the Legislature recognized the importance of advanced wireless technology in Nebraska and passed LB184 last session, the Small Wireless Facilities Deployment Act. This foresight allows cost-effective, streamlined deployment of small cells throughout the state. However, small cells don't operate on their own. Small cells augment the macro-tower networks and require that infrastructure to operate. We need-- continue to need to build and update the macro-tower network as technology evolves, advances, and traffic increases. Unfortunately, the deployment and upgrading of these macro-towers has been hindered due to extraordinarily excessive costs and delays imposed on the

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industry by some outside siting consultants. These outside siting consultants are employed by jurisdictions to provide expertise in reviewing wireless infrastructure applications and proposals. That in and of itself is not the issue. LB898 and AM2175 does not and is not intended to take away the ability to retain experts by these jurisdictions. Instead, this legislation prevents certain consultants from taking advantage of these jurisdictions and charging fees which are passed through to the carriers that are not cost based or necessary. Exorbitant fees are charged not only for new towers but for minor modifications to existing towers in some instances. LB898 with AM2175 sets reasonable limits on these fees. In summary, this egregious practice is impeding the deployment of advanced technology in the state and the benefits they bring to Nebraska residents. LB898 and AM2175 are necessary to resolve excessive and unnecessary costs imposed on the industry. Thank you for the opportunity to testify in support of LB898 and AM2175. On behalf of U.S. Cellular, I strongly urge you advance both measures to the floor of the Legislature. Thank you, and I'll attempt to answer any questions you may have.

**GEIST:** Thank you for your testimony. Are there any questions? Yes, Senator DeBoer.

**DeBOER:** This is a real basic question. Sorry, I had to go out for a second. Why is this now a problem? Why was it not a problem before? What has suddenly happened to make this a problem now?

**MARY JACOBSON:** It's my understanding that the outside siting consultants are a new phenomenon that we have been experiencing, and they have become a problem throughout the country. Over a dozen other states incurring-- including our neighboring states of Colorado, Kansas, Missouri and Iowa, have passed this type of legislation as they've seen these consulting operations emerge.

**DeBOER:** So it's the-- the change is that there are these new consultants. That's the change.

**MARY JACOBSON:** Yes.

**DeBOER:** OK. All right. Thank you.

**GEIST:** Thank you. Any other questions? Seeing none, thank you for your testimony. Any other proponents?



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**BETH BAZYN FERRELL:** Good afternoon. Vice Chairman Geist, members of the committee, for the record, my name is Beth, B-e-t-h, Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I am with the Nebraska Association of County Officials. I'm appearing in support of this bill as part of our overall policy of encouraging the development of broadband and wireless, especially in our rural areas. We do have some concerns about the possible fees that would be lost in this bill and perhaps some local control issues, but our overall policy is to encourage the development of broadband. So I'd be happy to take questions.

**GEIST:** Thank you. Thank you for your testimony. Are there any questions from the committee? Seeing none, thank you very much. Any other proponents? All right. Any opponents?

**SHELLEY SAHLING-ZART:** Thank you. Good afternoon. Chairman Friesen, Vice Chairman Geist, members of the Transportation and Telecommunications Committee, for the record, my name is Shelley Sahling-Zart, S-h-e-l-l-e-y; Sahling-Zart is S-, as in "Sam," -a-h-l-i-n-g, hyphen, Z-a-r-t. I'm vice president and general counsel for Lincoln Electric System here in Lincoln. I am here in opposition to LB898 on behalf of Lincoln Electric System, the city of Lincoln, and the Nebraska Power Association. The Nebraska Power Association represents all of Nebraska's consumer-owned electric utilities, including municipalities, public power districts, public power and irrigation districts, rural public power districts, and cooperatives. This bill, you've rightfully asked the question: How did this become a problem? Why-- why didn't-- why didn't we know about this in the three years, the three years we spent in a contentious negotiation over small cells and just passed that legislation last May?, I find it hard to believe that this problem became-- came up in, what, the last seven months, or that states just passed legislation in the last seven months. This is a problem that could have been known. And this, frankly, is exactly what we were concerned about when we passed LB8-- LB184, that we would come in and every year we were going to chip away and bring more things in. But let's keep in mind, this isn't about small cell technology. Small cell technology is an advancing technology. Macro-cells have been around forever. You've heard one testifier say they've got hundreds of-- of towers in. This is not a problem we have heard about before. It's problem you should have heard about in the last three years. And we came here in good faith and negotiated a hard-fought compromise in LB184. The ink has barely dried on that compromise and we are seeking to significantly expand its scope. Authority is defined in this bill, not the way we defined it in

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LB184. This bill now includes public power districts. Definition of-- of structures in here now includes electric transmission towers. We were adamant about exclude-- that was a nonstarter to include electric transmission towers. There are safety and reliability concerns. It also includes water towers. So don't be led to believe that this is similar to the things you have passed before. There are significant differences. Mostly this bill appears to only cap the application fee you've talked about, but the testimony here tells me it has a far broader intent to eventually be merged into the small cell legislation we passed. But again, these aren't small cells. These are large towers looking to be collate-- collocated in the public right-of-way. There are significantly different kinds of safety and siting concerns with these towers than there were with small cells. It is not the same. This should be a really serious consideration. But mostly I want you to keep in mind we came here and negotiated that in good faith and this doesn't feel like a good-faith effort to come back seven months later, amend this bill. I'd be happy to take any questions.

**GEIST:** Thank you, Ms. Zart. Are there any questions from the committee? Yes, Ms. Albrecht--

**ALBRECHT:** Thank you, Vice Chair--

**GEIST:** --Senator Albrecht, sorry.

**ALBRECHT:** That's OK, Vice Chair Geist. And thank you for being here. Maybe you can help me understand some of this. So these consultants that come in, do you all have consultants that determine where some cells can go and where they can't?

**SHELLEY SAHLING-ZART:** The city of Lincoln probably does. Some of the other utilities might. And I would tell you, everybody does it a little differently, which is prob-- one of the problems. Everybody has a little bit different process. I will tell you, for Lincoln Electric System, our engineers, we-- we have towers within our substations, not within our electric easements, so our engineers are doing a lot of the-- the modeling and the studies on those.

**ALBRECHT:** But you wouldn't let-- excuse me-- others like hook onto your towers, probably, correct?

**SHELLEY SAHLING-ZART:** No, not our transmission towers.

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**ALBRECHT:** [INAUDIBLE] yeah.

**SHELLEY SAHLING-ZART:** And if we did--

**ALBRECHT:** So--

**SHELLEY SAHLING-ZART:** --we would hire a consultant, but we would expect that the-- that all of the costs we actually incur would be reimbursed because, keep in mind, we're all-- the authorities you're talking about are public entities, so if those costs aren't being incurred, they're being passed on to either an electric rate payer or a taxpayer through the cities.

**ALBRECHT:** Um-hum. So-- so just listening to Senator Friesen's opening, looking at the bill, these consultants that are out there, I mean, obviously, the smaller communities don't have somebody on staff, so who would they use? Who would these people be, just companies that-- that contract with these cities and counties and--

**SHELLEY SAHLING-ZART:** Sure. There's a variety of consulting and engineering firms that would be out there, and I think you're going to hear from the city administrator at Columbus who can tell you exactly how they do that for the city of Columbus.

**ALBRECHT:** Well, then I'll check with a few that are--

**SHELLEY SAHLING-ZART:** The-- yeah.

**ALBRECHT:** --coming behind you. Thank you.

**GEIST:** Are there any other questions? Senator Bostelman.

**BOSTELMAN:** Sure. Thanks for being here. I guess my question comes back similar to what Senator Albrecht was just talking about. It seems like there may be one or two consultants out there that-- and the previous testimony, first testifier was-- is charging excessive, kind of playing by a different set of circumstances when they go into negotiations or are reviewing site locations. How --do you know-- I guess my question is, do you agree with that or do you think-- think not?

**SHELLEY SAHLING-ZART:** I will tell you, coming into this hearing, I've heard about one, one situation where somebody had an escrow fee of \$8,500 and they're going to testify to that today, but one. I mean,

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this is not a-- we've been doing these issues for a long time. This is the first I've heard of that. And if there are even, if there are two or three, I don't know that two or three outliers is a reason to come in and cap that fee at, frankly, a level that is not going to cover the actual costs for a lot of folks across the state, because, keep in mind, the costs of those consultants may vary radically from Omaha to Scottsbluff and everywhere in between. But it's--

**BOSTELMAN:** So is that--

**SHELLEY SAHLING-ZART:** You're going to severely limit that.

**BOSTELMAN:** Yeah. Do you-- and another testifier testified that it's on rather-- we'll use "minor" as a word-- changes within that tower? Maybe it's hardware, whatever, that's going on. How do you-- I'd like you to speak to that.

**SHELLEY SAHLING-ZART:** I would tell you to look real carefully at what they consider substantial changes. I mean, when you're talking about protruding more than 20 feet, 20 feet is a long ways. And keep in mind, you're talking about there are adjacent property owners that don't know this bill is going on, they don't know that you're discussing this, but their-- their rights adjacent to these towers are being impacted, and I believe they're going to have concerns about some of that.

**BOSTELMAN:** So if there is a tower going up or something being added on, isn't there a process within the city, as far as-- I know it wouldn't be necessarily zoning, but there has to be a notification to people in that area that there's a change, something going to be happening, isn't there?

**SHELLEY SAHLING-ZART:** Yeah, I would-- each municipality has probably got various ways that they deal with that. Again, what I think they're trying to do is get you to unif-- to provide a uniform process like you did with small cells. But we're talking-- I just can't stress enough that the small cells and the macro-towers are just so entirely different and people's views and perceptions about those are far different, so I think it would be a really hard one to provide a uniform standard across the state for. I don't know if that answered your question.

**BOSTELMAN:** Not necessarily uniform, it's more-- so if there is a tower going up in a location, a lot of time, there's-- there's a-- if

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there's a change, there's a notification; there's a sign that usually will go up and say there's, you know, zoning change. It wouldn't be zoning, but it would be a building, some type of notification to those people who live in the area to know that that's happening, so they would then have an opportunity to have some type of an input to that.

**SHELLEY SAHLING-ZART:** I would think so. I don't think that would be provided under this legislation.

**BOSTELMAN:** OK. Thank you.

**GEIST:** Any other questions from the committee? I do have one in relation to what Senator Bostelman was saying. When towers are constructed and/or changes happen to those towers that are of a significant nature, or maybe even minor but might fall under significant, is there a public hearing that's ever held for those?

**SHELLEY SAHLING-ZART:** That's a great question. I don't know the specific answer to that.

**GEIST:** OK.

**SHELLEY SAHLING-ZART:** I would think it would depend on, again, too, what the city's process requirements and their ordinance would be.

**GEIST:** OK, so that would be a city ordinance.

**SHELLEY SAHLING-ZART:** And they're probably defining some of the things that are in here as to what is a substantial enough change to warrant that and what isn't.

**GEIST:** OK. OK. OK, thank you. That's all I have. Any other questions? Seeing none, thank you for your testimony.

**SHELLEY SAHLING-ZART:** Thank you.

**GEIST:** Any other opponents?

**TARA VASICEK:** Good afternoon. Tara Vasicek. I'm the city administrator in Columbus, Nebraska. Thank you for being here, Transportation and Telecommuni-- Telecommunications--

**GEIST:** Could you spell your name, please?

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**TARA VASICEK:** Yes. Tara Vasicek, T-a-r-a V-a-s-i-c-e-k. Vice Chair Geist, I am here representing the city of Columbus. Columbus does not have staff qualified to process wireless telecommunications facilities applications. Our current ordinance, which was adopted in 2017, requires an escrow deposit at the time of an application. That escrow is used to hire a professional to review the applications. Currently, Columbus has six open applications today, when I looked this morning before coming here. The costs incurred for those application ranges from \$1,250 to \$4,325, all based on the scope of the particular application. This professional reviews the application, ensures the existing or-- and/or proposed facilities are structurally sound, and inspects the completed project after the facility is constructed. I give you this brief description of what the wireless telecommunications facilities application process currently is in Columbus to show you that the language in LB898 would not provide the city of Columbus with the appropriate limits to ensure that these facilities are delivered to the public safely. LB898 includes a limit of only \$500 or \$1,000 based on the type of facility application. Columbus is very concerned about primarily safety, in particular because in 2016 a cellular monopole failed. This pole was installed only five years before the failure. At the time this pole was installed, Columbus did not have the ordinance, obviously, that we have today. We didn't have a professional reviewing the applications and permit process. We didn't have an independent inspection of that monopole once it was constructed and it failed. You can see a picture of that on the back of the sheet I provided you. LB898 prohibits the applicant from being required to pay for travel expenses, so that really is concerning to us. How are we supposed to have an independent inspection of these poles? In 2017, a Verizon Cell Tower was constructed in a city park. The tower was permitted on city parks at that time. Residents of Columbus came out in mass opposition to the tower with concerns about aesthetic impacts, potential health-- health and safety risks, and effects on nearby property values. They insisted the review process for such structures be changed to increase transparency. Now, in or near residential areas, notice must be given to property owners within 300 feet of proposed sites and a planning and city council public hearing are to be required. Columbus did update the process because elected and appointed officials in Columbus believe it's our job to represent and serve the best interest of our citizens. I do not believe that LB898 does serve the best interest of the citizens of our community. Do you have any questions for me?

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**GEIST:** Thank you. Are there any questions from the committee? Yes, Senator Bostelman.

**BOSTELMAN:** Thanks, Vice Chairwoman Geist. So they have to put down a--

**TARA VASICEK:** Escrow deposit.

**BOSTELMAN:** And how does that-- how does that differ, I guess, with that contractor one? What does that required of them and what's that different than if they're going to come in with a project, if they have-- do you require them to have a PE, professional engineer, look at it to do those type of things? I mean, what are the-- what's the reasons for that escrow, that fund to be set up?

**TARA VASICEK:** For the review because, based on the type of facility they're applying for, there may be engineering requirements that need to be reviewed and there may be-- what an eligible facility is-- we're not up on all the FCC lingo. We're not familiar with all the ins and outs of that. Our community and development department in Columbus has four people. That includes the director of the department and that's adding one recently. We don't have the wherewithal to know all the ins and outs of these applications. We don't know when these structures were most recently inspected, the-- just the soundness of them.

**BOSTELMAN:** I understand. I guess my question comes, why do I have to put-- if I was a contractor, why would I have to put the money up-front instead of pay for it as it goes along? In other words, if you have-- if you contract with someone to do the review, then why am I not responsible to pay for that as it comes about? Why is it that I'm putting the money up-front?

**TARA VASICEK:** Well, we believe that the escrow up-front actually speeds the process along rather than doing a monthly billing, and if they don't pay the monthly billing right away, then the consultant is not doing any work on it. We believe if you pay it up-front, then we keep the process moving quicker.

**BOSTELMAN:** Yeah. Have you-- have you had a problem with people paying in the past, do you think?

**TARA VASICEK:** No, we haven't.

**BOSTELMAN:** OK. Thank you.

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**GEIST:** Are there any additional questions? Yes. Senator Albrecht.

**ALBRECHT:** Thank you, Vice Chair Geist. Thanks for being here. And I know--

**TARA VASICEK:** Sure.

**ALBRECHT:** This is my frustration, I think, is-- and I don't even know what questions to ask at this point--

**TARA VASICEK:** Sure.

**ALBRECHT:** --because when you have small communities that might only have one person, you know, what-- who-- I don't want to name names, but the person whose tower went down, was it their responsibility? Were they-- were they charged with, you know, cleaning it all up and putting it back up? You probably didn't let them put one there again.

**TARA VASICEK:** Actually they built one back there the same year that it fell.

**ALBRECHT:** Right in the same spot?

**TARA VASICEK:** Um-hum.

**ALBRECHT:** So were they held responsible for that tower or was the city of Columbus?

**TARA VASICEK:** Well, together we had to deal with it. You can see in the picture it blocked a road. On the other-- on the other side of the road is residential. That tower fell within about 18 inches of a residence. That-- there is an electric substation at the base of this tower. Obviously, they were very, very concerned about this failure as well.

**ALBRECHT:** And was there actually a consultant that worked with the city at the time to erect this one?

**TARA VASICEK:** No.

**ALBRECHT:** Oh.

**TARA VASICEK:** No. We-- our citizens in Columbus are acutely aware of all the tower activity that's gone on. And there still is-- like I said, in 2016, '17, a tower was finished in a city park, so we're--



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the city is not opposed to developing this technology and working with companies, but the community has some very strong feelings about towers, and they really pushed their elected officials in Columbus to up our regulations so that they know when these towers are being negotiated. They get all the notice. We have public hearings.

**ALBRECHT:** And does the city of Columbus have zoning authority?

**TARA VASICEK:** Yes.

**ALBRECHT:** And there are a lot of small towns and-- that don't, so--

**TARA VASICEK:** Right. Right, and counties as well. I was surprised to hear that--

**ALBRECHT:** Um-hum, cities and counties all have issues with that, so thank you.

**TARA VASICEK:** Thank you.

**ALBRECHT:** Appreciate your comments.

**GEIST:** I do have a question for you. I noticed that you said that the applications range from \$1,250 to \$400-- \$4,325. So would you say that limiting to \$500 or \$1,000 would-- would that impose a safety risk or would it just be not feasible? What--

**TARA VASICEK:** Well--

**GEIST:** What's your comment there?

**TARA VASICEK:** This is how much of the escrow had been used on the very-- on the six open applications.

**GEIST:** OK.

**TARA VASICEK:** So if we just set a flat \$500 for applications, we wouldn't be able to do a detailed review without losing money that we would either have-- not have anybody reviewing it, like we did back in 2000, 2001, when we had pole failure, or we'd just be out the money and it would be on the backs of the taxpayers.

**GEIST:** And-- and who was that? Who had the pole?

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**TARA VASICEK:** It was an American Tower.

**GEIST:** American Tower? OK. Any other questions? Yes, Senator Bostelman.

**BOSTELMAN:** I guess I'm going to come-- come back to the question before us, which is, why isn't the application process by whoever it is that wants to put up whatever structure it is they're attached to? Why isn't the application requiring those type of-- of reviews, those type of things done in advance of that application process? So then they apply now, then you do a review, then you do these other things. Why isn't that, I guess, front loaded more so that when they-- they come in, they have a lot of those things already--

**TARA VASICEK:** Sure.

**BOSTELMAN:** --required to have addressed?

**TARA VASICEK:** You know, our ordinance is pretty front loaded. It's very detailed about what is going to be required, what's going to be asked in the application, but still I get lots of questions about what's in the-- nobody really reads it.

**BOSTELMAN:** OK. Thank you.

**GEIST:** And do you have an open bidding process where you take bids and--

**TARA VASICEK:** So we passed this-- for the consulting, you mean?

**GEIST:** Um-hum.

**TARA VASICEK:** We passed this-- this ordinance in 2017 and it-- it provides for us going out and get-- updating our bids for consultants every few years, so, yes, we will. Right now--

**GEIST:** And then for the construction that goes on after that? Is that--

**TARA VASICEK:** That's all on the applicant.

**GEIST:** On the consultant, OK. OK. Any additional questions? Thank you.

**TARA VASICEK:** Thank you.

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**GEIST:** Thank you for your testimony. Any additional opponent?

**JACK CHELOHA:** Good afternoon. Senator Geist and the members of the committee, my name is Jack Cheloha. That's spelled J-a-c-k; last name is C-h-e-l-o-h-a. I'm a registered lobbyist for the city of Omaha, and I want to testify in opposition to LB898 today. The witness before you just kind of gave you a perspective from one of the smaller cities in Nebraska, first-class city. I'll try to give you a perspective about the bill from Omaha, metropolitan-class city. First of all, I guess we were surprised to see a bill on this topic in 2020 for a couple of reasons. One, let's see, I've been-- this is my 26th year lobbying for the city of Omaha and to me, it seemed like we've been using, you know, our cellular phones and had-- had them in our pockets for a long time now. When I first started lobbying, I worked with one of the old-timers, and our cell phones then were as big as brick and-- and, you know, service and coverage was a little bit limited. But since then, the industry has obviously moved forward. We've progressed. There's been a lot of improvements. And so, nevertheless, what I'm trying to say is that, you know, in 30-plus years of-- of us citizens using cell phones, we haven't had a problem with macro-towers before, so it's-- it's a little curious as to why we would need a bill now. Secondly, we dealt with a new technology over the last three years in that bill, LB184. And-- and as was stated, that was kind of a long, arduous, pro-- process. And at first there was confusion about that bill even: Does this apply to large towers? Oh, no, it's small cell only. And where is it going to provide coverage? And-- and there were, you know, rumors that it was going to be the by [SIC] all, end-all for broadband across the state, and in reality, it turned out, it wasn't. It's going to be a-- more of a vision data-passing service within urban areas. So-- so that's-- nevertheless, here we are, LB898. The city of Omaha has the ability to regulate matters that would affect ourself-- I'm sorry, our health, safety, and welfare of our citizens. Wireless technology fits into it. Included with that would be aesthetics, as you've heard from other witnesses. The city of Omaha has a right and responsibility to regulate and control its right-of-way to enforce the items that I've mentioned. We don't think the bill is necessary. We've been working cooperatively with wireless providers for 30-plus years in Omaha. We were unaware of any problems of either our citizens or providers. It seems like every time there would be a gap in coverage, the industry would work. They would approach the city. We would reach a meeting of the minds on the location and we would move along and-- and the customers would be

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happy. So it seems like it works for us now. We have a public hearing process. We go through various stages. We have zoning items relative to the place once we control the right-of-way. Typically, we handle large towers by special use permits. I see the red light is on, so I'll try to finish up. And with that, it's always a public hearing. And we think that the fees that are within there, even for a city like us that-- that doesn't need to hire outside consultants, it doesn't cover our cost. There, I'll stop there and see if you have any questions.

**GEIST:** Thank you. Thank you for your testimony. Yes, Senator Albrecht.

**ALBRECHT:** Thank you, Vice Chair Geist, and thanks for being here. OK, so you're the big city. You have people internally that help do this.

**JACK CHELOHA:** Exactly. Yep, we have--

**ALBRECHT:** OK. So you said in the end that you lose money.

**JACK CHELOHA:** Right, be--

**ALBRECHT:** How's that?

**JACK CHELOHA:** We lose money just because of the time it takes to study each application, have a go through the process. If it needs an engineering review, we have some engineers within our city employ that would work with the engineers for the companies. And then it has various stages and documents that need to be prepared that go to the city council for the public hearing, etcetera, and-- and \$500 for a, you know, a change would probably not be enough with the paperwork alone, whereas the new location, \$1,000 certainly wouldn't cover it, even within our own people.

**ALBRECHT:** So do you also have escrow accounts for these projects?

**JACK CHELOHA:** No. The city of Omaha doesn't ask for escrows on ours.

**ALBRECHT:** OK, so you don't ask for that.

**JACK CHELOHA:** No.

**ALBRECHT:** So what fee would you think in the larger cities? What's it worth to you to take a look at these?

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**JACK CHELOHA:** Well, that's a good question. I wish I could tell you. But each-- each one is going to be a different amount of time, effort, work--

**ALBRECHT:** Depending on the number.

**JACK CHELOHA:** --and meetings. It-- it-- it differs whether you're going to build a standalone, you know, 80-foot or 100-foot tower on a new location or you're going to apply a macro-antenna onto existing water towers. The city of Omaha actually owns and maintains water towers in Millard and Elkhorn now where there are some attachments on those and those are obviously different than a standalone macro-cellular tower.

**ALBRECHT:** So off--

**JACK CHELOHA:** So it's going to vary, application by application.

**ALBRECHT:** So off the top of your head, like if it were on top of a water tower, what kind of money would it take to review that--

**JACK CHELOHA:** Well--

**ALBRECHT:** --if it's brand-new?

**JACK CHELOHA:** --I think-- I think we'd have to go through engineering standards to make sure that it could support, you know, whatever the apparatus is. Let me take a look at my notes here quick from our planning director. Sometimes he states that. We have-- we have zoning fees of roughly about \$650. And then if there's building permit fees, those are about \$740. And if-- if it's a special use permit, I don't have a number for that, I apologize, but--

**ALBRECHT:** So those just keep adding up. That's what the cost would be to--

**JACK CHELOHA:** And it depends on the-- on the location.

**ALBRECHT:** Right. Right.

**JACK CHELOHA:** Not all of them will have the same cost.

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**ALBRECHT:** And if they wanted to have more than one location, they would pay those fees for each location or one applicant comes in and wants to have four-- four different areas?

**JACK CHELOHA:** Four different sites?

**ALBRECHT:** Sites.

**JACK CHELOHA:** I think we-- I think we work together. We have a-- we have a process in place where we've tried to streamline those. We do encourage collocation, so that's good. That helps not only us, the citizens, but it also helps the industry. The-- the key there always, though, Senator, is whether it provides the coverage for their customers within that area. And-- and sometimes those are-- you can imagine sometimes you get pushback from citizens. I remember there was a cell tower location that wanted to happen on Memorial Park in Omaha, which is roughly about, what, 60th and Dodge Street? And, boy, the neighbors just came unglued because they didn't like it. And even with aesthetical changes to change the appearance, it just wasn't going to work. But yet, at the same time, as we offered alternate locations, then we had to do other engineering studies to see if it met, you know, the provider's service and coverage. And you can understand why these are, you know, sometimes complicated and they're individual, case-by-case basis.

**ALBRECHT:** So would you ever see the city of Omaha having a consultant just for that, or you like it the way it is in-- in-house?

**JACK CHELOHA:** Well, I don't-- I don't know-- it would-- I suppose if technology changed in such a way that it was something that our engineers were unfamiliar, we may have to look to outside, but for us, we think it would be a one-time costs, not an ongoing thing.

**ALBRECHT:** OK. Thank you.

**GEIST:** Any additional questions? Seeing none--

**JACK CHELOHA:** Thank you.

**GEIST:** --thank you for your time. Any additional opponents?

**LASH CHAFFIN:** Good afternoon. My name is Lash, L-a-s-h, Chaffin, C-h-a-f-f-i-n. I'm a staff member at the League of Nebraska Municipalities. I'd like to offer opposition testimony to LB898. I

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want everybody to keep in mind these are macro-towers. These are fac-- these are facilities that have been around now for a couple of decades. You can't-- you can drive anywhere and see dozens of them just in-- in a short time frame. There hasn't been a lot of impediment to putting these up. I mean, obviously, they're going into place now. Also, at our conferences in the last 15 years, we've had hours upon hours upon hours of speakers talking about regulating macro-towers. This isn't a new cutting-edge technology. And-- and the one thing that keeps coming back to me, and trust me these guys are boring, but is that this is a matter of federal law. This seems like an odd place for the state of Nebraska to jump into something that's been regulated for-- for now a couple of decades by the federal government through the FCC. This is-- there's-- there's not an embodiment of statute in Nebraska dealing with macro-towers. And this is-- this is-- just seems like an odd place to jump in, and that makes the cities very, very nervous. And-- and secondly, these are complex, engineered-- engineered facilities. They-- they-- sometimes they take a really close review. And as you saw the picture of the tower in Columbus, these-- these merit public scrutiny before they go up. And, you know, \$500 or \$1,000 doesn't go very far. I mean, I don't know what it costs to claim a water tower to look at the bolts of an attachment on top of a water tower, but if you can find somebody to do that, it's going to be more than \$1,000. And these-- these are not-- these fees are-- they're just an unreasonable amount. And as far as what would-- a reasonable amount would be, I don't know. You know, it's-- putting one on the edge of town is a lot different than putting one in a residential neighborhood in weird soil next to an electric substation. You know, they all require a different type of review. And-- and-- and the-- so I think we need to keep that open in Nebraska. The citizens deserve some public scrutiny of these type of facilities. But I would certainly answer any questions.

**GEIST:** Thank you. Thank you for your testimony. Are there any questions from the committee? Senator Bostelman.

**BOSTELMAN:** A couple questions. One question, it sounds like there's only certain communities or certain contractors seems to be the issue from previous testifiers. Would you agree with that?

**LASH CHAFFIN:** Well, I-- I-- I-- I don't. You know, there's not-- I-- I don't keep track of who the consultants are working on these things, but there's no new consultants in the last seven months. The-- the consultant that works with Columbus has been around for a long, long

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time, and they've worked on macro-towers for as long as I remember consultants working with cities, so nothing-- there's been nothing new that's happened, as far as I can tell, since the cell-- since the small cell issue was going on. One of the prior testifiers said, why-- why-- if this is an issue, why wasn't it brought up? I don't know. I-- I don't know. I don't think that there's a new consultant out there who's-- who's doing anything new and elaborate. The-- the-- the-- the one who works with Columbus has been around for a long time. I've known the individuals for quite a while, so.

**BOSTELMAN:** Right. So I think that in some sense, small cell is separate and different from what we're talking about here.

**LASH CHAFFIN:** Yes, absolutely.

**BOSTELMAN:** So, I mean, I look at them differently in that sense. I guess the question I asked earlier to Ms. Vas-- Vasicek was, why don't you require this in your-- in your application permitting process? In other words, why is it the-- the city is responsible, per se, to pay for this? In other words, when you apply, when you come in with-- with an application to put in a tower, wherever it's at, why doesn't that process require that you have to have this review, this inspection, these type of things done in advance and that's on-- then that cost goes on the-- the company who wants come in and-- and install that tower or that device, whatever it is, rather than onto the city?

**LASH CHAFFIN:** Well, Senator--

**BOSTELMAN:** Because that's what I'm hearing.

**LASH CHAFFIN:** Oh, I think-- I think-- I think the cities do exactly that. I think they do ask to have this information up-front. And-- and then just like any engineering process, then they-- they review that. And-- and sometimes there-- there are necessarily-- you know, engineers don't always agree on issues, and that's where the debate becomes. If, for instance-- you know, I believe that, you know, a Papillion or a Grand Island would require a lot of up-front engineering information. And then the-- then the city, their own staff might say, oh, you didn't understand the soil types you're in and, you know, things like that. That's the type of review that-- that goes on.

**BOSTELMAN:** Right. And I understand that and I appreciate that. I guess where I'm not-- I guess what I'm trying to get at is, then why would that cost not be put back on the person who wants to install that,



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whatever that is, because you now have to take this action to do that as part of-- part of the business process, part of the application process. Why would they not be responsible to have to pay that prior to installing this?

**LASH CHAFFIN:** Sure.

**BOSTELMAN:** Like, if you're going to install this, then you have to pay for these. This is-- this is-- this is what you have to pay for. You have to reimburse us for this as part of the cost of doing business.

**LASH CHAFFIN:** I think that in part is-- I-- obviously, I'm not the consultant who sets up the escrow fee system, but I think that's what they're trying to replicate is a system where the applicant ends up "up-fronting" the cost of that review, so it'll be on the cell-- cell-- cell phone customers, rather than the- the city.

**BOSTELMAN:** OK.

**LASH CHAFFIN:** I think they're trying to replicate that. I don't-- don't know if it quite works out that way, but I think they're trying to replicate a plan exactly as you envisioned.

**BOSTELMAN:** All right. And I-- I-- just kind of comes back to if that's the process, then where's the problems been? Have we had a bad actor out there who's not paying the bills, who's not keeping up? And to me, I think that would be about-- and not in their best interest because they want to install the tower device; you know, you want to keep that business going, but--

**LASH CHAFFIN:** I-- I would hope so. I think-- I--

**BOSTELMAN:** Yeah. Thank you.

**GEIST:** Any additional questions? Seeing none, thank you.

**LASH CHAFFIN:** Thank you.

**GEIST:** Any additional opponents?

**JOE KOHOUT:** Vice Chairwoman Geist and members of the Transportation and Telecommunications Committee, my name is Joe Kohout, K-o-h-o-u-t, registered lobbyist appearing today on behalf of our client, United Cities of Sarpy County. You have heard a lot from cities. You've heard from-- from several groups. I'm not going to-- I'm not going to take

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real long other than to say that the two concerns raised by the cities of La Vista and Papillion both mirror those that have been stated previously. So with that, I'll try to answer any questions that you might have.

**GEIST:** Thank you for your testimony. Are there any questions? Yes, Senator Albrecht.

**ALBRECHT:** Thanks. Vice Chair Geist. Thanks for being here, Mr. Kohout. So city of Papillion, city of La Vista probably have in-house folks that-- engineers that look it over, application fees. Wouldn't you say that-- I guess I'm asking, do they have that?

**JOE KOHOUT:** The-- they do have some of that. But my understanding is that they do utilize outside consultants to-- to review those, some of those documentations. So I think it goes to what you were hearing from Mr. Chaffin before about verifying these being subject matter experts. We-- those folks at the city are not-- they are not a subject matter extra-- expert on everything with regards to this. So I think when they get into the specifics, they want to be sure of the public safety component.

**ALBRECHT:** So-- and that's kind of my question, is, is this a standalone problem that needs to be addressed statewide or is it something that-- is it one-size-fits-all? Because I don't see-- I mean, with a business coming in knowing that you're going to be serving a lot of-- of people, you know, obviously, they'd pass it on to-- you would keep passing on the fees to all of us to get that service. So the bigger question is, if there has to be an escrow account, depending on the-- the city or the county, if they need that, versus a company coming and being able to back up what they're telling you that they're going to do and you just find the location, they meet your fees for-- and the different permitting processes, and you go forward. So, again, you're representing a larger area, but my concern is throughout the state where we really need a lot of extra things to take place, the cost. You know, have you--

**JOE KOHOUT:** And-- and I don't have a strong answer to that question, Senator. I'm sorry.

**ALBRECHT:** So I'm just thinking out loud while you're there. Thank you for listening. OK, thanks.

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**GEIST:** Thank you, Senator Albrecht. Are there any additional questions. Seeing none--

**JOE KOHOUT:** Thank you.

**GEIST:** --thank you for your testimony. Are there any additional opponents? Seeing none, does anyone wish to testify in a neutral capacity? And I see none. Senator Friesen. And before he closes, I will read some-- there are some letters of support from Eric Carstenson from the NTA; Stacey Briggs, T-Mobile; Arturo Chang, WIA; Gerard Keegan, TCIA [SIC] Tim Burke, president, OPPD-- oh, I'm sorry. Tim Burke is in opposed. And now, Senator Friesen, you are welcome to close on LB898.

**FRIESEN:** Thank you Chairwoman Geist. You know, we've heard testimony. Obviously, there's some issues out there. Now, whether or not the dollar amounts are right, I'm willing to work with people to figure out where we need to be. But obviously, we've had some, I think, some cases where there's-- I would call it a little bit outrageous pricing done in some of these studies. Again, I'm willing to work with people to come up with a better plan if there is one, but it would, I think, kind of streamline the process and make sure that some of these what I would call bad actors are brought under control a little bit. I'm sure most places probably do it right, don't know that. So with that, I'm glad to answer any questions or-- that's all I have.

**GEIST:** Thank you, Senator Friesen. And are there any questions from the committee? Senator Albrecht.

**ALBRECHT:** Thank you, Vice Chair Geist. Well, thank you for bringing the bill. Obviously, we have a lot of proponents and probably just as many opponents, so I look forward to finding out where everything stops because obviously there was one or two-- I hope it's just that amount-- of bad actors. But people have to know when they come to do business in our state that they're welcome, that the prices shouldn't be so far off from one end of the state to the other, and I'd like to see where it goes, so thank you.

**FRIESEN:** OK. Thank you.

**GEIST:** Any-- yes, Senator Bostelman.

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**BOSTELMAN:** Yeah. Senator Friesen would you say the intent of your bill is to-- on new towers and-- or is the intent for it to be installed onto power lines, power poles? It is just on new--

**FRIESEN:** No, these are macro-towers.

**BOSTELMAN:** --new-- new-- new towers--

**FRIESEN:** Right.

**BOSTELMAN:** --not within the electrical power lines?

**FRIESEN:** That was-- that was my understanding of where we're headed with this. This is not anything to do with small cell. These are macro-towers that you see out there.

**BOSTELMAN:** And it would not miss--and it would not go into that area where the right-of-ways, where those power lines would be.

**FRIESEN:** I-- I would assume [INAUDIBLE] doesn't fit there. These are-- these are large towers.

**BOSTELMAN:** Thank you.

**GEIST:** Any additional questions? Seeing none, that will close the hearing on LB898. And we will prepare to open the hearing then on LB992. Senator Friesen, you are already poised and ready to go, I assume?

**FRIESEN:** Thank-- thank you, Chairwoman Geist. My-- members of the committee, my name is Curt Friesen, C-u-r-t F-r-i-e-s-e-n, and I represent District 34. I am the introducer of LB992, a bill that incorporates the recommendations of the Rural Broadband Task Force that require statutory changes. First, some history. The Rural Broadband Task Force was established pursuant to LB994, a bill heard by this committee and passed by the Legislature in 2018. Senator Bostelman and I are members, along with Mary Ridder from the Public Service Commission and other members that are some state agency directors and members of the public appointed by the Governor. Ed Toner, the Nebraska Chief Information Officer, chaired the committee. His staff, particularly Anne Byers and Tom Rolfes, and the staff of the PSC, primarily Cullen Robbins, did a great work in covering issues important to the greater availability of broadband in unserved and underserved areas. The recommendations for statutory changes from the

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task force were in areas relating to electric easements, public leasing of broadband fiber, support for public libraries, and the creation of a state broadband coordinator. We added a provision providing for the length of terms for appointments to the task force, as that provision was overlooked in the original bill. With respect to the legality and providing broadband over existing electric easements, we used as our drafting model a Colorado law that permits that activity by providing a due process to the landowner and a process for determining the value of the enhanced easement to the holders of an interest in the property. We're trying to avoid the issue of unlawful taking and we have requested an opinion from the Attorney General as to whether the process in LB992 is lawful. Again, our goal should be to get input from the public on the details of our proposal. I already have an amendment relating to easements across railroad right-of-way that the committee will be considering. We held a hearing in December on the recommendations of the task force and got a lot of input there. However, as we know, the devil is in the details and I look forward to hearing from interested parties. I do believe that equity and advanced telecommunications service is critically important to the future of Nebraska, and I hope we'll listen closely and build consensus on what actions to take to improve service in the unserved and underserved areas. With that, I would ask you to consider advancing this bill out of committee.

**GEIST:** Thank you for your testimony. I do have a quick question. You just mentioned something about length of terms of some-- that was left out. Would you repeat that? I just missed what you said.

**FRIESEN:** When the bill creating the task force was created, there was not a length of terms--

**GEIST:** Of the term.

**FRIESEN:** --established in those people that were appointed so.

**GEIST:** OK.

**FRIESEN:** It was an ongoing task force that was posed to report back every two years, I believe.

**GEIST:** OK, thank you. Are there any questions from the committee? Seeing none, thank you for your testimony. Are there any proponents of LB992?

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**ERIC CARSTENSON:** Good afternoon, Senator Geist--

**GEIST:** Good afternoon.

**ERIC CARSTENSON:** --and members of the Transportation and Telecommunications Committee. My name is Eric Christensen, that's E-r-i-c C-a-r-s-t-e-n-s-o-n, I'm the president registered lobbyist for the Nebraska Telecommunications Association. That's a trade association that represents the majority of LEX, local exchange carriers, and broadband providers in Nebraska. I want to thank the Rural Broadband Task Force that was created by LB994 in 2018, because many of their recommendations are included in the legislation you have before you today. Because of the great work of the task force and in this committee, we're pleased to appear before you today to support LB992. One suggestion that came from the broadband task force was for the telecommunications industry and the power industry to negotiate and work on ways to develop better broadband. Under Senator Friesen's leadership, we look forward to participating with that effort. Our industry appreciates the bill language that's aimed at achieving the task force goal of easing and accelerating the process for leasing public fiber. We are supportive of the provision in Section 11 that will expedite leases through the establishment of a safe harbor range of the rates for leasing public fiber. If parties desiring to enter into a lease of public fiber apply utilizing rates that are within that range of predetermined market rates then no hearing is required unless some party protests. That should accelerate the approval of such partnerships while still providing some oversight by the Public Service Commission, which will ensure a competitive level playing field for the private sector telecommunications carriers, and it precludes the cross subsidy-- subsidization by public entities. We support the objective of the bill to develop and accelerate deployment in rural areas in its conceptual approaches. The NTA offers a couple specific comments and constructive suggestions. The first five sections of the bill address issues that affect public utilities and landowners more than telecommunications carriers, but the NTA supports prudent steps to utilize existing rights-of-way to further broadband development. We agree that electric utility should not be competitive broadband providers when publicly-owned dark fiber is made available and must be done on a competitively neutral basis. And if a deal is made that makes public fiber available to subsequent providers, must benefit from equally competitive terms. And if capacity exists, the public resource should be made available. We believe the commission is doing a great job to enhance rural broadband and is dedicated to

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working hard to assist qualified providers. We look forward to working with them to form strong partnerships. Finally, we support LB992 because we know this legislation is a step forward in helping bring broadband to unserved and underserved areas in our state. We embrace that and want to be active partners with those efforts. That concludes my testimony.

**GEIST:** Thank you, Mr. Carstenson. Are there any questions from the committee? Seeing none, thank you for your testimony. Are there any other proponents?

**ZACH HUNNICUTT:** Good afternoon, members of the Transportation Telecommunications Committee. My name is Zack Hunnicutt, Z-a-c-h H-u-n-n-i-c-u-t-t, and I'm here on behalf of Nebraska Farm Bureau testifying in support of Senator Freiesen's LB992. Nebraska Farm Bureau would like to thank Senator Friesen, the committee, and the Rural Broadband Task Force, which I was happy to serve on, for their efforts to address the challenge of bringing affordable and reliable broadband to rural Nebraska. We appreciate our representation on the task force and the opportunity to weigh in throughout this process. As we testified following the release of the task force report, Nebraska Farm Bureau agrees with many of its recommendations, including clarifying that internet service is an approved use for accessing easements currently available for telephone and electric service. Access to rights-of-way, pulls, towers, and other assets offers unique opportunities. To quote the South Dakota broadband plan: To maximize efficiency, we must minimize bureaucracy. We also support eliminating any remaining restrictions on partnerships with public power, including leasing dark fiber while maintaining the existing ban on public entities retailing internet service. We do appreciate the effort to address some of those remaining issues in this bill, but we agree that other-- with others that the Legislature could go further. Additionally, while Nebraska Farm Bureau supports the creation of a broadband coordinator position, we would suggest the committee consider housing that position in the Department of Economic Development. In looking at other states with similar positions, we found most incorporated the position in an agency which is involved in the economic development and/or is already managing grants for broadband deployment. We would also like language added to ensure a priority of this position is to focus on securing federal dollars for state deployment of rural broadband. The FCC, for instance, has announced a program, the Rural Development Opportunity Fund, which will make available more than \$20 billion for rural broadband

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deployment. We do appreciate the emphasis on this position assisting with the coordination of broadband cooperatives. Finally, as farmers and taxpayers, we would just reiterate that while fiber is the gold standard and a wider ranging up-to-date fiber backbone is essential, we should be looking at all workable, high-performing technologies to bridge the last mile. Next generation precision agriculture tools will require more reliable and high-speed internet connection at minimum. But remoteness, high costs, and diversity means regulators and other stakeholders will need flexibility to meet these needs. Thank you again to the committee and others for continued focus on rural broadband deployment. Given how crucial this issue is to the agriculture industry and the economic well-being of our state. I'd be happy to answer any questions.

**GEIST:** Thank you for your testimony. Are there any questions from the committee? I do have one.

**ZACH HUNNICUTT:** Yeah.

**GEIST:** Would you expound just a little bit on your reasoning for not putting this director under the Office of CIO, but under economic development?

**ZACH HUNNICUTT:** And I don't think that's a nonstart or anything, trust it would be in good hands with CIO. But Kansas, Missouri, and Wyoming house it in more of a commerce or economic development, I think just partly to keep the focus on, I guess, on the economic development of the state, not just purely on the technology. I think there's pros and cons to both, but I think that's, that's something to consider to make sure there's a commerce element to it.

**GEIST:** Thank you. Thank you. Seeing no other questions, thank you for your testimony.

**ZACH HUNNICUTT:** Thank you.

**GEIST:** Next proponent.

**JOHN IDOUX:** Good afternoon and thank you, Senator Geist, for, for having me to be a proponent of LB662 [SIC]. My name is John Idoux, I-d-o-u-x, I am CenturyLink's director of governmental affairs. Before I go any further, I would also like to acknowledge the nearly two-year effort that the task force put in, and thank them for their efforts and their dedication, as most of those were volunteers. CenturyLink is



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a provider of broadband services throughout Nebraska. We provide broadband services in virtually all of our communities from Omaha to McCook and areas in between. In total, we have over \$2 billion of network investment here in Nebraska, including substantial investments in broadband and other technologies for broadband services. I came here in support of LB662 [SIC], and we appreciate this opportunity to not only express our support, but also articulate, articulate several modifications, as CenturyLink is proposing to better balance the competing concerns surrounding the provisions of broadband. Now, those competing concerns raised are several, but most importantly is to foster robust competition, encourage private investment, and then finally expanding broadband to rural areas of Nebraska that will likely not have access to these broadband services without some form of government support. There are two vital and often contradicting goals that we all must consider. I mean, first, as the Broadband Task Force noted, nearly 90 percent of all Nebraskans have access to broadband. This broadband comes mostly from private companies making private investments. Total broadband in the state is now measured in the billions of dollars. On an annual basis, tens of millions of dollars is spent on operating and maintaining those networks, tens of thousands of employees here in Nebraska service those private networks. So the broadband market is highly competitive, and the competitive broadband marketplace must remain unfettered from unneeded regulations and unfair government subsidies that reduce competition. This, of course, is only the case for most Nebraskans, which comes to my second goal. The lack of broadband service in rural Nebraska communities is very real and it will be extremely difficult to address in the absence of government assistance. So I come to you today in support of LB6-- of LB992 and ask for some modifications that will help balance these competing goals. There is absolutely a role for public power in the broadband ecosystem, especially in unserved and underserved areas. My testimony goes through several modifications, none of which are intended to be controversial, none of which are intended to derail the bill. But they are intended to make sure that the assistance goes to unserved and underserved areas and that any government assistance provided via the power companies is provided to all on nondiscriminatory terms so that everybody can provide-- or have access to those, those services. So, again, I appreciate the opportunity to be here and I look forward to continuing the dialogue.

**GEIST:** Thank you, Mr. Idoux. Are there any questions from the committee? I do have-- I'm curious what, if you would-- well, you have

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some thoughts about things, how you would like to see the underserved and--

**JOHN IDOUX:** Specifically to Sections 1 through 5, where we're talking about the easements.

**GEIST:** Uh-huh.

**JOHN IDOUX:** And that they will be available to commercial broadband suppliers. We think it's important that those provisions only be available in unserved and underserved areas. There really is no public policy rationale for that form of government assistance in a-- in areas of the state that already have competition in broadband services.

**GEIST:** OK. Yes, Senator Bostelman.

**BOSTELMAN:** Thank you for your testimony. I guess my comment that would be, as we know, the 477 is not very accurate. As we know the-- as we go to set, as we go to defining unserved and underserved as a moving target, in some sense. It depends on how things are being reported to the FCC. So until we get to a, to a point to where we actually get address level or ear-- near address level, we're really not going to know what's unserved or underserved. Hopefully we can meet that need and then we need to move on from there. I guess my question really comes down to I know there's areas that are now saying that they're served, but they're not. And how the, the, you know, just by doing a change of focusing on those two areas, which I don't disagree with, those are important. But we're also-- that would leave out areas that now are being stated they are served, which we know they're not being served.

**JOHN IDOUX:** Absolutely. And there's been challenges with mapping ever since mapping was developed. And even with the improved mapping that's coming tomorrow that we all hear about, we're still going to have challenges with mapping. I think what's important is that for other states that are implementing a robust broadband process, that there also be a robust challenge process. So if the map is being challenged, folks like CenturyLink or anybody can come challenge that map on a, on a census block by census block or area by area basis, and you have an arbitrator, whether it be the commission, whether it be the Department of Commerce, or whoever take a look at all the available sources and make that determination. Is this area served, is it underserved? If

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it's a larger census block, can we separate the census block into subcomponents that don't necessarily track with the FCC level? So as we move forward, regardless of what the issue is with broadband, whether it's funding, whether it's public power, we're going to have those issues. And at this point, the challenge process, where everybody has an opportunity to come in and make their case and have an nonpartial arbitrator make that decision, is probably the best way forward.

**BOSTELMAN:** Thank you.

**GEIST:** Any additional questions? Seeing none, thank you for your testimony. Additional proponents. Good afternoon.

**BETH BAZYN FERRELL:** Good afternoon, Senator Geist, members of the committee. For the record, my name is Beth, B-e-t-h, Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l, I'm with the Nebraska Association of County Officials and I'm appearing in support of LB992. Again, we're in support of the bill as our overall policy of trying to make sure that broadband is available in all areas of the state. We do appreciate the language in the bill about the state rural broadband coordinator being able to help counties with their efforts toward that. And I would be happy to answer questions.

**GEIST:** Thank you. Are there any questions from the committee? Seeing none, thank you for your testimony. Additional proponent. Good afternoon.

**DANNY DeLONG:** Good afternoon.

**GEIST:** Go ahead. Yes.

**DANNY DeLONG:** Vice Chair Geist and members of the Transportation and Telecommunications Committee, my name is Danny DeLong, D-a-n-n-y D-e-L-o-n-g. I am here today testifying as a volunteer on behalf of AARP Nebraska's nearly 200,000 members in support of LB992, a bill which would encourage and facilitate the deployment and adoption of high-speed internet service, also known as broadband, to underserved--unserved and underserved communities so that a reliable advanced telecommunications network is affordable and accessible to all consumers, regardless of their age, income, and location. LB992 furthers the important goal of bringing broadband to areas that are now on the wrong side of the digital divide. These communities find themselves left out of the information economy because broadband

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providers have not found it profitable to serve them. LB992 is an important step toward helping to close the urban/rural digital gap. Our members consistently tell us that their top priority is to age in place. They want to live in their home community when it's at all possible, and we support that. Affordable, reliable internet access helps older adults to age in place productively and safely with a higher quality of life than would otherwise exist. The broadband platform supports access to telemedicine, civic engagement, connection to family members, entertainment, online learning and other Internet based applications that address isolation and health challenges. Telehealth is a perfect example of a broadband-facilitated service for affordable health care for Nebraskans, and many of us can see the numerous telehealth bills that have been introduced this session to support the idea of people being able to age in place in rural communities, which frankly have lost much of their medical infrastructure. LB992 addresses the first cause of under adoption, which is lack of access. And so it's an important step to lead to more universally available broadband service. And AARP is hopeful that the Legislature will continue to focus on policies and programs to give Cornhuskers, especially older ones, affordable broadband access in their home community. For these reasons, AARP supports passage of LP992 and looks forward to working with state legislators to bring broadband to communities throughout the state with this important bill. AARP also stands ready to work with state legislators and Nebraska regulatory agencies on future initiatives to overcome barriers to broadband adoption. Thank you to Senator Friesen, for introducing this important legislation and for the opportunity to comment. We encourage you to advance LB992 to General File. I'm happy to answer any questions.

**GEIST:** Thank you. Thank you for your testimony. Are there any questions? Seeing none, thank you.

**DANNY DeLONG:** Thanks.

**GEIST:** Any additional proponents?

**DAN NERUD:** Vice Chairman Geist and members of the Transportation and Telecommunications Committee, my name is Dan Nerud, D-a-n N-e-r-u-d. I currently serve as president of the Nebraska Corn Growers Association and farm with my son near Dorchester. I am here today in support of LB992 and appreciate Senator Friesian-- Friesen for introducing the legislation. While the Nebraska Corn Growers Association understands

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the specifics of LB992, my comments today will discuss generally the position of the association. In continued efforts to expand greater efficiency within our industry, farmers look to innovations and technology. One such innovation is the adaptation of precision technology. This includes variable rate planning and spraying and sometimes even irrigation. It also includes geospatial data collected during harvest. The base of this system is maps. These maps allow us to be precise in our use of each unit of input while overlaying that with our yield information. To utilize the data and maps and/or to interact with consultants, farmers need access to high-speed and reliable internet or broadband. While precision technology is just one opportunity for the need of high-speed broadband, others include diagnostics of tractors and combines, interaction with our accountants and marketing consultants. Essentially, the needs of operating a business in an urban area with broadband access is similar to operating a rural farm in the rural area, and it underscores the need for reliable access across rural Nebraska. The Nebraska Corn Growers Association appreciates all the work of the Nebraska Rural Broadband Task Force and continued efforts of Senator Friesen and others whose goal is to expand broadband access across the state for all Nebraskans. We have a common goal. Thank you, and I'd be happy to answer any questions.

**GEIST:** Thank you. Are there any questions from the committee? Seeing none, I thank you for your testimony.

**DANNY DeLONG:** Thank you.

**GEIST:** We'll welcome Senator Hilgers. Additional proponent.

**ROD WAGNER:** Good afternoon, senators. I am Rod Wagner, director of the Nebraska Library Commission, spelled R-o-d W-a-g-n-e-r. I am here this afternoon to testify in support of LB992 and to make a request. First of all, I thank you for this legislation. I appreciate the work of the-- or the effort to initiate this bill following the work of the Rural Broadband Task Force. The State Library Commission's state statutory mission is statewide promotion, development, and coordination of library services. In that role, we work with over a thousand Nebraska libraries, public, college, university, school, special libraries in providing library services for the people of Nebraska. My written testimony has some statistics that were included in the Broadband Task Force Report and that were also presented last December at the hearing you held following the submission of the task

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force report. To summarize, of course, we all know that Nebraska is a strong, strongly rural state with many small communities, and that is the nature of our state's public libraries. We have 273 libraries, 80 percent of those libraries are-- fall within the definition used by the broadband task force of service areas with populations fewer than 2,500. Nebraska public libraries work very hard to supply technology for public use. They have public use computers, many are outdated and in need of replacement. But they work very hard to make those available. And along with that, broadband service is critical to these libraries and to serving the many people in those communities that do rely on the libraries because they may not have internet service in their own homes or they may have inadequate service. And I would especially note that as a critical piece of information related to many Nebraska schoolchildren who do rely on libraries because they may not have that available in their own homes. The Library Commission has initiated additional efforts in recent times to educate, work with libraries to identify opportunities, principally the federal E-rate program for schools and libraries. We want to help those libraries take advantage of the telecommunications discounts that are available to them. Many do not take advantage of that opportunity, opportunity. But as they learn more about it, they understand that that is a resource that can be very important to paying for and providing cost savings at the local level. The broadband task force recommendations included several components related to public--

**GEIST:** Mr. Wagner--

**ROD WAGNER:** --libraries and broadband service.

**GEIST:** --you'll need to wrap up your testimony.

**ROD WAGNER:** OK. Thank you. The, the request then that I want to make addresses the provision that's included in the task force report and the legislation in LB992 that call for the employment of four regional technicians to work with libraries across Nebraska to help them improve their broadband service. Now, that is great. However, the Library Commission does not have funding or authorized staff to do that. Therefore, the request that I make is that there be included funding of \$377,906 in state general funds for the coming fiscal year. And for the following year, \$376,567. That funding would provide for these positions and associated costs and those regional technicians

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would be important in achieving the purposes of this legislation.  
Thank you.

**GEIST:** Thank you. Thank you for your testimony. Are there any questions from the committee?

**ALBRECHT:** I do.

**GEIST:** Oh, I'm sorry. Go ahead, Senator Albrecht.

**ALBRECHT:** Thank you, Vice Chair Geist. And thank you for being here, Mr. Wagner. I'm glad that you're here about the libraries, because that's what I heard loud and clear when we had our little visit about the study that you all did. So has the commission gone before the state before and asked for money for any positions within, within the library purview?

**ROD WAGNER:** We have not in recent years. It has been the case in over the past decade, and even earlier, that budget limitations had been such that we had really not been in a position to seek additional positions. In fact, we have lost positions as a result of state budget cuts over the years. So that's why we have not at this point.

**ALBRECHT:** And so in asking for four folks to be in regional areas of the state, what if the plea was to the cities and counties to, to enact people that can work in their, in their counties and cities and fund that themselves instead of the state?

**ROD WAGNER:** Could you repeat that, please?

**ALBRECHT:** Could you ask the city and counties to take on people in their own libraries and fund that, rather than put it in a bill for the state?

**ROD WAGNER:** Libraries really struggle with local budgets, and cities and counties have limited funding and-- just have-- libraries have a hard time maintaining the staff that they currently have so.

**ALBRECHT:** One thing I'll just say, I've served on a city council before and a county board. And it always appeared to me that you were the last one we looked at in the budget. You need to go to the top of the class and--

**ROD WAGNER:** Thank you.

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**ALBRECHT:** --have your libraries ask for that money edit. Because it truly does mean a lot to the citizens. I don't care if it's the gap that we have with the children or the adults that don't have access and have to go online, they need to sell the reason that that, that is necessary in their libraries, because I do believe it's--

**ROD WAGNER:** They do.

**ALBRECHT:** --it should be funded that way--

**ROD WAGNER:** Thank you.

**ALBRECHT:** --at a local level. Thank you.

**GEIST:** Thank you, Senator Albrecht. I do have a suggestion too, that possibly working with the ESUs. They go out, have a central IT individual that goes out to different schools, and that might be another resource that you could look at. Do you have a thought about that?

**ROD WAGNER:** We would fully expect those regional technicians to coordinate work with ESUs and collaborate. The Library Commission does a lot of work with schools as well. So I think there is a natural link and partnership with ESUs.

**GEIST:** Yes, agreed. Any additional comments from the committee? Oh, I'm sorry, Senator Bostelman.

**BOSTELMAN:** That's \$94,500 per technician, right?

**ROD WAGNER:** I'm sorry?

**BOSTELMAN:** That's \$94,500 per technician. What's your--

**ROD WAGNER:** Per?

**BOSTELMAN:** Well, you're at \$378,000 [INAUDIBLE].

**ROD WAGNER:** That would be the salary and benefits associated with those, each of those positions.

**BOSTELMAN:** And what type of technician is this? What type?



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**ROD WAGNER:** This would be information, technology, infrastructure, support, analyst position that would be based on state job classifications.

**BOSTELMAN:** OK, thank you.

**GEIST:** Any additional questions? Seeing none, thank you for your testimony.

**ROD WAGNER:** Thank you.

**GEIST:** Are there any additional proponents?

**LINDA DUCKWORTH:** Good afternoon. I'm Linda Duckworth, L-i-n-d-a D-u-c-k-w-o-r-t-h, I'm president of the League of Women-- I'm co-president of the League of Women Voters of Nebraska. The League of Women Voters supports equal opportunities for all, and therefore we support LB992. This bill seeks to take advantage of the U.S. Department of Agriculture's ReConnect Program, as outlined in a recent Omaha World-Herald op-ed by U.S. Secretary of Agriculture Sonny Perdue. Just as our rural children were studying by candlelight in the 1930s, far too many of our children in rural Nebraska are presently struggling in a similar way, with poor quality or even nonexistent home internet access. It is high time we recognize this lack of equity and remedy it with the Broadband Internet Service Infrastructure Act of LB992. Of course the effects of increased broadband access extend far beyond Nebraska's schoolchildren. The digital age is upon us, which means that, as every year goes by without expanded access, more and more of our residents in greater Nebraska lose employability options. We have to recognize that the economic barrier it represents to our entire state deserves the attention of senators from rural and urban districts alike. We already fund the ReConnect Program through our taxes, so let's make sure we get our fair share. Without delay we must take the necessary steps to verify our needs, facilitate local planning, and get our communities online. It is absolutely essential for education, employment, and the strengthening of our communities. Thank you.

**GEIST:** Thank you for your testimony. Are there any questions from the committee? Seeing none, thank you. Any additional proponents?

**JOHN HANSEN:** Madam Vice Chair, members of the committee, for the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I'm the president of Nebraska Farmers Union and also their lobbyist. I appear

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before you today in support. We are here to support the effort. We supported the creation of the task force, and while we can quibble over whether we got as much as we wanted, it is progress. And we are for progress as much as we can get, as fast as we can get it. And I'll have probably more to say about that and on the next bill. But generally, I was, have been-- I was very much impressed and associate my remarks with the representative of the Nebraska Farm Bureau. I thought that was a good summary of kind of where we're at as an organization. And so everything that has been said, needs to be said by me, has been said. And with that, I'd be glad to answer any questions.

**GEIST:** Thank you for your testimony. Are there any questions from the committee? Seeing none.

**JOHN HANSEN:** Thank you very much.

**GEIST:** Thank you, Mr. Hansen. Any additional proponents? Seeing none, are there any opponents? Seeing no opponents, are there any-- welcome.

**SETH VOYLES:** Thank you. Vice Chairman Geist and members of the committee, my name is Seth Voyles, S-e-t-h V-as in Victor-o-y-l-e-s. I'm a registered lobbyist and I'm appearing on behalf of the Omaha Public Power District. Thank you for the opportunity to testify in front of the committee on this important legislation. First off, OPPD supports the goal of expanding access to broadband Internet service for all Nebraskans. We want to make sure we say that upfront. However, OPPD does oppose LB992 in its current form. I would like to express some concerns regarding the bill, particularly around its impact on the use of public power district easements and infrastructure that is dedicated to providing electric service to our customers. We would like to work with the committee on this legislation. We've already told that to the chairman as well to make sure that everyone's going to be covered. OPPD appreciates the intent of this bill to foster public/private partnerships in support of greater access to internet service. Section 2 of the bill contains a definition of electric utility easement. This definition and other provisions in Section 3 of the bill are intended to expand the authority of electric utilities to utilize easements for the attachment of commercial broadband facilities. This bill [INAUDIBLE] so as to restrict the ability of landowners to challenge the use of an electric utility easement for the attachment of broadband facilities even if he's been language does not cover the use of broadband facilities. OPPD takes great care in

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the negotiation of easements to support its electric business. Those easements are obtained to provide electric service. OPPD recognizes the effort in LB992 to authorize further uses of electric utility easements for broadband expansion. However, we are concerned that a legislative mandate that would allow private commercial broadband suppliers use OPPD easements and electric infrastructure for their own business, even if the easement does not allow such use, can adversely impact our ability to negotiate electric service easements with our customers and potentially lead to disputes with those customers. While OPPD is open to its use of infrastructure for other uses under acceptable terms, it has to be done in a way that does not interfere with the customer relationships or inhibit OPPD's mission to provide affordable and reliable electric service. In short, OPPD needs to be able to control its own destiny when it comes to the use of electronic-- electric infrastructure. OPPD is willing to work with the committee to rework easement language. OPPD also wish to point out concerns regarding the restrictions imposed on its own ability to deploy the use of broadband facilities. OPPD, like other public power utilities, has an extensive network of communications infrastructure such as fiber-optic cable that it uses to operate its electric system. To be clear, OPPD is not in the commercial broadband business. However, we are concerned that this bill could be interpreted to prevent us from using our own communications facilities to serve the best interests of our customers. The dark fiber statutes were passed by the Legislature in 2001 to restrict public power districts from leasing communications infrastructure. In the ensuing years, broadband deployment still remains a high priority need that must be addressed. We respectfully request-- recommend that this committee repeal the dark fiber statutes and enable public power to be part of this solution to the expansion of high-speed broadband service to all Nebraskans. With that, I'll welcome any questions you may have. General questions, because technical ones, the people behind me are probably going to answer those.

**GEIST:** Thank you. Yes, Senator Bostelman.

**BOSTELMAN:** Thank you for being here today. Do you know how much of your OPPD service area is unserved or underserved?

**SETH VOYLES:** I'm not sure, but I'll try to find that out. I know that the Library Commission and League of Cities had some of that stuff, but we haven't really checked.

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**BOSTELMAN:** OK, thank you.

**GEIST:** Any additional questions? Seeing none, thank you for your testimony. Other opponents? Seeing no other opponents, last call. Those who wish to testify in the neutral capacity. Welcome.

**GREG DYNEK:** Good afternoon, Vice Chairman Geist and senators of the Transportation and Telecommunications Committee. My name is Greg Dynek, spelled G-r-e-g D-y-n-e-k. I'm president of Bluestem Network, a Lincoln-based provider of high-speed broadband internet via company-owned and constructed last mile fiber to communities in eastern Nebraska. Thank you for allowing me to, to appear today. I will attempt to truncate my comments as many people have documented the need for precision agriculture, telemedicine and the homework gap. Among other reasons that broadband is critical. I would like to salute the excellent work and insight of the Rural Broadband Task Force, which you chaired. Senator Frees, along with Public Service Commission Chair Mary Ritter last year. Of particular importance to our company are the recommendations of the task force to ease or remove long-standing restrictions on publicly on dark fiber leasing. Recognize that certain provisions and I'll be not nice to speak to this. However, I would suggest that there's much more that can and should be done to foster public private partnerships for the provision of high speed broadband. First, we strongly support eliminating the role of the Public Service Commission in establishing the terms and rates of dark fiber leases. We have long been on a market rate competitive arena regarding telephone and broadband rates, and there's no public policy reason in my mind for the commission to be directly involved in these arm's length transactions. Second, as numerous other witnesses asserted in the public hearing of the task force report in December, the requirement of allocating 50 percent of the revenue, leased revenue to the NUSF fund essentially destroys the economic viability of the lease. I make these points because I wanted to speak to you as a provider and someone who is actively building and out raising capital to build and evaluating where to do so. I urge this committee to evaluate any measure taken in the context of how they position the state of Nebraska and its municipalities relative to the rest of the United States in pursuing the goals of high-speed broadband. At present, ubiquitous high-speed broadband is a key differentiator for a city, region, or state. It will not always be thus. As a local company, we've had outreach from communities in six different states looking for us to come and build there. These communities are merely a fraction of the thousands of communities

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across the nation, all of which are increasingly recognizing that we-- the need to get to the front of the line in building their future. We believe the task at hand is to position Nebraska and its community so that we can navigate the future from a position of leadership and strength rather than playing catch up once high-speed broadband is merely table stakes. In summary, I think this is a great first step. I think there's some improvements that can be made, and we would appreciate the opportunity to work with the committee and other stakeholders to amend LB992 to more meaningfully and significantly promote broadband expansion. I think it's a good first step, I think there's more that can be done. Thank you.

**GEIST:** Thank you. Thank you for your testimony. Are there questions from the committee? I do have a question. Can you tell us what is done for the last mile in other states that would look different from what's done here?

**GREG DYNEK:** There are--

**GEIST:** Or from a dark fiber lease, I would say.

**GREG DYNEK:** I would say that there is a more open structure to be able to obtain dark fiber leasing that's more broadly available. Obviously there's legislative inerrancies regarding municipal ownership and delivery of broadband here that are not observed in other states. I think there's ways that we can take steps forward to more aggressively pursue the goal, because I think Nebraskans deserve ubiquitous broadband. And to the extent that we move cautiously and carefully, while prudent, it leaves us in a position where we aren't able to seize the lead and-- and move forward more aggressively.

**GEIST:** OK, thank you. Any other questions? Seeing none, thank you very much.

**GREG DYNEK:** Thank you.

**PHIL BURKE:** Good afternoon, Senator Friesen and the committee. Thank you for this opportunity to testify. My name is Phil Burke, P-h-i-l B-u-r-k-e, I'm the general manager at Polk County Rural Public Power District, and I am testifying obviously in a neutral position on behalf of Polk County and then also on behalf of Nebraska Rural Electric Association, which represents 34 rural electric providers across the state. I'm going to skip over a big part of what I was going to talk about today, because I think the people before me have

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established the need for rural broadband. It's a big thing for a state, and I want to thank the broadband task force for their efforts and putting forth this bill. Like other industries, our industry is, is seeing huge technical advancements. We're seeing things that we never thought we'd see. We get information from our meters that are by the minute and it creates huge data that allows us to assess the conditions of their service, the conditions of our providing that service, and brings back a lot of information. We're moving into an era where, instead of reacting to outages, we're proactive in trying to prevent them. And we can do that through the data that we're getting. But it's not just our industry. And you've seen the testimony earlier about how much this is needed, and the growth in the ag industry and in medicine, in libraries and in education as well. Broadband, of course, is not just for entertainment anymore. It's, it is quickly becoming a critical infrastructure within our state. And if our state is to be successful, we need to move forward on this. And this bill does some steps and I appreciate that. I was going to tell my story, but I think I'm running out of time. But in essence, Polk County has tried to build a fiber ring that allows us to serve our substations with broadband. The investment that we make in that would be wasted if we were able to get it in partnership with other entities. We would like to do that. And we think that the issue that we're having trouble with, obviously is the fiber-- dark fiber lease. If we were to build a, a, a ring, we obviously would not be able to use all of that. We could easily lease that out. And this bill we feel could do that if we would just expand that ability and allow us to do that. We've been working with partners. We're looking for getting approved for the ReConnect from the USDA currently, and running into a couple of roadblocks about how to build that partnership in order to qualify for that. Thank you for this opportunity to testify and I would take any questions.

**GEIST:** Thank you very much. Are there any questions from the committee? Seeing none, thank you for your testimony. Any additional neutral testifiers?

**KRISTEN GOTTSCHALK:** Vice Chair Geist and members of the Transportation and Telecommunications Committee, my name is Kristen Gottschalk, K-r-i-s-t-e-n G-o-t-t-s-c-h-a-l-k. I am the government relations director and registered lobbyist for the Nebraska Rural Electric Association. Today I'm testifying in this neutral capacity on behalf of the Nebraska Power Association, which is a voluntary organization representing all segments of Nebraska's power industry. And I also, of

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course, am representing the Nebraska Rural Electric Association. And as mentioned today, our testimony is neutral. We are grateful to the Rural Broadband Task Force and to Senator Friesen and other senators who have really seen the need to move forward to increase rural broadband access. And I really was hopeful that I would be able to sit here today in the, in the support chair, because broadband access in rural Nebraska is critical to our economic development. But unfortunately, LB992 as drafted falls short of meeting the goals that we have and that we hope the state would have for moving rural broadband. I'll talk just a little bit briefly about some of the language in the bill and the language dealing with easements. And there have always been concerns with how do we move forward with existing easements. Electric utilities clearly have the authority to install communication infrastructure in association with their infrastructure for the purposes of our own business. The question then comes when we begin to use that excess infrastructure perhaps, perhaps in a lease situation. And it's not clear what we do there. And so we are grateful that I heard Senator Friesen mention that he was going to be requesting an AG Opinion. That's something that we feel is a good move because we need to be clear that there aren't going to be conflicts and that we can move forward and provide a service as needed without the fear of litigation. State broadband coordinator is something that we support very strongly. The concept and the idea of regional coordinators to facilitate partnerships is wonderful. The section dealing with dark fiber leasing, this section of the bill clearly misses an opportunity to reduce costs and in areas that are unserved or underserved. The process has been massaged a little bit, but it's still improve-- involves the PSC as an approval process and it still focuses on market rates, not the consumers at the end. With 50 percent of the profits or excess revenues going into a fund, and it doesn't matter whether it's the NUSF or the Internet Enhancement Fund, is still requires that the rate charged for those leases be increased enough so that you can accommodate that need to deposit into the fund. Electric utilities and telecommunications providers can easily negotiate rates and prices without PSC involvement. Some would argue that perhaps the best move is to eliminate the dark fiber statutes altogether. But I think in our industry we could be agreeable to language that says that rates can be nondiscriminatory and reasonable or cost-based. And the NU-- PSC could be used as a backstop. I do see that my time is over, but I would be happy to answer any questions.

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**GEIST:** OK, thank you. Are there any questions from the committee?  
Thank you. Thank you for your testimony.

**MARY RIDDER:** Good afternoon, Vice Chair Geist and members of the Transportation and Telecom Committee. My name is Mary Ridder, R-i-d-d-e-r, I represent the 5th District and I'm the current chair of the Nebraska Public Service Commission. And I'm here to testify today on LB992 in a neutral capacity. I'll limit my testimony to selective portions of the bill will and not take a position on Sections 1 through 5, as they do not appear to have an impact on the commission. Section 6 of the bill creates the position of state broadband coordinator, which would be located in the Office of the Chief Information Officer. This idea stems in part from the Rural Broadband Task Force recommendation as a way to spur community and regional broadband planning and to build public/private partnerships. There was some discussion within the commission about housing this new position within the PSC so as not to duplicate or complicate broadband deployment in unserved and underserved areas of Nebraska. As a member of the Rural Broadband Task Force, I believe this sup-- position should be housed wherever it can best statewide-- work statewide as a facilitator and coordinator for broad, broadband project development. Section, Section 7 of the bill would address the connectivity issues faced by public libraries. The Rural Broadband Task Force recommended that the state look at ways to increase the number of public libraries applying for federal E-rate support and to leverage E-rate funding. The Rural Broadband Task Force found that libraries are key community partners in providing internet and computer access to students and the general public. However, federal E-rate dollars are underutilized by Nebraska libraries, with only 25 percent of Nebraska libraries applying for E-rate funding in 2019-20. The E-rate program includes a matching program for special construction charges for deploying fiber network facilities. In response to the task force recommendation, the commission opened a proceeding on December 10, 2019, to investigate and implement a program for these special construction charges. We received comments from CenturyLink, Cox Communications, a number of rural telephone companies, the Nebraska Library Commission, and the Butler Memorial Public Library. The comments were generally supportive of this action, but one commenter had a question about the commission's authority to take this step. So legislation making it clear the commission has authority to establish this program would be helpful. The commission also recognizes that in the past some have been critical of the statutory framework related to dark fiber leases.



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The commission hopes that the revised process in LB992 would provide an incentive for more carriers to utilize this mechanism. The commission has never denied approval for a lease agreement. Currently, the commission has one active lease which provides funding to the NIEF. The commission receives about \$24,000 annually, which is deposited into the NIEF for grants. Over the life-- life of this program, 16 grants have been awarded to various communities, counties, and cooperative government groups, including the counties of Cheyenne, Custer, Box Butte, Dawes, Nemaha, Harlan, Furnas, and Banner, the communities of Broadwater, Chappell, Dix, Bushnell and Elsie, along with numerous communities included in the Nebraska Cooperative Government group, including Humphrey and my hometown, Schuyler. NIEF grant funds awarded to date total approximately \$785,000, and another grant cycle is in process-- in progress that may award up to \$75,000 in additional grants. As long as-- I'm out of time. I'm nearly done. As long as funding continues to allow the commission to award viable grants, the commission is pleased to continue this program. But we're not opposed to having the NIEF fund shifted to the NUSF, where the funds can be used for larger broadband deployment projects. Thank you, and I'll answer any questions.

**GEIST:** Thank you. Are there any questions for the chairman? Saying none, thank you very much.

**MARY RIDDER:** Thank you.

**CHRIS ELLIOTT:** Good afternoon, Vice Chairman Geist and members of the Transportation and Telecommunications Committee. My name is Chris Elliott, C-h-r-i-s E-l-l-i-o-t-t. I'm here today in a neutral position on LB992 on behalf of Nebraska Public Power District. I'm an attorney for Nebraska Public Power District, and one of my areas of focus for the district is easement acquisition, excuse me, and the lease of district facilities related to real estate. NPPD recognizes and applauds the potential positive impact LB992 could have in helping to solve broadband challenges in Nebraska. Encouraging and enabling the formation of public/private partnerships involving public power districts, telecommunications companies, and others, is essential to cost-effectively providing the communication services needed by the state's agricultural industry, as well as its rural citizens. We recognize the support this legislation provides for facilitation efforts NPPD already has underway in the southwest part of the state. NPPD has concerns regarding the constitutionality of the provisions of the bill that would allow electric utilities to use an informal

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condemnation process to acquire rights on behalf of private entities. The language of the bill would effectively make electric utilities agents for the commercial broadband suppliers by allowing those utilities to acquire the rights and real property from private landowners for the sole purpose of allowing the private entities to locate their facilities on an existing utility easement. While there are provisions for the payment of damages to those landowners that would make a claim against the utility or the broadband supplier, there remains the question of whether such acquisition of property rights carries with it the requisite public purpose to avoid being considered a taking under the Nebraska Constitution. And I would like to recognize that Senator Friesen, I believe, has mentioned that he would be requesting, or was considering requesting, an Attorney General's Opinion. And we do appreciate that. The bill also places the responsibility on the electric utilities that all required notices and memorandums are properly mailed in and/or recorded. The utility could, under the provisions of the bill, contract with commercial broadband supplier to indemnify the utility for all damages associated with the acquisition of expanded easement rights or failure to provide notice. However, NPPD would not be willing to allow another entity or counsel for another entity to represent NPPD in litigation, as it isn't import-- as it is important to maintain the ability to control the behavior of those who would be speaking on behalf of or representing NPPD in a public forum or in, in litigation that could result in liability to NPPD. This could necessitate NPPD having to hire outside counsel in defending it in regards to these matters. Further, if a large judgment is entered against the utility in a lawsuit for damages for lack of requisite notice, a commercial broadband supplier in poor financial standing could decide to walk away from its responsibility to indemnify the utility. NPPD is opposed to the inclusion within the bill of transmission line easements as those that would that would be eligible for expansion of scope to locate wireless facilities, attaching facilities to transmission structures or lines creates safety and reliability issues. Having worked through the existing dark fiber lease process, we also recognize the streamlining enabled by the legislation. However, we see benefit of going even further. If the PSC is to publish a safe harbor range of prices, we believe any lease agreement within that range should not require you-- PSC approval. And I do see I'm out of time. If you have any questions, I'd be glad to answer those.

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**GEIST:** Sure. Thank you very much. Thank you for your testimony. Are there any questions from the committee? Seeing none.

**CHRIS ELLIOTT:** Thank you.

**GEIST:** Thank you.

**KRISTEN HASSEBROOK:** Good afternoon, Vice Chairman Geist, Chairman, senators on the Transportation and Telecommunications Committee, my name is Kristen Hassebrook, K-r-i-s-t-e-n H-a-s-s-e-b-r-o-o-k. I'm here today on behalf of the Nebraska Chamber in a neutral capacity on LB992. Infrastructure to provide broadband and telecommunication services for all Nebraska businesses and consumers is essential for the economic well-being and competitiveness of our state. The Nebraska Chamber supports bridging the digital divide via deployment of broadband technologies wherever feasible to achieve widely available and high-quality wireless and wireline services. Our membership has specifically called out the following priorities. Deployment that focuses on robust and scalable technologies that allow businesses and residents to compete and connect, regardless of whether they are located in rural or urban settings, policies that are technology-neutral but support long-term deployment rather than short-term solutions, a focus on encouraging private sector investment and development in order to encourage and maximize business efficiency, and a focus on the efficient use of state and federal and NUSF and USF funding to support broadband deployment. We appreciate the work of the Rural Broadband Task Force and the committee's efforts to include many of the task force recommendations in LB992. As you've heard today, there are amendments that are likely necessary and we would encourage the committee to continue bringing stakeholders to the table to move forward on this important issue. The Nebraska Chamber is happy to engage with Senator Friesen, the Rural Broadband Task Force, and this committee in this effort. And with that, I'm happy to answer any questions.

**GEIST:** Thank you, Ms. Hassebrook. Any questions from the committee? Seeing none, thank you very much. Next testifier.

**JUSTIN BRADY:** Vice Chairwoman Geist, members of the committee, my name is Justin Brady, that's J-u-s-t-i-n B-r-a-d-y. I appear before you today as the registered lobbyist for the Nebraska Cable Communication Association in a neutral capacity on LB992. The Cable Association supports rural broadband. They support what the task force looked at,

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they support it getting access to broadband to communities and to people across the state. The reason I'm coming to you in a neutral capacity is they had four concerns or four questions, I should say, with it, and I'll quickly touch on those. One, you've heard multiple people talk about the easement provision, and they still are trying to evaluate whether or not that would be an easement provision that would be beneficial or harmful to them. And they make the case both ways. So they, they specifically they talked about some of the notice provisions on that section. The next one dealt with the E-rate for libraries. Currently, cable companies can qualify for the federal E-rate for library assistance. The way this bill is drafted, they would not be able to qualify for that construction funds in, in that, so they would ask the cable companies at least be included in that. Another one is that they would like you to look at the committee to incorporate the FCC had a poll attachment rate formula that they adopted at the federal level, but it exempted out public ent-- public power entities. So obviously it doesn't apply. Applies to most of the part of the country we're dealing with private power. In our state, those-- that formula doesn't apply. So it would be something to look at to help with some of the rural broadband. And finally, they would ask that the Cable Association have a specific member on the broadband task force as it specifically moves forward. So with that, I'll try to answer any questions.

**GEIST:** Thank you for your testimony. Are there any questions from the committee? Yes, Senator Bostelman.

**BOSTELMAN:** Thank you for your testimony today. There are other states that have public power, it's not the entire state. So my question would be, is in those states on the easements, do you know what may be addressed there, how they may have in statute to address the easement issue?

**JUSTIN BRADY:** I don't, Senator, but I can certainly find out.

**BOSTELMAN:** Yeah, because there are other states that do have either co-op to others or [INAUDIBLE].

**JUSTIN BRADY:** That's true. You're right.

**BOSTELMAN:** So I--

**JUSTIN BRADY:** But the entire state, as you said-- yes.

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**BOSTELMAN:** --in the sense we're public power, but--

**JUSTIN BRADY:** Right.

**BOSTELMAN:** --I know we're a little bit different there. But I'm just kind of curious if there's language out there that already exists that you can look at it. Thank you.

**GEIST:** Any additional questions? Seeing none, thank you for your testimony.

**JUSTIN BRADY:** Thank you.

**LASH CHAFFIN:** Good afternoon. My name is-- my name is Lash, L-a-s-h, Chaffin, C-h-a-f-f-i-n, I'm a staff member at the League of Nebraska Municipalities. And like, like the prior testifiers, the League is grateful for the work that's been done over the, over the last year. And we offer up some neutral testify-- testimony for a couple of reasons. First, I was appreciative that Senator Friesen mentioned that, that you are going to ask a little bit about the electric easements. You know, the first react-- our first reaction is that it has all kinds of impairment of contract and taking issues written all over it. And if that can be worked around, it's a, it's an open discussion, and we'd like to have it. But this point, that's making a lot of people within the municipal electric industry very, very, very nervous. And also, easement law is very complex. You have some states, the states own the easements, they purchase those. In some states, it's, it's, it's, it's a little different in every state. So it's the apples and oranges come into play very, very quickly. Secondly, the, the while, while appreciative of the, of the concept of setting a range of rates on, on leasing of dark fiber, I think if we really want innovative public/private partnerships, I think we probably need to go several steps further as a state involving the leases of dark fiber. Interesting, I think there's a lot of opportunities for innovative, interesting public/private partnerships. And probably the rate I don't think is going to be a big issue with a lot of, a lot of municipalities. I think probably the bigger issue will be the-- at this point is the 50 percent revenue provision in the, in the next subsection of the same law. So I think some bold steps are probably going to be required if we're going to move quickly on, on these things. And as far as you know, one, one closing, closing note, I don't want to be repetitive of a lot of the positive testimony on the library and the coordinator and things like that. A lot of cities and

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villages own fiber. It's, it's often more cost-effective to put fiber in on your own from the wastewater plant to the computers at city hall than it is to lease it. There, there is municipal fiber in the ground today and cities manage it on a regular basis. And so I think as the task force goes forward, perhaps we would appreciate some municipal representation on the task force. Some of that fiber is in the city, some of that fiber is outside the city. But it does exist and it's managed on a regular basis. And as indicated by one of the prior testifiers, it seems like a waste that it's-- we're really not in a position to use this in a broader, broader sense. So thank you. I'll certainly answer any questions.

**GEIST:** Thank you. Any questions from the committee? Seeing none, thank you for your testimony. Any additional testifiers in the neutral capacity? I'm not seeing any, so I will read letters of support. I have proponents from Andy Hale and David Slattery from the Nebraska Hospital Association; Michael Straatmann, President, Lincoln-- Nebraska Library Association; Dawn Crosley; Burke Brown; and Mr. Carl Lindahl from Grand Island. And Senator Friesen, you are welcome to close on LB992.

**FRIESEN:** Thank you, Chairwoman Geist. So a couple things that I'll touch on is we did have a good discussion about whether or not to put it under the Department of Economic Development or under the CIO. We weighed, if you put it under the Department of Economic Development, we really should provide some funding there so that they can actually do something. And it might, it might look like something we've done with roads to where if a company comes in, they need broadband there, we may have some cost-share money or somewhere to help them out. In the end, we, I mean, I made the decision to go under the CIO because with Ed Toner there, he understands the rural issue and he has been a strong pusher in, in getting the broadband out into the rural areas. So with his knowledge and his organizational skills that he's shown, at least on the task force, I totally trust him to get this done. But I'm still-- we're open to doing it either way. Having the ESUs work together, that's also a good idea. I mean, I know they have techs out there, and that's just something that I think libraries and stuff can work on together and there could be interlocal agreements. One thing I want to just make real clear is the PSC does not set any rates. They are going to just take a broad snapshot of rates, the highs and the lows. They'll provide a wide bandwidth to be in. And if you fall within that range, you would be approved. So it's, it's a very simple process from what it is today. And I don't want to take a step too far

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and drive out any private development money that wants to come in too by suddenly letting a public entity come in and overbuild an area and they operate under a different tax structure. We need to be careful. I've always told everyone, I said, if you can come to me with an example, where a public/private partnership doesn't work under today's current laws, bring me an example and we'll fix it. So far, I've had no examples of that. I think we can get really creative under today's law and have public/private partnerships that accomplish this, if we want to. There are already some occurring. I think this process could be sped up. But again, if, if I was shown a case where it doesn't work, let me know. We can work with that. And I am willing to work with the different entities because we have a huge issue out there and it's a huge capital outlay to get fiber or broadband out in the rural areas. This isn't something that's going to happen overnight. And the more we can leverage public dollars with private dollars, the faster we will get it done. With that, I'd be more than happy to answer any questions.

**GEIST:** And are there any questions from the committee? I don't see any, Senator. This will close the hearing for LB992. Yes. And I will issue a five minute break.

[BREAK]

**FRIESEN:** OK, everyone, we will resume the hearing. We will now open the hearing on LB996. Welcome, Senator Brandt.

**BRANDT:** Good afternoon, Chairman Friesen and the Transportation and Telecommunications Committee. I am Senator Tom Brandt, T-o-m B-r-a-n-d-t. I represent Legislative District 32, Fillmore, Thayer, Jefferson, Saline, and southwestern Lancaster Counties. Today I'm introducing LB996. LB996 is a bill to create the Broadband Data Improvement Program. It will ensure that the state of Nebraska is accurately represented in federal broadband grant programs, including grants from the federal Universal Service Fund. The Broadband Data Improvement Program will be administered by the Public Service Commission. Right now we use 477 data. This data is commonly referred to as census block data. This data is inaccurate and grossly overstates the amount of Nebraskans that have an adequate broadband connection. The FCC is committed to getting better data and is asking individual states to help verify its accuracy through crowdsourcing. This bill also encourages the PSC to do just that. The FCC is allocating \$20.4 billion to help states build out fiber in rural

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America. To be eligible for these funds, The states must validate their data. If we are able to do this, we would be one of the first states to be eligible to receive funding. Our Public Service Commissioners voted 4-0 to support LB996 with Chairperson Ridder remaining neutral. The PSC will be here to testify on this bill, and I'm looking forward to their testimony and I encourage you to ask them questions. I would like to thank Johnathan Hladik of the Center for Rural Affairs for working so hard on this bill and constantly staying in contact with our office over the last two years on this issue. Ansley Mick and the Nebraska Farm Bureau has also been great to work with on the rural broadband issue, along with John Hansen and the Nebraska Farmers Union, who I believe started advocating for rural broadband before the Internet was invented. I greatly urge this committee to support LB996 and the other two bills brought by Senator Friesen today. It is past time we start striding towards economic development in our rural areas, which is what robust rural broadband connection amounts to. We have some folks testifying behind me that have a high level of expertise on this subject. Thank you for your time. I will now take any questions.

**FRIESEN:** Thank you, Senator Brandt. Any questions from the committee? Seeing none--

**BRANDT:** OK.

**FRIESEN:** --thank you. Proponents who wish to testify in favor of LB996?

**JOHN HLADIK:** Good afternoon, Chairman Friesen and members of the committee. My name is John Hladik; that's J-o-h-n H-l-a-d-i-k, and I am here to testify on behalf of the Center for Rural Affairs. I want to start by explaining how this proposal will complement federal law. In July, the Federal Communications Commission released a report and order establishing the Digital Opportunity Data Collection Program. That information will now be used to determine how and where federal broadband funding is going to be allocated. LB996 is written to ensure that the state of Nebraska is in position to maximize its share of this funding. This new program is designed to improve upon the commission's current approach to data collection. Use of Form 477 has enabled providers to claim that homes and businesses had broadband coverage when in fact they did not. When this claim is made, those addresses become ineligible for state and federal broadband funding, and these overstatements of coverage are responsible for many of the



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access challenges we see in our state today. The report and order also adopts a process to collect public input, known as crowdsourcing, to verify the accuracy of information submitted by providers. Paragraph three of that announcement explains the intent of this decision, which is to enable state, local and tribal governmental entities and members of the public to participate by submitting their own fixed broadband availability data. LB996 also acts on recommendations made by the Rural Broadband Task Force. This bill is written to implement two of the three key recommendations made under the broadband data and mapping section, which can be found on pages 13 and 14 of the October 2019 report, a copy of which should be in your materials. The first of these is the recommendation that the state leverage the Digital Opportunity and Data Collection Program to improve Nebraska's broadband map. The report points out that doing so gives us access to a greater amount of data and can minimize costs. The second is the recommendation that Nebraskans be encouraged to participate in the crowdsourcing efforts developed to enhance federal broadband mapping. The DODC program is one such effort. The report suggests that the PSC and other stakeholders work together to encourage crowdsourcing. Importantly, LB996 makes Nebraska eligible for a greater share of federal funds. The Rural Digital Opportunity Fund will distribute up to \$20 billion in funding over the next ten years and funds will be distributed in two phases. The first will target \$16 billion to census blocks with no broadband service at all. And of the 6 million locations identified as eligible, only 54,000, which is less than 1 percent, are in the state of Nebraska. However, eligibility for this first phase is determined using Form 477. Because that forms significantly overstates broadband availability in Nebraska, our share of federal funding is going to be very small. That second phase will be based on data gathered from the new Digital Opportunity Data Collection program. This funding will be used to target unserved households and census blocks that are now only partially served. These unserved households will be discovered through a combination of improved data submitted by providers and the results of crowdsourcing efforts implemented at the state level, and states that are able to identify unserved households through crowdsourcing will be eligible for a greater share of these federal funds. And with that, I'd be glad to answer any questions.

**FRIESEN:** Thank you, Mr. Hladik. Any questions from the committee?  
Senator Hilgers.

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**HILGERS:** Thank you, Senator Friesen. Thank you for being here and your testimony. I-- I'm familiar with crowdsourcing as a concept. How would it work? Or do other states use this, to your knowledge?

**JOHN HLADIK:** To varying degrees. I think it's very important that the FCC is asking states to look at implementing these programs. The big problem with crowdsourcing now is there are a lot of different speed tests and there are a lot of different methods and they're pretty inconsistent. So this bill would encourage the PSC to standardize this, to make it effective. And so this could be the cost-effective method that we can use to verify that information, per the FCC request.

**HILGERS:** So as part of that, would there be some sort of, I would assume, you know, a verification method for determining the information that-- that was received is actually accurate, they couldn't just--

**JOHN HLADIK:** That's exactly right. This bill gives the PSC a lot of tude-- excuse me, a lot of latitude to implement those as they see fit. But at a minimum, you'd hope they could standardize it and then provide a form, too, where somebody could submit those complaints and submit their own results and the PSC can use that as part of that challenge process.

**HILGERS:** OK. Very interesting. Thank you very much.

**FRIESEN:** Thank you, Senator Hilgers. Any other questions from the committee? Do you think the-- the Public Service Commission-- you know the-- the-- the phone companies that are out there, I think they all know where their service is and where it isn't. And if it was accurately reported now that they've changed the 477, do you think there is a possibility of the Public Service Commission to be able to get that data directly from the phone companies? Because I think, again, they-- they know where those areas are.

**JOHN HLADIK:** I think you're right, Senator. And those phone companies in particular. I think we know do an excellent job of providing that data. What we're finding is there are a lot of people who fill in that-- that 477 gap. And so the federal rule is meant to fix that, but they say, hey, we can manage this, we can collect the data and we can be your clearinghouse, but we can't verify it. That verification has to happen at the state level. So for those people who do fall in the

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gap, give them something to act on that. Right? The PSC's hands are a bit tied now in what they can do when they receive a complaint. This will allow them to process that complaint and hopefully gather some good information for that challenge process, will-- which will then make us eligible to receive that federal money meant to address that.

**FRIESEN:** Ok. Thank you. Any other questions from the committee? Seeing none, thank you for your testimony.

**MICHAEL TABBERT:** Hi, my name is Michael Tabbert, M-i-c-h-a-e-l T-a-b-b-e-r-t. I am not one of the experts you're going to hear from today. I am a resident of Antelope County, Nebraska, Senator Briese's district. I grew up in Antelope County, lived in Omaha for several years, moved around a little bit, and then moved back to Nebraska in 2018. We bought a small farmhouse. We decided to redo it. We moved back because my family lives here, not getting any younger, and we wanted to make sure we were here to take care of mom and dad. Since my return, I've worked in the public schools with the public school system and with a couple of different economic development groups. My husband works as a data analyst for IBM. When we moved-- when we moved back and started our remodel, we thought it was going to be really hard. Turns out the hard part is getting fiber down a dirt road. After several calls to the FCC, the Public Service Commission, the three "telcos" that serve the area, getting one to claim us turned out to be difficult, to say the least. The Public Service Commission finally stepped in and got us in touch with the company that now serves us. Part of that, we had a fixed wireless. Fixed wireless is microwave technology. If you're not familiar with it, it's a really slow, old, outdated technology. We were sold a package that is reported out to you as 25 up-- or, I'm sorry, 25 down, 3 up. On a very good day, if the wind was blowing right and the sun was shining, we might have gotten 15 down, 3 up. That's not even a remotely good connection. It hindered working, hindered any free time stuff on the Internet, that kind of stuff. After hundreds of phone calls, hundreds of emails, we convinced a company to dig down our dirt road. By the end of my contract, it'll cost me over \$12,000 out of pocket in order to get fiber three-eighths of a mile down the road. I am fortunate that we were able to do that; not many people are. This is where this bill comes into play, being able to identify the pockets that are not served and getting the grant money and getting federal funds to help offset those costs. The company that dug down our road for us needed eight people between their end point and where we're at-- I'm sorry, ten people from their end point to where we're at in order to dig

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their fiber. They got seven people to sign up, so we're paying three contracts because, in order to work from home, you have to have an Internet connection. I could go on for hours. That doesn't even begin to cover the headache that it is to try to get Internet in a rural area, and I think this bill starts to address that.

**FRIESEN:** Thank you for your testimony. Any questions from the committee? You know, I think there are areas that are struggling. I-- we get that. And, yeah, I think we-- we have limited dollars with where to get out right now yet because we have such a huge area that's underserved or unserved. So we have a challenge ahead of us, and I do appreciate you moving back to Nebraska.

**MICHAEL TABBERT:** Thank you. Thank you for your time.

**FRIESEN:** We need people like that. Thank you.

**DANNY DeLONG:** Chair Friesen and members of the Transportation and Telecommunication Committee, my name is Danny DeLong, D-a-n-n-y D-e-L-o-n-g. I am here today testifying as a volunteer on behalf of AARP-Nebraska's nearly 200,000 thousand members in support of LB996, a bill which would support improved broadband data collection and more accurate broadband mapping, which in turn will assist in targeting funds for network deployment where funds are most needed with oversight by the Public Service Commission. AARP-Nebraska actively supports broadband deployment of high-speed Internet service, also known as broadband, to underserved-- unserved and underserved communities. More specifically, AARP-Nebraska fully supports state policies that further the goal of achieving a reliable, advanced telecommunications network that is affordable and accessible to all consumers, regardless of their age, income, and location. LB996 can play a key role in bringing broadband to areas that are now on the wrong side of the digital divide. These communities find themselves left out of the information economy because broadband providers have not found it profitable to serve them. LB996 is an important step forward. Among other provisions, LB996 would create the Broadband Data Improvement Program, to be administered by the Public Service Commission, and complement the data collection process overseen by the FCC. These elements of LB996 are important and will support more accurate broadband mapping and data collection. Also significant is the fact that data collection and mapping would occur under the specific oversight of the Public Service Commission, though we defer to the commission as to whether LB996 allows for sufficient oversight.

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For these reasons, AARP supports passage of LB996 and looks forward to working with state legislators to bring broadband to communities throughout the state with this important bill. AARP is hopeful that the Legislature will continue to focus on policies and programs to give Cornhuskers, especially older ones, the digital literacy tools and comfort needed to adopt high-speed Internet in their homes. Thank you to Senator Brandt for introducing this important legislation and for the opportunity to comment. We encourage you to advance LB996 to General File, and I'm happy to answer any questions.

**FRIESEN:** Thank you, Mr. DeLong. Any questions from the committee? Seeing none, thank you for your testimony.

**DANNY DeLONG:** Thank you.

**MARK METCALF:** Chairman Friesen, mem-- committee members, good afternoon. My name is Mark Metcalf, M-e-t-c-a-l-f, and here's what you need: another sob story. My wife Pat and I live about five miles northwest of Sutton, Nebraska, in a house we built 11 years ago. One year ago, because we were not able to get home Internet service from Windstream, our landline provider, and with the encouragement of the Center for Rural Affairs, I testified in support of LB549, sponsored by Senator Brandt. What has happened in the year since? After my testimony, Chairman Friesen dusted off his cattle prod and provided for Windstream the inspiration they needed to come out to our place and try to help us. But try as they might, and they worked at it for several hours, they could not find the line of sight to either of the two nearby towers that would bring us Internet service, trees and hills being the problem. So we dropped our Windstream landline and now rely on cell phones. In August, I understand the FCC adopted the Broadband Data Improvement Program, analogous to Senator Brandt's LB549. So now I support LB996, which complements the FCC's program and will further enhance accuracy in our efforts to expand broadband service to underserved areas in Nebraska. What hasn't changed in the past year is that my wife and I still do not have Internet service at home. Yes, our smartphones give us Internet access. But when we need to send to receive some documents online, we have to use our public library. Thank goodness for our public library and its Internet capabilities, for which LB992 [SIC] will provide continuing support. Still, we have to drive five miles into town to get to that library and we'd rather not conduct our private business in a public facility. Would anyone who enjoys Internet service at home trade places with us? LB996 establishes strategies and plans of action that will sooner,

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rather than later, make it possible for all Nebraskans to have convenient access to broadband service. Thanks.

**FRIESEN:** Thank you, Mr. Metcalf. Any questions from the committee? So I-- just a second. Yeah. So they-- they did try to get service through their wire [INAUDIBLE] service--

**MARK METCALF:** They certainly did. They put their stuff 40 feet in the air and it just couldn't-- they just couldn't get it done.

**FRIESEN:** Do you know how far away from the nearest tower you're at?

**MARK METCALF:** I don't know for sure. I would say to the northwest of us, four miles; to the southwest of us, probably five miles.

**FRIESEN:** OK. Do you know, is there any existing fiber close to you anywhere that you--

**MARK METCALF:** I'm not up on that information, but I would-- I would think it's by Highway 6, probably, which is about two miles.

**FRIESEN:** I'm just curious then how close you were to a bordering telephone exchange.

**MARK METCALF:** Yeah. I share your curiosity right now.

**FRIESEN:** OK. Thank you.

**MARK METCALF:** Yeah.

**ANSLEY FELLERS:** Good afternoon, Chairman Friesen and members of the Transportation and Telecommunications Committee. My name is Ansley Fellers, A-n-s-l-e-y F-e-l-l-e-r-s, and I'm here on behalf of the Nebraska Farm Bureau, testifying in support of LB996, Senator Brandt's bill which would create the Broadband Data Improvement Program. By allowing the Nebraska Public Service Commission to participate in the FCC's Digital Opportunity Data Collection Program or develop a state-based program in absence of a federal program, LB996 could help ensure Nebraska is able to fully access federal broadband grant programs. We applaud Senator Brandt for bring--being thoughtful and proactive in this regard. Broadband maps are important. They have a variety of public policy implications and are used to determine where dollars are deployed. Although it was a wireless broadband effort, not fixed, Nebraska Farm Bureau does have some experience using

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crowdsourcing as a means of verifying data. While we understand why citizen participation is important, we would ask the committee to consider providing the PSC flexibility and verifying data and even consider allocating resources which would allow the commission to conduct the testing itself or farm it out to a company or entity familiar with this, with such testing. The University of Nebraska at Kearney, for instance, with assistance from public power and the rural electrics, has already deployed a project to measure the quality of Internet service that rural customers are truly receiving. We believe such partnerships could result in better data than crowdsourcing alone. And finally, we would ask the Legislature to work to ensure state efforts complement and do not counter or duplicate federal efforts. Thanks for your time. I'd be happy to answer any questions.

**FRIESEN:** Thank you, Ms. Fellers. Any questions? Senator Bostelman.

**BOSTELMAN:** Thank you. Thank you for testifying today, for being here. Kind of question-- remember from speaking with the task force and that before, it was just the collection of that-- reliability and the collection of-- of the data coming in was a challenge. Could you speak to that just a little bit?

**ANSLEY FELLERS:** Yeah, absolutely. So I want to be clear, and I-- I kind of mentioned it, but our testing, when the FCC released a map for the mo-- mobility fund, they asked for kind of general crowdsourcing efforts, and you actually had to submit a formal challenge if you didn't believe their mobile broadband map was correct. And so Nebraska Farm Bureau, not entirely understanding what that-- what it meant on the back end, conducted sort of this-- we went about looking into the rules as it related to challenging these maps. We asked members for participation. It was incredibly difficult. There were so many restrictions and requirements from the FCC to even take the information, the data seriously, for them to actually accept the data, you know, for instance, just simple things like folks having their-- their Wi-Fi turned off, things like that, that, you know, generally, I think everyday folks-- I talked to my parents about it. They were very confused about all the requirements. We didn't know if the cell phones people were using were up to date and, you know, met the requirements. So in this sense, you're asking folks to test the wire line speed in their homes. And I think sometimes, you know, what if-- what if they have their Wi-Fi in that instance turned off? What if they're not even connected to their home Internet service? The data you could be getting back is what kind of wireless service they're getting in that

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area, that sort of thing. And I just-- I think it's difficult to be advocating for more, you know, tax dollars and resources going to that, from our perspective. But this is important enough that I think there should be a little more concerted effort in that regard, if that makes sense.

**BOSTELMAN:** OK. Thank you.

**FRIESEN:** Thank you, Senator Bostelman. Any other questions? Senator Geist.

**GEIST:** Yeah. Well, you did mention, and it's something I've been wondering about is, since it sounded like the first couple of testifiers were saying this would encourage the federal government to set a standard of mapping, well, what would happen should we pass this in the meantime? So the state would set its own standard, is that what you're saying, or--

**ANSLEY FELLERS:** So not-- so let me-- I-- I hope I'm answering this correctly. So the federal government, last year the FCC launched an investigation into the Form 477s, which is what everyone hears about. Those are basically-- the Internet service providers report them, report their service to the FCC, and then those reports are used to develop the maps. And last year, the FCC launched an investigation into those forms because it sort of came to light that a lot of those were very misleading for a lot of reasons all of you have heard, right? Like one person in a census block is served, so that entire census block is considered served. So the FCC launched an investigation in those-- into those forms as it relates to fixed wireless, and that's kind of what we're talking about today. Now the FCC last year indicated that in order to qualify for the grant programs, like the Rural Development Opportunity Fund that I think the Center for Rural Affairs mentioned, states are going to have to verify some of this. In-- in order to actually even qualify, they're going to have to have some sort of verification process. Some of the rules, especially as it relates to RDOF, which is the largest, are still being finalized, the \$20 billion program are still being finalized, so I think it's safe to say that this bill is probably, you know, going to need to be tweaked moving forward. And we ended kind of our testimony, too, saying we hope that everyone in this process wants the state to be complementary to what the federal government is doing, not require companies to report twice.



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**GEIST:** OK.

**ANSLEY FELLERS:** The-- they should be reporting once, whether that's federal or the state has to im-- implement its own program. I don't think they will. They should be reporting to the federal government, and states should be sort of in charge of verifying that data if it's required to get the grant funds--

**GEIST:** OK.

**ANSLEY FELLERS:** --if that makes sense.

**FRIESEN:** Thank you, Senator Geist. Any other questions from the committee? Seeing none--

**ANSLEY FELLERS:** Thank you.

**FRIESEN:** --thank you for your testimony.

**CHUCK KARP:** Good afternoon. Thank you, Senator Friesen and Senators, for the opportunity to testify before this committee. I'm Chuck Karpf; that's C-h-u-c-k K-a-r-p-f. I'm a director on the Center for Rural Affairs Board. I spent about 15 years running a Panhandle-area development district, lived in Scotts Bluff and Sioux Counties. The story I want to tell is very similar. I didn't have anybody with a cattle prod. I wish I'd known you then. We were a mile and a half from a wireless provider tower when we lived in southern Sioux County and happened to know the guy that owned the company, couldn't get wireless. Dial-up was it. And you all-- some of you remember dial-up; some of you I hope never had to deal with it. We finally got together, and we had two choices. I could convince several neighbors so we could bounce signals off of other houses half a mile and three quarters of a mile away, or we could talk two different people into cutting down their tree rows, shelter belts. Well, that wasn't going to happen. So we finally got wireless Internet, very slow speed. Sometimes it was there sometimes when the wind blew, which it does quite a bit in western Nebraska. We didn't have anything. So we were counted as being able to get Internet, you know, high-speed Internet, or what passed for high-speed Internet. This is ten years ago now. We couldn't on a reliable basis. We need something similar, if not LB996, Senator Brandt's bill, something very similar, so we can prove who gets what out there in the rural areas. When Mark testified, I would spend many evenings in town doing private Internet work where I worked, you know, because my boss would let me do it-- I happened to be the boss, so I

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could do that-- because we couldn't get decent Internet. So I'm not going to take any more time. Any questions?

**FRIESEN:** Thank you, Mr. Karpf. Any questions from the committee? Seeing none, thank you for coming to testify.

**CHUCK KARPf:** Thank you.

**BETH BAZYN FERRELL:** Good afternoon, Chairman Friesen and members of the committee. For the record, my name is Beth, B-e-t-h, Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm with the Nebraska Association of County Officials, I'm appearing in support of this bill. We appreciate Senator Brandt's efforts to move Nebraska toward the head of the line. And with that in mind, I'm sharing with you some information that the National Association of Counties has. They've developed an app, a crowdsourcing app to look at and allow people to record where there is broadband and the speed of that broadband, so if there's anything that we can do to help with the data collection and connect you to the-- the folks at the National Association, then if that information is helpful, we would be happy to do that. I would be happy to take questions.

**FRIESEN:** Thank you for your testimony. Any questions from the committee? So this was more about a wireless test to see if-- how fast your data?

**BETH BAZYN FERRELL:** The-- the National Association?

**FRIESEN:** Yeah.

**BETH BAZYN FERRELL:** It's-- it's an app to look at broadband and--

**FRIESEN:** OK.

**BETH BAZYN FERRELL:** --the availability of that.

**FRIESEN:** Thank you. Any questions from the committee? Seeing none, thank you for your testimony.

**LINDA DUCKWORTH:** Good afternoon. I'm Linda Duckworth, L-i-n-d-a D-u-c-k-w-o-r-t-h. I'm president-- I mean I'm copresident of the League of Women Voters of Nebraska. The League of Women Voters supports equal opportunities for all and, therefore, we support LB996. This bill to create the Broadband Data Improvement Program is another

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step in the right direction for expanded Internet connectivity. It is a cost-effective way to find out where the needs are and to move forward in expanding needed access. I urge the Transportation and Telecommunications-- Telecommunications Committee to look at all three of the bills heard today and figure out how to combine, if necessary, and get this important work accomplished in this short session. Thank you.

**FRIESEN:** Thank you, Ms. Duckworth. Any questions from the committee? Seeing none, thank you for your testimony. Welcome, Commissioner Ridder.

**MARY RIDDER:** Thank you, Senator Friesen. Good afternoon, Chairman Friesen and members of the Transportation and Telecom Committee. My name is Mary Ridder, R-i-d-d-e-r. I represent the 5th District and currently am chair of the Nebraska Public Service Commission. I'm here to testify in support of LB996. The commission believes it's critically important to have accurate and reliable broadband data. Better data and better maps are an integral part of making good policy decisions, which will effectively target broadband deployment support. There's no question that our annual broadband map overstates broadband coverage and that it's become a national priority to fix it. And that's why the FCC and Congress have been working on measures to improve the data collection and verification process. LB996 would enable the commission to supplement the effort to FCC plans to make-- in gathering accurate data and to ensure that it is accurate from the perspective of Nebraska broadband consumers. We support this legislation and appreciate the flexibility afforded to the commission in implementing such a program. By way of some background, last August, FCC released a decision in their digital opportunity data collection proceeding to start gathering broadband data in a way that would be separate and distinct from its current Form 477 collection by requiring carriers to file geospatial broadband service data in polygon shapefiles. FCC has determined this may be a better way to collect broadband data available-- availability data on a more granular level than the current census block-level methodology. FCC also announced their intent to allow input from the public, or crowdsourcing, though few, if any, details on how that will work have been released. They've directed the Universal Service Administration Company, or USAC, the FCC's third-party administrator, to develop a portal to allow the public to review and dispute coverage information, but there's no timeline on when that will be completed. They also sought comment on what to collect through the portal. I also want to make it clear to the committee broadband mapping and crowdsourcing

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will not have an impact on the new federal dollars flowing to Nebraska in the near future. As of January 30, last week, FCC voted to use the data they already possessed, which was collected from its most recent 477 information to disperse the first \$16 billion of the \$20 billion in federal high-cost money through an auction occurring by the end of 2020, this despite comments from a number of interested parties requesting the FCC to pause the federal auction proceeding to provide time to collect better data. In other words, FCC is not going to wait for the digital opportunity data collection platform to be in place prior to allocating the \$16 billion in federal support. The FCC contemplates using the data used through its revised data collection efforts in phase two to fill in the gaps. Because of all of these moving parts. We are unable to assess how good or bad the new broadband data to be collected may be and, therefore, the extent to which public input will be required and how this will be accomplished. Until we know what types of crowdsourcing information challenge the FCC will be accepting, the PSC is not able to estimate the cost of implementing it or even what the program of data collection will be.

**FRIESEN:** Thank you, Commissioner Ridder. Any questions from the committee? Southern Bostelman.

**BOSTELMAN:** Thank you for being here, Ms. Ridder. I guess the last-- your last portion of your testimony is-- is a question I was going to come down to, whether it's this one or-- we don't know.

**MARY RIDDER:** We don't know--

**BOSTELMAN:** So--

**MARY RIDDER:** --because we don't know any of the pieces that lead to the fiscal note.

**BOSTELMAN:** Is there any information coming out of the FCC now that would give us some idea as to what we would be-- what the PSC [INAUDIBLE] would be able to collect or test or look at?

**MARY RIDDER:** We don't know what that portal looks like. We don't know what data, how it will be presented to them. We don't know how they want to receive it. We don't know anything about that piece.

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**BOSTELMAN:** Is their funding-- through the funding that's become available, will that funding then be there to provide for the fiscal note, or is that something that-- that--

**MARY RIDDER:** Would that federal funding be able to be--

**BOSTELMAN:** Yes, so would that federal funding--

**MARY RIDDER:** I would think not.

**BOSTELMAN:** I'm sorry?

**MARY RIDDER:** I would think not. That's got to be used for deployment.

**BOSTELMAN:** So the funding would come from where to-- to provide for this?

**MARY RIDDER:** If-- if we did this, it would come through us somehow.

**BOSTELMAN:** I'm sorry?

**MARY RIDDER:** Through us somehow. If we're going to be crowdsourcing, if we're going to be collecting data somehow from, you know--

**BOSTELMAN:** And is that something you can do in-house or is that something you contract out?

**MARY RIDDER:** I don't know.

**BOSTELMAN:** OK. Thank you.

**FRIESEN:** Thank you, Senator Bostelman. Any other questions from the committee? Seeing none, thank you for your testimony.

**MARY RIDDER:** You're welcome.

**JOHN HANSEN:** Chairman Friesen, members of the committee, again, for the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n, and I'm the president of Nebraska Farmers Union. And I have distributed to you one of the top five issues of our organization as identified by our members at our recent state convention. We had five special orders of business. And just as property tax relief continues to be in the top five year after year, this issue has made it most of the last 12 years or more. And so this-- this fairly short, straightforward, special order of business kind of puts the pertinent facts on the

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table. But also, there-- if there's a hint of frustration that you read between the lines, that would be true. There is a lot of frustration that for a lot of folks who have been raising this issue for a long time, that we just can't seem to be able to figure out what it is that we need to do to accomplish the mission and get to where we're at. We've done a good job of describing the problem. We've documented a lot of the cases. And so we think this bill is a good-faith effort to try to implement several of the recommendations of the task force. And it tries to make ourselves as useful as possible in order to be able to secure federal funding and bring some of those dollars back to Nebraska to see if we can't put them to work to do some of the things that we, I think, would all agree needs to be done. And so we think that is useful. And, you know, time is of the essence. I've-- I've been either a public official or the head of a farm organization for 46 years this year. And when-- when we can pair up local, state, and federal efforts and we could hook them together, that's when the wheels move. That's what you learn if you're in this business very long is that if you can complement those kinds of activities and actions, that's when you get the most done. And so the fact that the federal dollars are available and the fact that we're making a good-faith effort to go after them, I think that that is opportunity knocking from our perspective. And with that, I would end my testimony and be glad to answer any questions if I could.

**FRIESEN:** Thank you, Mr. Hansen. Any questions from the committee? Seeing none, thank you for your testimony.

**JOHN HANSEN:** You bet. Thank you very much.

**FRIESEN:** Any other proponents of LB996? Seeing none, any opponents to LB996? Seeing none, anyone wish to testify in a neutral capacity?

**JUSTIN BRADY:** Chairman Friesen 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 a registered lobbyist for the Nebraska Cable Communications Association neutrally on LB996. The association wants to start off that they do support Senator Brandt in his goals to allow the Public Service Commission to participate in the federal digital opportunity data collection. Their concerns are similar, I guess, to Commissioner Ridder's of until we know exactly what-- how the FCC is going to ask for the data, should the state not wait and see what it is, how they need to collect it, what they need to collect, and how they need to submit it. I will also say whether or not the bill is actually

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necessary. The FCC has already said they will work with states and individuals and potentially use crowdsourcing to gather this information. And so with that, whether or not we actually would have to pass the law-- would be more it sounds like an appropriation to say let's give the PSC the money to go out and do this, not necessarily the authority. The other issue that they have, and, Senator Hilgers, you had touched on briefly, was at the federal level when it comes to the crowdsourcing piece at the FCC, they put in some safeguards to say that it allows providers the opportunity to respond to what the crowdsourcing says. That's obviously not in this bill. It could be-- yes, the PSC may do it by rule or reg. It would be one-- something that the industry would say, if you move forward, that they would at least like that opportunity to respond and not just have that come out. So with that, I'll try to answer any questions.

**FRIESEN:** Thank you, Mr. Brady. Any questions from the committee? Seeing none, thank you. Anyone else wish to testify in a neutral capacity? Seeing none, Senator Brandt, you wish to close?

**BRANDT:** Senator Geist, in regard to your question, in this bill we'd give the PSC the latitude to adapt to the FCC rulings.

**GEIST:** OK.

**BRANDT:** And Senator Bostelman had a couple of questions. The issues experienced with crowdsourcing is why we've given the PSC the ability to standardize this method. And then in regard to funding, the way the bill is written, because we don't know what the FCC is going to come out with, it's first to adapt to their regulations unless they expect the state to do it. And I guess I sort of look at this as somewhat on the same level as we're going to be asked as a Legislature to give funding for a new hospital in Omaha on the premise that we're going to get a billion, \$1.2 billion if we as a state put up an investment of \$300 million? Well, we know on the first tranche that is coming out of the FCC is going to be \$16 billion, and we know, based on the flawed data, that we have at least 54,000, or 0.9 percent, of our households will be eligible for part of that money. What part? I do not know. But then that next \$4 billion would be contingent upon us measuring some way, shape, or form. And I think you've-- you've heard a variety of sources today on-- on what those possibilities could be. So, yeah, it would be nice if we had all the i's dotted and the t's crossed. Today we-- we can't say for certainty what's going to happen, but we're-- we're pretty certain if we can make this investment to get this taken

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care of for the people of Nebraska, that that next step will go forward. So with that, I'll-- I'll take any questions.

**FRIESEN:** Thank you, Senator Brandt. Any questions from the committee? Senator Hilgers.

**HILGERS:** Thank you, Senator Friesen. Thank you, Senator Brandt, for your presentation. One-- one of the cons, I think Mr. Brady, was about the FCC doing portal potentially. How does that-- do you know much about that and how that would compare or contrast with this effort?

**BRANDT:** No, I don't know how-- how it would contrast, but if you read the bill, it give-- it defers to them first, and if they do not choose to go forward with it, it would go to our PSC. I mean--

**HILGERS:** So it would def-- OK.

**BRANDT:** Yeah.

**HILGERS:** That makes sense.

**BRANDT:** Yeah.

**HILGERS:** OK. Thank you.

**FRIESEN:** Thank you, Senator Hilgers. Any other questions from the committee? Seeing none, we do have some letters in support. We have none in opposition.

**BRANDT:** That's always good.

**FRIESEN:** Thank you, Senator Brandt. And with that, we'll close the hearing on LB996 and the hearings for today.

**BRANDT:** All right. Thank you.