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**FRIESEN:** [RECORDER MALFUNCTION]--one. Welcome to this morning's public hearing of the Transportation and Telecommunications Committee. I'm Curt Friesen from Henderson, Chairperson of the committee, and I represent District 34. I'll begin with a few procedural items. For the safety of our committee members, staff, pages, and the public, we ask that those attending our hearings do abide by the following procedures. Due to social distancing requirements, seating in the hearing room is limited. We ask that you enter the hearing room only when necessary for you to attend the bill hearing in progress. The bills will be taken up in order posted outside the hearing room. The list will be updated after each hearing to identify each bill is currently-- which bill is currently being heard. The committee will pause between each bill to allow time for the public to move in and out of the hearing room. We request that you wear a face covering while in the hearing room. Testifiers may remove their face covering during testimony to assist the committee members and transcribers in clearly hearing and understanding the testimony. Pages will sanitize the front table and chair between testifiers. Public hearings for which attendance reaches seating capacity or near capacity, the entrance door will be monitored by a Sergeant at Arms who will allow people to enter the hearing room based upon seating availability. Persons waiting to enter the hearing room are asked to observe social distancing, and wear a face covering while waiting in the hallway or outside the building. The Legislature does not have the ability, due to the HVAC project, of an overflow hearing room for hearings which attract numerous testifiers and observers. We ask that you please limit or eliminate handouts. Please silence all cell phones and other electronic devices. We'll be hearing the bills in the 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 a-- set aside an on-deck chair up front here, when your turn comes that you're ready to go. If you'll be testifying, legibly complete one of the green testifier sheets located 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 12 copies, and one of the pages can assist if you need the help. When you begin your testimony, it's very important to clearly state and spell your first and last name slowly, for the record. If you happen to forget to do this, I will stop your testimony and ask you to do so. Please keep your testimony concise. Try not to repeat what has

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already been covered. We use the light system in this committee, beginning with the green light. You will have five minutes for your testimony. The yellow light indicates there is one minute left and, when the red light comes on, the time is up. Those not wishing to testify may sign in on the pink sheet by the door to indicate their support or opposition to a bill. With that, I'll introduce my staff. Andrew Vinton is my legal counsel, and Sally Schultz is the committee clerk. And the pages today are Turner and Lorenzo. Thank you guys for helping out. And with that, we will begin introductions to my right.

**BOSTELMAN:** Bruce Bostelman, District 23: Saunders, Butler, and the majority Colfax Counties.

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

**M. CAVANAUGH:** Machaela Cavanaugh, District 6: west-central Omaha, Douglas County.

**ALBRECHT:** And we'll start with LB388. Senator Friesen.

**FRIESEN:** Thank you, Senator Albrecht. Good morning, members of the Transportation and Telecommunications Committee. My name is Curt Friesen, C-u-r-t F-r-i-e-s-e-n, and I'm here today to introduce LB388, on behalf of myself, Speaker Hilgers, and at the request of the Governor. I want to thank both the Speaker and the Governor for making broadband infrastructure a priority. LB388 creates the Nebraska Broadband Bridge Act within the Public Service Commission. The act provides \$20 million in grants annually to increase the high-speed broadband across our state. Eligible areas to receive the grants are prioritized into three categories. One is the unserved areas that receive less than 25/3 up and down, and have been targeted for a project. Number two is the unserved areas that are receiving federal support for construction that will not be completed within 24 months. And the third is the underserved areas that receive less than a 100 by 20 and have developed a broadband and a digital inclusion plan. The act offers a challenge process for a provider who has begun construction on the proposed project area at speeds equal to or greater than 100 by 20, or if they commit a complete construction of a proposed area, at speeds equal to or greater than 100 by 20, no later than 18 months after the grant awards are made. If the challenging provider does not provide the service within the set timeframe, they

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are prohibited from making another challenge for the next two fiscal years. Recipients will be required to provide broadband speeds of 100 by 100 Mbs--Mbps or greater, pay at least 50 percent of the total development costs, and complete the project within 18 months. If the project is not completed within the 18 months, the recipient is required to repay 10 percent of the grant total for each month the project is not complete. The commission may permit one six-month extension upon request and for good cause. If the project is not completed within this timeframe, the recipient is required to repay 20 percent of the grant total for each month the project is not complete. After completion of the project, grant recipients will be required to conduct a speed test over one week, using a random sample of current subscribers. If the broadband network does not provide scalable speeds of 100 by 100, the grant recipient must pay back the grant in full. Broadband expansion is one of the most important issues facing our state, especially in rural areas. Households rely on the Internet for education, telehealth, and, in many cases, employment. Bridging the digital divide between urban and rural is the key to helping all Nebraskans stay connected, productive, and prosperous. Thanks for your time, and I would be willing to answer any questions that you may have.

**ALBRECHT:** Thank you, Senator Friesen. Does the committee have any questions? Seeing none, we'll take the next proponent. Good morning, Governor.

**GOVERNOR RICKETTS:** Good morning, Senator Albrecht, members of the Transportation and Telecommunications Committee. My name is Pete Ricketts, P-e-t-e R-i-c-k-e-t-t-s. I am the Governor of Nebraska, and I want to thank Senator Friesen, who's Chair of this committee, and Speaker Hilgers for-- and all the senators who cosponsored this bill that is incredibly important for our state. Nebraska is a leader in roads infrastructure. We pride ourselves on that because we know it's important, especially for our largest industry, agriculture. But it's important for other industries, as well, to be able to grow our state. Broadband is infrastructure that we need to make sure that we are also being ranked very highly on, to be able to allow our state to grow, to be able to invest in it so that we can continue to make sure we provide that great quality of life here in Nebraska. Think of it also as maybe like the rural electrification that has happened in our past or telephones. We've got to have this infrastructure. It's basic. And that's why I'm here to support LB388, because this invests in that

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important infrastructure that will allow all of Nebraska to be able to grow. This pandemic has really highlighted that digital divide, how difficult it is to be able to do school remotely or work from home if you don't have access to that high-quality, high-speed Internet, that-- that broadband access. Got numerous stories of people who are struggling. You know, one of those stories is from a mom whose daughter goes to Palmyra High School, and she has to drive in to the public library in Syracuse, off hours, so that her daughter can do homework. Or Jessika Benes, who moved here from Iowa. She moved to Juniata to set up her mobile veterinary clinic and was told by the Internet provider there that she would have speeds comparable to what she had in her Iowa community that she moved from. But she's finding out that's not true. She says she regularly gets speeds of three megabits download and one megabit upload. And she says shocking because it's just not that-- she's just not in that rural of an area in Adams County. Or Riley Kessler, who goes to Mullen Public Schools but lives on a ranch about a 45-minute drive away. He and his brother have to drive to a hilltop 10 miles away from their home to use a mobile hot spot to be able to do their homework. These are just some of the stories we're hearing about people's struggles in doing basic school or business without that broadband access. Now, with the CARES Act money, we've invested \$29 million in helping connect 17,600 people with that broadband access. LB388 will allow us to continue to be able to build on momentum. Right now in Nebraska, there's 80,000 people who do not have that 25/3 speed-- 80,000. And if you go look at folks that don't have the 100/20 speed, you're talking 150,000 Nebraskans. So what we are proposing is to invest \$20 million in each of the next two years to be able to help get that connectivity for those Nebraskans so that all of our small towns and rural communities can have the same access to the Internet that we enjoy in some of our more-- our larger urban areas. It's critical for us to be able to make sure we can continue to grow our state to allow people to do work, education, telehealth. I mean, think of all the basic things we may take for granted. I get constituent letters telling me: Jeez, well, what-- what? I can't get access to do basic stuff online that you, the state, or businesses require me to do because I don't have that service. So this is important for us to invest in. Now you may hear some people coming in later today to say, well, the state's asking for 100/100. That standard is too high. Folks, if we're going to invest public taxpayer dollars in creating infrastructure, we ought to invest in quality infrastructure, infrastructure that is not going to get us to

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where we ought to have been before, but looking forward to where we need to be to allow students, businesses, healthcare providers to be able to operate in the 21st century. And finally, just to wrap up, when we do have that broadband access, that allows us to grow. Now I'm going to use the example of Jason Kvols, who's a farmer up by Laurel. He has recently invested in another pig barn to be able to bring his son back to the family farm. He has told us that the only way he was able to do that is because he had high-quality, reliable Internet access to allow him to make that investment so that he could have 24/7 remote access to manage feed, water, environment-- all of that, only made possible by that high-quality, high-speed Internet access. When we have that available all across our state, we will allow people like Jason to continue to invest. And think about the benefits of that new pig barn. Not only is it going to bring a young person back into agriculture, our number one industry, but creating a market for local farmers to be able to sell their feed. This is what we want. That's that value added to agriculture that's going to help us grow our state. And that's what's possible if we make sure that everybody in the state has that broadband access. So, again, thank you very much for your time and your consideration, and I'm happy to answer questions.

**ALBRECHT:** Thank you, Governor. Do we have any questions? Senator Bostelman.

**BOSTELMAN:** Thank you, Vice Chairwoman Albrecht; appreciate that. Thank you, Governor Ricketts, for being here today and for the-- the idea behind this bill and bringing this bill forward. Got several questions I think we can go over today, and we'll kind of see how it progresses. One thing that we find-- and I support the idea of-- obviously, of getting broadband across the state, and that's the challenge we've-- we've been facing for years. One question I have with you, and-- and maybe someone behind you can answer, as well: Who's going to do-- right now, as we determine served and unserved, it's off the 477, which is reported by providers and the FCC. We know that it's grossly inaccurate. That is not-- doesn't come close to giving us the full picture, which we're trying to-- to hopefully change that. How do you see us determining served, underserved, not served people across the state with your bill? Is there a different way other than the 477 you think we should consider to take up on this?

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**GOVERNOR RICKETTS:** Well, so what-- what we currently have is just a-- basically the Nebraska broadband mapping program that we have today. And you're right, there are folks that are, or that-- that's not accurate. So for example, I used the example of Jessika Benes, who moved here from Iowa. The map shows that she should have that 25/3 minimal type program. And she's regularly saying: Hey, I'm regularly getting 3/1. Right? So the Internet provider told her she'd get the same sort of quality. She was clearly not doing that. But that's why in this program we have is the opportunity for people to challenge. And then, finally, the-- the follow-up on it is, we're actually going to do measurements of the program. So when you actually build out the infrastructure, there's a test at the end that, if you're not meeting the speed, you've got to pay back the grant. So I think that we've got some checks in there to be able to help do that. But certainly we're open-- I'm open to other ideas on how we actually establish that. But as you know, Senator, that's part of the challenges, that we know that map isn't always accurate, that we're being reported that these are the types of speeds we have, theoretically. But in a practical sense, when people are trying-- like Jessika-- are trying to use it, they're not getting it.

**BOSTELMAN:** Yeah, I-- I-- I wholeheartedly agree if-- with the-- with the whole concept behind this. You know, my challenge is with the-- with the covered areas is-- is, as I say many times in these hearings, is I live 32 miles from here, and I don't have the connectivity I'm supposed to have. So I have Viasat. So recently our router went out that's on our satellite. They said, oh, yeah, we might get to you in a month. Really. That's what we're dealing. I'm at 32 miles away. So my next question really comes with how do we include, 'cause a lot of times what we see with these is, it's a community that gets the bulk of, you know, we build the community, but we don't build outside of that community. Is there something that you see or a way that we can include in-- a lot of it, it's-- I'll-- I'll call it hardware-- is-- is a big expense when-- especially when you go to 100/100 speeds on that upload/download. It's really the mechanics within the building that's cost the most, compared to, perhaps, laying the fiber. Is there a way within your bill to ensure that it's within the whole, say, region or the-- so many miles outside of that town that will connect those, as well? Because if we don't do that now, our towns and cities are getting connected, but those of us who live outside of that city limit, we're not getting connected. So it-- to-- right to your

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specific point of, those of us that live outside and rural, I don't know when we'll ever see it. So could you address that?

**GOVERNOR RICKETTS:** So this-- actually, this is really what this is supposed to be for, because what we're trying to do is let that last mile, that part that a lot of telecommunications companies don't want to pay for because it's just not economically viable for them to do that. So this is supposed to be for grants to be able to work with those companies or public-private partnerships or cooperatives to be able to connect that last mile. And that's why we have the program where we're targeting, again, the underserved areas, the 25/3, where we're going to have people promo-- you know, put forward the grant application process, that then the PSC will evaluate and make sure-- to determine which ones are going to be the most in keeping with the legislation and the intent. But the whole idea, Senator, really is to get that last mile to connect that infrastructure to that household so that they will be able to get access to it. And so that-- that's really what the whole purpose behind this bill is, to build that infrastructure, that last mile, to lay that fiber, get it to the house so that person who's not in one of our towns, who maybe is living yet farther out, is able to be able to get that.

**BOSTELMAN:** The last question I have, if I may-- when we look at, say, the RDOF projects, reverse auctions, we know that-- especially with the RDOF coming out recently-- that probably is not going to happen. And that's a ten-year program that's out, and that may not happen for ten years. How-- how is it that we can potentially not eliminate those areas when we-- when we're considering this bill?

**GOVERNOR RICKETTS:** Well, there are two separate things. So the reverse auction process, that is all completely separate. This is all about a separate new program that will be targeting, again, those underserved areas today. As Senator Friesen laid out, there's three different priorities. Right? The first is the 25/3 areas that don't have that and there's no project going on there. So that's the top one. The second one is the 25/3 where there's a project, but it's not going to be done in the next 24 months. And if there's a possibility of accelerating that, then you're eligible for the grant. And the third area is the 100/20 who have the plans that you have described. So what we're definitely targeting, though, is those places where either you don't have it or if there's a project-- there may be a federal project, but if it's not going to be done in the next two years,

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you're eligible. So it really works in conjunction with it. I don't think it is-- it's going to be mutually exclusive. I think I'd say, hey, this is a separate new program. Whatever you were doing before is great, keep doing it. But this is new. This is-- we're going to be focusing on what we can see today and for the next two years.

**BOSTELMAN:** I appreciate that completely. And-- and I think the challenge we have is when there's federal programs, money coming in, that-- that we don't-- this-- we're not able to look at those, potentially, when we probably should, because-- well, it's probably doubtful on some of these that we're going to be successful in getting them built out. And that's a ten-- we're ten years behind on it. But I appreciate-- I appreciate what you have in the bill here.

**GOVERNOR RICKETTS:** OK. Thank you, Senator.

**ALBRECHT:** Thank you very much, Senator and Governor. Any other questions? Senator Cavanaugh.

**M. CAVANAUGH:** Thank you. Thank you for being here, Governor Ricketts; it's nice to see you.

**GOVERNOR RICKETTS:** Nice to see you, Senator.

**M. CAVANAUGH:** And thank you for this bill. Broadband is extremely important to the economic stability of our state; so I appreciate it. I have a question about the longevity of the program. You-- you spoke to two years. Is it-- I didn't see that there was a sunset date. Is it going on from-- beyond two years? Will this be every year? Or--

**GOVERNOR RICKETTS:** So what we're proposing, 'cause it's just the biennial budget that the Legislature is going to be creating, is doing \$20 million in each of the next two years. We think that will get to about 30,000 Nebraskans, but there's, as I mentioned, 80,000 out there. And so what I would envision-- and I'm not going to be here, so this is going to be up to you all-- but that the Legislature would then, assuming that this program is successful, continue that in the next biennium and, also, do \$20 million in each of the next two years of the next biennium.

**M. CAVANAUGH:** OK. And then my other question is, is this only serving for rural broadband or would this also be available to underserved areas that are in urban communities?



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**GOVERNOR RICKETTS:** So this is primarily targeting those rural areas that are-- don't have that 25/3. I don't know that there's any urban areas that fit in that category. Maybe Senator Friesen can talk about that a little bit more, maybe one of the other speakers. I don't-- I just don't know if there's any urban areas that would fit that category.

**M. CAVANAUGH:** OK. If there were, though, they could apply for it?

**GOVERNOR RICKETTS:** I'd have to go-- I'm not familiar enough to know for sure, but I just-- so I hate to give you an answer for that.

**M. CAVANAUGH:** I'll ask the question for others to [INAUDIBLE].

**GOVERNOR RICKETTS:** Yeah, ask somebody that-- who comes behind me. Yeah, so--

**M. CAVANAUGH:** OK. Thank you. I really appreciate it.

**GOVERNOR RICKETTS:** Great.

**M. CAVANAUGH:** This is an exciting opportunity.

**GOVERNOR RICKETTS:** Thank you, Senator.

**ALBRECHT:** Thank you, Senator Cavanaugh. Any other questions? We're all done? There's only three of us; sorry. I guess I'll just visit with you real quick. I probably have the rural story of stories just because, when you are a farmer and your bank tells you to go online to do all your business-- they don't want to, you know, mail checks to you anymore or do anything like that-- or if my husband wants to go online and buy cattle and, right in the middle of it, we freeze up, it stops, your-- you don't get to do the business that you need to do. I've watched families come home where both parents are-- are home, doing their business during the pandemic, and then the children are home and there's just isn't enough. And so the stories that you talked about, I can definitely relate. In Wayne, they go to the McDonald's or sit outside of the library to try to get some connectivity to get their homework done. So that-- that's a problem with parents, too. They went in parking lots up in South Sioux. We really do have a problem here. I appreciate you addressing this. But the money that went out on the first round of funding for the-- for the broadband, that came out of the Department of Economic Development. So this is

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completely separate. Right? This is-- you've decided to go with the  
Public Service Commission on this particular bill?

**GOVERNOR RICKETTS:** Yeah. So the CARES Act money obviously was part of  
the federal stimulus package that we had to move very quickly on. We  
wanted to get that out because, as it was originally envisioned, that  
stimulus money had to be spent by the end of--

**ALBRECHT:** The year.

**GOVERNOR RICKETTS:** --the last calendar year.

**ALBRECHT:** Um-hum.

**GOVERNOR RICKETTS:** And so we moved it through the Department of  
Economic Development to get it out quickly.

**ALBRECHT:** Um-hum.

**GOVERNOR RICKETTS:** For this bill in particular, we're doing it through  
the Public Service Commission because we feel that that is the  
regulatory body of this field. So we felt that was most appropriate  
for them to take it as part of their overall-- their mission in  
regulating this field.

**ALBRECHT:** So were you able to get some information back on how many  
families were served with that money? And--

**GOVERNOR RICKETTS:** With regard--

**ALBRECHT:** --by the end of last year?

**GOVERNOR RICKETTS:** --with regard to the CARES Act money?

**ALBRECHT:** Um-hum.

**GOVERNOR RICKETTS:** I don't have that off the top of my head. What  
we're projecting is that we're going to get to 17,600 families that  
will then be connected because of the money we spent on the broadband  
initiative through the CARES Act.

**ALBRECHT:** OK, great. Well, thank you for your time and for being here  
and your testimony today.

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**GOVERNOR RICKETTS:** Great. Thank you, Vice Chairwoman; I appreciate it.

**ALBRECHT:** OK. No other questions? We'll take the next testifier.

**GOVERNOR RICKETTS:** Thank you very much.

**ALBRECHT:** You bet. OK. We'll wash the chair off, and we'll have the  
next proponent. Good morning. How are you doing? Go right ahead.

**DAN WATERMEIER:** All right. Good morning, Vice Chairman Albrecht and  
Commission-- or Chairman Friesen. Members of the Transportation  
Committee, my name is Dan Watermeier, spelled W-a-t-e-r-m-e-i-e-r. I  
represent the commission's 1st District, and I'm the current chairman  
of the Nebraska Public Service Commission, and here to testify in  
support of LB388. I'd like to thank the Governor for proposing this  
bill and making this commitment to the people of the state of  
Nebraska. We're extremely grateful that he devoted \$40 million in the  
CARES Act support last year for broadband infrastructure projects. It  
was a critical nod to the importance of ubiquitous broadband  
connectivity during a time when the absence of broadband has meant the  
loss of opportunity for many of our citizens to work-- learn or work  
from home. We strongly support this bill, which will devote additional  
General Fund dollars to stimulate growth in the telecommunications  
sector and help close the digital divide. Based on our past experience  
with providing specific, targeted broadband support in the form of  
grants, we believe that we are positioned to immediately stand this  
program up and meet the deadlines and program objectives in the bill.  
The commission has been providing grant-based support for broadband  
infrastructure improvements through our Universal Service Program for  
about ten years. On an annual basis, over half of our Universal  
Service Fund budget has been dedicated to providing grants for  
broadband projects in rural areas. In addition to the deployment  
support, last March, the commission allocated \$1 million for COVID-19  
relief designed to subsidize carriers who provided free and low-cost  
broadband services to low-income consumers in order to facilitate  
online learning and to deploy free Wi-Fi spots inside of communities.  
We are confident that our existing processes ensure accountability for  
recipients of NUSF-- Nebraska Universal Service-- support, and that  
the state support is not spent in areas that are already receiving  
federal support for broadband build-out. Coordinating state and  
federal broadband build-out requires not only an understanding of  
existing federal programs, but the ability to utilize the information

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available about where the support has been targeted. Our public-facing broadband mapping site, which shows where broadband build-out support is being targeted with both state and federal support, is just one example of our demonstrated ability to do this. We believe we can effectively target this funding to align with the priorities outlined in the bill. We also feel we are in a good position to further leverage this support because of our familiarity with support coming in from other sources. This bill appropriately balances the funding priorities, has practical timelines, and provides reasonable opportunity for due process for the stakeholders. We also appreciate that there is a clear remedy available in the event that a grant recipient fails to complete the project by the deadline. Again, we'd like to thank the Governor and the committee for recognizing the importance of bridging the digital divide and for dedicating financial resources to each of the unserved and underserved areas of the state. I'd be happy to try to answer any questions, but I realize there are a lot more experts in the room. But this is right up our alley, so I just really appreciate the bill.

**ALBRECHT:** Thanks for being here today.

**DAN WATERMEIER:** Thank you.

**ALBRECHT:** Any questions? Senator Bostelman.

**BOSTELMAN:** Thank you. Thank you, Commissioner Watermeier, for being here today. A couple of questions to follow up from what I talked with the Governor about. One, I'm curious how you expect to be able to do the-- the tests to confirm that it was actually done, since we don't do that now.

**DAN WATERMEIER:** Well, it's going to take some contract help inside of our building. And-- and I did want to also comment on the fact that you had mentioned the 477. On the last CARES Act, I believe the federal government-- it was highly involved with this behind the scenes. They did appropriate more dollars to get those mapping issues past the 477. And so we really hope that it will be more granular with that. And so with that data, we'll be able to do a better job, as well. But inside the bill, as I-- as I visit with staff, it looks like it's a little bit open and we'll be able to-- we think we'll be able to adapt it to what we're already doing.

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**BOSTELMAN:** Yeah. You touched on the 477. So that's really my major concern as-- as we know that the census blocks are said that they're covered when they're not, or the thing may be, in my situation, that we-- maybe three or four different providers in that area. But reality is, there's just no way that I can-- I'm going to get any better service from any of them as-- as it stands. I guess that's just-- the challenge is to really be able to identify them. And then, in the-- in the bill, it talks about, on page 4, would be one-- Section 5, on line 19-- 18 and 19, it says, "but has not received public assistance for development of a-- of a broadband network." I'm just-- I'm just wondering, how much is this really going to reach those outside of the city limits of a town or village? That's-- to me, that's my biggest challenge with this, because I think providers are more willing to put money into a town or village, but they're not willing to go outside. They're not willing to go ten miles, five miles, three miles down the road to connect folks. How do you see this work?

**DAN WATERMEIER:** That's going to be pretty tough to answer. But you're-- you're right. The economic model doesn't bode very well for rural Nebraska, and we've seen that over the years. And that's the way it always is. But that's what's the advantage, I think, of this bill that the Governor has introduced, 'cause it's so much different than what we're already supporting through the NUSF. I mean, we are committed. We have to-- you have to be an ETC before you can receive funding. So we're really hoping that this will be able to stretch what we're doing currently and get past those barriers that we've done. Now, I think the mapping is an issue, it-- no doubt about it. We've got to have better numbers. And I like Senator DeBoer's bill as well, that she's got coming forward. In this bill, the Governor's bill, there's pretty-- there's pretty good language in here about measuring the mapping. And I think we can-- we can do a good job of that.

**BOSTELMAN:** Would this allow a provider, that if-- that you have no-- is the right word authority or jurisdiction over-- regulatory authority over to apply for these funds?

**DAN WATERMEIER:** Oh-- you know, I'm going to have to ask staff to put that one together for me, Senator. We really-- probably not be able to regulate somebody that we don't have authority over in that regard. But I will just tell you that it is such a different bill. Like I said, you don't have to be an ETC to receive these fundings. And the UNSF [SIC], we are hamstrung a little bit with different rules from

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the federal level. So this is going to give us an opportunity to reach  
deeper and do a better job.

**BOSTELMAN:** 'Cause I think the challenge will be if you don't have  
regulatory authority, how are we going to be able to-- a sense of--  
of-- of check them, but also to have them-- make them pay back,--

**DAN WATERMEIER:** Well, like you said, the--

**BOSTELMAN:** --in a sense?

**DAN WATERMEIER:** --the clawback. And clearly, Senator, the clawback is  
going to be important-- and we have that. And then that-- then that is  
based off the speeds. And-- but we're used to looking at these  
invoices. We're used to looking at the process that they do in the  
[INAUDIBLE] and we-- we think we can manage it.

**BOSTELMAN:** Thank you.

**DAN WATERMEIER:** Yeah.

**ALBRECHT:** Thank you, Senator Bostelman. Senator Cavanaugh.

**M. CAVANAUGH:** Thank you. I didn't have questions, and now I do; sorry.  
Senator Bostelman's questions kind of raised a question for me. And I  
know we're having the hearing tomorrow on Senator DeBoer's bill,  
LB498, but does her bill accomplish-- if it-- these two were to move  
together, would they kind of accomplish what he's asking about, as far  
as the mapping and the testing, 'cause hers is specific to service  
testing and mapping programs?

**DAN WATERMEIER:** They're comp-- Senator, in my mind, they're  
complementary. I think we could use both of them yet, but the  
Governor's bill clearly laid out the need for the testing. And  
DeBoer's-- Senator DeBoer's bill is going to actually help us fund it  
and make it part of the process. So I think they're complementary, and  
I just think it's good that the industry and the-- you know, the  
executive branch has recognized how important the mapping is, and put  
it in the bill.

**M. CAVANAUGH:** I'm not meaning to steal thunder from her hearing  
tomorrow--

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**DAN WATERMEIER:** Right.

**M. CAVANAUGH:** --but just-- I was curious. Thank you.

**ALBRECHT:** Thank you, Senator Cavanaugh. Just a couple quick questions for myself, too. And again, in the-- northeast Nebraska, where I'm at, I have a provider that was doing very well for ten years but chose not to upgrade the tower where mine pings off of. Right? So there is somebody else out there, and that company is actually telling the somebody else who probably wouldn't be qualifying for whatever it is that you're looking at to be able to give money. So if I don't have other resources to tap into, would-- would you be able to take a look at this other person? I think they call them a WISP in the business

**DAN WATERMEIER:** Yeah. That's a wireless Internet service provider.

**ALBRECHT:** Is that-- would they be able to do-- I mean, to start up their own, you know, business with? Obviously, they have a lot of business around the area right now. I haven't elected to do that yet but, if I were able to, would they be able to tap into these funds?

**DAN WATERMEIER:** Well, it-- it would come back to how the bill is written. And-- but keep in mind, it's such a different program than what we're already administering. I'm going to say that it might be difficult for that to happen because, in the bill, they talk about not duplicating funding in the same area. And then you have this competition arise where somebody has already been supported to get to a certain level, and now you're going to commit or subsidize something to get it to a higher level. So you've inadvertently created a competition, which we all believe is good. But if one is already being supported, we've got to be careful in that. So to answer your question specifically, I probably ought to defer to my staff and make sure before I answer it.

**ALBRECHT:** Well, I think we-- we are all seeing a lot of that in the underserved areas that--

**DAN WATERMEIER:** Yeah.

**ALBRECHT:** I mean, I don't want to jump from one service to another. But if you're not getting that service provided to you and you have this-- the people from that company saying, hey, you probably need to go somewhere else-- I mean, after ten years, they told me to go find

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someone else. If I don't have anybody else, what do we do? So those are some of the things that we get to experience in-- in that particular area. And I know that this is so important because, when it comes to public service, we're the last leg of the 911, where they all merge together in northeast Nebraska. And it's because we don't have good Internet up there. So I hope that you'll keep an open mind to it or the Public Service Commission will take a look at some of that stuff as the grants or the-- the requests come in.

**DAN WATERMEIER:** We will certainly keep an open mind as we can with the statutes that you write to allow us to do that.

**ALBRECHT:** We'll do our best.

**DAN WATERMEIER:** We can't go past those. OK.

**ALBRECHT:** Thank you. Thanks for your time today.

**DAN WATERMEIER:** All right.

**ALBRECHT:** OK. No other questions? We'll take the next proponent. Hi.

**PATRICK POPE:** Good morning.

**ALBRECHT:** Good morning.

**PATRICK POPE:** Get my specs on, so I can--

**ALBRECHT:** No problem.

**PATRICK POPE:** --read my testimony.

**ALBRECHT:** I need them, too.

**PATRICK POPE:** Chairman Friesen and members of the Transportation and Telecommunications Committee, my name is Patrick Pope, P-a-t-r-i-c-k P-o-p-e, and I am the special assistant to the vice president of corporate strategy and innovation at the Nebraska Public Power District. Prior to this position, I was NPPD's president and chief executive officer for nine years. My focus is now solely on NPPD's interest in the promotion and facilitation of high-speed, reliable, and affordable broadband service in outstate Nebraska and possible public-private partnerships furthering that goal. NPPD supports LB388



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and LB456, as introduced. And my comments really apply to both bills. NPPD serves all or part of 86 counties in Nebraska in largely rural areas of the state. Access to broadband service in outstate Nebraska is critical for economic development, healthcare, education, and precision agriculture. Industrial development prospects now include access to high-speed broadband on their list of must-haves when evaluating potential sites to build new facilities, and existing businesses can't grow without it. That's a clear threat to NPPD's core business of selling electricity and our customers' ability to enjoy the good life, which is why NPPD is so interested in helping to solve this issue. Despite years of significant subsidies at both the state and federal level, Nebraska's exclusive reliance on a private-sector investment strategy alone has clearly demonstrated an inability to close the digital gap. Rural areas typically lack sufficient return on investment for private capital, and those areas that may have some level of service are unable to attract competitive alternatives due to this same ROI challenge. LB388 and LB456 should be amended to give the highest priority for funding to broadband networks proposed by public-private partnerships. Public and private entities have capabilities and expertise that, when combined, can bring rural Nebraska the broadband network it desperately needs and deserves. Public entities have access to patient capital, low cost with longer time horizons that allow business cases to be feasible in situations where private capital won't tread, and they have a long history of building infrastructure. Public power, in particular, brings infrastructure such-- such as fiber optic cable and towers that are integral to their electric operations and can't be outsourced due to security, cost, and reliability issues. Private entities bring their experience and knowledge of technology in actually running broadband businesses. Project completion deadlines, as proposed in LB388 and LB456, should be amended to provide more flexibility. Public-private partnerships may encompass large areas which will take time to build out. Consideration should be given to a completion methodology that segments large projects into smaller phases that completion deadline requirements can be applied to without jeopardizing the funding of the entire project. LB388's and LB456's speed test requirement is appropriate and should be retained in any final language. Moreover, the proposed bill should be amended to require comparable speeds over every acre of the proposed project area. The future is data-driven, and Nebraska's agricultural industry stands to be one of the greatest beneficiaries of high-speed, reliable, and low-cost broadband

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connectivity. Much like the electric industry's obligation to serve, broadband must be available wherever data needs to be gathered from or transmitted to. Section 6 in LB388 and LB456, regarding challenges, should be eliminated. The structure of and process for creating public-private partnerships should be open to all entities that may wish to participate. Providing a mechanism that could be used to hinder or prohibit the funding of these partnerships is not in the public interest and should not be provided for in the legislation. Finally, LB388 and LB456 should be amended to eliminate unnecessary barriers to public-private partnerships. Existing barriers to these potential partnerships, such as leasing fiber optic cable, should be eliminated, as should any mechanisms that require nonexistent profits from leasing these facilities to be contributed to any type of fund. Affordability of service is critical, and every penny of a broadband rate should go to supporting the infrastructure, speed, and reliability needs of the customers. That said, the pendulum should not swing so far as to require electric consumers to subsidize private, for-profit telecommunication companies. Nebraska's electric industry is not tax supported. The only funds available are provided by electric ratepayers. Costs that are appropriately apportioned to telecom consumers should continue to be apportioned as such. I would be glad to answer any questions.

**ALBRECHT:** Thank you for your testimony, Mr. Pope.

**PATRICK POPE:** Thank you.

**ALBRECHT:** Any questions? Senator Bostelman.

**BOSTELMAN:** Thank you. Thank you. Thank you, Mr. Pope, for being here. First question is, how does this change the current opportunity to do-- because now you can do public-private, How does this change that?

**PATRICK POPE:** We can do public-private partnerships, but we still have a very cumbersome mechanism for determining the leasing price of fiber, to be honest with you. That really needs to be between the parties that come together looking to be able to provide the service to the customers, particularly in those rural areas that you referenced before, at the lowest possible rate we can.

**BOSTELMAN:** So does this do that?

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**PATRICK POPE:** This bill--

**BOSTELMAN:** Does this provide the opportunity to set those rates up to  
do that?

**PATRICK POPE:** I think this bill doesn't address removing the pricing  
mechanism. There are other bills that do that, and I would suggest  
that, whatever bill survives the process, contain that language,

**BOSTELMAN:** Understand. The next question I have-- in-- in your  
testimony, you say public power, in particular brings infrastructure,  
such as fiber optic cable and towers that are integral to the electric  
operations and can't be opened-- outsourced due to security, cost,  
reliability issues-- so forth, so on. Does this mean that fiber that  
you have, if you have dark-- dark fiber out there currently, that that  
would not be something that could be used, so you'd have to lay new  
fiber to be used?

**PATRICK POPE:** Absolutely not. That fiber-- portions, strands of that  
fiber certainly could be. The real concern here is that we do have  
applications where we absolutely either have to have very low latency  
for relaying purposes, for example, system protection, or we have to  
have-- we're under a lot of federal mandates from a reliability and  
security standpoint, from the-- from NERC and FERC. And so those  
really don't lend themselves for us going to a private to lease fiber.  
We're going to have that fiber anyway. Let's make the use of any  
additional capacity that fiber might have.

**BOSTELMAN:** Yeah, I just want to make sure I was understanding  
correctly.

**PATRICK POPE:** Yeah.

**BOSTELMAN:** So the dark fiber that you may have within that fiber  
system itself, that would be available.

**PATRICK POPE:** Absolutely.

**BOSTELMAN:** Obviously, the stuff that you have lit would not.

**PATRICK POPE:** Absolutely.

**BOSTELMAN:** OK. Thank you.

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**ALBRECHT:** Thank you, Senator Bostelman. Anyone? I'm just excited that you're in the game with us and that you're willing to share what you have with others so that we can get this up and going. So thank you for being here today.

**PATRICK POPE:** We're doing what we can.

**ALBRECHT:** Thanks.

**PATRICK POPE:** Thank you.

**ALBRECHT:** We'll take the next proponent. Good morning.

**MARK MCHARGUE:** Well, good Monday morning to Senator Albrecht and members of the Transportation and Telecommunications Committee. My name is Mark McHargue, M-a-r-k M-c-H-a-r-g-u-e. I serve as president of Nebraska Farm Bureau and, on behalf of Nebraska Farm Bureau, the Cattlemen, the Nebraska Corn Growers Association, Nebraska Pork Producers Association, Nebraska State Dairy Association, Nebraska Soybean Association, and Nebraska Wheat Growers, I'm here to testify in support of LB388, which would award \$20 million in grants per year, for two years, administrated by the Public Service Commission. I want to thank Chairman Friesen and Governor Ricketts for bringing this bill, which would help our state take a significant step forward in bringing broadband to unserved and underserved areas. With speed tests of up to 100/100, our members strongly endorse these efforts as they will increase equity in broadband access and bring economic development to counties across the state. It's my understanding that later today this committee will consider LB455, the Broadband Pole Attachment Act and-- as well as LB604, as well as other bills from Senators Friesen and Geist. Tomorrow morning. Senator Brandt's two bills related to dark fiber will be considered. Well, there are certainly improvements that could be made on some of these details. My message today is very simple. I urge you to find a way to get these bills over the finish line. I want to pull back just a little bit to paint a little broader picture. As I stated earlier, rural broadband is an issue of equity and necessity for our members. We believe rural areas should have access to affordable and reliable broadband, just like urban areas do. Farmers and ranchers depend on broadband just as they do railways and highways. Broadband access enables precision agriculture to be more efficient, environmentally friendly. And by maximizing yields and minimizing water use, not only do our members

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benefit from-- from access to broadband, but the communities that depend on it also benefit. Affordable and reliable broadband enables agricultural producers to access government services, telehealth services, economic development opportunities, and employment and educational services, especially in a pandemic, when such jobs and schools are-- were remote only. The need is urgent, and our members support using all tools in our toolbox to bring access to every community in our state. I also wanted to say one thing about Senator Bostelman's LB398 that will be before this committee tomorrow afternoon. Our members support every effort to increase upload and download speeds. Each year, technology is enabling faster and faster speeds in cities across the country. According to the Federal Communications Commission, 39 percent of Americans in rural areas lack access to 25 down and 3 up services, while only 4 percent of Americans in urban areas lack the same. Our members support scalable technologies in order to make sure that Nebraska-- rural Nebraskans do not get left behind as technology capacities increase. With one in every four jobs in this state dependent on agriculture for their existence, this is an investment that needs to be made. We believe the Public Service Commission should prioritize projects that demonstrate scalability and efficiency in order to get the most out of the \$20 million of grants each year. Each of the bills before this committee have merit in their own right. Using the best parts of each would enable our state to be much more competitive at all levels. On behalf of our members across the state and other organizations who asked me to share their support with you, I urge this committee to take action on these bills. I thank you for the opportunity to testify today, and would be certainly happy to answer your questions.

**ALBRECHT:** Thank you very much; appreciate your testimony. Any questions? Thank you for being here. Will you just wait, just one second, so they can clean up? Come on in.

**BURKE BROWN:** Good morning. Good morning. Thank you for the opportunity to be here this morning. Senator Friesen and members of this committee, I am Burke Brown, spelled B-u-r-k-e B-r-o-w-n. I am the technology coordinator at School District OR1 in Palmyra, Nebraska. I am also a citizen of the rural, but growing community of Bennet. I am speaking today on behalf of the Nebraska State Education Association and a --and as a member of its board of directors and chair of the Broadband Technology Committee. The mission of our committee is to search out solutions to closing the state's technology gap that has

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been widened by a growing, more critical broadband deficit. In February 2020, I addressed the Transportation and Telecommunications Committee regarding LB992. I believe that bill would-- would have been a strong vehicle for all Nebraska students by ensuring that highly reliable, affordable broadband services were to be available to all communities. I shared testimony of a mother struggling with her children to be at school early and to make it to our libraries late at night to connect to broadband after hours, as we are a school district that invests in student Chromebooks for in-school assignments and homework. I also shared a story about how several students had found their best locations around our building to catch enough Wi-Fi to allow them to connect to our network on nights and weekends. As we fast-forward a year, I continue to support legislation bringing reliable, affordable broadband to our communities. COVID-19 has thrown a spotlight on the lack of affordable, reliable services Nebraska students endured. This year I have listened to and helped a single mother of two, struggling for solutions to close the homework gap of her own students as the family's broadband was a little more than one megabits per second download and a fraction of that upload. Gratefully, I also heard her relief and joy as an Internet-- Internet provider expanded their service in her area in which she lived. This year, I made a trip to the middle of our rural district to see if I could do something to help a family that was remote learning to avoid the risk of bringing COVID back into the home where their mother was fighting cancer. With few additional options, I made sure the Chromebooks were reformatted and advised them simply to turn off video each time the remote session began to lag. There were no better solutions. This year, though, I hope to-- for true change in Nebraska's broad-- broadband offerings, as several important bills have been introduced for your consideration. I submit my strong support today for LB388. This bill provides critical legislation on the remarkable success already completed on infrastructure projects raised from CARES Act support and from the work of LB992, approved last-- last year. Specifically, I support redefining speeds of broadband from 25/3 to a future-ready 100/100, with a minimum of 100/20 for already started projects. This will continue to build the private-public partnerships and enriching rural Nebraska communities with broadband services to reach professionals and small businesses alike. I support LB388's vision to increase bandwidth connection speeds that will grow more sustainable as schoolwork and personal Internet use continues to grow. I support how this bill addresses

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verifying speeds, post completion of projects, where speeds are randomized over over a week. However, I would build into the grant a third-party engineering firm conducting verifications or the ability for that. Additionally, I would support adding a step to the verification process in which the grant recipient acts-- annually submits speed tests to be conducted in the same manner. Next, I support the vision of this bill to ensure the public-private partnership is fostered. As we see-- as we seek to support Nebraska's rural communities, economy and schools, this private-public partnership must work together, as the problems created by the current connectivity gaps are too massive for either sector to address individually. Developing the prioritized grant system will provide necessary incentives and lessen financial risk to both small, and large, and private entities alike, thus enticing investment in the economy of rural communities. Although my mission is to speak on behalf of Nebraska students, I understand the importance of reliable, affordable broadband to the entire community. As a citizen of-- as a citizen, and as a technology coordinator in rural Nebraska, I believe that this gap must be addressed for our community simply to survive. Until the citizens of rural Nebraska can enjoy access to the broadband similar to what their counterparts in urban areas enjoy, I believe this digital divide will restrain economic-- the economic successes of greater Nebraska. I am mindful of this idea, as a teacher shared that she has to-- she had to explain to a deputy sheriff, as she was parked on the side of a- of a hill in the middle of the country, what she was doing was getting the best Internet she could. Additionally, teachers from across the state shared that they have to drive to school continuously just to get Internet to do their professional jobs. On a more personal note, I am reflective of my daughter's decision to purchase a home in Lincoln and option my granddaughter into Bennet Elementary, where she wanted to have her go to school. So you see in Bennet, high-speed broadband was not available. Sadly, there are no homes in Bennet that would give my daughter and her family the same Internet access they would have had in Lincoln. In support of LB388 as a technology coordinator, I will share how the lack of broadband into the home grows a digital inequality and is negatively affecting our students and schools. I'm going to-- I'm running it a little long, so I'm going to advise the committee that I-- I have submitted, and you'll be able to finish reading my testimony, but I wanted to just go ahead and visit about-- in Palmyra, we've invested in GEERs-- with GEERs money. We went one-to-one with Chromebooks from K-12. And at

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this point, our students are highly involved with doing homework at home. But I still worry that our teachers are going to-- not be able to fully invest because their students cannot get Internet at home.

**ALBRECHT:** Well, we certainly do appreciate your testimony.

**BURKE BROWN:** Thank you.

**ALBRECHT:** And we've got the information, and--

**BURKE BROWN:** Thank you.

**ALBRECHT:** --we'll certainly read that. Well, hold on one second, in case--

**BURKE BROWN:** Yeah.

**ALBRECHT:** --somebody wants to ask any questions of the-- but thanks for your testimony today.

**BURKE BROWN:** Yeah.

**ALBRECHT:** And we did listen to you last time, too. That was-- those were good stories.

**BURKE BROWN:** Yes. Thank you so much, Senator.

**ALBRECHT:** Thanks for sharing. Good morning.

**TIP O'NEILL:** Good morning, Senator Albrecht.

**ALBRECHT:** Nice to see you.

**TIP O'NEILL:** Members of the Transportation and Telecommunications Committee, my name is Tip O'Neill; that's spelled T-i-p O-'-N-e-i-l-l. I'm the president of the Nebraska Telecommunications Association. And we are a trade association that represents a majority of companies that provide landline, voice, and broadband telecommunications services to Nebraskans across the state. The NTA is here in strong support of LB388, and we have also proposed an amendment to clarify and enhance the provisions of the bill. And that is being handed out, along with an explanation of the amendment in my testimony. First, we thank Governor Ricketts, Senator Friesen, Senator Hilgers, and this committee for their strong support of broadband enhancement efforts in



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Nebraska. The creation of the Rural Broadband Task Force, the adoption of many of the recommendations of the task force in LB992 last year, and the utilization of a portion of the CARES Act federal appropriations for broadband grants provided impetus for Nebraska efforts to deploy broadband in unserved and underserved areas. LB388, LB456, and LB604 all, in some ways, continue those efforts and we support all three bills. I have submitted written comments in support of LB456 and LB604, and will focus on LB388 in these comments. The NTA undertook a process to compare the provisions of LB388, LB456, and LB604, and pick what we believe to be the best of those provisions in crafting our amendment. In reviewing those provisions, we utilized our guiding principles: first, serve all Nebraskans; second, to make prudent use of federal and state support; third, promote an efficient market and fair competition and, finally, deploy ubiquitous broadband. In proposing a blended approach, we determined a preference for the core structure of LB388 in the provisions relating to: a \$20 million grant program; the minimum speed standard of scalable to 100 download by 100 upload to qualify for LB388 grants; administration of the program by the Public Service Commission; the 50 percent matching requirement for project development; overbill parameters; and the definition of development costs. We are offering AM126 as a proposed amendment to LB388. The changes we propose are mostly contained in the other broadband bills and relate to the use of census block to define project areas, deployment timelines and speed tests, priority of projects, and applicant obligations. In the materials I have provided to you, there is a copy of the proposed amendment and a narrative explaining the amendment. In AM126, which we believe is consistent with all three broadband deployment bills, we add language that would prevent cherry-picking in new project areas, give the PSC additional authority regarding deployment timelines, and a proportional scale for payback obligations resulting from speed tests, add a weighting or scoring system for ranking project applications in addition to the three priorities contained in both LB388 and LB456, we would propose capping any single project at \$5 million for purposes of the state match, we would limit grants to cities under 5,000 population, deny applications where 50 percent of the residents in the census block already can access at least 100 over 20 broadband speeds, and provide applicant commitments as a condition of accepting a grant, including the provision of services to all requesting customers within the census block that make up the project's supported area. We know there are going to be other amendments that you consider, particularly

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relating to the appropriate regulatory authority of the PSC of existing carriers when their areas are overbuilt by other carriers using public funds. The NTA did not include those provisions of LB605 in AM126, but we believe they should be considered by the committee as they are, at least in concept, supported by the NTA board. Again, thank you for your support. And we want to conquer the digital divide-- divide to the best we can. And I'd be happy to answer any questions

**ALBRECHT:** OK. Thank you for your testimony. Any questions? Senator Bostelman.

**BOSTELMAN:** Thank you. Thank you, Mr. O'Neill, for being here today. I guess my challenge to you is on the census block portion. As we know, census blocks are poorly reported now. Is there another way that we can overcome that, because I'm afraid that we're going to leave out vast areas of unserved or underserved areas because they're not being properly reported to the FCC?

**TIP O'NEILL:** Well again, it is an issue, and that the, you know-- and-- and I will be actually opposing Senator DeBoer's bill tomorrow, just for your information, because it-- it's-- it's expensive, first of all, to have data programs. And we have confidence, at least at this point, that the FCC is actually going to concentrate on the mapping issue. We've got a new chairperson at the FCC, Commissioner Rosenworcel, who we believe is very interested in-- in the mapping issue. And we don't see a reason-- unless they were completely oblivious to the problems of 477; and they aren't because Congress is getting to them-- then-- then we might support a-- a state data program. But the feds are going to be spending some \$90 million on-- on mapping and we think the process is going to improve.

**BOSTELMAN:** I appreciate that comment. My concern with that comment is, is we know dollars from the feds, is going to be one, two, three years or more down the line. This is for the next two years, this year and next. So that's going to be, you know, water under the bridge or however you want to put it. That's going to come later. We're not going to have the time to take advantage of that with this bill at this time. So that's my concern with that.

**TIP O'NEILL:** Yeah, and those are-- those are legitimate concerns. I'm just saying what--

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**BOSTELMAN:** Sure.

**TIP O'NEILL:** --what our position is.

**BOSTELMAN:** I appreciate that. But the last thing, last question I have  
is on the applicant applications, and that was something I asked  
Commissioner Watermeier on-- I think it was-- was, would this  
include-- in this here, you make them ETCs.

**TIP O'NEILL:** That's correct.

**BOSTELMAN:** So my concern was, was we're going to provide funds. We're  
not-- we don't have a regulatory authority over it. So--

**TIP O'NEILL:** That would take care of that issue.

**BOSTELMAN:** OK.

**TIP O'NEILL:** Yes.

**BOSTELMAN:** Thank you.

**ALBRECHT:** Thank you, Senator Bostelman. Thank you. Any other  
questions? You know, I'm just looking on-- this is the first time I've  
seen the amendment, so give me some time to-- to absorb some of this.  
But when I-- when I look down on line 21 and 22 on the first page, the  
maximum grant amount awarded on the program, with respect to any  
single project, shall be \$5 million?

**TIP O'NEILL:** Um-hum.

**ALBRECHT:** Well, that seems like a high amount,--

**TIP O'NEILL:** Well--

**ALBRECHT:** --knowing that there's \$20 million for the first year and  
\$20 million for the next. So--

**TIP O'NEILL:** And as the bill was originally introduced, there was no  
provision relating to maximum grants. That's-- that's an issue, I  
think, for committee discussion to determine--

**ALBRECHT:** Yeah, because--

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**TIP O'NEILL:** --whether-- what-- what number is the right number.

**ALBRECHT:** --I would like to know, if you have that kind of money, how  
many people are you going to be able to service for that much?

**TIP O'NEILL:** Well, it-- it kind of depends on where you're providing  
the service.

**ALBRECHT:** And if you have nothing to start with and you have a lot--

**TIP O'NEILL:** Yeah.

**ALBRECHT:** of ground to cover, but you're going to-- whoever is going  
to ask for this money is going to have to make a-- probably a  
significant investment themselves, wouldn't you say?

**TIP O'NEILL:** 50 percent.

**ALBRECHT:** Yeah, so--

**TIP O'NEILL:** 50 percent of the project development cost, yes.

**ALBRECHT:** So I would hope that they would tie that into the number of  
people, as well. And-- and so you have a lot of information here for  
us to absorb.

**TIP O'NEILL:** Sure.

**ALBRECHT:** And I appreciate you being here.

**TIP O'NEILL:** OK.

**ALBRECHT:** And thanks so much for your testimony.

**TIP O'NEILL:** Thanks very much, Senator Albrecht.

**ALBRECHT:** Next proponent.

**BRETT BIEBER:** Good morning.

**ALBRECHT:** Good morning.

**BRETT BIEBER:** Good morning, members of the committee. My name is Brett  
Bieber, B-r-e-t-t B-i-e-b-e-r, and I'm here speaking in support of

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this bill, but also as just a citizen of Nebraska. I work for the University of Nebraska, and I'm currently working with members of the Department of Education, the office of the CIO, and other colleagues within the university to deploy a program across the state called eduroam. Eduroam is a way to allow consistent, easy-to-access wireless Internet service for students across our state, across the United States, and across the globe. The program is already underway in the state of Utah within their K-12 school systems to deploy this consistent wireless access. My request to you is that you explore amending this bill to encourage and support service providers that will allow their customers to share their Internet infrastructure in a consistent and secure way so that other students can access that. As you know, installing this infrastructure does not immediately mean that those residents or students across the state can afford Internet service. Deploying Internet access in a ubiquitous, consistent way that allows those students to access that information will greatly increase the ability for our students to conduct their business, conduct their education, and continue it. My request is that you explore supporting service providers that will allow their customers to share that Internet access in a consistent way through the use of eduroam within their-- their homes so that they can broadcast that and share their Internet service. Thank you very much. And I'd be willing to answer any questions about the project and also what we're working on to try and increase access across the state of Nebraska.

**ALBRECHT:** Thank you very much for your testimony. Questions? Senator Cavanaugh.

**M. CAVANAUGH:** Thank you. Thanks for being here. Could you possibly get the committee more information on the project eduroam?

**BRETT BIEBER:** Sure. Eduroam is not something unique to the state of Nebraska. It's not something to the United States; it was created in Europe. It's a program that allows institutions to broadcast wireless access using a-- the-- a consistent name. And the name is eduroam, e-d-u-r-o-a-m. Wayne State provides this, the University of Nebraska provides this, and other members across the state of Nebraska. Network Nebraska provides Internet service to the majority of our K-12s throughout the state of Nebraska, and as the operators and the support for that, we have applied and have been granted through InCommon, which is an organization within the United States that operates the eduroam infrastructure to deploy eduroam across all of our K-12

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institutions. It's not a complicated process. All we do is change the wireless access points to broadcast the name eduroam, and we set up infrastructure to allow the identities, the usernames and passwords to be authenticated. This enables research and collaboration across all participating institutions. For where I work at the University of Nebraska, our researchers, faculty, staff, and students can then go to any participating institution and access the Internet without any complicated setup. Think of every time you go to a hotel and you need to get a different username, and a different password, and a different access ID. Eduroam eliminates those problems and ensures that students can access the Internet in a ubiquitous, consistent, and secure way.

**M. CAVANAUGH:** Thank you.

**ALBRECHT:** Thank you, Senator Cavanaugh. Questions? I would be intrigued to find out a little bit more about it. So you're saying they can access it at the schools or other places, but what about at home?

**BRETT BIEBER:** Yes. The state of Utah has deployed it across all of their K-12s, the majority of their K-12 institutions. And as you heard from my colleague that was speaking on-- on behalf of students, many of those parents have to come into town. They have to come into those schools. They're-- they're accessing Internet from the parking lots. My request is that, if you-- if we are subsidizing the infrastructure that is installed inside personal homes, favor service providers that would allow the customer to turn this on within their home. I would gladly share my Internet service if I knew it was benefiting students. If any student needed to have access to the Internet, I would gladly share my Internet service. And if I was able to do that by turning on eduroam within my home, I would be able to provide that to anyone who needed it, any student that needed it.

**ALBRECHT:** So if it wasn't at the student's home, but it was at the neighbor's house that didn't have any access, but-- or had access-- they would be able to piggyback off that, if you will.

**BRETT BIEBER:** Absolutely. There are already programs, and the state of Utah spoke about how they've deployed this within busses. The busses weren't being used to drive students to schools. They deployed eduroam on those busses, drove them out to communities where they had need and

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broadcasted that Internet out to the community. This is the same sort  
of concept. My-- and my ask is that you encourage service providers--

**ALBRECHT:** Um-hum.

**BRETT BIEBER:** --to allow this to be turned on within their existing  
infrastructure for customers that can afford to install the Internet  
and to pay for that service provider.

**ALBRECHT:** Interesting, interesting. Thank you for your comments and  
your testimony. Thanks for being here.

**BRETT BIEBER:** Thank you.

**ALBRECHT:** Hi.

**BRAD MOLINE:** Good morning.

**ALBRECHT:** Welcome.

**BRAD MOLINE:** My name is Brad Moline, B-r-a-d M-o-l-i-n-e. Senator  
Albrecht, members of the Transportation and Telecommunications  
Committee, my name-- I'm the founder and CEO of ALLO Communications.  
I'm here to testify in support of the concepts included in LB388, and  
offer my thoughts on several-- several provisions of the bill. ALLO  
was founded in 2003, in Imperial, Nebraska, which is a town of about  
2,000 people. And I grew up 18 miles from town, in Lamar, which was a  
town of, back then, about 36 people; and I think today it's about 18.  
So I-- I do understand rural, as well. ALLO today provides Internet,  
phone, and cable TV services to 11 Nebraska communities with a total  
population of 400,000, and will add about 600 to 100,000 population in  
2021. By the end of the year, we expect to serve almost 25 percent of  
Nebraskans' homes and businesses with gigabit services. We've invested  
almost \$350 million in doing so. ALLO builds fiber to essentially all  
residents and businesses and government buildings in our communities.  
With nearly 90,000 customers and almost 600 employees in the state,  
we're the largest Nebraska-based and majority of Nebraska-owned  
telecommunications company. I support the basic premise of LB388. I  
would like to commend Governor Ricketts for the bill. Regardless of  
where you live in Nebraska, you should be able to access reliable,  
high-speed Internet for business, educational, and entertainment  
purposes. ALLO also supports the Nebraska Public Service Commission  
role in implementing the provisions of LB388, as they have the

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expertise necessary to develop an administrative program. I'm going to skip down a little bit. ALLO supports the 100 megabit-per-second-- megabit-per-second symmetrical upload and download as a minimum standard, but it does not support underserved, as 100 by 20 megabits in the bill. We strongly recommend that the standard for any future considered construction is a minimum of 100 by 100 symmetrical. So in other words, just because somebody has 25 by 3, don't think they have their broadband. If you have less than 100 by 100, you're kidding yourself. You don't have broadband. The pandemic has changed forever the way people use the Internet, as they now work from-- from home and study from home. I'll skip forward here. ALLO's stated goal is for Nebraska to be the most connected state in the Union. If you live in an ALLO community, you can access one gigabit upload and download at your home, and 10 gigabit or more for your business. Every single customer can access that speed in every community. We do ubiquitous builds. The federal definition in-- of broadband is woefully inadequate at 25 megabit-per-second download and 3 upload. ALLO's world-class network is 40 times faster download and 300 times faster upload than the federal broadband definition. We believe all residents in this state deserve only modern speeds, especially when the public is subsidizing the network. Don't subsidize something that is inferior and wastes the public's money. One final comment. We believe whatever method is developed to deliver state funds should also be delivered to distribute any federal funds in the future for Nebraska. Therefore, we would recommend amending the provisions of LB456, addressing that concept into LB388. In closing, I'd like to thank Governor Ricketts for proposing LB388, and thank you for allowing me to testify today. Even without this legislation, ALLO is committed to building at least four new communities in Nebraska this year and will invest more than \$50 million. We would like to start investing outside of the communities. LB388 would provide much needed funds to build areas that cannot be justified without support. I'd be happy to answer any questions the committee members may have.

**ALBRECHT:** Thank you for your testimony; appreciate you being here. Questions? Senator Bostelman.

**BOSTELMAN:** Thank you. Thank you, Mr. Moline, for being here today. So ALLO is primarily in cities right now, so how-- how-- my question earlier was my understanding of a large cost, if you will, for getting 100/100 or a gig-- whatever. It's really in the-- I'll call it components-- the, you know, your main-- it's not the mainframe, but,



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you know, the equipment that you have in that building is-- is a significant cost when you go from 10/1 to 25/3 to 100/100, whatever it might be. Do you see this bill as an opportunity for ALLO to be able to now reach out, outside of the city limits, and by doing that would that provide the opportunity to upgrade that equipment that you have in order to do that? Is that-- is that what you see this or do you see this more as a partnership?

**BRAD MOLINE:** Boy, there's several things. So I'm going to unwind several of those. One, actually, the electronics, in my opinion, are not expensive. You know, it's a few hundred dollars per home, a few hundred dollars in the-- in the central office. The real cost is in the connectivity. Whether-- and when I say connectivity, it's broadband. Whether it's fiber or wireless, it's the cost of pushing that connectivity. But in fiber, if you're, like where I grew up, 18 miles from town, it takes a lot of money to get there. So that transport is where the real expense is. So that's one piece. And so, yes, with this, with LB388 and our ability to participate in that, we will start pushing outside of our communities. I've said, since we started the company in 2003, everybody needs to be connected. But in the end, I've got to also stay in business. I've also got to provide returns to shareholders. And so this public-private partnerships, whether it's grants and those types of things, or working with the power companies or others, many people aren't aware of this, but it was a public-private partnership that brought us to Lincoln. Lincoln has 300 miles of conduit. But for that conduit, we wouldn't have done an investment. We invested almost a quarter billion dollars in Lincoln. So--

**BOSTELMAN:** I think that the real challenge is, would you say, is that-- that last mile, because--

**BRAD MOLINE:** Yep.

**BOSTELMAN:** --the road I live on, there's 15 homes that could be connected in four miles, four and a half miles. No one refuses to come down to connect them. It's like-- and there's a tower at the end of that four and a half miles, five miles.

**BRAD MOLINE:** We-- we likely would-- likely. I don't know exactly where it is. If it was near some of our other plan, use the edge out.

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**BOSTELMAN:** No, I-- I completely understand.

**BRAD MOLINE:** Yeah.

**BOSTELMAN:** It just emphasizes just that the challenge we have, it's easy-- I won't say it's easy, it's-- it's more economical for a business to come to a town-- city, if you will, of a certain size than it is to go outside. Now our problem is, is-- is where I live, being close to Lincoln, we're not connected with fiber.

**BRAD MOLINE:** Yeah.

**BOSTELMAN:** We don't have that same opportunity. We have doctors, we have insurance companies. We have-- we have a ton of people in our area that really could benefit. And fixed wireless won't cut it because it's hilly, we have trees; doesn't work.

**BRAD MOLINE:** Yeah.

**BOSTELMAN:** So those are the challenges so that's-- I appreciate you being here.

**BRAD MOLINE:** Yeah. In western Nebraska, we provide bandwidth to several WISPs that offer terrific service but there are not as many trees and there's not as many hills, and-- but it isn't ubiquitous. They have a tough time getting around the corner sometimes.

**BOSTELMAN:** Sure. Thank you.

**ALBRECHT:** Any other questions? Thank you for being here, and thanks for your investment in Nebraska. Let me ask you, are you up in Wayne now? Are you going to Wayne, Nebraska? Northeast?

**BRAD MOLINE:** I don't know if it's been announced yet, but, yes, we're going to Wayne.

**ALBRECHT:** OK, sorry about that [LAUGHTER]. I heard them say that you might be, so-- so I know that it's-- it's a smaller town, so appreciate that.

**BRAD MOLINE:** Well, actually, you know, we're in the towns of Bridgeport, Nebraska-- I think it's 1,300, 1,400. So while people

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think we're in-- in Lincoln, we're in Scottsbluff, Gering, Alliance,  
Bridgeport-- you know,--

**ALBRECHT:** Great.

**BRAD MOLINE:** --a variety of towns. The last thing, I'll answer a  
question that wasn't asked, real quick.

**ALBRECHT:** Go right ahead.

**BRAD MOLINE:** Now is-- there is plenty of public data on speeds--  
plenty. I get a report on exactly what ALLO did across the state of  
Nebraska, by a third-party, independent provider, every quarter.  
Please use that. It's really accurate,--

**ALBRECHT:** I'll be sure to pass that on.

**BRAD MOLINE:** --because we compare our competitive-- to all the other  
cable companies and others.

**ALBRECHT:** All right.

**BRAD MOLINE:** And so it's available.

**ALBRECHT:** Thank you so much.

**DeBOER:** Well--

**ALBRECHT:** Sorry about that.

**DeBOER:** Sorry. That--

**ALBRECHT:** Well, we have a newcomer here.

**DeBOER:** Sorry. That spurned [SIC] a question for me, since I work on  
the--

**ALBRECHT:** Senator DeBoer.

**DeBOER:** --the speed testing and mapping. That information you say, the  
speed testing that's readily available, is that-- can you tell me the  
characterization of that? Is that all--

**BRAD MOLINE:** It's actually by--

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**DeBOER:** --provided by the-- the telecoms?

**BRAD MOLINE:** I-- actually it's third party. We-- we subscribe to  
Ookla, which is speedtest.com. Now, it's easy to say: Well, but what  
if it's a wireless device that isn't quite perfectly connected? It is  
what the individual gets.

**DeBOER:** OK.

**BRAD MOLINE:** And historically we've averaged 250 meg up and down and,  
you know, less than 10 milliseconds latency across our entire  
network--

**DeBOER:** You may have heard that I--

**BRAD MOLINE:** --average.

**DeBOER:** You may have heard that I have a program that will actually do  
it irrespective of third party or, you know, the subscriber's  
equipment. So that's why I'm curious to know what's there. But-- but  
it's good to know that there are-- there are some things available  
now. And--

**BRAD MOLINE:** Yeah.

**DeBOER:** --if we can make it even better, all the better.

**BRAD MOLINE:** And if you never do a deal with Microsoft, they really  
know because every Tuesday they push down and upload it periodically  
Tuesdays. They know exactly what areas have broadband and what don't.  
When-- that's probably the easiest way to say it.

**DeBOER:** OK. Thank you.

**ALBRECHT:** Thank you, Senator DeBoer. And again, thanks for being here.  
Next proponent.

**JIM SMITH:** Good morning.

**ALBRECHT:** Hi.

**JIM SMITH:** My name is Jim Smith, J-i-m S-m-i-t-h, and I'm the  
president and CEO of Blueprint Nebraska. Senator Albrecht and members  
of the Transportation and Telecommunications Committee, I'm here today

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to testify in support of LB388, the Nebraska Broadband Bridge Act. Since 2018, Blueprint Nebraska has engaged local stakeholders and statewide leaders in identifying the state's core challenges, and charting a roadmap toward pragmatic, strategic initiatives to help shape our future. Throughout our engagement, we heard much the same as you're hearing here today, that Nebraskans consider virtual or Internet connectivity a significant, if not primary, issue in their day-to-day work and life. While the percentage of broadband access in urban areas approaches 98 percent, according to the Congressional Research Service, only a slight majority of rural areas enjoy the same access. This disparity affects the state's farmers, and ranchers, and small rural communities disproportionately. It also places the state's standing, as a leader in production agriculture, at risk. It limits opportunities for technology-enabled business growth, and it restricts the quality of life for many rural residents. In its public report, *Growing the Good Life*, Blueprint Nebraska identified increasing rural broadband access as an important measure to making Nebraska attractive to current and prospective residents and employers. The report also notes virtual connectivity as essential to business innovation and to growing Nebraska's most promising industry sectors. We believe that addressing high-speed broadband in unserved and underserved areas is key to the growth and competitiveness of Nebraska's statewide economy. And we thank the Transportation and Telecommunications Committee for considering this important piece of legislation. Thank you, Senators, for your attention and for your consideration of this testimony in support of LB388.

**ALBRECHT:** Thank you for your testimony. Any questions? Seeing none, thanks for being here. Other proponent?

**JACK MOLES:** Morning, Senator Albrecht--

**ALBRECHT:** Good morning.

**JACK MOLES:** --and members of the Transportation Communications Committee. My name is Jack Moles; that's J-a-c-k M-o-l-e-s. I'm the executive director of the Nebraska Rural Community Schools Association. Today I'm also speaking on behalf of several other groups: the Nebraska Council of School Administrators, the Nebraska State Education Association, the Nebraska Association of School Boards, Schools Taking Action for Nebraska Children's Education, the Educational Service Unit Coordinating Council, and the Greater

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Nebraska Schools Association. I'm speaking on behalf of all of the major education groups in the state. On behalf of these groups I wish to testify in support of LB388. We especially thank Senator Friesen for introducing the bill and Governor Ricketts for his support for the bill. The COVID pandemic has given those of us in education a clearer understanding of the need for greater connectivity for our students' families. Last spring, schools really had to scramble to make sure that as many families as possible had access to the Internet. Most of the fixes that were made were not really fixes, as they were temporary in nature. Some examples of these fixes in some of our rural school districts included the schools buying as many mobile hot spots as possible and sharing those out to the families, or districts extending Wi-Fi out into their parking lots and having families drive to the schools. The districts reported that the providers in their area were, for the most part, really good to work with. They were-- they were great in trying to help with these-- these fixes. But they were-- just were not able to connect all families. This, of course, created educational inequities for students in those families. And in visiting with my urban peers-- you know, I thought this was really a remote rural issue. And then I found out that it wasn't really remote rural. For example, Mr. Brown testified earlier-- he's at Palmyra, which is right outside of Lincoln. I visited with the superintendent at Raymond Central-- same issue right outside of Lincoln. But then, as I talked to some of our urban-- some of my urban peers, there were issues in the-- in the cities, also. For example, Millard reported 50 families that had no connectivity. So it's not just a remote rural issue, but that is one of my biggest groups. It's the understanding of the education groups that I am speaking on behalf of, that there's a possibility of some of the broadband bills being coupled together. We would really encourage the committee to consider that option and doing what you can to dis-- diminish the inequities that exist in the ability of Nebraskans to access broadband. And educationally, we just need to improve on this. And Senator Bostelman, you brought up an issue several times that I really agree with you on, and that is, yeah, we might address the-- the communities like that. We really need to get out to the last mile, as people have talked about. So in closing, again, we do appreciate Senator Friesen for bringing the bill and Senator-- or for Governor Ricketts in supporting the bill, so we do en-- encourage you to advance it from committee.

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**ALBRECHT:** Thank you for your testimony; appreciate you being here. Any questions? I just have a quick one. I'm sure that you probably know, throughout the whole state, all of your schools that-- the-- you say 50 percent and in some places-- some are much greater in the rural that don't have any access. What if they didn't have the access and couldn't afford to have the access? Did you have a program at school that-- that you-- they you could pay \$10 a month or get hooked up for a special fee? I heard some of those type of things happening from providers as well as this.

**JACK MOLES:** Yeah, some of the-- some of the neat things I heard and saw, for example, several providers in-- in our rural communities gave families free connectivity for two months.

**ALBRECHT:** OK.

**JACK MOLES:** That's-- those that they could provide connectivity to.

**ALBRECHT:** Correct.

**JACK MOLES:** Of course, they couldn't provide it to all of them.

**ALBRECHT:** Right.

**JACK MOLES:** Several schools went out and bought the hot spots and paid for the connectivity with those,--

**ALBRECHT:** Um-hum.

**JACK MOLES:** --paid for the plans, and were given really good deals, I guess,--

**ALBRECHT:** Um-hum.

**JACK MOLES:** --to provide those. One school I remember reading about is, somebody-- somebody in the school-- it was not the administration-- went out and bought a cell phone. They got a really good deal, paid for the connectivity or, you know, for the-- the unlimited data,--

**ALBRECHT:** Um-hum.

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**JACK MOLES:** --and took it to the family because they couldn't afford it.

**ALBRECHT:** That's what I'm saying. There are still going to be families out there that maybe, even once we get past all of this, might still not be able to afford it in their homes. So--

**JACK MOLES:** Right.

**ALBRECHT:** --if there were other means, that would be nice to consider, as well.

**JACK MOLES:** Absolutely. I totally agree with you.

**ALBRECHT:** I appreciate you being here. Thanks for your testimony.

**JACK MOLES:** Thank you.

**ALBRECHT:** We'll take the next proponent.

**JOHN HLADIK:** Good morning. Good morning, Chair Albrecht, members of the committee. My name is John Hladik; that's J-o-h-n H-l-a-d-i-k. And I am testifying on behalf of the Center for Rural Affairs. Section 5 of this bill describes the approach the commission should take when awarding grants under the Broadband Bridge Program. Specifically, lines 16 through 19 of page 4 explain that projects located in an underserved area, as determined by the Wireless Telecommunications Service Registry or the Broadband Data Improvement Program, will receive first priority. We think this is appropriate, and we applaud Governor Ricketts and Senator Friesen and all the authors of this bill for including this smart provision. We can all agree it is imperative to use this limited funding in the most efficient way possible, and collecting the right data helps us do that. Relying on data informed by consumer input helps ensure that we are responding to the legitimate needs of rural Nebraskans. This is why our own Rural Broadband Task Force recommended we encourage Nebraskans to participate in crowdsourcing efforts. Their 2019 report suggests that the Nebraska Information Technology Commission, the Public Service Commission, and other stakeholders work together to encourage crowdsourcing participation. Development and implementation of the Broadband Data Improvement Program acts on this recommendation. Communities across Nebraska have begun crowdsourcing efforts in the time since the Broadband Data Improvement Program was first approved.



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So have regional economic development districts, who are often coordinating efforts across multiple counties. This demonstration of demand and clear desire for progress proves the value of having one agreed-upon, universally applicable crowdsourcing tool. And fortunately, the Broadband Data Improvement Program can be that tool. Experience has shown that crowdsourcing tools to be-- are the most cost effective way to verify data, but they can also be unreliable if they are not managed correctly. The sheer number of speed tests available and the variables introduced by different types of equipment could lead to error. Because of this, we strongly support the efforts by the Public Service Commission to continue implementing and-- the standardized crowdsourcing tool envisioned by the Broadband Data Approval Program. We are very excited about this bill, appreciate all of this good work, and look forward to progress. And with that, I would be happy to answer any questions.

**ALBRECHT:** Thank you. Thanks for your testimony. Any questions? Senator DeBoer.

**DeBOER:** So if there were a bill, hypothetically, that existed that would not rely on crowdsourcing but could use other measures for throughput, would you also be in favor of that?

**JOHN HLADIK:** The answer is yes, because the-- the Broadband Data Improvement Program has been approved and is at the Public Service Commission now. I think-- I think we need to do both. Part of that is because that general mapping still has some room for error. And I think involving the Nebraskans who are truly experiencing it in some way, to facilitate a challenge process, is smart because otherwise it's hard to get at that granular level. The second point I'll make is we do know, through some-- the Digital Opportunity Data Collection Program and the Rural Digital Opportunity Fund-- that that second phase is-- they're explicitly asking states to submit crowdsourcing data through the challenge process that the states implement. And so we want to be sure that we're going to be in a position to take advantage of as much federal funding as we can. And in order to do that fully, we're going to need some crowdsourcing. We and several others have been working on mapping for a long time. I'm so excited about your bill. I'm so excited that the commissions want to have a great conversation about that. And the more we look, the more we realize that the two really need to go hand in hand if we're really going to solve this problem.

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**DeBOER:** So there's still a place for crowdsourcing, regardless of what  
we're able to do otherwise.

**JOHN HLADIK:** Absolutely, without question.

**DeBOER:** OK.

**JOHN HLADIK:** And again, I really appreciate you bringing that bill,  
and I'm excited to support it.

**DeBOER:** No, I just wanted to know this piece about crowdsourcing and  
whether we still need it.

**JOHN HLADIK:** Yeah.

**DeBOER:** It's great to know that. Thank you.

**JOHN HLADIK:** Absolutely.

**ALBRECHT:** No other questions? Thanks for being here.

**JOHN HLADIK:** Thank you.

**ALBRECHT:** Thanks for your testimony. Next proponent?

**JINA RAGLAND:** Good morning.

**ALBRECHT:** Good morning.

**JINA RAGLAND:** Vice Chair Albrecht and members of the Transportation  
and Telecommunications Committee, my name is Jina Ragland; that's  
J-i-n-a R-a-g-l-a-n-d, here today, testifying on behalf of AARP  
Nebraska, in support of LB388. The availability, affordability, and  
reliability of broadband Internet access services are essential to the  
health and quality of life of older Nebraskans. Affordable, reliable  
Internet access helps older Nebraskans or adults to age in place  
productively and safely, with a higher quality of life than would  
otherwise exist. As we have seen with the implications of COVID-19,  
the broadband platform is essential in supporting access to  
telehealth, civic engagement, entertainment, online learning, as well  
as other Internet-based applications that address isolation and health  
challenges, regardless of where one lives. AARP is pleased to see that  
LB388 makes a wide range of providers eligible to receive grants,

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including: telecommunications companies; cable television companies; wireless network providers that provide broadband Internet services; in addition to private provider partnerships with cooperatives and political subdivisions. Under LB388, for a project to qualify for funding, it must offer broadband Internet service scalable to 100 megabits per second for downloading and 100 megabits per second for uploading, or greater. Symmetrical upload and download speeds of 100 megabytes per second are forward looking benchmarks, building for today's and tomorrow's broadband needs rather than those of yesterday is critically important. LB388 permits providers who have commenced work to deploy broadband in a designated area, to challenge a grant application by another provider for service to the same area. But it sets reasonable limits on that protection. We would recommend that the committee consider the benchmark speeds for affording protection to a previously commenced project be increased 100 megabits upload and download at 50 megabits, consistent with the goals outlined by the FCC's National Broadband Plan, and closer to the benchmarks required to obtain a grant under LB388. AARP is pleased to see digital inclusion recognized as a program priority. The bill sets clear and reasonable priorities for project funding, with first priority going to projects in unserved areas that need additional support and have not received other public assistance. A second priority is one that is receiving federal support not due to being completed within two years, but could have been completed on an accelerated basis with support from this grant program. And third, the program targets projects that underserved areas that the PSC determines have a broadband and digital inclusion plan. Too often there's a gap between the speeds promised by providers and what consumers receive. AARP commends the bill's sponsors for including provisions for testing and verification of broadband speeds as a condition of dispensing grant monies. LB388 also contains other provisions that support accountability, including a firm timeline for completion of projects, and a specific penalty for late completion, and a framework for recouping funds for failed projects. Broadband deployment is an important priority, but the public funds available to support broadband expansions are not unlimited. It is encouraging-- encouraging that careful stewardship of public monies is the centerpiece of this legislation, and appropriation is included of \$20 million annually to fund the Broadband Bridge Program. Having a predictable and stable funding source from general revenues has advantages over traditional Universal Service Funding mechanisms that rely on assessments on

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telecommunication providers and their users. AARP hopes that the Legislature will commit to making funding for broadband deployment to unserved areas an ongoing priority. AARP fully supports public monies being used to build out Nebraska's broadband infrastructure, which will make Internet-based applications widely available. But the benefits of high-speed Internet access also depend on Nebraskans actually signing up for broadband and knowing how to get the most from the capabilities it provides. Broadband access is a necessity, just like utilities such as water and electricity, but differs from other utilities because people need to know-- or learn how to use the applications that access to the Internet offers. And unlike simply turning on a faucet to get water, turning on a switch to light a room, using the high-speed Internet access piped to the home requires one to have digital literacy. Older persons or potentially less likely to adopt broadband, in part because they lack the requisite digital literacy skills. We would urge you to consider further expanding the focus of broadband legislation to include both digital literacy and outreach that supports digital adoption. For-- for some households, the high price of broadband access continues to present a barrier to adoption. To overcome this barrier, we'd also ask you to further consider ways to subsidize broadband for those with low and limited incomes. Thank you to Senator Friesen, Speaker Hilgers for introducing the legislation, the committee for your ongoing work on this issue and your leadership. And thank you to Governor Ricketts for his commitment and leadership in ensuring that all Nebraskans have access to accessible, affordable, and reliable broadband Internet services. I'd be happy to answer any questions.

**ALBRECHT:** Thank you, Ms. Ragland, for your testimony. Any questions? Seeing none, thank you for being here. Next proponent? Good morning.

**JOHN HANSEN:** Good morning. For the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I'm the president of the Nebraska Farmers Union, and appear before you today as their president and their lobbyist. As you're kicking off the consideration of-- I, by my count-- 11 different bills before this committee that deal with broadband, we think this one is a good one to start with. And we thank Governor Ricketts for initiating this and Senator Friesen for sponsoring it. And there are several of the things that I sort of wanted to drill down on. But first of all, I just wanted to say that I associate myself today with all of the comments you've heard so far. I like them all. I thought they were all particularly good and on point,

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and I thought I would focus on a couple of them. We initiated an effort along with public power-- I think it was about 12 years ago-- to take advantage of the infrastructure that they already had in place that was either unused at that time or underused. We thought it was a great offer. It made good sense to us that we, as citizens, already owned this infrastructure. We appreciated the fact that they were willing to share that. And I particularly appreciated Pat Pope's comments today. As you look at low-hanging fruit, where you can pick up a lot of infrastructure at a minimum of cost, if public power is willing to share what they already have in place, that seems like a-- too good of a deal to pass up. And so as you think, having-- having the scars from that unsuccessful effort 12 years ago, our good idea was not-- not met with open arms, but we did make a lot of lobbyists, I thought, a lot of money. They just beat the soup out of us. And so now, I admit to being just a little bit getting even here. But as I look at the 2019 Rural Broadband Task Force report, which says broadband availability varies by incumbent carrier, approximately 79 percent of those rural households which do not have broadband available, reside in Windstream, CenturyLink, Great Plains, or Frontier-Citizens exchanges. Those are folks that were absolutely opposed to the idea of sharing the infrastructure that was there while they were making the case that it was too expensive for them to build it. And they've also received, as near as I could tell, if the numbers are right, about \$225 million in the last ten years from the Nebraska Universal Service Fund support, which gets to one of the issues that we've talked about, which is the fish-or-cut-bait issue. We have companies that have done a really good job of claiming territory and not yet really fully developing it or utilizing it. And the only interest that they ever show is when somebody else wants to come in and do something. So in the spirit of cost-effectiveness, anything that this committee can do to put together a package that-- which is-- that has more of the clawback provisions-- and I really appreciate Governor Ricketts' bill, in that we've got to get some clawback and we've got to get some accountability, and we've got to get some performance. And we can't just continue to throw money at stuff. We need to think about how it is we get the most bang for our buck. And so we're going to be supporting a bunch of bills. So spoiler alert, Senator Bostelman and DeBoer, we're going to be supporting your bills. We hope that our support doesn't tank your bills [LAUGHTER]. And we appreciate-- we think a-- a more comprehensive kind of package. But if there's ever been a time where, when you have more clearly understood

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that rural Nebraska has been left out and left behind, the COVID-19  
adventure has clearly made that, I think, pretty much clear to  
everyone. So we have this great opportunity, I think, to move forward.  
We-- we thank the committee for their time and consideration, and I  
would be glad to answer any questions, if we could.

**ALBRECHT:** Thank you so much for your testimony; appreciate it.  
Welcome, Senator Moser; we've missed you. Any questions? Seeing none,  
thanks for being here.

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

**ALBRECHT:** Still, good morning.

**JOHN IDOUX:** Good morning, Senator.

**ALBRECHT:** Go right ahead.

**JOHN IDOUX:** Good morning. Thank you, Senator. Thank you, members of  
the committee. My name is John Idoux; that's J-o-h-n I-d-o-u-x, and I  
am CenturyLink's director of governmental affairs. I am excited, and  
appreciate this opportunity to be here with you this morning to  
express CenturyLink's strong support of LB388. CenturyLink has  
provided communications services in Nebraska since 1911. And in 2020,  
CenturyLink announced plans to change its corporate name to Lumen  
Technologies; and my written testimony covers that. In Nebraska,  
CenturyLink serves over 80 communities, including Omaha, Grand Island,  
North Platte, McCook, and also more than 20 communities with fewer  
than 1,000 residents. CenturyLink has more than \$1.7 billion in  
network investment in Nebraska and made more than \$70 million in new  
infrastructure investments in Nebraska in 2020 alone. CenturyLink has  
more than 700-- or 7,500 route miles of long-haul fiber throughout  
Nebraska. I often talk about the need for public policymakers to  
balance two vital, and often opposing, goals. First, the competitive  
broadband marketplace, which today provides 90 percent of Nebraskans  
with high-speed broadband services with virtually all private capital,  
must remain unfettered from burdensome regulations and unfair  
government subsidies. Second, the lack of broadband in rural  
communities is difficult to address in the absence of such government  
assistance. This is a broadband economy, and the ultimate role of any  
broadband initiative should be to balance these dual goals in ways  
that complements rather than competes with each other. And my written

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testimony goes over this concept in more detail. CenturyLink strongly supports a properly structured broadband initiative, and applaud Senator-- Gov-- or-- and applaud Senator Friesen and Governor Ricketts for bringing forward LB388 as a broadband bridge initiative. A properly structured broadband initiative must balance the inflow of private capital and competitive dynamics where it can be sustained, while also extending a bridge to areas throughout the state that, due to population density and other factors, face significant economic challenges when it comes to broadband deployment. In order to balance and bridge, and to ensure limited funding is used to the maximum benefit without wasteful or duplicate spending, CenturyLink suggests the following three principles: first, there should be no taxpayer assistance to fund broadband networks where broadband has already been deployed; second, state support should be linked to obligations, and any regulatory commitments must transfer to the company receiving the broadband grants; third, the state should not support more than a single network in any single area. There is no public policy benefit to provide taxpayer-funded assistance to locations that currently have broadband, nor is there any such benefit to fund an advanced network, a network that is perfectly capable of providing both voice and broadband services, while at the same time also funding a legacy copper voice network for the exact same area. And for clarification purposes, these concepts exclude the application to mobile wireless. LB388 includes a substantial \$20 million allocation for broadband grants. While there are many compelling components of LB388, other state broadband plans have incorporated additional components or guardrails to better protect the state, its citizens, and the provider community. This session, three separate broadband grant bills were introduced, underscoring the critical need of broadband assistance. All three have intriguing and critical components, although no bill is perfect. CenturyLink strongly supports the positions and modifications to LB388, as proposed by the NTA, which adopted the framework of LB388 and blended critical components of LB456 and LB604: and my testimony goes into more detail. But I will quickly mention two components of LB604, which should be advanced in any broadband initiative; first, grant winners must commit to provide both voice and broadband services to all requesting customers within the support area for at least five years, at rates comparable to other areas. These obligations are similar to what the FCC requires and what existing Nebraska law requires of NUSF grants. Second, LB604 proposes four changes to existing telecom law, intended to transfer existing regulations to the

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grant winner. Without such changes, traditional phone companies will continue to be required to maintain a fully regulated legacy voice copper network, even after the competitor has been given taxpayer assistance to overbuild and deploy an advanced network capable of both voice and broadband. Supporting two networks, where one is not economical, is not justified, and represents a potential waste duplication of taxpayer funding. Again, CenturyLink applauds Senator Friesen and Governor Ricketts for putting forth this plan, and we strongly support the NTA blended amendment. Thank you.

**ALBRECHT:** Thank you for your testimony, Mr. Idoux. Senator Bostelman.

**BOSTELMAN:** Thank you. Thank you, Mr. Idoux, for being here today. I will take one exception to your testimony. I'm on the Broadband Task Force. 89 percent covered with high-speed capabilities across the state is-- as the-- as the task force says, is not accurate. They stated in the-- in the report that the 477 FCC reports fall far-- fall far short. We have significant lack of broadband connectivity across the state, as well as wireline connectivity, as well as cell phone connectivity. We have people in this state that don't have-- they have a telephone, a fixed telephone connected, a wire telephone in their house that doesn't work. We have others that have cell phones-- I'm an example of one-- that it depends on where you stand in your house, whether you have connectivity or not. And I'm also one that fits into what you would call the 89 percent where we have a satellite only if the satellite company is willing to come out and give us a router so that we can connect, and they'll maybe do that in a month or more. So now I'm left up to my wireless provider or my mobile data. So in the-- in the world of Zoom or in the world of education, it gets extremely expensive for us to connect in using our cell phones. So I appreciate, you know, your sentiment completely. Please don't take me wrong there. I appreciate your support for the bill, but I-- I-- I'm pretty-- pretty much question the 89 percent, because I don't believe the broad-- that was the intent of the Broadband Task Force to say that. And I don't believe the Broadband Task Force really supported that.

**JOHN IDOUX:** And if I had to concise my [INAUDIBLE] a bit too much, I apologize. We are in complete agreement that there are significant portions of the state that lack sufficient capacity. We have no daylight between us on that one--

**BOSTELMAN:** That-- I appreciate--



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**JOHN IDOUX:** --as-- as best how to address it with the limited funding.

**BOSTELMAN:** And I agree. And as I said, I appreciate you [INAUDIBLE] for the bill. I just think-- that that was-- but I just wanted to-- I just wanted to make sure that was-- that was stated for the record that I do believe we have some significant challenges throughout the state, whether it be in the cities or whether it be rural. And the Broadband Task Force recognized that, pointed that out. But we also have challenges with wireline or in-the-house phones, as well as cell phones across the state.

**JOHN IDOUX:** And I know you mentioned 477 reporting just now and how that clearly overstates the presence of broadband. And I think LB388, in combination with the amendment put forward by the NTA, fully addresses that. It doesn't use the map to determine whether or not a project is eligible. I would say a stronger tool than the map is the challenge in rebuttal process, which is included within the LB388, and the rebuttal process is advanced within the amendment. The combination of those two can-- can-- can overcome the challenges that we face with-- with the map.

**BOSTELMAN:** I-- yeah, I agree. I agree. Thank you.

**ALBRECHT:** Thank you, Senator Bostelman. Any other questions? Welcome back; we've missed you, Senator Geist. And I didn't recognize that you were back in [INAUDIBLE] Senator DeBoer. So glad everybody's here. We're getting full staff here pretty quick. Thank you for your testimony; appreciate you being here. I don't have any other questions. Another proponent?

**JULIA PLUCKER:** Good morning, Senator Albrecht and members of the committee. My name is Julia Plucker, J-u-l-i-a P-l-u-c-k-e-r, and I am appearing today in support of LB388 and LB456. My testimony is virtually the same, so I'm not going to come up here twice. You're welcome. Senator Friesen. I'm the executive director of NITA, the Nebraska Internet and Television Association. On behalf of member companies of NITA, I want to extend my appreciation to Governor Ricketts, Chairman Friesen, and the members of this committee for your commitment to this critical issue. NITA is the primary trade association for cable broadband industry in Nebraska. Those companies include Fortune 500 companies and community-based, independent operators. Each year, our members invest millions of dollars in new

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infrastructure and technology to expand their networks and improve the customer experience. In these unprecedented times, reliable broadband connectivity has become more important than ever, which is why we support state broadband grant programs. At the onset of the pandemic, our industry stepped up to make sure that families who transitioned to working and learning from home remained connected to the Internet. We also began to report key metrics during the pandemic, to better inform the public regarding usage trends and network performance. Despite significant surges in online-- online activity, our networks performed well. To give you some context, more than 80 percent of peak traffic on broadband networks is video streaming, gaming, and social media. These applications require significant download capabilities, but do not require as much bandwidth on the upload side. Even with increased usage of Zoom, Webex, and two-way video applications, this did not change the long-standing nature of asymmetrical Internet use. For example, the most commonly used video conferencing platforms that we all use on a regular basis require upload speeds of less than three megabits per second for high-definition streaming. This is why our member companies offer asymmetrical Internet speeds to residential customer-- customers, where the download speed is much higher than the upload speed. As you know, LB388 and LB456 include minimum download and upload speeds of 100 megabits per second. While the bill suggests broadband and infrastructure should be scalable to, or capable of, these speeds, the testing standard in the bills require symmetrical Internet speeds. To resolve the apparent conflict between the aspirational goal of symmetrical Internet speeds and the speed test requirement, we would recommend an amendment to the speed test requirement in the bill. Specifically, we suggest the speed test should be used to confirm that the customer is receiving the Internet speeds to which they subscribe, using FCC-approved speed tests. We believe this would allow the state to connect more unserved homes with networks that are scalable to future customer demand, but not overengineer the design and cost today. This also gives Internet service providers the flexibility to offer the services that best meet the customers' needs, recognizing the asymmetrical nature of residential Internet use. The cable broadband providers in Nebraska likely provide more Internet connections than any other industry. We offer speeds up to a gigabit for residential customers, and multigig connections for commercial needs. Our networks are scalable and we are already investing in technology that will deliver faster speeds and lower latency over the existing networks. We can play a significant

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part in closing the digital divide in Nebraska, and we look forward to  
working with you on this issue. Thank you.

**ALBRECHT:** Thank you for your testimony. Questions? Seeing none, thank  
you for being here today. Next proponent? Good morning.

**CAMDYN KAVAN:** Good morning, Senator Albrecht and members of the  
Transportation and Telecommunications Committee. My name is Camdyn  
Kavan, C-a-m-d-y-n K-a-v-a-n, and I am the policy and outreach  
coordinator at OpenSky Policy Institute. I'm here to testify in  
support of LB388, the Nebraska Broadband-- Broadband Bridge Act,  
because we believe increasing access to high-speed Internet is crucial  
to accomplishing our state's economic development goals. LB388  
implements a much needed broadband grant program targeted to unserved  
and underserved areas of the state. Senator Cavanaugh, there's  
underserved areas in Omaha but, as Senator Bostelman has talked about  
multiple times, the mapping is a-- is a big issue. And Senator  
DeBoer's bill will go a long way to helping with that, along with  
Senator Brandt's bill from last year, LB996, that Mr. Hladik talked  
about earlier. This grant is to be funded at \$20 million annually and  
will be administered by the Nebraska Public Service Commission. All  
projects will have to meet or exceed an Internet speed standard of one  
hundred megabits per second download and upload. This is much needed  
improvement over the federal standard of 25/3, and so that's a--  
that's a big increase we've been-- we've been hoping for for a while.  
Due to COVID-19, Nebraskans have been working online more than ever.  
At the same time, Nebraska is one of the least connected states in the  
nation. Broadband now ranks Nebraska the 48th best state for broadband  
service and access. And an increasingly remote rural Nebraska will  
lose out on the opportunity to attract young families and  
entrepreneurs to our state unless we can increase access. The Nebraska  
Chamber of Commerce has focused on attracting 18 to-- 18- to  
34-year-olds to Nebraska, and a reliable Internet connection is one of  
the areas people in my generation weigh heavily when deciding where to  
relocate and live. Increasing access to broadband has been recommended  
by at least four major economic development reports from the past  
decade, starting with Battelle in 2010, SRI International in 2015, the  
Center for Regional Economic Competitiveness-- and Competitiveness in  
2018, and, finally, Blueprint Nebraska just this last year. This  
legislation is very similar to highly successful Border-to-Border  
Broadband Development Grant Program Minnesota enacted in 2014.  
Minnesota is now up to 20th in that same BroadbandNow ranking that has

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Nebraska down at 48th. This is an area we believe Nebraska needs to improve drastically if we intend to compete for some of the nation's most talented individuals and families. This legislation has worked in other states, and we believe it will work for Nebraska. We'd like to thank Governor Ricketts, Chairperson Friesen, and Speaker Hilgers for bringing this legislation forward on behalf of the state of Nebraska, and would urge the committee to vote this on to the floor of the Legislature. Thank you for your time, and I'd be happy to answer any questions if I'm able.

**ALBRECHT:** All right. Thanks for being here.

**CAMDYN KAVAN:** Thank you.

**ALBRECHT:** Any questions? Seeing none, thank you.

**CAMDYN KAVAN:** Thanks.

**\*BRIAN KRANNAWITTER:** Mr. Chairman and members of the Committee: My name is Brian Krannawitter and I am the Government Relations Director for the American Heart Association in Nebraska. On behalf of the American Heart Association, I am submitting written testimony to express our support for LB388. Broadband internet is critical so that telehealth can be delivered. Broadband internet enables interactive video that allows doctors and patients to see each other. It also allows doctors to share test results and even conduct parts of a physical exam. It lets patients ask questions securely without having to travel to a medical facility and lets doctors monitor patients in real time. It can also reach places where doctors are in short supply. According to an editorial about telemedicine that appeared in the American Heart Association journal Circulation in June, it's estimated that 19 million to 42 million people in the U.S. are without access to broadband. This includes people in both rural and urban areas. The coronavirus has given an even greater urgency to closing the digital divide and increasing broadband internet in unserved and underserved areas. It is critical that citizens, no matter where they live, have access to medical care, and broadband internet is an important tool in achieving this. On behalf of the American Heart Association, I respectfully urge the committee to advance LB388.

**\*ERIC GERRARD:** Members of the Transportation and Telecommunications Committee: My name is Eric Gerrard and I represent Windstream at the

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Nebraska Legislature. Windstream is pleased to support LB388 and thanks Governor Ricketts and Senator Friesen for bringing this legislation forward. The COVID-19 pandemic has shed additional light on the need for broadband expansion in Nebraska's high cost areas. As a provider of high-speed internet our customers in southeast Nebraska, we have appreciated the ability to participate in Nebraska's Universal Service Fund high cost program and the recent Cares Act Grants administered by the Nebraska Department of Economic Development. The Broadband Bridge Act would create an additional tool for the state and providers to expand broadband access in areas not currently served with adequate speed. We appreciate the guardrails put into the bill to protect the private investment that providers have made in their service territory. Windstream urges further guardrails that a grant recipient provide service to all requesting households and business in the project area and become an eligible telecommunications carrier or ETC. We'd also urge the committee to adopt the service rate provisions in LB604. These provisions are inline with requirements from the Federal Communications Commission and Nebraska Universal Service Fund grant participants. We understand there are other broadband bills the committee is taking up this session. Windstream supports all three options and urges the committee to develop a blended final bill. We would appreciate the opportunity to be a part of discussions as the committee finalizes these important details. Windstream appreciates Governor Ricketts' leadership on this issue and the committee for its support of initiatives to expand broadband access to Nebraskans. Please contact Trent Fellers or me if you have any questions.

**\*KRISTEN HASSEBROOK:** Dear Chairman Friesen and Members of the Transportation and Telecommunications Committee, The NE Chamber would like to go on record in support of LB388. Infrastructure to provide ubiquitous broadband and telecommunications services for all Nebraska businesses and consumers is essential for the economic well-being and competitiveness of the state. LB388, a bill that would create the Broadband Bridge Act and provide \$20 million in grants annually to increase access to high-speed broadband across the state, is a major step in the right direction in terms of committing state resources to this effort. This proposal is part of a larger conversation around what is needed in Nebraska to facilitate our state's broadband goals. In this regard, the NE Chamber has members representing every facet of the current public policy discussion on this subject, from internet service providers, cable providers, telecommunications, rural electric

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cooperatives, public power, and others and appreciates the opportunity to share our overarching policy perspectives. The NE Chamber supports the adoption of the Blueprint Nebraska initiatives including increasing rural broadband access and making our large and small cities national models for rapid network scale-up. Such infrastructure investment would also make Nebraska more attractive as a remote work destination for returning or new Nebraskans. And finally, access to reliable, high-speed broadband will usher in a new age of advanced manufacturing, agriculture and logistics. In addition, the NE Chamber supports:

- Deployment of broadband technologies wherever feasible to achieve widely available and high-quality wireless and wireline services.
- A focus on robust and scalable technologies that provide all Nebraskans with reliable and affordable broadband and voice services that allow the state's businesses and residents to compete and connect globally.
- Recognizing existing and encouraging further private sector investment and development to maximize business efficiency.
- Supporting the efficient use of state and federal NUSF and USF funding to support broadband deployment.
- Encouraging public funding to be technology agnostic.
- Supporting commercially viable long-term scalable deployment.

As the committee debates and develops a final broadband package the NE Chamber would encourage consideration of these policy perspectives that are supported across the multitude of interests in this area. However, there is no doubt that a strong commitment of state resources is critical and necessary and the broader vision of LB388, in committing resources to this endeavor has strong support from the NE Chamber.

**\*JULIE ERICKSON:** Chairman Friesen and Members of the Transportation and Telecommunications Committee, my name is Julie Erickson and I am a registered lobbyist representing the Nebraska Child Health and Education Alliance in Support of LB 388. The alliance is a unique group of health care and education leaders dedicated to policies that ensure Nebraska children and youth become healthy and successful adults. Broadband access is not a new obstacle for areas of Nebraska, especially our rural and underserved communities. This past year has put those needs under a microscope and highlighted the importance of having broadband access, not only for our students, families and teachers, but for our healthcare and business communities as well. The increased demand for dependable internet access must be addressed. Expanding broadband internet access is necessary for all Nebraskans and the alliance believes the adoption of the Nebraska Broadband

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Bridge Act will incentivize providers, cooperatives or political subdivisions to develop expansion projects and connect areas currently lacking adequate service. The alliance is dedicated to supporting policies that make it possible for children to thrive and learn, and we believe this legislation is essential to Nebraska's youth and families.

**\*BOB HALLSTROM:** Chairman Friesen, members of the Transportation and Telecommunications Committee, my name is Bob Hallstrom and I submit this testimony as registered lobbyist for the Nebraska Bankers Association (NBA) in support of LB388. Probably, the single most important communications issue which surfaced during the pandemic last year was the lack of adequate speed of broadband coverage throughout the state. Every single industry and schools were impacted, including the financial services industry. When banking facilities were required to work remotely, with part of the staff working from home and part of the staff working at the bank, many banking staff learned that there were insufficient broadband services available to work from home. One of the things the NBA learned in visiting with its members concerning the adequacy of broadband services in rural Nebraska was that a great deal of infrastructure needs to be installed in order to provide speed-efficient broadband. The NBA supports LB388 and the Nebraska Broadband Bridge Act. By awarding \$20 million annually in grants and loans to increase access to high-speed broadband across the state, underserved and unserved areas in Nebraska will be developed so that more parts of the state have access to broadband speeds that only some parts of the state presently enjoy. The requirement in the legislation that recipients of the grants must provide broadband speeds of 100 Mbps/100 Mbs or greater may be a little steep, but overall, the legislation will provide a huge boost to spreading high-speed broadband across the state. Getting the funding in place to help expand broadband in Nebraska, will greatly help build upon the infrastructure of broadband which desperately needs to be improved. We encourage the members of the Committee to advance LB388 to General File.

**ALBRECHT:** Any other proponents wishing to speak? Any proponents? I'll go through, very quickly, a list of five in-lieu-of-person testimonies today: Brian Krannawitter from American Heart Association; Eric Gerrard, Windstream; Kristen Hassebrook, from Nebraska Chamber; Julie Erickson, Nebraska Child and Health Education Association; and Bob Hallstrom with the Nebraska Bankers and National Federation of

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Independent Businesses. And then, also, letters of support were from: the Nebraska Cooperative Council; Platte Institute; the Nebraska Association of School Boards; Nebraska Rural Broadband Alliance; Nebraska Library Association; the Nebraska Association of Social Workers; League of Women Voters of Nebraska; National Utility Contractors Association of Nebraska. And do we have any opponents wishing to speak? Seeing none, anyone in neutral? Oh.

**LASH CHAFFIN:** Hi, good morning. 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 I'd like to appear today in a neutral capacity. As-- as you all know, not all neutral testimony is equal. And this-- this-- this testimony is based on-- the league has a committee of city officials and village officials all across the state. And we met a couple of weeks ago, and they established a series of principles to measure broadband bills by. And they're very, very, very appreciative of the Governor and Senator Friesen of making this a priority. And actually, I think the Governor's testimony very eloquently laid out a good portion of those principles, why this is important to the state. And we're very appreciative of the fact that the Governor and Senator Friesen are willing to put resources behind it, too. That's-- extremely, extremely appreciative of that. And-- and interestingly, this-- this-- this is-- this kind of goes to why we're-- why we're neutral today, as-- as well. We're very appreciative of the fact that the bill-- both bills today recognize that the concept of 25/3 is accepting mediocrity, that we need to move forward to a much faster standard. And-- and, you know, it's interesting that-- it's sad that the pandemic has brought a lot of people to that conclusion, but that's very, very clear. You know, that said, there are a couple of other principles that-- that-- that the-- the committee established as important to Nebraska. And-- and we--we-- you know, we're not naive. We understand, you know, any bill can be amended as it comes out of committee or on the floor. And some of those principles are reflected in other bills. I think Senator Bostelman's bill, Senator DeBoer's bill, Senator Brandt's bills-- those bills, inclusion of those bills into some form of a package, that makes this a national jump forward, potentially. You know, cities-- cities and villages are tired of a decade now of their future being in the hands of corporate boardrooms in other countries. And they want to have a bigger voice in how they move forward with broadband. This is essential. They're tired of someone saying we can't make that business case. You know what? Cities



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make business cases every day. They make a business case to put six-inch, you know, ductile iron pipe in the ground all throughout their village. Someone-- someone can make a business case to make it-- broadband available in even the smallest of places. And I think Senator DeBoer's bill and Senator, you know, Senator Bostelman's bills and comments indicate there are areas in cities and villages, too, that don't meet 25/3. The city of Grand Island, they-- they consider the fact that they're served at 25/3 laughable. They, you know, there's-- there places all over. And I think more accurate-- more accurate mapping, more realistic mapping, this-- this is a huge leap forward. And the-- the-- you know, and similarly, Senator Bostelman's bills, there's-- there's-- cities want to have a voice in this. They're willing to come to the table with private-public partnerships. And this is something that can, you know, increase competition. This can make things move forward much, much quicker. But-- but it-- but that said, the Governor-- very appreciative of the Governor doing this. Then also, there-- there's other-- other items, you know, that the committee very strongly thinks that, you know, bills like LB455 and LB520 are huge steps backwards. This is basically admitting cities don't deserve a voice in what's going on, and that that is something that we would have to strongly oppose. And you know, that, again, that's just sort of admitting that companies don't want to put the work into-- to make Nebraska a viable broadband state. And so-- so there's-- there's a lot at play. And it'll-- I think it'll be fascinating how this plays out. And I'm-- it's-- and I'm very appreciative to Senator Friesen and the Governor for bringing both this bill and LB56 forward, because these are-- this is-- it's nice to see a recognition that Nebraska needs to move forward, and quickly, on-- on these issues.

**ALBRECHT:** Very good.

**LASH CHAFFIN:** Thank you.

**ALBRECHT:** Thank you for your testimony. Questions from the committee? Seeing none, thanks for being here.

**LASH CHAFFIN:** Thank you.

**ALBRECHT:** Do we have one-- any-- any other people-- persons wanting to speak in a neutral position-- position? We did have one other neutral

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letter that came in from AT&T, so looks like we're finished. If you'd like to close, Senator Friesen.

**FRIESEN:** Senator Albrecht and members of the committee, I mean, you've-- you've heard a lot of testimony today and, you know, we've been working on broadband issues, at least I've been working on since I came to the Legislature. First of all, I'd really like to thank the Governor for finding the money in his budget. I mean-- and we've had some challenging budgets that we've-- we've been through in the last six years that I've been here. And so the fact that he's willing to put some money into the budget, that is one thing that really strikes me as being, saying that we're-- we are really serious about bringing broadband to Nebraska. And so I-- I really appreciate it. And I hope we can keep this going after him and I are both term-limited out of office. But I think that's up to you future senators that are going to be here longer. But you realize how important it is for economic development in rural Nebraska and how we can create that-- that bridge between the urban/rural that we have in this state right now. And yes, there are dark areas in the middle of Omaha. But again, I think ALLO-- Brad Moline-- said it best, is they've made a business case of bringing it to almost any community in the state, and they've done it without subsidies. And so the business case is there, but the investment to get this across the state is going to be billions of dollars and it can't be done overnight. But what can we do sometimes to make it easier? And I think that's what-- that's what the question in front of us is, is how do we get this done faster and leverage those dollars as best we can with any federal dollars that may come down the road? And I think the opportunity is there, and I think this is inclusive of almost every company. If they can provide the speeds we're asking for, we don't care who does it; we just want it done. And I-- and I think the citizens of Nebraska want it. I think this is just an opportunity. We realize that there's, you know, the data sometimes is lacking. But when you look at the speeds that we're asking for here, it's pretty clear where we need to put in broadband and where we don't. So with that, I-- I could just repeat a lot of stuff, and I'm open to questions.

**ALBRECHT:** Any questions from the committee? Seeing none, thank you for being here, and we'll close LB388.

**GEIST:** Should I announce a five-minute break? No? OK.

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[BREAK]

**GEIST:** [RECORDER MALFUNCTION] LB456 Senator Friesen, you're welcome to open on your bill.

**FRIESEN:** Thank you, Vice Chairman Geist. Members of the committee, we'll try and keep this short and concise 'cause it's running into the lunch hour. So my name is Curt Friesen, C-u-r-t F-r-i-e-s-e-n. I represent District 34, and I'm here today to introduce LB456, the Nebraska Enhancing Broadband Act. This bill is a companion to LB388, the Broadband Bridge Act, and is meant to introduce some different ideas and generate a conversation about the best way to structure a broadband grant bill. The two bills are very similar. They both established a broadband grant program to fund projects that will provide 100 by 100 broadband Internet speeds to unserved and underserved areas. Almost all of the definitions used in the two bills are the same. While this bill would provide \$10 million annually for these projects, I greatly prefer the \$20 million appropriated in the Broadband Bridge Act [LAUGHTER]. So there are a few other notable differences between this bill and the Broadband Bridge Act. And first, this bill's program would be administered by the Department of Economic Development, while the Broadband Bridge Act would be administered by the Public Service Commission. I do think that the PSC is the right body to oversee the grant process, but wanted to at least make this part of the conversation. Next, while the Broadband Bridge Act would only offer grants, this bill would provide grants and loans. Loans may be able to help us better leverage available funds, allow us to give assistance to more qualifying broadband projects. And finally, this bill would create a fund which would receive any federal money given to the state for broadband improvement. This money would then be awarded to qualifying projects, using the priorities and procedures laid out in this bill. This would help ensure that each dollar is used as effectively as possible, and help avoid the problems that the state encountered while administering the last round of the CARES Act broadband money. I look forward to continuing this conversation with the committee, the Governor, and stakeholders' groups, as we work to put together the best possible broadband grant program. I thank you for your time, and I'd be willing to answer any questions you might have.

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

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**BOSTELMAN:** Yes, thank you, Vice Chair Geist. The one major issue, one of the major issues I have with this bill, is what I've already mentioned in the previous bill, is satellites. I'm not so sure-- or others that aren't regulated by PSC. We need to bring them into-- underneath that. I-- my frustration with the satellite provider we have now, as I stated before, is just-- just blew me off completely, didn't care. And actually the-- it ended up that the-- the individual who come out to service us, actually brought a router out, which we had to have for that satellite. And he said: Don't call them, call me and I'll come help you, he says, because they-- their customer service is horrible. So I-- I think part of it is, is we ought to have good players, if you will, good providers to be a part of. So that's more of a comment, but--

**FRIESEN:** Well, I think-- I think, overall, though, we need to keep in mind that, you know, those low Earth orbit satellite systems that might be in place someday could be a-- a player in the system, too. We just in-- most areas, no. Fiber would still be best to work-- or some other means. But I'm open to any of those suggestions.

**BOSTELMAN:** I understand. Thank you.

**GEIST:** Any other questions? Any?

**FRIESEN:** When the Governor leaves,--

**GEIST:** Seeing none,--

**FRIESEN:** --everybody just abandons us.

**GEIST:** I know. Seeing none, do you plan to stick around for closing? Sorry, I had to ask. Are there any proponents who would like to testify on this bill? Good morning.

**BURKE BROWN:** Good morning. Thank you. Thank you to Senator Friesen and members of this committee. I promise I'm not turning into a hearing rat or anything, just hanging out here, but my name is Burke Brown, spelled B-u-r-k-e B-r-o-w-n. I'm the technology coordinator at School District OR1 in Palmyra, Nebraska. And I'm also a resident of Bennet, Nebraska. I'm speaking today on behalf of NSEA, Nebraska State Education Association, as a member of its board of directors and the chair of the broadband technology committee. The mission of our committee is to search for solutions in closing the state's technology

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gap that has been widened by this ever growing, more critical broadband deficit. I'm here today in support of LB456, as NSEA serves nearly 28,000 members across Nebraska. We believe enacting appropriations for the development of broadband networks in unserved and underserved areas is essential to bringing affordable, reliable broadband to all Nebraska students, teachers, citizens, and business. Further, we believe that these net-- new networks will be foundational in closing the broadband gap. First, I'll share a story of cooperation and joy this past fall in Arlington, Nebraska. A fellow teacher and Arlington Village Board member, Jason Wiese, shared that early grants, available through the federal CARES Act, brought together local, private, and public leaders to engage in the work to bring additional broadband to Arlington to enhance its network backbone. Even though this effort was not founded-- or excuse me, not funded-- by the first round of CARES funding, Mr. Wiese is confident the outcome of the group's work will result in continuing this public-private effort to provide affordable, reliable broadband to serve Arlington's growing Internet needs. LB456 may be part of the solution. This bill, which provides \$10 million-- which, agreed, \$20 million is definitely better-- in grants and loans across the state, this can assist in building much needed networks. These grants are targeted to the underserved areas that have developed-- that have developed a broadband and digital inclusion plan, but these have not yet been targeted for projects or received federal support for construction that will not be completed within 24 months. The speeds required under this bill, 100/100 megabits upload and download, our true broadband speeds. I do offer that the speed-- excuse me-- I do offer that the speed test required by grant recipients at the completion of this project should be done by an impartial third party. In closing, NSEA believes LB456 effectively addresses important agreements required for success, as it addresses grants and loan-based appropriations. Moreover, NSEA believes we must ensure that no Nebraskan is prevented from-- excuse me-- accessing 21st century tools and opportunities, due to the lack of broadband Internet. The NSEA encourages the Legislature to consider additional ways to clear barriers to broadband deployment in these underserved areas, like those put forward in LB455. This bill establishes a more transparent, cost-effective process to speed deployment of broadband infrastructure in Nebraska. Most importantly, this bill will help realize the goal of closing the broadband gap of all Nebraska. Thank you, and I can answer any questions.

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**GEIST:** Thank you, Mr. Brown, for your testimony. Are there any questions from the committee? Senator-- no.

**BURKE BROWN:** Thank you.

**GEIST:** OK. Thank you.

**BURKE BROWN:** Yeah.

**\*TIP O'NEILL:** Vice Chairperson Geist, members of the Transportation and Telecommunications Committee, my name is Tip O'Neill and I am the President of the Nebraska Telecommunications Association. The NTA is a trade association that represents a majority of companies that provide landline voice and broadband Telecommunications Services to Nebraskans across the state. I indicated in my oral testimony supporting LB388 that the NTA also supports LB456. We took what we believed were the best parts of the three broadband proposals, LBs 388, 456, and 604 and blended them into our amendment (AM 126) to LB388. LB456 is similar to LB388 and is identical in many features. We did incorporate one difference between the two bills, the eligibility of Indian Tribes for projects that was contained in LB456, into AM126 to LB388. We appreciate the strong support the committee has provided to enhancing broadband deployment in Nebraska. We support Senator Friesen's position that the promotion of a strong competitive marketplace is the best way to make that deployment happen. We look forward to working with the committee members in crafting legislation that best captures the intent of LB456 and other bills in deploying broadband successfully to unserved and underserved areas of Nebraska. We will join you and support your efforts to provide advanced technology to those areas and our citizens who need it for work and education. Thank you for your consideration.

**\*ERIC GERRARD:** My name is Eric Gerrard and I represent Windstream at the Nebraska Legislature. Windstream is pleased to support LB456 and thanks Senator Friesen for bringing this legislation forward. The COVID-19 pandemic has shed additional light on the need for broadband expansion in Nebraska's high-cost areas. As a provider of high-speed internet our customers in southeast Nebraska, we have appreciated the ability to participate in Nebraska's Universal Service Fund high-cost program and the recent Cares Act Grants administered by the Nebraska Department of Economic Development. There is still additional work to be done to reach Nebraskans that live in areas of the state that are

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high cost to build service. The Nebraska Enhancing Broadband Fund would create an additional tool for the state and providers to expand broadband access in areas not currently served with adequate speed. We appreciate the guardrails put into the bill to protect the private investment that providers have made in established service territories. Windstream urges further guardrails that a grant recipient provide service to all requesting households and business in the project area and become an eligible telecommunications carrier or ETC. We would also urge the committee to adopt the service rate provisions in LB604. These provisions are in line with requirements from the Federal Communications Commission and Nebraska Universal Service Fund grant participants. We understand there are other broadband bills the committee is taking up this session. Windstream supports all three options and urges the committee to develop a blended final bill. We would appreciate the opportunity to be a part of discussions as the committee finalizes these important details. Windstream appreciates Senator Friesen's leadership on this issue and the committee for its support of initiatives to expand broadband access to Nebraskans. Please contact me or Trent Fellers if you have any questions.

**\*JOHN IDOUX:** Thank you Chairman Friesen and members of the Committee. My name is John Idoux and I am CenturyLink's Director of Governmental Affairs. As a leading national communications provider with significant operations and employees in Nebraska, CenturyLink has made substantial investments in the state and has a significant number of customers. I appreciate this opportunity to express CenturyLink's support of LB456. CenturyLink Introduction CenturyLink has provided communications services in Nebraska under various names since 1911 and today provides critical connections to businesses and residents across the state, from Omaha to Scottsbluff, and from Valentine to McCook. In 2020, CenturyLink announced plans to change its corporate identity to Lumen Technologies and the transition to Lumen is currently underway. Lumen is guided by our belief that humanity is at its best when technology advances the way we live and work. With approximately 450,000 route fiber miles and serving customers in more than 60 countries, Lumen delivers the fastest, most secure platform for applications and data to help businesses, government and communities deliver amazing experiences. In Nebraska, CenturyLink serves larger communities such as Omaha, Grand Island, Scottsbluff, North Platte, and Norfolk but also more than 20 communities with fewer than 1000

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residents. CenturyLink maintains a significant Nebraska workforce, has more than \$1.7 billion in network investment and made more than \$70 million in new infrastructure investments in 2020. CenturyLink also has deployed more than 7500 route miles of long-haul fiber throughout Nebraska. The Broadband Dichotomy In 2019, the Nebraska Rural Broadband Taskforce reported that 89% of Nebraskans have access to fixed broadband. This figure is higher when mobile, satellite and other broadband forms are taken into consideration and a vast majority of Nebraskans currently enjoy competitive choices for broadband services. Broadband availability and competitiveness are increasing throughout Nebraska as existing broadband providers continuously augment network capacities with additional infrastructure investment and new providers enter the Nebraska marketplace using a combination of technologies. Importantly, Nebraska's broadband networks have been built with virtually all private capital, representing billions of dollars in total infrastructure investment, by dozens of companies. As noted above, CenturyLink invested over \$70 million in Nebraska just in 2020 and its competitors continue to make similar infrastructure investments using private capital. That broadband infrastructure investment in Nebraska also requires tens of millions of dollars annually - and thousands of employees - to maintain. All, of course, contributing to the greater Nebraska economy. Given the significant private capital broadband investment to date, as well as the overall impact on the Nebraska economy that the competitive broadband industry in the state generates, the State must move forward to address the challenges of rural broadband availability in a way that does not unintentionally disrupt or hamper the highly competitive broadband marketplace. Two vital, and often contrasting, goals must be balanced. First, the competitive broadband marketplace must remain unfettered from burdensome regulations and unfair government subsidies that reduce competition and results in an unlevel playing field. Second, the lack of broadband services in rural communities is difficult to address in the absence of government assistance. This is the broadband dichotomy. The ultimate role of any broadband grant initiative should be to balance these dual goals in a way that complements, rather than competes, with the other. An ill- structured broadband grant program has the potential to unintentionally disrupt or distort the competitive marketplace, potentially driving private capital out of Nebraska. At the same time, without public assistance portions of the state may continue to lack sufficient broadband services. To that end, CenturyLink presents the Committee with the following comments on



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LB456. Balance and Bridge CenturyLink strongly supports a properly structured broadband grant initiative and applauds Senator Friesen for bringing forward LB 456. Policymakers and communications companies alike recognize the fact that there are areas of the state that enjoy world-class broadband offerings by multiple providers while there are portions of the state that lack sufficient broadband capabilities. A properly structured broadband grant initiative must balance the inflow of private capital and competitive dynamics in areas of the state that can sustain such infrastructure deployment while also extending a bridge to areas throughout the state that, due to population density and other factors, face significant economic challenges when it comes to robust broadband deployment. A properly structured broadband grant initiative must (1) encourage broadband investment and infrastructure deployment by companies using private capital (2) enhance and grow the highly competitive broadband environment in areas of the state that can sustain robust private investment and competition and (3) creatively address the needs of citizens in areas of the state that lack sufficient broadband as a result of population density and/or other factors that result in uneconomical deployment of advanced broadband infrastructure. Regardless of the total funding package and available support amount, there will not be sufficient broadband grant dollars to address all the infrastructure needs throughout the state. In order to ensure the limited available funding is used to the maximum benefit and there is no wasteful or duplicative support provided, there should be no taxpayer funded assistance to fund broadband networks in areas of the state that currently have broadband services. There is no public policy rationalization to provide taxpayer funded assistance to locations that currently have broadband. Equally as critical, state support should be inextricably linked to company obligations. Any regulatory or other commitments must transfer to the company receiving the broadband grant. Furthermore, the State should not support more than a single network in any single area. In situations where a non-traditional telephone company wins a grant or otherwise receives state or federal support to overbuild and deploy an advanced broadband network, there is absolutely no public policy rationale to also fund and/or require the traditional phone company to also maintain a legacy copper voice network in the very area. LB456 puts forward a broadband grant structure intending to accomplish such objectives; however, as with any initiative, the devil is in the details and CenturyLink suggests the need for additional details. LB456 Puts Forward A Basic Broadband Grant Structure LB456 includes a

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substantial, \$10 million annual allocation, for broadband infrastructure grants. Such grant projects are to be scalable to 100 megabits per second and are intended for unserved and underserved areas. LB456 also includes certain protections such as deployment timelines and speed test requirements with detailed claw back provisions. Although there are many compelling components included with the introduced version of LB456, the overall structure does not contain many details that have been developed in other state plans and incorporated into state broadband grant programs. These details offer substantial protections, or guardrails, to better protect all parties involved including the State, citizens, communities, applicants and incumbent providers. Blending Components to Improve Balance and Bridge Three separate broadband grant initiatives were introduced during the 2021 Legislative Session underscoring the critical need for broadband assistance in areas of the state that currently lack sufficient capabilities. It should be recognized that all three bills have intriguing and critical components although no one bill is perfect, and modifications will be needed to address concerns. CenturyLink is proud to be a longstanding member of the Nebraska Telephone Association (NTA) and strongly supports the modifications to LB388 as proposed by NTA President Mr. Tip O'Neill. The positions and modifications put forward by the NTA adopted the basic structure as proposed in LB388 and blended critical components introduced in both LB456 and LB604. By combining aspects of all three broadband incentive bills, learning from successes and failures from other states, and addressing the needs of citizens, communities, policymakers and the wide range of service providers, a successful broadband grant initiative can be developed. Expanding on the blending approach of LB388, LB456 and LB604, the NTA puts forward a comprehensive broadband grant plan that starts with the core structure of LB388 and adds critical protection or guardrails proposed in LB456 and LB604. Mr. O'Neill outlines a detailed proposed amendment to LB388 in the NTA's testimony that CenturyLink fully supports, and the added components are summarized below for consideration:

- Census Blocks: The NTA proposes to adopt the census block concept to define a project area contained within LB604. Using census blocks to define a project area has been adopted by the FCC in multiple grant initiatives including the Rural Digital Opportunity Fund (ROOF) program as well as the NPSC's broadband grant initiative and related reverse-auction program. Without proper geographic definition for project scopes, participating

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companies may be encouraged to target only the higher density, lower costs portions of a city which would further exacerbate the digital divide outside the population center. • Deployment and Speed Obligations: The NTA proposes slight changes to deployment timelines and speed test requirements introduced in LB388 by (1) allowing the PSC to approve more than one time extension if good cause is shown and (2) introducing a proportional scale for any payback obligations resulting from the speed tests. • Priority of Projects: Whereas LB 388 proposes three priority factors for determining deployment, the NTA approach is for the Commission to establish a weighting or scoring system to evaluate and rank the applications received as proposed in LB604. While LB604 lists several of the required weighting components, these proposed components were not intended to be exhaustive and the NTA proposal blends the concepts contained with all three broadband grant bills including the three priority factors within LB388. • Applicant Obligations: NTA strongly suggests that, as a condition of accepting a grant under the program, the applicant commit to the following: (1) provide service to all requesting households and businesses within the census blocks which make up the project supported area for a minimum of five years, (2) become an eligible telecommunications carrier for the supported area and provide both supported voice services and broadband services for the supported area, and (3) offer rates in the supported area comparable to the rates offered by the applicant outside of the supported area. These proposed applicant obligations are included within LB604 and are similar to what the FCC requires of its applicant winners and what existing Nebraska law requires of NUSF grant participants. Changes to Existing Telecommunications Laws State support should be inextricably linked to company obligations. Furthermore, the State should not support more than a single network in any single area, excluding mobile wireless. In situations where a non-traditional telephone company wins a grant or otherwise receives state or federal support to overbuild and deploy an advanced broadband network, there is absolutely no public policy rationale to also fund and/or require the traditional phone company to also maintain a legacy copper voice network in the very area. Supporting two networks where one is not even economical is not justified and represents a potential waste and duplication of taxpayer assistance. Changes to existing law as proposed in LB604 will ensure funding and regulatory obligations are appropriately targeted only to needed areas and that the State is not funding duplicate networks. Conclusion CenturyLink again applauds

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Senator Friesen for putting forward a proactive solution to address the critical needs of citizens and communities lacking sufficient broadband services. CenturyLink strongly supports the concept that the State should encourage continued private investment and aggressive competition between providers. Any initiative to improve rural broadband should be done in a manner that does not unintentionally disrupt or hamper the highly competitive broadband marketplace which today provides 89% of Nebraskans with high speed broadband using virtually all private capital. CenturyLink strongly supports the blended proposal put forward by the NTA which combines aspects of LB388, LB456 and LB604, as well as the needed changes to existing law, which builds on the proposal put forth by Senator Friesen in LB456.

**\*JOHN SKRETTA:** Good morning, Chairman Friesen and members of the Transportation and Telecommunications Committee: My name is Dr. John Skretta and I am the Educational Service Unit 6 Administrator. We are headquartered in Milford in Seward County, and serve 16 public school districts across five counties with 1,300 teachers and over 14,000 students. I am providing this testimony on behalf of Educational Service Unit 6 in support of LB456 sponsored by Senator Friesen, which would create the Nebraska Enhancing Broadband Act. By prioritizing the awarding of \$10 million in competitive grants and loans for unserved and underserved areas, LB456 would ultimately expand digital learning opportunities for Nebraska's k-12 student population by helping to close the opportunity gap that currently exists in parts of our state where broadband options are limited or non-existent. This past year of the COVID-19 pandemic has brought to light the instrumental importance of connectivity and access for all. Educational Service Units like ESU 6 are required to support technology infrastructure to our schools as a core service. During last spring's school closures and with the sudden ramp-up of remote learning delivered via the internet, technology directors in districts and across ESUs realized there remain critical gaps in access and connectivity in parts of our state. It has been said that broadband is the new vital utility. In terms of educational delivery, we agree with this premise and believe broadband internet for all is a chief requirement for ensuring equity in Nebraska education. LB456 marks a long-awaited increased commitment from our state to digital inclusion. The process set forth in the bill would enhance and extend efforts to bring robust internet connectivity across our state. The bill also sets forth key provisions with clarity to ensure that the funds awarded as grants or loans are expended in

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accordance with the legislative intent. These include: • Encouraging providers to work together to better meet the needs of service areas. • Clarifying what constitutes unserved and underserved areas. • Ensuring speed tests as one component of measurable, demonstrable success in establishing a broadband network. • Deliverables: Attaching a pay-back-in-full provision that assures accountability for outcomes in improving broadband. • Oversight: Enlisting the Auditor of Public Accounts so their office is empowered with oversight to ensure that the grants or loans received conform with the intent and requirements of the Nebraska Enhancing Broadband Act. ESU 6 urges your support of LB456 to enhance broadband in Nebraska. We feel this coalesces with key educational priorities in ensuring equitable digital access for all Nebraska's schoolchildren, and we are grateful to Senator Friesen for sponsoring this important legislation.

**GEIST:** Any additional proponents? Are there any opponents to this bill? Those who would like to testify in the neutral capacity?

**LASH CHAFFIN:** I won't even recontaminate the chair, so-- I am neutral for the same reasons I was for the prior bill.

**GEIST:** Thank you. Any additional who would like to testify in the neutral capacity? Seeing none, Senator Friesen, you are welcome to close on your bill. And in that case, let me read the in-lieu-of-person-- of in-person testimony. These are all letters of support from the: Tip O'Neill, representing the Nebraska Telecommunications Association; Eric Gerrard, representing Windstream; John Idoux, representing CenturyLink; and John Skretta, representing Educational Service Unit Number 6. And then position letters, three of support: of the Nebraska Cooperative Council; support from the League of Women Voters; support from AARP-- and neutral from AT&T. And with that, I will close the hearing on LB456.

**FRIESEN:** OK, everyone, and 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 the District 34. I'll begin with a few procedural items. For the safety of our committee members, staff, pages, and the public, we ask those attending our hearings to abide by the following procedures. Due to social distancing requirements, seating in the hearing room is limited. We ask that you only enter the hearing room when it is necessary for you to attend the bill hearing in progress. The bills

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will be taken up in the order posted outside the hearing room. The list will be updated after each hearing to identify which bill is currently being heard. The committee will pause between each bill to allow time for the public to move in and out of the hearing room. We request that you wear a face covering while in the hearing room. Testifiers may remove their face covering during testimony to assist the committee members and transcribers in clearly hearing and understanding the testimony. Pages will sanitize the front table and chairs between testifiers. Public hearings for which attendance reaches seating capacity or near capacity, the entrance door will be monitored by a Sergeant at Arms who will allow people to enter the hearing room based upon seating availability. Persons waiting to enter the hearing room are asked to observe social distancing and wear a face covering while waiting in the hallway or outside the building. The Legislature does not have the ability, due to the HVAC project, of an overflow hearing room for hearings which attract several testifiers and observers. We ask that you please limit or eliminate handouts. Please silence all cell phones, other electronic devices. We will be hearing bills in the order that they're listed on the agenda. Those wishing to testify on a bill should move to the front of the room, be ready to testify. We have set aside an on-deck chair in the front so the next testifier will be ready to go when your turn comes. If you will be testifying, legibly complete one of the green testifier sheets located 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 12 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 name slowly for the record. If you happen to forget to do this, I'll stop your testimony and ask that you do so. Please keep your testimony concise. Try not to repeat what has already been covered. We will use a light system in the committee. Beginning with the green light, you have five minutes for your testimony. The yellow light indicates there's one minute left and when the red light comes on, it's time to wrap up. Those not wishing to testify may sign in on the pink sheet by the door and indicate their support or opposition to a bill. And with that, committee legal counsel, on my right, is Andrew Vinton, and my committee clerk is Sally Schultz, on my left. And the pages today are Samuel and Peyton. Thank you very much for helping us out today. And with that, we'll begin introductions on my right.

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**HUGHES:** Dan Hughes, District 44, ten counties in southwest Nebraska.

**BOSTELMAN:** Bruce Bostelman, District 23. Saunders, Butler, majority of  
Colfax Counties.

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

**DeBOER:** Good afternoon. My name is Wendy DeBoer. I represent  
Bennington and parts of northwest Omaha in District 10.

**MOSER:** Hi. I'm Mike Moser. I represent District 22, which is Platte  
County and a small portion of Stanton and Colfax Counties.

**GEIST:** And with that, we will open on-- with testimony on LB455.  
Senator Friesen, you're welcome to begin.

**FRIESEN:** It's kind of a Friesen day at the Legislature. I just did  
this so that Senator Hughes could-- make sure you're able to  
participate. Good afternoon, Vice Chair Geist and 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 here today to introduce LB455, the Broadband Pole  
Attachment Act. I believe this bill will remove a major obstacle to  
broadband deployment, especially in rural areas. Broadband cables can  
be attached to utility poles just like telephone or electrical wire.  
In many parts of the states, add-- adding the broadband wires to  
established utility pole routes is the quickest, most cost-effective  
way to get broadband service to an area. However, broadband providers  
currently must get permission from utility pole owners to use poles,  
pay for modifications, and even replace entire poles if they lack  
capacity or have reached the end of their lifespans. This happens even  
when the pole is old, damaged, or needed to be replaced anyway. LB455  
would set up a framework for pole attachment agreements between  
electric utilities and broadband service providers to fairly allocate  
the pole replacement and modification costs between pole owners and  
broadband providers. Under this act, a broadband provider that wants  
to attach a pole-- to a pole would still be responsible for  
incremental cost caused by the attachment. The act will help prevent  
situations where the pole owner puts the entire burden of replacing an  
older, damaged pole on the broadband provider. The bill would also  
allow the Public Service Commission to quickly resolve disputes  
between pole owners and broadband providers. This will help cut red

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tape and speed up the broadband deployment in unserved and underserved areas of the state. And I-- you know, we've gone through it. We've-- there will be some changes to the bill. And I'm going to listen to the testimony. I'm willing to work with the parties involved to try and come up with a bill that works for everybody. We're not trying to single anybody out, but we do want to-- we do want to make it a better bill. We think there needs to be uniformity throughout the state. So with that, I'd be open to any questions.

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

**MOSER:** Senator Friesen, is this in any way similar to the bill we had-- was it a year ago or so-- that allowed them to put certain size boxes on poles and limited the negotiating power of the cities and the utilities on their right-of-way?

**FRIESEN:** This would be a little different. Those were-- mostly would have been located in the urban areas. This here is-- is meant for more on the rural areas, but it's also in some urban areas. But it's a little bit different. There won't be necessarily boxes or anything like that, or antennas. This is just hanging a cable.

**MOSER:** OK, thank you.

**GEIST:** Any additional questions? Senator Bostelman.

**BOSTELMAN:** Thank you. How-- I want to go back to-- we'll go back to marking utilities on the ground where we ran into an issue in a city here not long ago where there was a number of requests in for a large area, but the thing was, was by the time they got to that area that was marked, they had to be remarked again. And I'm-- and what I'm asking about is the-- in there-- is there something in here that gives a-- if-- if they request a huge area to be-- to be adjusted, or whatever needs to be done for the small cell for the-- whatever device to be put on there, that there's enough time to respond to that. It isn't such a large request that the utility just can't do it because there's not enough time and the window is not big enough for that to happen.

**FRIESEN:** Right. In the small cell bill, I think that was a little bit bigger deal because of some of the antennas and the boxes that needed



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to be mounted. Here, I'm sure each pole will have to be looked at in a way, but I think we're leaving them enough time. But again, I'm open to testimony to--

**BOSTELMAN:** Well, that's-- if they come in and say, we've got these 100 poles we want you to replace--

**FRIESEN:** Well, it's--

**BOSTELMAN:** --that may not be-- that-- see, that's where I'm getting at, is that there's a reasonable amount of time that--

**FRIESEN:** Again, I-- I-- I don't envision that all these poles will be replaced; otherwise, they probably should have been replaced anyway. But if that's the case, I'm-- I'm open to having a discussion on-- you know, if we're starting to replace a thousand poles to get fiber hung on them, we have an issue, yes.

**BOSTELMAN:** Well, I-- I-- well, I will wait until some of the-- of our electric utilities come up because my-- it kind of comes under another portion here where if they have a pole up that they've engineered to hold the power lines that they have on there, but now we're going to add more weight onto it or whatever, now this pole may be just fine for quite a number of years, but now they're going to have to replace it at-- at pretty much all their own costs on it. That doesn't seem to be-- they shouldn't have to bear costs at all because that-- that pole is doing what it's supposed to do. This is an add-on.

**FRIESEN:** It depends on what kind of lifespan is left in that pole. I mean, there's a lot of areas here where, yeah, if it's a new pole and has its whole lifespan ahead of it, I think the burden should lie more heavily on the broadband provider. But if it's depreciated out 25 years and half its lifespan is gone, I think that cost should be shared. I'm not even saying one or the other should pay at all. We have to work out an agreement to where it's a fair distribution of cost. But I also don't think a broadband provider should have to pay for a total cost of a pole replacement when it's been there 50 years and it's reached the end of its lifespan.

**BOSTELMAN:** But if it wasn't going to be replaced, only because they're putting that up there, I guess that's the question I have.

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**FRIESEN:** I mean, I-- that's a question you can ask them about how much weight and stuff this adds to it. But I've-- I've said in the past, when I was with the city of Henderson, our system was align-- allowed to deteriorate so badly we had poles falling over in the wind. If poles are that bad that you can't add a fiberoptic cable to them, then I'd say you have some other issues besides just the weight of that fiber cable. But that's just my perspective. We'll let engineers answer that.

**GEIST:** All right.

**BOSTELMAN:** Thank you.

**GEIST:** Any additional questions from the committee? I see none. I know you're planning to stick around to close. All right. The proponents, please. Good afternoon.

**JIM GROTRIAN:** Good afternoon, Vice Chairman Geist and members of the Transportation and Telecommunications Committee. My name is Jim Grotrian, spelled J-i-m G-r-o-t-r-i-a-n. I'm the registered-- I'm a registered lobbyist for Charter Communications and I'm also testifying in support of LB455 on behalf of the Nebraska Internet and Televis-- Television Association. The Nebraska Internet and Television Association's mission is to promote and represent the cable industry in Nebraska with the goal of connecting every corner of the state. NITA's member companies provide high-speed Internet, television, and digital voice to 536,000 Nebraska households and businesses while employing more than 1,500 people. As the COVID-19 pandemic, as we all know, has made access to high-speed Internet more important than ever, we remain steadfast in our commitment to connecting Nebraska's families, farmers and ranchers and anyone else currently living on the wrong side of the digital divide. The legislation we are here to discuss today represents a fundamental step forward to improving and streamlining our work to expand broadband access to where it's needed most, namely the most rural portions of Nebraska. LB455 directly addresses existing inefficiencies and burdensome costs that slow down the buildout of broadband infrastructure. If passed, LB455 will cut down on the time currently required to fit utility poles with broadband equipment and share fair rates for gaining access to utility poles and create a more level playing field for broadband providers to make capital investments in Nebraska's broadband landscape. First, please me allow-- please allow me to provide some background on the

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current system for outfitting utility poles with broadband attachments. During what we in the industry call make-ready work, which is the process through which broadband providers gain access to utility poles and attach cables and other equipment to deliver broadband services, there exists a number of barriers to entry. When utility poles do not have the capacity for additional equipment, are damaged, or are past their useful life, as Senator Friesen was describing, the pole owners can require broadband providers to bear the entire cost of replacing the pole. In rural areas, the way a broadband provider must attach to multiple poles to serve a single farm or ranch, the costs associated with replacing poles can be an overwhelming obstacle to deploying broadband infrastructure. I want to emphasize that broadband providers stand ready to pay our fair share, but we need reasonable, consistent rules to ensure that pole replacement costs are divided in a way that reflects the value of pole replacement to pole owners and pole attachers alike. Without this change, we risk depleting limited resources, including taxpayer funds that could be forced to close-- on closing the digital divide. The bill also establishes uniform, predictable timelines for permitting and making-- make-ready work and authorize the Public Service Commission to resolve disputes between the parties on pole attachment agreements. In its 2021 development-- Deployment Report, the FCC estimated that 71,000 Nebraskans lack access to broadband; however, we all recognize that the number of Nebraskans who fall on the wrong side of the digital divide is much higher. Access to higher-speed Internet is no longer a luxury. It is a necessity for people of all ages, backgrounds, and professions to have equal opportunity and pathways to success. That is why we are here today to advance and to advocate, hopefully, for LB455 and the immense promise it offers for making broadband access in every corner of Nebraska reality. I respectfully encourage members of this committee to support this critical legislation, to close the digital divide for all Americans. I want to thank Chairman Friesen for his commitment to this important cause and be happy to answer any questions.

**GEIST:** Thank you for your testimony, Mr. Grotrian. Are there some questions from the committee? Senator Bostelman.

**BOSTELMAN:** Thank you, Chairwoman Geist. What are you attaching to poles? What exactly are you attaching, Mr. Grotrian?

**JIM GROTRIAN:** What-- what--

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**BOSTELMAN:** What are you attaching to poles?

**JIM GROTRIAN:** What are you attaching to the poles?

**BOSTELMAN:** What are-- what are-- what are you attaching to the poles  
[INAUDIBLE]

**JIM GROTRIAN:** Fiber, different pieces of equipment. To go back to your question that you asked earlier, I don't know the specifics in terms of the weight and some other things at that point.

**BOSTELMAN:** Yeah, I-- I guess my question goes, is it a fiber line, is it a cable line, or is it a transmitter, whatever, for wireless communication?

**JIM GROTRIAN:** I think the majority of it is just hanging from it. It's hanging, fiber itself, but in terms of the specifics over a stretch of time, we have to get you a better answer.

**BOSTELMAN:** OK, thank you.

**JIM GROTRIAN:** Yeah.

**GEIST:** Any additional questions? Yes, Senator Hughes.

**HUGHES:** Yes, thank you for coming today. So are-- is Charter currently hanging fiber from any--

**JIM GROTRIAN:** Yes.

**HUGHES:** --poles in your territory?

**JIM GROTRIAN:** Yes.

**HUGHES:** Where? Just ballpark.

**JIM GROTRIAN:** We're in communities all across the state and-- for example, fi-- Charter was-- I'll give you an example of a recent project we had. Charter was a recipient of one of the economic development broadband grants this last year, which had a pretty aggressive timeline, and that was to go and provide service in the community of Brule. And as a result of the assessment, the time it was taking them to do the due diligence on the poles themselves, and in order to meet that aggressive timeline and have the project done and

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deployed by the end of the year, they had to make a conscious decision to be able to actually go underground because the hanging on the poles, which had been the recent example, would have been time prohibitive in order to meet the demands of that particular grant. Besides the specific projects that are out there, once again, I'd have to let you know.

**HUGHES:** So I-- what was the community you worked at?

**JIM GROTRIAN:** Brule.

**HUGHES:** Brule.

**JIM GROTRIAN:** Yeah, that was--

**HUGHES:** OK, very good.

**JIM GROTRIAN:** --one grant.

**HUGHES:** Right. But you did-- you went underground [INAUDIBLE]

**JIM GROTRIAN:** We had to go underground to be able to meet the timeline for that grant; otherwise, we would have hung the post, hung the equipment and fiber on those particular poles.

**HUGHES:** So who was the-- was it the village that owned the poles or was NPPD?

**JIM GROTRIAN:** No, it was a power company.

**HUGHES:** OK. A local power company?

**JIM GROTRIAN:** NPPD.

**HUGHES:** OK. OK, very good. Thank you.

**GEIST:** Any additional questions? Yes, Senator Moser.

**MOSER:** That kind of stole my question in a little bit-- in a way. But isn't it possible to knife in those cables underground when-- if the poles are going to be too expensive to replace? I mean, poles, I don't know what they cost. They're 500 bucks apiece, I think. The last time--

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**JIM GROTRIAN:** Right now--

**MOSER:** --we bought them for--

**JIM GROTRIAN:** Right now, our estimate is, if you're going to hang your equipment, it's approximately \$35,000 a mile. If you are going to bore and go underground, it's approximately \$55,000 to go underground. So that's about the cost of a particular project. So if you have to go underground, it's about a \$20,000 spread on the average between the two options. So the option usually is, of course, in rural areas in particular, poles are usually always the best option and to be able to keep cost down for the consumer at the end.

**MOSER:** How deep do you have to bore those cables in?

**JIM GROTRIAN:** I don't know off the top of my head.

**MOSER:** OK. Thank you.

**JIM GROTRIAN:** Yep.

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

**BOSTELMAN:** Thank you. When they-- when they're hanging on poles, you're-- the people who do this, how close-- how far up the pole-- how close are they to the energized lines?

**JIM GROTRIAN:** They're-- they're-- they're always the lowest hanging piece of equipment. In terms of distance, I think they're-- they're way below and in compliance with safety standards.

**BOSTELMAN:** OK, because that's my question is, then are they-- are they certified linesmen, license linesmen, certified linesmen? You know, they're by-- you know if they're by a three-phase line, a high-voltage line or otherwise, they're up in that area, that it's potentially dangerous, so it's kind of what training they have to-- to be in that area around those energized lines.

**JIM GROTRIAN:** I don't know what the training requirements are of-- of the folks that are climbing poles.

**BOSTELMAN:** OK.

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**JIM GROTRIAN:** I know a lot about pole climbing certifications and training because I used to work at a community college that provided that training and I'm not quite for sure of the qualifications required for those individuals.

**BOSTELMAN:** OK. Thank you.

**GEIST:** I have a question for you. Can you talk to me about reliability when you have fiber on a pole versus fiber underground?

**JIM GROTRIAN:** My understanding is it's really not much different. That's why it's a common practice and it's the preferred-- it's the preferred practice, particularly in the rural areas.

**GEIST:** OK.

**JIM GROTRIAN:** Most people don't realize how many things are hanging in the air and how much fiber is actually above ground across this country, particularly in the cities where you can't dig. It's-- it's a lot.

**GEIST:** OK, thank you. Any additional questions from the committee? Seeing none, thank you for your testimony. The next proponent. And while the chair is being tidied, I will let you know that Senators Albrecht and Cavanaugh have arrived and are there. I'm a little late on and letting the audience know that. Thank you. Welcome.

**TIP O'NEILL:** Hello, Senator Geist.

**GEIST:** How are you?

**TIP O'NEILL:** Members of the committee, my name is Tip O'Neill. I'm president of the Nebraska Telecommunications Association. We are a trade association that represents many companies that provide landline, voice, and--

**GEIST:** Mr. O'Neill, could you spell your name, please?

**TIP O'NEILL:** Oh, T-i-p O-'-N-e-i-l-l. Sorry.

**GEIST:** No problem.

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**TIP O'NEILL:** And we provide landline and voice and broadband telecommunications services to Nebraskans across the state. The NTA is in support of LB455. In our opinion, LB455 creates equity in the treatment of all attachments, whether the poles are owned by private companies or by public electric utilities. As members of the NTA explore options to deploy broadband and extend the reach of advanced networks to additional users, the use of aerial deployment of fiber may be more economical than burying the fiber. LB455 creates uniformity for the deployment of aerial fiber and provides a mechanism with the Nebraska Public Service Commission for resolving disputes when agreements cannot be reached by interested parties. Making electric utilities in Nebraska subject to the same FCC regulations for pole attachment agreements as private companies will provide standardization and appropriate protections for all parties to the agreements. We would ask the committee to advance LB455 to General File. I'd be happy to answer any questions.

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

**ALBRECHT:** Thank you, Vice Chair Geist. I knew you could answer these questions. You have so much background. OK, so you're saying that if you can't come to terms with-- on a price, then the Public Service Commission will look to the federal guidelines of what should be paid or what--

**TIP O'NEILL:** It-- it-- it may not be the price. It may be other terms of the agreement. It-- it could be price, but-- but it would be--

**ALBRECHT:** But like who's going to have the liability?

**TIP O'NEILL:** --the Public Service Commission that would resolve that dispute.

**ALBRECHT:** OK, so they'd take it to them. But what would the cost to get on a pole that's fairly new, what would they-- what would a city or electric company or what would--

**TIP O'NEILL:** I would have to get that information for you, Senator. I-- I don't know the answer to that.

**ALBRECHT:** OK. Darn.



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**TIP O'NEILL:** Yeah.

**ALBRECHT:** I thought you would know. Thank you.

**TIP O'NEILL:** Um-hum.

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

**TIP O'NEILL:** Thank you, Senators.

**GEIST:** --thank you for your testimony. Any additional proponents?  
Welcome.

**NICOLE FOX:** Good afternoon, Vice Chairman Geist and members of the Transportation and Telecommunications Committee. I'm Nicole Fox, N-i-c-o-l-e F-o-x, and I'm director of government relations for the Platte Institute. I'm here to testify today in support of LB455. As we all know, the COVID pandemic brought about a lot of differences in our state when it comes to connectivity with broadband service. Nebraskans found themselves having to pivot in terms of how they went about their daily lives. They went-- they transitioned to working from home as students transitioned to learning remotely, and people even transitioned to accessing healthcare through telehealth. And those with good connectivity easily adapted to this new way of life. In fact, when they were done with work and school and potentially a doctor's visit, they also jumped online and ordered groceries and personal supplies. And some of them even participated in Zoom meetings with friends and family members. But when you spoke to Nebraskans lacking the connectivity, it was a different story. Their ability to work from home was limited. Their kids didn't receive an education for several months. Hopping online to purchase groceries and personal supplies-- supplies was not an option; neither were the Zoom gatherings with friends and family. Connectivity is important to Nebraska's largest industry: agriculture. It's important for them to be able to do things such as increase their yields. Connectivity is also very important to Nebraska's small businesses because they're trying to become more efficient, save on overhead costs, grow their businesses. While there are a lot of components to consider in improving connectivity, this bill, LB455, is an important step to help get us there. It creates the Broadband Pole Attachment Act-- Act to address one of the largest impediments to deploying broadband infrastructure in rural and underserved areas. Unlike suburban parts

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of our state, where there are what we call the "dig once" approaches that are taken mutually by utility and telecommunications companies, in rural areas, access to utility poles is needed to mount their broadband cables. Currently, broadband providers must first gain permission from the pole owners, pay for the needed modifications, and then even replace entire poles if they lack the capacity or have reached the end of their lifespan. These requirements both create inefficiencies and cost. This is especially burdensome in remote areas where miles of infrastructure might be needed just to reach one single house or farm. LB455 would remove these regulatory and financial barriers. It would ensure that fitting utility poles with broadband infrastructure can be completed quickly and with reasonable and fair cost for the services provided. The Platte Institute asked that this committee advance LB455 to General File. And with that, I'm happy to take any questions.

**GEIST:** Thank you for your testimony, Ms. Fox. Are there any questions from the committee? Seeing none, appreciate it. The next proponent.

**BURKE BROWN:** Good afternoon.

**GEIST:** Good afternoon.

**BURKE BROWN:** Thank you. Senator Friesen and members of the committee, I am Burke Brown, spelled B-u-r-k-e B-r-o-w-n. I'm the technology coordinator at School District OR-1 in Palmyra, and I live in Bennet. I am speaking today on behalf of the Nebraska State Education Association as a member of its board of directors and chair of the Broadband Technology Committee. The mission of our committee is to search for solutions in closing the state's technology gap that has widened by a growing, more critical broadband deficit. I'm here today in support of LB455. As NSEA serves nearly 28,000 members across Nebraska, we believe encouraging public-private partnerships is essential in bringing affordable, reliable broadband to all Nebraska students, teachers, citizens, and business. Further, we believe that facilitating pole attachment agreements is foundational in closing that broadband gap. I first share a story of cooperation enjoyed this past fall in Arlington, Nebraska by fellow teacher and Arlington Village Board member Jason Wiese. He shared that Charter Communication and OPPD came together to strengthen Arlington's broadband infrastructure. Even though they were not able to be funded by the first round of federal CARES funding, Mr. Wiese is confident

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that the cooperation and agreement utilizing OPPD poles for Charter Communications fiber will result in future efforts to serve Arlington's growing Internet needs. Next, I share a District OR-1's project last year to bury fiber in my school, from my high school to our recently built athletic facility. With the help of private donations, we were able to bury the fiber between the two facilities. I was truly shocked, though, at how the challenges and the processes to bury the fiber within the village was. And our school district enjoys a very friendly relationship with our village leaders. Without the financial gifts and that village relationship, burying the cable would not have been an option, even though in reflection, the-- with this experience has left me with the thought that additional costs and physical challenges of burying fiber will lead me next time to first look at utilizing poles and aerial fiber. In closing, NSEA believes LB455 effectively addresses an important agreement require-- agreements requirements for success as it addresses charged rates and fees, easements, and creates the opportunity necessary for building digital infrastructure. Moreover, NSEA believes we must ensure that no Nebraskan is prevented from accessing 21st-century tools and opportunities due to the lack of broadband Internet. The NSEA encourages the Legislature to consider ways to continue to clear barriers to broadband deployment in-- in unserved and underserved areas like those put forward in LB455. The bill establishes a more transparent, cost-efficient process to speed deployment of broadband infrastructure in Nebraska. Most importantly, this bill will help realize the goal of closing the broadband gap for all Nebraskans. Thank you. I'd be happy to entertain any questions.

**GEIST:** Thank you for your testimony, Mr. Brown.

**BURKE BROWN:** Thank you.

**GEIST:** Any questions from the committee?

**BURKE BROWN:** Yes, sir.

**GEIST:** Yes, Senator Hughes.

**HUGHES:** Yes, thank you, Mr. Brown. So how far was it between the high school and the-- and the new--

**BURKE BROWN:** It's approximately three-and-a-half city blocks.

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**HUGHES:** OK, so there was-- it wasn't all school property between the two.

**BURKE BROWN:** No, it wasn't, and we had-- and that was where I was shocked at how difficult it is to get from here to there in-- in just a short period of time--

**HUGHES:** OK, thank you.

**BURKE BROWN:** --or a short distance and-- thank you.

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

**BURKE BROWN:** Awesome.

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

**BURKE BROWN:** Thank you so much.

**GEIST:** Any additional proponents?

**\*BOB HALLSTROM:** Chairman Friesen, members of the Transportation and Telecommunications Committee, my name is Bob Hallstrom and I submit this testimony as registered lobbyist for the Nebraska Bankers Association (NBA) in support of LB455. Probably, the single most important communications issue which surfaced during the pandemic last year was the lack of adequate speed of broadband coverage throughout the state. Every single industry and schools were impacted, including the financial services industry. When banking facilities were required to work remotely, with part of the staff working from home and part of the staff working at the bank, many banking staff learned that there was insufficient broadband services available to work from home. One of the things the NBA learned in visiting with its members concerning the adequacy of broadband services in rural Nebraska was that a great deal of infrastructure needs to be installed in order to provide speed-efficient broadband. LB455 will go a significant way to help piece together a solid framework of broadband services throughout the state. Specifically, as it relates to LB455, utility poles represent the backbone in establishing a solid framework of broadband services in rural Nebraska. We understand when broadband service providers desire to extend their services into municipal and rural areas alike, those providers must first get permission and permits from the owners of the utility poles. Fees are charged by the utility pole owners for

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attaching to the poles, but we also understand some utility pole owners place the entire cost of upgrading or replacing utility poles on broadband providers. We also understand that in some instances, utility poles which still have a useful life are being required to be replaced at the full expense and cost of broadband providers. By placing the entire cost of the replacement of utility poles on the broadband providers, the cost to deploy broadband in rural areas is unnecessarily increased. We believe LB455 addresses the inequity caused by this practice and would assist in deploying high-speed broadband in rural parts of Nebraska. The legislation would put in place fair rules to make sure pole owners are fairly compensated, without reaping a windfall at the expense of connecting more rural homes, businesses, and schools. In conclusion, we believe that by adopting LB455, broadband deployment costs would be significantly reduced, and more rural areas would gain access to reliable, high-speed broadband. We ask that the Committee advance LB455 to General File for consideration by the full legislature.

**\*JOHN IDOUX:** Thank you Chairman Friesen and members of the Committee. My name is John Idoux and I am CenturyLink's Director of Governmental Affairs. As a leading national rural telecommunications provider with significant operations and employees in Nebraska, CenturyLink has made substantial investments in the state and has a significant number of customers. I appreciate this opportunity to express CenturyLink's general support of LB 455 and explain where modifications may be warranted to remain consistent with established pole attachment policies. CenturyLink Introduction CenturyLink has provided communications services in Nebraska under various names since 1911 and today provides critical connections to businesses and residents across the state, from Omaha to Scottsbluff, and from Valentine to McCook. In 2020, CenturyLink announced plans to change its corporate identity to Lumen Technologies and the transition to Lumen is currently underway. Lumen is guided by our belief that humanity is at its best when technology advances the way we live and work. With approximately 450,000 route fiber miles and serving customers in more than 60 countries, Lumen delivers the fastest, most secure platform for applications and data to help businesses, government and communities deliver amazing experiences. In Nebraska, CenturyLink serves larger communities such as Omaha, Grand Island, Scottsbluff, North Platte, and Norfolk but also more than 20 communities with fewer than 1000 residents. CenturyLink maintains a significant Nebraska workforce, has

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more than \$1.7 billion in network investment and made more than \$70 million in new infrastructure investments in 2020. CenturyLink also has deployed more than 7500 route miles of long-haul fiber throughout Nebraska. Pole Attachments Encourage Broadband Deployment CenturyLink's certificated service territory covers nearly 20,000 square miles of Nebraska. CenturyLink owns a significant number of poles while also leasing space on a significant number of poles from other pole owners throughout Nebraska. CenturyLink also buries portions of its network infrastructure. From a cost perspective, aerial placement of broadband facilities, in most cases, is significantly less costly than buried facility placement. As broadband service providers continue to explore creative solutions to extend the reach of advanced networks and provide broadband services to additional residents and businesses, the use of aerial placement of network infrastructure will increase. Depending upon other cost components of a broadband deployment project, burying the network may be uneconomical and unless aerial placement is an option the broadband project may not be pursued. LB455 Proposes Widely Accepted Policies for Uniform Application LB455 generally proposes industry standard provisions and protections regarding access to power poles for the purpose of attaching broadband facilities. These proposed provisions standardize critical aspects of pole attachment policies across the state and allows for uniform application by the dozens of public power agencies as well as the dozens of wired broadband facility providers operating throughout Nebraska. LB 455 in no way reduces, modifies, or eliminates any critical safety safeguards or engineering requirements as the bill envisions consistent applications with the National Electrical Safety Code. The provisions of LB455 are warranted given the unique structure of power companies in Nebraska. In all other states, pole attachment policies and rules established by the Federal Communications Commission (FCC) as authorized by Congress would apply to most pole owners including most telephone, cable and power companies. However, FCC regulations do not equally apply to cooperatives or public power companies. Consequently, due to the unique structure in Nebraska, the FCC's pole attachment rules do not apply to power companies in the state. Consistency with FCC Guidance Without Conflict or Tension CenturyLink supports advancing a bill that is fully consistent with FCC guidelines without conflict or tension. One area where LB 455 may not be fully consistent with existing FCC rulings, or otherwise in tension with established precedent, relates to the net book provisions contained within Section 3 (page 3, lines

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11-20). Specific to those provisions, the FCC recently reiterated that these types of provisions may not be fully consistent with prior guidance. As such, CenturyLink encourages continued dialogue, and a reconciliation may be warranted as the bill advances. Conclusion CenturyLink supports the concepts proposed in LB455 and encourages the Committee to advance a bill in a manner that is fully consistent with established FCC guidance as described above.

**GEIST:** OK, we will move to opponents.

**JAMES DUKESHERER:** Good afternoon, committee members. My name is James Dukesherer, J-a-m-e-s D-u-k-e-s-h-e-r-e-r. I'm the interim director of government relations for the Nebraska Rural Electric Association. I'm testifying today in opposition to LB455. Our association represents 34 rural public power districts and electric cooperatives across the state. Together, the more than 1,000 dedicated employees of our system serves about 240,000 meters across 87,000 miles of line. What-- what you have in front of you and what they're handing out is testimony of one of our members, Dawson Public Power District. They planned to testify today, but due to the weather, they were not-- unable to make it, so I handed it to you. I would summarize that their testimony is one where a power district worked with a telecommunications company on a project that interconnected the power district's substations with fiber. The fiber company paid the cost of deploying the fiber. The power company paid the cost to interconnect their substations. Dawson PPD required that the company follow their pole attachment agreement's rules but did not charge for the pole attachments. The Internet provider could then obtain their own easements, and they use the newly deployed fiber to connect to the-- more customers with-- with the Internet. The point of the example is to show to the committee that the mandates in LB455 are not needed. Rural power districts don't need the Public Service Commission or the Federal Communications Commission to regulate their pole attachments. In fact, throughout our history, the federal government has recognized that rural public power districts and electric cooperatives should not fall under FCC regulation strictly because our-- our rural members have an interest in partnering with telecommunication companies to bring better technologies to their areas. The FCC has recognized that our elected board members are closest to the issue, and because they live and work in the targeted areas, they have a direct interest in making sure that these agreements work. Basically, I'm summarizing that local control is best. Broadband deployment across rural Nebraska will be achieved--

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will be achieved not through increased regulation, but by removing it. Projects, like the one in front of you with Dawson Public Power District, they should be encouraged by removing red tape. Removing a local utility's decision-making authority for pole attachments, replacing it with mandates included in-- in LB455, that removes that local authority. I thank you for your time and I'd be happy to take any questions.

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

**BOSTELMAN:** Thank you. Can you tell me how many of the districts that you represent actually have a request currently to have-- for pole attachments?

**JAMES DUKESHERER:** I-- I could not.

**BOSTELMAN:** Do you think there's a lot? Do you think there's a few?

**JAMES DUKESHERER:** I think there's--

**BOSTELMAN:** Just trying to gauge, you know, what the-- what the, I guess, the demand is for pole attachments.

**JAMES DUKESHERER:** I'll tell you, I-- I don't think there's a lot. I think there's a few. I'll also tell you, regarding this issue specifically, this is not an issue that we at NREA hear a lot about from our memberships. Rural public power providers, again, have an interest in having-- having this communications equipment come up, and we don't hear often from them that they're getting into arguments about pole attachment fees. I would say that in terms of bringing broadband to rural Nebraska, the real issues that are out there that are hindering broadband development, pole attachment fees is probably very far down the list on-- on reasons why we're not seeing more development in rural Nebraska, again, because these rural members, they want to get this in their area.

**BOSTELMAN:** So--

**JAMES DUKESHERER:** And in the example in front of you, you've got an example where they didn't charge at all for that.



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**BOSTELMAN:** So with the Dawson example here, was that-- did they do that outside of the city limits or is that just inside town, inside the city limits?

**JAMES DUKESHERER:** That is outside city limits.

**BOSTELMAN:** And this was to attach to poles over-- to run it down the poles, not bury.

**JAMES DUKESHERER:** Yeah.

**BOSTELMAN:** Right?

**JAMES DUKESHERER:** It was a bit of a combination of both. So Dawson, and I'll summarize a little bit, I think they have about 40 substations in their service territory across a rural area, and they wanted to develop a ring through those 40 substations. In cases where there would have been a need to replace the poles, the company buried the fiber; in cases where they didn't, they hung it.

**BOSTELMAN:** And those poles probably were set on a schedule for replacement, potentially?

**JAMES DUKESHERER:** Not-- not exactly. Our power districts, they do-- they test their poles from time to time and make sure that they're in compliance, and we have a very strong record in Nebraska for reliable electric service. In fact, recently we were-- we were listed as number-one most reliable state in the whole country. So we don't have this case where our poles are old and they're falling down. We maintain our infrastructure. So they did-- I'm-- well, I guess I'll just leave it with that, so.

**BOSTELMAN:** OK, thank you.

**GEIST:** Yes, Senator Hughes.

**HUGHES:** Yes, thank you, Mr. Dukesherer, for coming today. So you said you had 36, 37 NREAs in your group?

**JAMES DUKESHERER:** 34.

**HUGHES:** Thirty-four, OK, sorry. So of those 34, most of them are going to want to have fiber to their substations for obvious reasons. So are

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most of them hanging cable or are they going wireless or are they--  
are they burying fiber?

**JAMES DUKESHERER:** As was testified earlier, most of them aren't doing  
anything right now. They're looking into it. They want this ability.  
They want to connect their substations, but it would be cheaper to  
hang rather than to bury the fiber.

**HUGHES:** So if they were-- you know, if it was good for them, the-- the  
company, the NREA, and they are their customers, why is it not good  
for their customers to do the same thing?

**JAMES DUKESHERER:** I'm sorry, I don't follow.

**HUGHES:** Well, if it's good for the local NREA to-- to hang it from  
their poles so they can connect to their substation and the local NREA  
is owned by the ratepayers, if it's good for one, it should-- one  
group, it should be good for the whole group.

**JAMES DUKESHERER:** Yeah, I guess I-- NREA is not in any way opposed  
to-- to hanging infrastructure on our poles. The issue is whether or  
not the pole can handle the weight and-- and whether or not it would  
require, you know, new replacement of poles and that sort of thing.  
That's the issue. If the pole can't handle the weight and the cost of  
the new infrastructure is needed, that cost should be borne by the  
Internet providers. As-- as was said earlier in the te-- by Senator  
Bostelman, this would be a new cost that the pole was not designed for  
and was not engineered for.

**HUGHES:** OK, thank you.

**GEIST:** Any additional questions? Yes, Senator Moser.

**MOSER:** So at the current time, the power companies are kind of the  
master of their own universe. They own their poles. They decide what  
can be added or-- or the rules for attaching to their poles. This  
would shift-- this bill would shift the decision making away from the  
utility trying to negotiate this with the Internet companies and send  
it to the Public Service Commission?

**JAMES DUKESHERER:** In-- in some ways, it would shift it to the Public  
Service Commission. In other ways, the bill says we'd fall under FCC

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regulation, so it would take that decision away from the local boards  
and put it in the hands of those other entities.

**MOSER:** And you think that some costs could be transferred to your  
ratepayers?

**JAMES DUKESHERER:** Absolutely.

**MOSER:** Thank you.

**GEIST:** Any additional questions? Seeing none, thank you for your  
testimony. Is there any other opponents? Good afternoon.

**PATRICK HANRAHAN:** Good afternoon. Senator Friesen, Senator Geist,  
members of the committee, my name is Patrick Hanrahan, P-a-t-r-i-c-k  
H-a-n-r-a-h-a-n, and I'm the general manager for retail services at  
Nebraska Public Power District. NPPD serves all part of 86 counties in  
Nebraska. And as evidenced over the-- the events of the past year,  
access to broadband service in Nebraska is critical for economic  
development, healthcare, education, and precision agriculture, to name  
a few. NPPD is fully supportive of expanding broadband deployment  
efforts in Nebraska. We have and always will allow for pole  
attachments in a fair, reasonable, and nondiscriminatory manner. And  
NPPD has joint-use pole attachment agreements with 28 communication  
providers across the state in our service territories. And I've  
provided a few examples in the handouts of-- of what some of those  
look like in our communities. In 2020, NPPD received an exponential  
increase in requests from previous years for pole attachments. We made  
significant adjustments to our pole attachment request and review  
process, and we worked closely with the communication providers to  
identify best practices, streamline processes, and improve application  
response times. As the electric system owner and operator in our  
service areas, NPPD is responsible for the safety, integrity, and  
reliability of our infrastructure, which extends and includes all the  
pole attachments on our poles. NPPD strives to accommodate all pole--  
all joint-use attachment requests and considers the needs of attaching  
entities when making pole investment decisions. However, there are  
practical and physical limitations to the amount of communications  
equipment that can be accommodated safely on any particular pole. When  
make-ready work is identified to accommodate a new attachment, public  
power utilities must have the ability to recover our capital costs  
from the cost causer. This is consistent with how we allocate costs

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for all extensions, additions, upgrades and attachments to our electric system infrastructure. One example that was spoke-- spoken to earlier, of the 60 CARES Act funding awards in 2020, 8 of those were in NPPD's service territory communities. Of those eight, six of the awarded CARES Act, we-- we were able to accommodate the pole attachments for. Two of the entities, through discussion, elected to install differently, go underground, simply due to the timeline. They were not denied access to the poles. Of particular concern in LB455 is the provision for making electric utility easements available to communication providers and requiring electric utilities to obtain expansions of easements to accommodate communication services. Each entity that owns infrastructure should be required to obtain their own easements. Also, NPPD cannot use eminent domain to condemn private property easement-- for easement purposes outside of our necessary electric operations. NPPD is also concerned with the provision in LB455 that will allow the Public Service Commission to rule on and determine the terms and conditions for individual, specific pole attachment agreements. NPPD offers a standard-use pole attachment agreement that provides fair, reasonable, and nondiscriminatory access for all communication providers. Each agreement is ratified by NPPD Board of Directors. Injecting the Public Service Commission into the pole attachment agreement process could result in different terms and conditions for different communication providers, which would not meet the standard for fair, reasonable, and nondiscriminatory access. NPPD and public power utilities in Nebraska work closely with their communication providers to best accommodate joint-use attachments while maintaining a safe and reliable electric energy supply system. We will continue to work with communication providers to identify mutually beneficial solutions. LB455 will create unnecessary and unfair cost shifts that result in subsidizing private, for-profit, competitive services at the expense of our public power ratepayers. Costs that are appropriately allocated to telecom consumers should continue to be allocated as such. NPPD opposes shifting the costs of private companies onto the electric ratepayers of the state. Thank you, and I'd be happy to answer any questions.

**GEIST:** I do have a couple of questions for you. Maybe you're the one to ask and maybe not, so we'll find out. We were talking earlier about the weight-bearing allowance for the poles. Can you talk a little bit, if you know, about how poles are engineered differently to bear the weight and-- and what's typical for your electric poles?

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**PATRICK HANRAHAN:** Absolutely, Senator. I can speak to how NPPD approaches that--

**GEIST:** OK.

**PATRICK HANRAHAN:** --especially on our distribution system. So when we look at a pole design, we know that there's going to be interest in attachment to that pole. And so we're subject to the NESC, the National Electric Safety Code, rules and guidelines too. Those have the safety factors built in for wind and ice loading, for safety factors in the district that we're in, which is heavy loading districts. So we'll design that pole to accommodate what's there today. And-- and if we know that there's-- there's a high probability of something else coming onto the pole, we'll design that pole to somewhere around 60 to 70 percent of its maximum capacity. So there's extra capacity on there, and you can see from some of the pictures how many entities were able to accommodate on those poles. So does-- does that answer your question, Senator Geist?

**GEIST:** It does. And then I'm thinking, if you have engineering for that, there also has to be an element of liability. So I-- let's just assume that this bill would pass. Where would the liability lie if a pole fails?

**PATRICK HANRAHAN:** Liability is always with the pole owner and operator, so.

**GEIST:** So that always will lie on public power--

**PATRICK HANRAHAN:** Well--

**GEIST:** --or whoever owns the pole?

**PATRICK HANRAHAN:** Whoever owns and operates the poles--

**GEIST:** OK.

**PATRICK HANRAHAN:** --I believe is correct.

**GEIST:** And if-- if there's a number of entities on the pole, how does that work, still the owner of the pole?

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**PATRICK HANRAHAN:** That's why we're responsible for the analysis of  
that pole for every entity that wants to attach to it.

**GEIST:** OK. One more question: Do you have-- is there a regular rate  
scale that you charge on attaching to a pole currently?

**PATRICK HANRAHAN:** There's a cost-of-service study that we perform  
every three to five years or so.

**GEIST:** Um-hum.

**PATRICK HANRAHAN:** And through that rate study, we look at the-- the  
costs that we've incurred and those are how the rates are established.

**GEIST:** OK.

**PATRICK HANRAHAN:** We use the FCC ratemaking as a-- as a guide for  
that, but, yeah, then we have a standard pole attachment rate for  
every entity.

**GEIST:** OK. Are there any other questions? Yes, Senator Moser.

**MOSER:** Well, kind of an ancillary question to Senator Geist's  
question: Is there a monthly ongoing charge of a dollar or two or  
something to rent those poles out to the phone and telecom Internet  
companies?

**PATRICK HANRAHAN:** No, Senator. Ours is an annual fee.

**MOSER:** Annual fee?

**PATRICK HANRAHAN:** Correct.

**MOSER:** OK. Thank you.

**GEIST:** Any additional questions? Yes, Senator Bostelman.

**BOSTELMAN:** Thank you. Looking at your pictures that you handed out  
here, so on the photos, there's not a one-- joint use communication  
attachment example, it has on [INAUDIBLE] on both sides. One side has  
three different sets of poles and has-- looks like one of them has six  
lines attached to it in different configurations: one's straight  
through; one looks like it's maybe a dead end, a corner, whichever. My  
question kind of comes down to, in any city-- since there's six

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different lines on this one, is that at least six different providers or can there be multiple on each line? And-- and where I'm going with this is-- is that in a city there could be telephone, could be fiber, could be cable, could be a whole host of different individuals or companies, providers who want to attach to this pole. How do you manage that?

**PATRICK HANRAHAN:** Absolutely, Senator. So, and to tell you the truth, I'm not sure who all the entities that own these are, because through acquisitions over the years and difference in ownership of the telecommunication companies, it's tough to keep track of ourselves. Now we-- we do our best and-- and then we try and figure out who's on those poles and-- but sometimes if they aren't marked as such, we may lag behind in some of the data that we have. But essentially, when we analyze a pole, we-- we have to know what's up there so we can-- we can properly analyze the weight, span, and the clearances.

**BOSTELMAN:** Well, I guess, yeah, because, you know, kind of my-- my question kind of goes-- comes to is, how do you originally design a pole to put it in? Because you don't know how many of the providers in the city are now going to want to attach your pole, so now you're going to have to come back and-- and maybe replace the pole or whatever it might be, because you have too many people that want to attach to a pole, is going to force you to have to accept every application request and then change out poles whenever-- I mean, you could change it out this year and three years from now you could get three more wanting on, so you got to change it again?

**PATRICK HANRAHAN:** Absolutely, Senator. That's the concern.

**BOSTELMAN:** OK, thank you.

**GEIST:** Thank you. Any additional questions? I don't see any. Thank you for your testimony. Additional opponents? Good afternoon.

**SHELLEY SAHLING-ZART:** Good afternoon. Vice Chairman Geist, members of the committee, for the record, my name is Shelley Sahling-Zart, S-h-e-l-l-e-y; Sahling-Zart is S-a-h-l-i-n-g, hyphen, Z-a-r-t. I'm vice president and general counsel for Lincoln Electric System. I'm here today testifying in opposition to LB45-- LB455 on behalf of the city of Lincoln and the Nebraska Power Association. The Nebraska Power Association serves all of Nebraska's publicly owned electric utility

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systems, including municipalities, public power districts, rural public power districts and irrigation districts and rural electric cooperatives. You've heard a lot today and, you know, you've heard that this is about broadband deployment. We have a broadband gap in the state. That is true. You all know that. I'm not telling you anything. And you have some bills in this committee this year that will do something about that. This is not one of them. And the reason I know it's not one of them is that we have pole attachment agreements all over the state today and we've been doing this for decades. That's not the problem, and they weren't telling you that they've had problems going into rural areas. They gave you one example. I don't think that's a huge problem. And if it is, it's kind of news to us, which is kind of interesting. They're not coming to us. We have published rates. We have very open procedures. None of us are aware that they've come to our boards. And again, we've been doing this for a long time. Senator Moser, you raised a great-- great question about the cost. And the thing is, costs that we aren't able to recover under this bill are subsidized by our ratepayers. So it's-- it's great that we want to lower costs for some of the telecommunication and cable companies, but that doesn't lower our costs. It means that our customers are subsidizing those costs and our businesses should matter too. We're trying to keep rates low for customers. And it isn't that we don't want broadband in the rural areas. You've got some rural areas that, as you-- as you heard, they'll let you on there for free; they're begging people to come out. That's not the problem. So they've come to you with the small cells and we did that, different kind of technology, but every year they come and they give you this promise that this is going to solve the broadband problem. I don't think it will because I don't think we're the problem. But what this bill does do is it completely shifts control over a lot of things. Why are we concerned about that? Because as much as they don't want to pay the cost for poles and such things, we bear the liability. We bear the risk permanently moving forward for the poles that we own. And if a pole, God forbid, falls over and hurts somebody or kills somebody, you put a price tag on that. I think-- I think the up-front cost on the pole is small compared to that ongoing risk that we bear. And we're-- we're trying to be fair about it. I know we give a useful life credit on poles. I don't know what all the utilities do, but what I do know is we could have a discussion about that. And if Senator Friesen wants to have an interim study and bring all the parties together to talk about this over the interim and find out where the problems really



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are, we'll be at the table, welcome to have that discussion. Let's do that. That's a-- but there-- that isn't a good reason to legislate contracts, and that's what this bill does. This bill is attempting to legislate pole attachment agreements, things we've been doing for decades. I can show you pole attachment agreement goes back to the '80s. We have lots of them. But let's not legislate contracts. Let's figure out real solutions. You know, there's a lot of other things we do. We have joint trenching agreements. In new subdivisions in Lincoln-- I'll speak to Lincoln for a minute--new subdivisions, we have joint trench agreement. LES goes in and we dig the trench for everybody else to put their stuff in. It-- it's cost effective for everybody. It's efficient. It's more efficient for the property owners, works out really well. Nobody's complaining about that agreement, but we're the ones with the equipment, so we go do that. So we have lots of things that work out really well. But we're not here to subsidize all of their business. That's not what we're in business for. Why shouldn't we have some say in what goes on our poles and what goes on in our communities? I think we should have some say and control over that. And keep in mind, we don't own all the poles. I mean, that's the other interesting-- in-- in Lincoln, for example, we own a little over half the poles. The rest of the poles are owned by Windstream, a few by the city. So what about those poles we don't own? And, you know, we-- we've had issues; we have issues from time to time with telephone companies and telecom companies, either in terms of getting paid for damage to our facilities when they dig into them or getting paid under our joint trenching agreements or getting them to put their stuff up in the case of a snowstorm, because that's-- if our stuff is hanging on their poles, we need those poles back up. We don't come to you to solve those problems. We sit down and talk with them. Matter of fact, I have one of those meetings set up later this week. That's how businesses work together. But you shouldn't be here to legislate all of that. So that's kind of mine. Let's have a-- let's have a conversation in the interim, but let's not pass this bill. This is not going to move the needle. I'd be happy to answer any questions.

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

**BOSTELMAN:** This is Senator Friesen's day for bills; it's my day to ask questions, I guess. First of all, it's a comment. I'm ecstatic-- I'll say I'm ecstatic to hear providers say they're going to start hanging-- they're hanging fiber and that's the way to go. I'm ecstatic

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to hear that just because I've heard for years and years the only way  
to do fiber is we have to bury it; only way to do fiber, we have to  
bury it. Now I'm hearing, oh, we want to hang it. That's great. You  
know, now we've got to figure out how to do that, in a sense. On-- in  
the bill-- do you have a copy with you?

**SHELLEY SAHLING-ZART:** Um-hum.

**BOSTELMAN:** It's on page 2, lines 3 through 5-- or actually 4 and 5, so  
Section 2, subparagraph (1) says attachment means any attachment by  
comm-- communication service provider to a utility pole owned or  
controlled by an electric utility. To me, that's pretty open-ended.  
Could you explain to me what that means to you?

**SHELLEY SAHLING-ZART:** It's pretty open-ended and it means a utility  
pole owned or controlled, so one of our other concerns is that  
includes distribution poles; it includes transmission poles, which  
creates a significant reliability issue for us. To the extent you're  
primarily talking about distribution poles, that's where most of our  
pole attachments are today. It's streetlight poles; it's pretty much  
anything and it's any attachment. How that language interface-- well,  
I guess there's a provision in here that it doesn't apply to the small  
cell bill, which is interesting, because then we have-- we have the  
small cell bill, we have this one, and we'll probably have something  
else down the road that that--

**BOSTELMAN:** You don't have a copy of the photos NPPD handed out  
[INAUDIBLE] do you?

**SHELLEY SAHLING-ZART:** No, I do not.

**BOSTELMAN:** But on the-- the-- one of-- on the back page, it shows  
devi-- I'll call them devices. A couple of them are fairly large. Now  
I don't know if those are specifically with broadband or are those  
with something else. My-- my question is-- is, you know, how large are  
these other devices that they can put on these poles, other-- because  
we've been just talking fiber, but in this one, one of them looks like  
about the size of a small fridge. One of them looks like-- I don't  
know. It's a fairly large, cylindrical thing, so I'm just kind of  
curious as to your comment to that.

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**SHELLEY SAHLING-ZART:** Yeah. I mean, if you look-- I'm not sure where it is, off the top of my head, in the bill, but it does allow for-- or is this the other bill? I know the other bill allows for boxing and some things, but this bill is open-ended, so, yes, you could have any of those kinds of facilities. They could be large, which is why the engineering of those poles is important. And we can't predict that, you know, moving forward. But the other interesting thing about the poles, if you look on page 3, lines 7 through 10, if consistent with the National Electrical Safety Code, utilities should rearrange, expand, replace, or otherwise reengineer any utility pole upon the request of a communications service provider. So keep in mind, that isn't saying that we're going to automatically re-- replace the pole. That tells me that a communications provider can request-- ask us to replace the pole. They don't want to pay for that, even though that may not be necessary? I don't know. I don't know what the-- that provision necessarily means.

**BOSTELMAN:** Will there be--

**SHELLEY SAHLING-ZART:** So to your point. I think it could be any size. There are limitations in the other bill, but in this one I think it's open-ended.

**BOSTELMAN:** I guess with that, they're just talking about the pole, but what about the crew cost? Is that considered the pole cost? So have you a-- you have your crew that comes out and puts up-- you know, that installs the pole. Is that-- is that included in the pole cost or is that separate from the pole cost?

**SHELLEY SAHLING-ZART:** I don't believe so. I would guess that a lot of that goes into-- some of that would go into our cost-of-service analysis that we do when we establish our annual pole attachment rate.

**BOSTELMAN:** OK, the last question I have for you is on page 2, lines 19 through 21. That is subsect-- section 1, subsec-- subparagraph (5) or right-of-way, it talks about what utility poles, but it talks about right-of-way. Does that mean that they can come in and put in something of their own, set up outside of the pole if they can come into the right-of-way anyway and estab-- and put a device up in that-- in that area?

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**SHELLEY SAHLING-ZART:** It seems that is contemplated from this bill,  
yes.

**BOSTELMAN:** OK, that's all. Thank you.

**GEIST:** Are there any other questions? Seeing-- oh--

**ALBRECHT:** I decided to ask--

**GEIST:** Senator Albrecht.

**ALBRECHT:** Thank you. If the bill wouldn't pass, what do you-- I mean,  
you're doing business with people today, right? And you're making your  
choice whether they can or can't. Do you have very many situations  
where they want to but you say no?

**SHELLEY SAHLING-ZART:** Not that I'm aware of.

**ALBRECHT:** OK.

**SHELLEY SAHLING-ZART:** And that's why I say it's kind of a surprise to  
me. And if this bill passed, the last part of this bill causes me  
great concern because it basically says that I-- I think there might  
be an impairment of contracts issue, but it basically says the  
communications provider can come request that we open, essentially,  
and modify any pole attachment agreement we have today. Ironically, it  
says we should negotiate in good faith, interesting to me because we  
have negotiated those in good faith. They've been in place. We've done  
that. But this would say we'd open those up, and if we can't agree,  
that the Public Service Commission, who isn't familiar with the  
electric utility industry, will determine those terms and conditions.  
I think if this bill passes, it's going to significantly alter a lot  
of our business relationships with the communications providers and  
probably not in a good way.

**ALBRECHT:** But you-- but at this time, you're getting along just fine  
with those who have asked?

**SHELLEY SAHLING-ZART:** As far as we know. Now, Senator, are there some  
one-off situations that have been problematic? That's entirely  
possible, which is why I say let's have an interim study and let's  
figure out where those are and what's really going on in those

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situations and have a discussion about that, because I think in the vast majority of situations that's not happening.

**ALBRECHT:** And-- and for those that are already hanging things on your poles, if you had a storm go through and the poles went down and you-- you obviously have an agreement with them that you need to fix your own, we don't take care of your-- your equipment [INAUDIBLE]

**SHELLEY SAHLING-ZART:** Yeah, if a storm came through and there are poles we could pull up when we get our stuff up and they'll have to come later, we don't put their stuff back up unless we've arranged somehow to have an agreement to do that. Bigger concern is when their poles go down with our stuff on it, with electrical on it, we need those up quickly. And I got to tell you, we have situations where that doesn't happen in a timely fashion, but I'm not going to come here and ask you to fix that problem.

**ALBRECHT:** Thank you.

**GEIST:** I do have an additional question, and that is with your trenching agreements. Can you use that as an example? How-- you go in and do the trenching and then the cost-- there has to be some sort of cost sharing? Is that how that's done with the other utilities--

**SHELLEY SAHLING-ZART:** Yep.

**GEIST:** --that come in and lay in--

**SHELLEY SAHLING-ZART:** Yeah, we have an agreement. We figure out what the proportionate share of those costs are and there's an agreement whereby they pay us their proportionate share for those.

**GEIST:** OK, thank you.

**SHELLEY SAHLING-ZART:** And that's worked out really well.

**GEIST:** OK. That's all the questions I see. Thank you for your testimony.

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

**GEIST:** Are there any additional opponents? Good afternoon.

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**LASH CHAFFIN:** Good afternoon. Thank you. Good afternoon, co-- committee. 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 I only have a couple comments. And they-- I think they-- they piggyback on what Ms. Sahling-Zart talked about earlier. First, when-- when we showed this bill to our members, they were surprised. They're like, why would anybody want to have a bill to do that? They-- we've had pole attachment agreements in place for decades, and this has just been a way business has been done for decades. No one has-- no one has come to a city and said this is a problem. And-- and-- you know, and I don't think anybody keeps track, but I think you'd be hard pressed to find more than one or two pole attachment agreements that have ever been denied in the entire state. And, you know, 100, 100-plus cities own and operate electric systems, and this has just not been an issue, and then one city even pointed out there's sort of a degree of hypocrisy here to this in that it-- it-- this-- this assumes that public power owns the poles. That's not necessarily true in Nebraska. The old-- the old arrangement with what was formerly LT&T was that the city utility and LT&T each owned half the poles, you know, and that worked great in Auburn and Seward and places like that when LT&T had a local office. And, you know, they-- people could get in the same pick-up and drive over to the pole and go, we need to replace that. And if it didn't work out, it wasn't-- you know, the mayor of Auburn could drive to-- drive to Lincoln and go visit the Woods family and it-- you know, we could make all this work, you know, because there were local offices. OK, what we're running into, now the problem isn't that the city is denying access to their poles. The problem is that the city electric utility can't get ahold of anybody at Windstream, because they're in a different state, to talk about the condition of one of the other poles. So, I mean, I think the cities that are the former LT&T cities are just shocked that they-- they might be isolated and considered bad guys in this scenario. You know, this is-- this is something that's gone on for years. You know, there's-- there's a variety of charges. They're not much. Interestingly, a few years ago, there was a big drive to charge-- create pole fees based on an American Public Power Association model, and this was kind of when computers were first new and everybody could input their numbers and all this stuff. We-- we had a conference and all the electric-- city electric utilities came in and somebody demonstrated the model and stuff, and they all walked away saying that's too much, we would never do that. So I don't think-- I think a lot of the pole fees, in fact,

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are free or a nickel. And I think that's less common now. I think a lot of them cost-- use either the-- the LES or NPPD model for pole fees, but it's-- they're not extravagant pole fees. So, you know, this is something-- it just-- it's-- it's surprising that-- that this is out there. And I just can't view this in any way that it would-- that it would enhance broadband services across the-- the state. I would certainly answer any questions.

**GEIST:** Thank you for your testimony. Are there any questions from the committee? I don't see any.

**LASH CHAFFIN:** Thank you.

**GEIST:** Thank you.

**\*SETH VOYLES:** Chairman Friesen and Members of the Committee: My name is Seth Voyles - S-E-T-H V-O-Y-L-E-S - I am a registered lobbyist and am testifying on behalf of Omaha Public Power District (OPPD). I thank you for the opportunity to submit testimony to the Transportation and Telecommunications Committee on this legislation. I want to express OPPD's opposition to LB455, a bill to adopt the Broadband Pole Attachment Act. OPPD, a political subdivision of the state of Nebraska, is a publicly owned electric utility engaged in the generation, transmission, and distribution of electricity. OPPD serves an estimated population of 855,000 in a 13-county, 5,000-square-mile service area in southeast Nebraska. LB455 usurps the ability of public power entities to manage and obtain compensation for the use of their electric system. Furthermore, it diminishes the ability of public power governing boards to manage, regulate, and assure adequate rates for public power electric systems, by delegating significant authority over the electric system to the Nebraska Public Service Commission (PSC). This bill grants control of public power poles and other infrastructure to private telecom companies without adequate compensation. LB455 requires electric utilities to make their utility easements available to any communication services provider and even expand those easements for their use. Those easements are obtained for the public use of distributing electricity, not for the private use of for-profit telecom companies. Public power companies could find themselves facing complaints and even litigation from customers affected by this expansion of utility easements for private use. The ambiguity of easement provisions are unclear and conflict with the easement rights an electric utility has obtained from a landowner.

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This legislation also contains objectionable provisions which require utilities to rearrange and expand their easements and any utility poles, and even replace poles to accommodate the communications provider, all while providing only a book value recovery, rather than full recovery for all costs incurred in providing the pole attachment and allowing service. The inadequate compensation provided by LB455 could deprive public power districts of their property, and force utilities to recover the difference in cost from their own customers. The bill even allows the communication service provider to require OPPD and other public power entities to use extension arms and other attachments where space is unavailable on a pole. This effectively mandates how OPPD and other utilities use the systems that are provided to supply electric service to ratepayers, and adversely affects the ability of the utilities to use the poles for their intended purpose of supplying electricity. The bill specifies that the PSC will have jurisdiction over pole attachment disputes. First, this infringes on the role of OPPD's board of directors to govern how its system is used, including the long-established statutory authority to establish rates and terms and conditions of service. It further allows a communication service provider to require an electric utility to renegotiate any existing pole attachment agreement, and then, if the telecom company is not satisfied with the outcome, to take the matter to the PSC and have the Commission decide the terms of the pole attachment agreement. OPPD and other electric providers have for years negotiated and managed pole attachment agreements with private companies without regulatory oversight. This system has worked. This committee should not allow giant communications companies to unwind carefully crafted agreements that accommodate the business needs of both the public utilities and the private companies using their poles. The callousness of this bill written by the communication service providers is an egregious attempt to undo previous agreements they voluntarily signed. Surprisingly, Chairman Friesen's LB455 directly conflicts with the agreements reached in LB992 (his bill from last year) and the provisions of that legislation. Finally, there is no evidence of a significant problem with telecommunication providers obtaining reasonable agreements for pole attachments with Nebraska's public power utilities. Because LB455 likely would result in an under-recovery of costs for pole attachments, public power ratepayers effectively would be subsidizing the private businesses that make a profit from the use of the public power electric system. Thank you in advance for considering OPPD's opposition to LB455.



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**GEIST:** Any additional opponents? Anyone who'd like to testify in the neutral capacity? Seeing none, Senator Friesen, I'd ask you to come and close. And then while you're traveling, I will say that we have, in lieu of in-person testimony, we have Bob Hallstrom for the Nebraska Bankers Association; Federation of Independent Business; John Idoux for CenturyLink; Seth Voyles for Omaha Public Power; and Bob Hallstrom and John Idoux are support; Seth Voles is in opposition. Senator Friesen, you may close.

**FRIESEN:** Thank you, Vice Chairman Geist. So I want to try and cover a few things that were said. But I guess in the bigger picture, what we're looking for is, you know, there's-- there's sections of the bill that need to be taken out. I won't disagree with that. And we will look through that. But I-- I didn't hear a whole lot of suggestions on how to fix it other than to do a study. And that always means that they just-- you want to kick it down the road awhile. But we do have a lot of inconsistencies across the state. Now LES here, I mean, in their discussions about pole attachments in the past, I think it was just last year or the year before we were talking about pole attachment fees of well over a thousand dollars for a pole attachment. So they did vary a lot. I don't think any of the rural electricians-- what I'm hearing, most communities are in the \$8 range. They're not out of line. But when you start thinking about in rural areas, you can have-- could be 18-20 poles just to get to one customer. So when you're talking \$8 a year and you're talking 18 to 20 poles to get to a customer, soon you've eaten up quite a bit of their \$50 a month for broadband in pole attachments. So it-- it is a factor. And then the fact is that you could have cases where you have a pole that has reached its life expectancy is being done, and now you're expecting the provider to provide all of the labor, the cost of the pole, and everything to put a brand-new pole in. So I-- I think that what we're trying to find here is this happy spot where they're more than willing to help, but they didn't feel that they should pay the whole replacement cost of a 50-year-old pole. So, again, it's-- it's reaching some sort of consensus and laying the groundwork for how we might reach that agreement. And then in order for those disputes to be ended quickly, that's where we're looking at the PSC to just step in and be able to mediate disputes, not to decide what they get to charge but to just see if they could reach an agreement with the PSC. And-- and-- and they have expertise in setting lots of different rates and looking at things, so we thought that was a legitimate place to go.

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But I know, like, the power industry doesn't like to go there. Again, in Lincoln here, you drive around, I mean, there's all sorts of stuff hanging from the-- from the poles here. I mean, I've-- they've been doing this for years. You're absolutely right. But in the rural areas and many of our smaller communities, there's not going to be multiple cables hanging on these poles. Hopefully someday, maybe there are, because there'd be competition now. But right now there will be no competition. We're just going to be lucky if we get a company to come out there and do anything. And I'm not saying that in most communities it has worked. There has been cable hung from different areas, but there's no consistency in how fast it can be done. There's no consistency in how they go about the cost of a pole replacement, who gets charged for it. Either way, the customer in the end is going to pay for this, whether it's the electric customer or the cable customer or the fiber user. So somebody is going to pay the bill. It-- it doesn't matter how you want to look at it. I-- I look at the rural electrics and-- and they're all wanting fiber to be hung on their poles so they can control their substations, so evidently they're willing to go it alone and engineer all these poles and have that fiber hanging on there and that's going to be no problem. But if somebody else wants to own the fiber and hang it on there, suddenly it's a big problem. So either way, that pole has to hold this fiber cable; it's just now a matter, I guess, of who is owning the fiber. And that seems to be the biggest hurdle that we've run into. So I-- in the rural areas, I don't think the-- the cost of the pole attachment is an issue. Again, I've not heard of exaggerated costs, but when we get into some urban areas, there have been some very excessive what I call pole attachment fees. So, you know, I don't-- I don't think I want to either. In the-- in the bill, it does kind of give these providers access to the right-of-way. Now I don't think that needs to be in there. I think that's something that the company, the-- the electric companies have that easement. They're in control of it. Even though I have donated that easement out in my rural areas to that power company, they have achieved that with absolutely no cost because I wanted power there and I would be more than happy to have them hang a cable on there, too, if I need fiber. And I would be willing to grant those easements and that's what we kind of addressed last year. So, again, I'm willing to work with anybody. I-- you know, we'll see once what we-- kind of agreement we can reach. But to say that we're just going to do a study, I think everybody knows which areas they can live with, which ones they can't, and I think we can work together to

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get something done. So with that, I'd be willing, happy to answer  
questions.

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

**MOSER:** So who's in favor of this bill? I mean, who brought the bill to  
you?

**FRIESEN:** I think it was probably a cable company.

**MOSER:** Do you think--

**FRIESEN:** But they hang more-- they probably hang more cable on poles  
than anybody I know. The communications companies I know out in the  
rural areas typically bury everything. But I'm thinking down the road,  
it just depends on-- they're going to look at costs and see which is  
cheaper.

**MOSER:** OK.

**FRIESEN:** In my area, Hamilton Telecommunications, they put in conduit  
and put fiber in the conduit. They buried it. They said there was no  
way they were hanging it on a pole. They didn't want to be subject to  
ice storms. So each company kind of looks at things differently, but  
others are more than willing to hang on the poles if they can reach an  
agreement,

**MOSER:** Are they knifing those cables in with--

**FRIESEN:** Generally--

**MOSER:** --vibratory plow kind of--

**FRIESEN:** Generally, they have two giant bulldozers and they pull each  
other down the shoulder of the road. But installing fiber in the city  
is a lot different than doing it in the rural areas.

**MOSER:** Do you think there's more battle between the telecoms rather  
than telecoms versus public power?

**FRIESEN:** Well, part of-- part of the thing that we're dealing with  
today is that we have three different types of companies operating  
under three different sets of rules and regulations, and they're all

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doing all of the above. We've got cable companies offering phone service and broadband, we've got broadband providers that offer cable and voice service, and then we've got our typical telephone company offering all of the above too. So it's-- at some point in time, the federal government's probably going to have to address how we deal with all these companies because they operate under different rules. So it makes a little more difficult. And-- and in the rural areas especially, there-- there's not going to be any competition. It's going to be one provider that's out there. There's just no business case to go six miles out in the country and hook up three locations. It just doesn't work. And so any cost you can kind of help to hold down that cost, I don't-- I don't look at it as-- if you take an Internet service provider now, a company, whoever wants to do it, for them to put out five miles of fiber and hook up 1.2 customers per mile, it doesn't make a business case whatsoever. Somebody is going to be subsidizing that cost because they just can't justify laying fiber out there for that. They'll never recoup their cost. So whether, you know, it's an electric company putting fiber out there and subsidizing it with electric rates or-- or a public-private partnership, which I'm trying to do, is to put it on-- some of that on private industry also and let them share in the cost, that-- that's where I think we probably can reach some agreement.

**MOSER:** Now the reason I ask that question is we had a situation in Columbus where we were trying to improve a road and we needed to put some utilities underground, and the company that owned the utilities was in financial trouble. And so we had to delay the project for another season while we waited for the legal departments of the city and their utility to straighten things out. So if you have to pick a winner and who you want to deal with in these arguments, it might be that the most-- it would be good to favor the people who are the most solid and the most reliable of the utilities, you know.

**FRIESEN:** I guess, you know, in my experience working with the city back in the day, I mean, it doesn't matter which utility it is, you sometimes run into some pretty frustrating incidents when you're trying to do a road. So I-- again, I-- I think, you know, trying to locate things in the right place in the first place is-- is good. And I think cities are doing a better job than they ever have in trying to locate those utilities where they're not going to be bothered, but we still run into some old locations there that, you know, obviously,

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when-- urban and rural are two different things. There's a lot more  
utilities buried in an urban setting.

**MOSER:** When we talked to the utility company about moving some lines  
to put in a viaduct, they came and moved them very quickly,  
responsibly. This other project, we were going to put curbs and  
gutters in and things, and we didn't know what was buried there, so  
they didn't want to start digging around. And so they were waiting for  
the-- the telecom to move some lines, and I think we would have had to  
pay them to do it. But I just wonder if we're favoring the little guys  
who are more likely to cause us more grief versus the public utilities  
where they're pretty stable, pretty well run. They're governed by  
boards that are publicly elected.

**FRIESEN:** If you look at it that way, though, I think any of these  
providers that are spending \$15,000 a mile to get fiber out of the  
country, I mean, that's obviously a huge investment for the return  
they're going to get.

**MOSER:** You can't call them pipsqueak companies if they're spending  
lots and lots of--

**FRIESEN:** You know, they're-- yeah, they're not-- they're not small  
companies. Those who--

**MOSER:** OK.

**FRIESEN:** And like I've said in the past, there are some really good  
communications companies out there that have done a good job of-- I've  
got fiber at the house out in-- in my farm for the past five, six,  
seven years. I don't even know what it's like to have slow Internet  
access, but there's areas that have either none or limited access  
right now, and there's some providers not doing a good job. But again,  
it-- it's-- it's an expensive process to get fiber to the home and the  
rural areas, it really is. Even small towns, and ALLO testified this  
morning, you know, they can-- they can go in and overbuild a small  
town and make a business case of it, but you can't make a business  
case of going out in the country, doesn't work.

**MOSER:** OK, thank you.

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**GEIST:** Any additional questions from the committee? Seeing none, that will close the hearing for LB455. OK, Senator Friesen, you may open on LB520.

**FRIESEN:** Thank you, Vice Chair Geist, members of the committee. My name is Curt Friesen, C-u-r-t F-r-i-e-s-e-n. Again, I represent District 34 and I'm introducing LB520. One of the many ways the Legislature can act to speed up deployment of faster Internet service, by aligning our laws on collocation and construction of large wireless facilities with existing FCC timelines and definitions, technology upgrades for wireless and fixed wireless Internet solutions could happen sooner and at a lower cost for consumers. This bill for-- will provide for uniformity in the way political subdivisions in Nebraska handle the permitting process for collocation or construction of towers and cellular equipment. The bill does-- does say how communities or counties have to work with tower companies and cellular providers in-- in-- instead, it-- have to work with tower again. Instead, it sets the uppermost limits on timeliness and fees that we as a Legislature feel are appropriate. As to the specifics of the bill, the bill gives timelines for when applications must be responded to and approved: 60 days with additional time added when additional information is provided. This timeline matches current FCC requirements. The bill limits authorized charges for application fees and set standards and limits for those fees. The cap on application fees would be \$500 for a nonsubstantial change or for a collate-- collocation applications, then a \$1,000 cap would be set for applications for a new tower and associated wireless facilities. Finally, LB520 incorporates federal definitions into our laws relating to nonsubstantial changes and substantial changes to these facilities. This committee will recall that I introduced an almost identical bill, LB898, last session. It was my hope that last year's bill would have spurred the parties towards a solution outside of the legislative process, and I understand that that was attempted but it did not work. I was approached and asked to introduce this bill because of problems with-- of tower and equipment siting delays and excessive fees remain, and I think we as a Legislature now need to step in. Over the course of today and tomorrow, this committee is considering how to get the best possible telecommunications services to all of Nebraska. Creating a more streamlined process for companies to use as they build and improve cellular capacity is one of the ways that we will do that. One of the things that I keep hearing about is that there's communities

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out there using this third-party service in the licensing or doing--  
looking at the cost of even making an equipment change onto a tower  
and-- and using that third party, it-- it delays the whole process.  
They're able to charge for bringing this out-of-state company in,  
paying hotel rooms, meals for them and this whole process, when it  
seems like there's probably not a need to even sometimes spend much  
time with us, but it is really delayed. For instance, I-- maybe I'll  
be corrected, but I think AT&T is building the FirstNet system out  
there and they're putting up a lot of towers, doing a lot of work,  
and-- and they're finding that there are some locations at least that  
have really slowed down their process as far as getting the system up  
and running. 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, we'll ask for proponents of LB520.

**KENT ROBERT:** Good afternoon, Senator Geist and the 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 to testify in support of  
LB520 on behalf of AT&T and the Nebraska Telecommunications  
Association. I'll just take off from where Senator Friesen-- we thank  
him for introducing this bill. It comes from the award AT&T was given  
a couple years ago from the FCC. We're tasked with building the  
FirstNet, first responder network across the country that will-- that  
will be-- it-- it is-- it's a really great system. If you're on a  
typical cell phone tower in greater Nebraska, you're probably getting  
something like 25 to 30 meg down speed and a couple up in-- if you've  
got good service. These-- these towers are going to be more like  
100/100, so they're-- and they're dedicated to first responders when  
they need it. But when they're not using it, everybody gets to use it,  
so it's good coverage out there. In the past two years-- invite you  
all to come over anytime you want. I've got a big map in my office  
with pins in these little towns all the way across the state, and some  
of you probably getting some emails that say Nebraska network  
announcement. It'll say we put a tower up here and a tower up there.  
But we've put up about 125 of these, I think, in the past two years,  
and they-- it's just been very, very smooth and simple in those  
communities where those have gone up. There are some counties and some  
towns-- cities, excuse me, in Nebraska that use at least one  
consultant that hinders the process considerably. So what happens is,  
you know, in-- like in one jurisdiction, it can take up to ten months  
for them to simply approve the application. In another one, it's

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almost impossible to build a new tower altogether. They-- they require us through this consultant company to place \$5,000, \$8,000, \$10,000, \$12,000 per tower into an escrow account, and at the end of it, when we ask what the money was spent on, we get back either no reply or a pretty overgeneralized reply. And the money just seems to always be spent and it doesn't match, per tower, what it should be. What's happening is, in areas where this consultant, this particular one is being used, we are building the bare minimum that we are required to do by the FCC for this built-- for this build-out. In other places where-- meaning you've got, you know, about one every eight miles, probably, based upon the reach of the tower. In areas where this isn't being used, we build a lot better of a network and we'll keep expanding and getting service to people as they want and as they need it. The-- if-- if it were only the money, it would be one thing. The-- the problem is, is the delays. In Douglas County, for example, it takes about three months. We can make that work out pretty well. Some of the neighboring counties takes 10 months to 18 months. I know this is a year-old testimony from last year, and I know we haven't got any further. One of the cities in Nebraska which we applied for in 2019, we are still not approved to build the network on that tower. And so we just-- we're not going to be able to meet-- if we have 50 towers that need to go up inside those places that are using this particular consultant, we're not going to be able to meet our obligation and the FCC is going to start levying big fines to our company and our vendors who are helping us put those up. It's almost like the opposite of, if you pay more it'll go faster; actually, you pay more and it goes slower. So I will end my testimony there and answer any questions that might be there.

**GEIST:** Are there any questions from the committee? I have one.

**KENT ROBERT:** Sure.

**GEIST:** Is this similar to what Ms. Sahling-Zart was testifying to in contracting where we're taking on something that cities, counties, municipalities have done for years?

**KENT ROBERT:** Well, I'm not-- we're not prohibiting the use of consultants. We work with consultants all the time. So, for example, let's say four or five towns somewhere in northeast Nebraska, they have an engineering firm on retainer out of West Point. So they say, we got a cell phone tower that needs switched up, call our guy over



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there. We call our guy over there and he looks at the con-- looks at what we want to do and it comes right back to us. It's-- we just keep going. So what we're doing is we're-- this bill doesn't prohibit it. It just put some guardrails on there, says you have to-- so actually one of the points I forgot to make is the FCC requires these things to be done in 90 days and Congress requires them to be done in 60 days, so we're asking Nebraska law say that we follow the federal requirements for these types of applications and have reasonable fees or else be able to substantiate why the fees are more than what we're putting in the bill here.

**GEIST:** So in-- in the 90 and 60 days is you know whether they're approved or not is--

**KENT ROBERT:** Yes.

**GEIST:** OK.

**KENT ROBERT:** Yeah. And it's-- and it's upon the application, so it's-- that's when the clock starts. They call it the shot clock basically.

**GEIST:** The shot clock, um-hum. OK, that's all I have. Any-- yes, Senator Bostelman.

**BOSTELMAN:** Thank you. Is this more of a timing issue or a cost issue?

**KENT ROBERT:** Well, I think-- I think, as I mentioned, if-- if we could buy our way to get it done faster, we would consider it. But we're paying way more money and it's still taking way longer. So as it-- it's-- it's one thing after the other. So the timing is the most important, but once we're already delayed and they're tacking more money onto us in charges and fees, then it makes us-- it just basically turns us away from building in that area.

**BOSTELMAN:** OK, thank you.

**GEIST:** Any additional questions? Yes, Senator Moser.

**MOSER:** Do you think that the delays are just innocuous or do you think the delays are trying to make your companies move somewhere else?

**KENT ROBERT:** [LAUGH] I-- I envision that there's a guy in Rhode Island that has 500 communities that he has got hired to work for, and he's

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got 1,000 pole applicat-- or, you know, tower applications sitting on his desk and he goes just as fast as he wants to. And it just-- and realize-- realizing that if it takes a little longer, they can substantiate the reason to charge a little more money and ask more questions, and those things kind of-- and they can keep billing. I don't think they're trying to make us go away. I would say that there isn't anybody in rural greater Nebraska that doesn't think we could use more cell towers. I mean, that's a big thing. They want to build out. And this process-- these guys, some of these guys, are hindering that process of us getting a better network to them.

**MOSER:** Thank you.

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

**KENT ROBERT:** Thank you.

**GEIST:** Any other proponents? Good afternoon.

**KATIE ZULKOSKI:** Good afternoon, Vice Chairwoman Geist, members of the Transportation and Telecommunications Committee. I have a lot to get organized. I'm-- my name is Katie Zulkoski, Z-u-l-k-o-s-k-i. I am presenting testimony today on behalf of Viaero Wireless in support of LB520. Viaero Wireless, as many of you know, is the leading rural provider of wireless and fixed broadband services. Viaero currently has hundreds of towers in rural Nebraska, continually constructing more. Viaero also, following up on Mr. Rogert's testimony, was selected by AT&T to assist AT&T in their commitment to build out the FirstNet network. They are collocating AT&T and FirstNet equipment on Viaero towers. FirstNet, as you heard, is a federal project to create advanced communication network to give priority and preemption capabilities to first responders, so it's with these two goals that we're speaking to you today in support of LB520. We are strongly in support of this bill in order to assist deployment to provide wireless facilities and services across Nebraska. This includes deployment of broadband, upgrades to existing networks, and will enable deployment for first responders while keeping application fees reasonable and imposing a timeline. LB520 will also assist in timely deploying more secure networks in accordance with the requirements that the FCC is requiring to implement the Secure and Trusted Communications Networks Act. Without this legi-- legislation, as you've heard, application fees and-- and long-time requirements continue to be overly

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burdensome, resulting in high costs and long timelines for approval. The example that we're here to give, Viaero submitted an application for just a collocation of FirstNet equipment on an existing tower in January 2020 and it took until September of that year to get conditional approval for deployment. Part of the delay in approval of that permit was due to the request of documentation information beyond the scope of the documentation necessary to show the collocation met the requirements of an eligible facilities request. In addition to what Senator Friesen pointed out about LB520, the bill also clarifies requirements for what can be required in an application to show that it meets the standards for an eligible facilities request. The bill incorporates a timeline that an application for collocation under an eligible facilities request must be approved or denied, all in accordance with FCC regulations. This legislation will also serve to-- serve to curb the excessive cost of an application. As we've all shared with you already, some counties and municipalities have contracted with consultants to assist with review and approval of applications. While Viaero supports the hiring of consultants to assist with the technical review of applications for new infrastructure and for collocations, the fees imposed by them need to be reasonable. Currently, fees for a collocation are structured so they can well exceed \$10,000 before they are approved. Unless this legislation is adopted, the current fee structure and timeline for deployment will continue to put a strain on deployment and could even lead carriers to electing not to build or delay deployment in areas where consultants have been hired, and the process for approval of such applications does not align with the requirements set by the FCC. We thank this committee for their second time to consider this important legislation and we really hope that we can work with you all to advance this legislation and then, in turn, advance services we offer across Nebraska. I'm happy to answer any questions.

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

**BOSTELMAN:** Thank you.

**GEIST:** It is your day. [LAUGHTER]

**BOSTELMAN:** It's my day. Is this really about one contractor? And is it because they're understaffed or is it because they understand the

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situation and so they're going to take advantage for as much as they  
can?

**KATIE ZULKOSKI:** Our-- our problems in Nebraska have been based on one  
contractor. I mean, what-- what it's really about is the FirstNet,  
getting that done in-- according to the timelines. It's about-- I  
referenced the secure and trusted communications network deck. Viaero  
has a lot of requirements that they're going to have to take on in the  
next few years, according to the federal government. We got to get  
that done on time and correctly, so it's about getting our side of the  
projects done in a way we want to be able to work with communities if  
they have consultants. So far, our problems, though, have been based  
on a pretty specific set of circumstances.

**BOSTELMAN:** So is there very few contractors, companies that can do  
this type of work? Is that the issue or it just seems like the cities,  
counties, whoever, just tend to go to-- to one specific con-- company  
to do the work?

**KATIE ZULKOSKI:** Well, it looks like the cities might be coming up  
later, so you may be able to-- I don't-- I don't know the availability  
of the services.

**BOSTELMAN:** OK. Thank you.

**GEIST:** Any additional questions? Seeing none, thank you for your  
testimony. Are there any additional opponents-- no, I'm sorry,  
proponents? Good afternoon.

**MARY JACOBSON:** Good afternoon. Good afternoon. 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  
LB520 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 in both 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 an advanced wireless technology in Nebraska and passed  
the Small Wireless Facilities Deployment Act in 2019. This foresight  
allows cost-effective, streamlined deployment of small cells  
throughout the state. However, small cells don't operate on their own.  
They augment the macro tower networks and require that infrastructure

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to operate. We continue to need to build and update the macro tower network as technology evolves and advances and traffic increases. Unfortunately, the deployment and upgrading of these macro towers has been hindered by extraordinarily excessive costs and delays imposed on the industry by some outside 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. LB520 does not and is not intended to take away the ability to retain experts from a jurisdiction. Instead, the 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. LB520 sets reasonable limits on these fees. In summary, this egregious practice is impending [SIC] the deployment of advanced technology in the state and the benefits those bring to Nebraska residents. LB520 is necessary to resolve excessive and unnecessary costs and delays imposed on the industry. Thank you for the opportunity to testify, and I'm happy to answer any questions.

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

**MOSER:** Bruce didn't look like he was going to ask one, so this will probably trigger an idea. So the fees that the consultants charge, do the entities pass those through at the same cost or can they pay part? If the-- say the city is hiring a consultant, and if the city feels that there's value to what the consultant says, do they pay part of the fee or do they always turn to the telecom and-- or the cell company and try to get all the money from them?

**MARY JACOBSON:** It's my understanding that the fee is assessed at the outset and it is put into an escrow account and then that is depreciated through-- through the application process, and typically the balance tends to end up at zero.

**MOSER:** So the cell provider would put \$10,000 in escrow and then the city or whoever is the responsible-- I don't want to say responsible party-- owner of the property or whoever you have to get permission from--

**MARY JACOBSON:** Correct.

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**MOSER:** --to build, then they'll spend that money.

**MARY JACOBSON:** Yes.

**MOSER:** Yeah, I-- I'm not familiar with the-- the timing of the process, how long it takes to get done, but I've been through some nasty cell site selection processes and I can see why a city or somebody would hire somebody to help them, because the-- sometimes the companies are very aggressive in how they site their towers. Sometimes they even-- I think they even have consultants that build the towers and then they sell the towers or lease them to the cell companies.

**MARY JACOBSON:** Yes. And we're certainly not opposed to jurisdictions, municipalities, or counties having the ability to hire outside consultants. I can certainly understand that they might want someone with expertise in the field. And this just puts reasonable restrictions on the effect those consultants can have at the outset of the application process. And I-- some of the previous testifiers mentioned delays. And I think if-- if they saw progress on an application and saw requests that were reasonable and really did truly affect the siting, I don't think this would be an issue. But what we're seeing is undue delays without any real payout or benefit for the application process, which really just ends up depriving the jurisdiction of the benefits of these tower modifications.

**MOSER:** OK, thank you.

**GEIST:** Any additional questions? Oh, sorry, Senator DeBoer.

**DeBOER:** Sorry, quiet today. So these problems are ha-- that you're having with the delay and the cost and the escrow and the whole business are happening in some places in Nebraska but not all, is that correct?

**MARY JACOBSON:** That's correct.

**DeBOER:** And in the places that-- where it's not happening, are they using third-party consultants or-- or never?

**MARY JACOBSON:** I believe there are some jurisdictions that do hire third-party consultants where we haven't had this issue.

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**DeBOER:** So some third-party consultants are causing a problem and some  
are not. Is--

**MARY JACOBSON:** Yes.

**DeBOER:** --that sort of-- OK. That's what I wanted to know. Thanks.

**GEIST:** Any additional questions? I don't see any. Thank you--

**MARY JACOBSON:** Thank you.

**GEIST:** --for your testimony. Any additional proponents? Good  
afternoon.

**BURKE BROWN:** Good afternoon. Good afternoon, Senator Friesen-- Friesen  
and members of the committee. I am Burke Brown, spelled B-u-r-k-e  
B-r-o-w-n, and I'm the technology coordinator at School District OR-1  
in Palmyra. I live in Bennet, Nebraska, and I'm speaking on behalf of  
Nebraska State Education Association and as a member of its board of  
directors and chair of the Broadband Technology Committee. The mission  
of our committee is to search for solutions in closing the state's  
technology gap that has widened by a growing and increasingly critical  
broadband deficit. I'm here today in support of LB520. As the NSEA  
serves nearly 28,000 members across Nebraska, we believe legislation  
supporting development of broadband networks in unserved and  
underserved areas is essential in bringing affordable, reliable  
broadband to all Nebraska students, teachers, citizens and business.  
Further, we believe these new networks will be foundational in closing  
the broadband gap. We believe the following three components in LB520  
are important: first, limiting consulting fees; second, excluding  
small cell projects that individual schools might use; and, third,  
enacting a 60-day shot clock for approval of project applications. The  
NSEA believes LB520 effectively prioritizes broadband projects for  
success as it ensures the process will be cost sensitive and timely.  
Moreover, the NSEA believes we must ensure that no Nebraskan is  
prevented from accessing 21-- 21st-century tools and opportunities due  
to the lack of broadband Internet. On behalf of the NSEA members, its  
students-- and students, I encourage the Legislature to continue to  
consider ways to clear barriers to broadband deployment in unserved  
and underserved areas like those put forward in LB520. This bill will  
help realize the goal of closing the broadband gap for all Nebraskans.  
Thank you. I would entertain any questions.

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**GEIST:** Thank you for your testimony. Is there any-- are there any questions from the committee? I don't see any.

**BURKE BROWN:** Thank you.

**GEIST:** Thank you. Any additional proponents? Seeing none, I'll ask for 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, and I'd like to appear in opposition to LB520. The-- I'm not going to go into the details of the bill, but up front I want to address the magnitude of-- of the issue. There were some Zoom meetings this summer to discuss this issue and the concept of consultants and such. In one of the Zoom meetings, I specifically asked the question, can you identify the problem political subdivisions? And if it's a city, we'll call them. We'll tell them, get moving on. We're big proponents of-- of-- of the-- you know, of the public safety project, you know, and this is something every city across the state wants to move forward. Guess how many cities they identified? One. It's a sizable city and it's a city that's had a relationship with this con-- there were some counties, but I-- I don't have a relationship with the counties, so I can't-- I can't boost them along. So I called this city and they said, OK, we'll-- we'll start moving them. They identified one city, a city of the first class, and that's a city that has a long-standing relationship with this particular consultant. So the magnitude of the problem, it may be different today, but that's what-- that's what was identified, you know, this summer during one of the-- the Zoom calls. So I guess, to me, it sort of seems like an effort to fix a problem that doesn't exist. And the-- I-- I've handed out a-- a picture of this is why cities use consultants and I-- there may be someone sitting at this table who has a lot of expertise in this-- in this particular issue. In 2016, an engineered cell tower in Columbus fell down and it-- it-- and the-- yeah, the mayor, this was a big thing for the mayor; this was a big thing for the staff. And it fell within feet of a house. This-- this is a problem. This is why cities use consultants. And actually, interestingly, the-- the-- Columbus uses the same consultant that everybody's frustrated with because they have a high sensitivity to making sure that this engineering, these applications were correct. They're-- they're not going to allow anything to happen that-- that potentially could cause a problem in Columbus. And the-- and the-- the



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city in question that this summer was identified as going a little slow uses the same consultant. They're a neighbor of Columbus. And so it's sort of-- the-- and so the consultant in question is a fairly popular consultant because he helped-- he helped out Columbus. And that's something that got him a lot of-- a lot of renown with-- across the state. He's very well respected. Then I-- so then I called the consultant and I said, you know, what's the deal in this city? Why is-- why isn't it moving on? And he said, well, we're trying. You know, he was a little vague, admittedly. But, I said, have the companies ever come to you? Because on the FirstNet project, it's one company-- well, it's two-- it's one company and a contractor company. It's sort of-- have they come to you to try to get some batch applications? Have they come to you with ideas to speed this along? He said no one-- no one ever has. So I think the problem may be not as great as people are letting on. And then the-- the-- and I-- I-- I thought of this last week while I was watching the One-Call hearings, and also next week or the week after, I can't remember which, there are hearings on requiring utility coordination plans. Others are coming to this committee saying we want a little more regulation of infrastructure construction problems. This-- this is the-- that was the entire tenor of the testimony on the One-Call bills, was please step in, regulate this a little more, and the-- and one testifier, he may not have represented everybody, said the electric utilities aren't a problem, the gas utilities aren't a problem, the water utilities aren't a problem; it's the other ones that-- that we have a problem with. The-- and then, you know, I-- I think similarly what I think you're going to find, you know, and I can't speak for everybody, on the utility coordination bill is that-- that contractors and homeowners are frustrated with-- with the-- sort of the lack of anybody-- any sometimes oversight over these type of projects. And this bill and the bill, LB455, are both attempts to go the opposite direction of what those bills do. And I think the-- all this stuff needs to be looked at in a-- in-- in the same universe. And I think it-- this is a bad direction to take. And, you know, again, if companies are having a problem with a particular consultant, they-- they need to continue to-- they need to figure out how to work with that consultant. And, you know, I-- I know the people in Columbus are very, very sensitive about these issues. And-- and there are other cities who saw what happened in Columbus. They're-- they're sensitive as well, so-- but again, I would take any-- I could go on for hours about this, but I know it's been a long day, so take any questions.

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**GEIST:** We appreciate that. Thank you. Yes, Senator DeBoer.

**DeBOER:** Thank you. Thanks for your testimony. This is-- this picture  
was taken in 2016, is that right?

**LASH CHAFFIN:** Correct.

**DeBOER:** And had they used the consultant before that?

**LASH CHAFFIN:** They-- they started using the consultant after that  
happened.

**DeBOER:** OK, significant.

**LASH CHAFFIN:** Yes.

**DeBOER:** So, if there is a problem where the timeline is becoming a  
problem, what would be the-- what would be the drawback of-- of at  
least setting a timeline and saying these things all have to be done  
within this time period?

**LASH CHAFFIN:** Well-- well, there is-- there is a timeline. There is a  
federal timeline. And I don't-- I think it's dangerous practice to  
start putting the timelines in state law, because if we're going to--  
if we're going to match up current federal law on small cell and cell  
towers with state law, we're going to have to repeal virtually all of  
the small cell law. You know, the-- the-- we've already got-- it's a  
hard mishmash now to deal with, to figure out. There-- there is a  
federal law. I-- you know, if the companies have got a problem, they  
should invoke the federal law with this consultant. And they're-- and  
they're sort of-- and I don't know the circumstances here, and so I  
probably shouldn't even address it, but there-- there are a number of  
sort of subtleties within those timelines. And-- and maybe those have  
all been missed. I don't know, but--

**DeBOER:** So-- so what would be the problem with saying federal law or  
the-- setting a state law timeline and saying whichever is shorter or  
whichever is longer or whatever? I mean, what is the-- I understand  
that municipalities want freedom to contract with whoever they want to  
contract with, but having a reasonable timeline doesn't strike me as--  
as such an imposition on-- on the cities.

**LASH CHAFFIN:** And if they-- that timeline is already there. What--

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**DeBOER:** So--

**LASH CHAFFIN:** What the state law-- I don't know that the state law  
would have a big effect on an existing federal timeline.

**DeBOER:** So then would you be opposed to us doing one just-- if it  
doesn't affect anything, it doesn't hurt you, would you be opposed  
to--

**LASH CHAFFIN:** I would not be comfortable putting a timeline at this  
place. There's already a timeline. It may change. It may get longer;  
it may get shorter. I've-- it's always frustrating to have to come  
back to the Legislature every time a federal timeline changes.

**DeBOER:** Well, I mean, I think we could make it conditional on what the  
federal timeline is in terms of saying this or that. Right? I mean--

**LASH CHAFFIN:** Well--

**DeBOER:** --would something like that be a problem?

**LASH CHAFFIN:** It might be, but it's-- you would-- it would have to be  
a lot more sophisticated than what's here, because as-- and I-- I  
think we talked about this during the small cell debate. What if they  
come in with an application for 70 towers or-- versus 1 tower? It is--  
there's-- it's-- it's-- it's a lot more complicated to a planning  
department than it is-- than just saying get it done in 60 days, get  
it done in 90 days. It's-- it's a-- it's a-- it's not a-- a rule  
doesn't quite exist in that simple bubble.

**DeBOER:** Um-hum. I can appreciate that a larger scale product-- project  
might be more difficult to get done in a rigid timeline, but I do  
think that there is a problem that we keep hearing about, time and  
time again, about there being at least one consultant that is,  
frankly, just taking a really long time.

**LASH CHAFFIN:** Well, it-- it-- I-- I specifically asked the question,  
and then I actually followed up with, who are others that use this  
same consultant? And-- and it-- it was-- they didn't-- there was not a  
lot of-- lot they could-- one city and a few counties, too, but again,  
I can't call up the county and say, get off your tush and move along.

**DeBOER:** It may be some-- some kind of communication issue there, but--

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**LASH CHAFFIN:** Yeah.

**DeBOER:** But would you be willing to work on--

**LASH CHAFFIN:** Absolutely.

**DeBOER:** --trying to help? OK, thanks.

**LASH CHAFFIN:** You know, this summer I tried help, you know, I tried to get the-- the one city to move it along.

**GEIST:** Senator Moser.

**MOSER:** This tower that blew over in the wind is on 17th Street and about 16th Avenue in Columbus. On one side is residential housing and to the right are some grain storage and industrial areas. And it-- this may still be being litigated, so I don't want to say too much factually that I am not certain of, but it appears like it snapped off at the bottom and then it broke into two after it fell over. And I-- this and then we had a real contentious siting of a cell tower in an area where there was a lot of opposition. And the company that was siting the cell tower told and convinced our staff and-- and legal department that certain things were legally required or that we didn't have the choice to control where the tower went, and so I think that was kind of the impetus to hiring the consultant, because they said that they site a lot of these, they know the rules, they're not-- they're not going to-- they're going to represent the city's side or the-- the entity's side that's, you know, got the siting authority. So I'm not saying which way I'd necessarily vote, you know, on the bill, but-- so I wouldn't assume, just because this came from Columbus, that, you know, I'm going to vote one way or the other. But what-- do you know what the 9-- the-- is it 90 days, the federal requirement [INAUDIBLE]

**LASH CHAFFIN:** I-- I can't remember. I've got to read. I-- I sort of-- I sat down and compared this to the small cell bill. I didn't take the time to go compare it to the FCC rules and regulations. But I-- I do know within the small cell bill that time-- the shot clocks are different than they are for the FCC already.

**MOSER:** And who enforces it if the shot clock is not being followed?

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**LASH CHAFFIN:** Well, there could be civil-- civil litigation, I assume,  
but--

**MOSER:** They'd have to sue the--

**LASH CHAFFIN:** Yeah.

**MOSER:** --city or the entity that's permitting the tower?

**LASH CHAFFIN:** I-- I-- I think. You know, Senator, that's a good  
question. I'm not-- I don't-- really don't know the answer, but I  
assume that's the case.

**MOSER:** All right. Thank you.

**GEIST:** Thank you. Any questions additionally? I don't see any.

**LASH CHAFFIN:** Thank you.

**GEIST:** Thank you. Any additional opponents?

**SHELLEY SAHLING-ZART:** Vice Chair Geist, members of the Transportation  
and Telecommunications Committee, again, for the record, I'm Shelley  
Sahling-Zart, S-h-e-l-l-e-y S-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, and today I'm testifying in opposition to LB520 on behalf of  
the city of Lincoln and the Nebraska Power Association. The Nebraska  
Power Association is a voluntary association representing all of  
Nebraska's publicly owned electric utilities, including  
municipalities, public power districts, public power and irrigation  
districts, rural public power districts and cooperatives. This bill  
is-- should seem fairly familiar. It's very similar to the small cell  
legislation, which kind of makes you wonder why we didn't talk about  
this when we did the small cell legislation just two years ago. And  
again, much like the bill we talked about on pole attachments, we have  
agreements on these. We've been doing these for a long time; macro  
towers are not anything new. And the testimony today has been very  
enlightening because we've learned this is really a bill about one  
consultant out there in maybe one or two localities. Seems like a  
pretty narrow problem to legislate something for a whole bunch of  
folks. It's-- it was represented this is identical to LB898 last year.  
It's a little different. It's very similar. But this bill only applies  
to city and counties. Last year's bill was city, counties, public

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power districts, state of Nebraska, basically all political subdivisions. Those were taken out, not sure why, but that would tell me they're not really trying to go into rural areas, again, and they're not going to cover all cities with that. Now that might be because it really is one or two smaller communities that they're having a problem with this particular consultant. There might be a lot of reasons for that. Trying to get a consultant to come in to Hickman, Nebraska, just, what, 15 miles south of Lincoln, might be far different than trying to get a consultant out to Kimball, Nebraska, or a small commun-- Venango, some small community. Your costs are going to be different. Now I'm not saying that they aren't charging outrageous costs. I haven't looked at it. I'm not saying that. But I can understand why your consultant cost may vary depending on where you are in the state. But again, we're talking about the structural integrity of some of these that they don't fall; either the attachments themselves or the towers don't fall and hurt somebody. It's a liability risk for most of us. Senator Moser, you raised a great question, which is on the timelines. For the most part, I would say most of us in ordinary times would be able to comply with some-- some of these timelines. But what if we get a lot of applications? Or moreover, what if there's a controversial tower? What if somebody is trying to put one of these up in a-- in an area that people aren't very happy about, perhaps next to a school, perhaps next to parks, different places? What happens then if there suddenly is a bunch of controversy that's generated? Under this bill, if the application isn't processed within the timeframes, the application is deemed granted if you don't get it done. So the clock just runs out and it's approved. So if there's a controversy, we don't care. We move on. I don't think that's appropriate. And-- and that's one thing that's overlooked in all of these are property owners. These are not the small cells that are going to bring 5G. These are the larger macro towers. They are more obtrusive to people. You know, I will tell you in the utility business, when we put up big poles, people don't like those, and I think some people may have concerns about that. That's not accommodated in this bill anywhere. Uniformity, it's-- it's interesting because if we looked at all these, we'd have a small cell standard, we'd have a pole attachment standard, we'd have this collocation standard, and then there's the FCC stuff and they're all different. They don't want to live by the FCC one. They're trying to go further. And again, I just think we're trying to legislate contracts. In terms of some of the delays over the last year, I'd

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probably cut some people some slack in a COVID year. Some of it may have been due to that. You can't get people out to do a lot of the analysis, perhaps. I don't know if that was the case, but I think I'd probably look more into that. Look, we're not trying to be obstructionist. We really aren't. As I said on the earlier bill, we've worked with the telephone, telecommunication companies, cable companies. We'll continue to do that. There are going to be anomalies. There are going to be some people that maybe aren't playing fair or not being as accommodating, and we should bring those folks together and figure out how to resolve that. But I don't think that means we put in a-- a-- a huge, regulated structure that everybody has to comply with and we undo that cooperative nature. With that, I'd take any questions.

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

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

**GEIST:** Any additional opponents? Good afternoon.

**DON WESELY:** Senator Geist, Senator Friesen, members of the Transportation and Telecommunications Committee, my name is Don Wesely, D-o-n W-e-s-e-l-y, representing the Greater Nebraska Cities; that's seven communities toward the center of the state. I-- we're here in opposition again because of local control and the desire to give options to communities. But I-- I have one example, and I won't share which community it was, but there's another side to this story. And these are large wireless companies. They've got resources. And they came into this community and they said, we want to put up towers and we want to put them in a historic part of town and we want them where we want them. And they were-- they were kind of bullies and they made it very difficult. And this community called me and called others and said, what do we do, we don't know what to do. And they actually considered hiring a consultant. I don't know who this person is that they've been talking about. But this community did check and they found a consultant cost between \$4,000 and \$6,000. But they decided, no, they wanted to keep working with this wireless company and eventually they worked things out. But they should have had the option of hiring that consultant if they were so intimidated, frankly, by this large company coming in and telling them they had to do this and they should do this and they're going to force them to do this. These

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small towns have a difficult enough time. They don't have resources like some of the larger communities, and giving an option for them to have a consultant, and it sounds like there's one that's a problem and maybe one community that's a problem, but I wouldn't go forward with this legislation to take-- take away the chance when an aggressive, intimidating, large company comes in and tries to force a small town to do something they don't want to do. They should have some options for them to consider what's best for their community, so we oppose LB520.

**GEIST:** Thank you for your testimony. Are there questions from the committee? I don't see any.

**DON WESELY:** Thank you. Thanks.

**GEIST:** Thank you.

**\*SEAN KELLEY:** Chairperson Friesen and members of the transportation and Telecommunications Committee, my name is Sean Kelley, S-E-A-N K-E-L-L-E-Y, Executive Director of the Nebraska Internet and Television Association (NITA). I appear before you in opposition to LB520. For those of you who have served on this Committee in the past, you may recall cable providers must enter into franchise agreements for a municipality or county in order to install infrastructure in the right of way (ROW) to deliver services to our customers. We also pay a franchise fee up to 5% on the gross revenue on cable television services delivered over that network. While LB520 is presented as an application for the collocation of certain wireless facilities, we believe there are far greater consequences. LB520 would fundamentally change ROW access for at least one company by enabling them to having free, unfettered access to the ROW to build a conduit and fiber network beyond the immediate macro tower project area. This creates a competitive disadvantage for those who are paying ROW fees to deploy fiber networks supporting macro towers by exempting companies from paying ROW fees for a conduit system containing fiber that is attached to an antenna. Cable operators pay millions of dollars each year through a franchise fee, in addition to paying one-time permit fees to operate in the ROW. A company advocating for LB520 would only have to pay one-time permit fees to build their conduit and fiber network in the ROW for wireless facilities. For this reason, we oppose LB520 as introduced. We are open and willing to work with the proponents to address our concerns with this bill. Thank you for the consideration.



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**GEIST:** Any additional opponents? Seeing none, are there any who would like to testify in the neutral capacity? Seeing none, Senator Friesen, you are welcome to close. Yes, and while you're traveling, I will read the in lieu of in-person testimony. We have in opposition Sean Kelley for the Nebraska Internet and Telecommunications Association. With that, now you may close.

**FRIESEN:** I think it's my day to abuse the cities. I guess, you know, from what I understand and listening to the testimony a little bit, when it comes to new tower placement, I mean, that's usually done with zoning. If you don't want a tower in a certain area, I mean, you were elected to represent your people. And I don't care how big the company is, I haven't seen many people get bullied into putting something where they don't want it, so that's-- that's more of a zoning issue than it is a design now. So if I look through the bill, I mean, if you want to look at new site selection and new engineering on a tower, maybe those fees aren't high enough. I won't disagree with that because you're talking about a whole new location, a whole new design, and you want maybe a consultant to take part in that. But part of the problem with what this-- is happening here is that even just to replace some equipment, not change any sizes or anything else, it's the same process. It can take up to ten months to get a permit approved to just replace equipment. They're not changing anything on the tower. They're not making it taller or shorter. They're just changing equipment. So, again, I do think-- I mean, we had numerous wireless companies here complaining about the problem. I don't think it's just one city. So, again, I'm willing to look at different things about new tower placement versus just replacing equipment. I can see where that would-- you might want a consultant for locating a new tower, but in the end, companies do tend to pick the best location for their-- the quality of service to put that tower. They're not trying to, you know, hurt anybody's view, but, you know, some people just don't want it in their backyard. That's the way it is. But again, willing to work with companies. But we've had this bill before and that seems to have not been resolved over the last year, so still looking to get something done. With that, I'm open to any questions. Thank you.

**GEIST:** And with that, we'll close the hearing of LB520. All righty.

**FRIESEN:** OK. With that, we'll open hearing on LB604. Welcome, Senator Geist.

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**GEIST:** Thank you. Thank you, Chairman Friesen, and good afternoon, colleagues of the Transportation and Telecommunications Committee. For the record, my name is Suzanne Geist; that is spelled S-u-z-a-n-n-e G-e-i-s-t. I represent District 25, which is the east side of Lincoln in Lancaster County. I introduced LB604 because we can all agree that broadband is essential and we need to find a way to ensure that rural Nebraska has access to it. They have been without access to broadband for far too long. The structure of this bill follows broadband grant programs that have been successful in other states such as Kan-- Kansas, Michigan and Minnesota. A straightforward section-by-section breakdown is provided in my statement of intent, and I hope that's helpful for you to see what this bill is attempting to do. I know that this may not be the broadband bill this year, but provisions of LB604 offered streamlined services, markets, and cuts tape that could hinder further expansion of broadband services across our state. Here are a few highlights of what LB604 has to offer. It would expand the broadband grant program to areas of the state that need assistance while allowing private capital investment and competition to flourish where it can be sustained, open broadband grants to all competitors. It will also provide transparency through a scoring system to evaluate applications in order to protect state funding and give the funding where it is needed. LB604 ensures that commitment follows funding by requiring that the winning applicants of a grant must commit to providing services to all households within the project area. The winning applicants will be re-- required to provide services within a specific time frame while making sure the service is established within two years. Once a service is provided in that area, the service must continue for a minimum of five years. My bill also provides targeting to avoid duplicative networks-- phew-- duplicative networks by stating that support from the state should be inextricably linked to obligations. Following me will be members of the provider community who will be able to answer any technical questions you may have. I look forward to working on this very important issue this session. Thank you for your time and attention, and I'm happy to take any questions.

**FRIESEN:** Thank you, Senator Geist. Senator Albrecht.

**ALBRECHT:** Thank you, Chairman Friesen. Welcome back. OK, I'm glad that you brought this, but I have a couple quick questions.

**GEIST:** OK.

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**ALBRECHT:** So earlier today on the Governor's bill, and I think Senator Friesen introduced, I asked if there was someone-- like those WISPs, is that-- is that what you're talking about is it would be somebody who is not in a particular area, that this other person's coming in and he's doing a very good job and the other company is telling everyone to go see this guy because they can't handle all of us? Is that who you're talking about?

**GEIST:** Really what we're talking about is when-- it's more a delineation of when a service-- when a-- let's just say a census block is underserved or not served at all. And the-- the commission who runs the grant program, we have it under the Director of Economic Development. But whether that-- it's there or the Public Service Commission, when a grant is awarded, what this is saying is that whoever it-- gets the money provides the service. So within that defined area, the service entirely will be provided by that-- whoever receives that grant.

**ALBRECHT:** OK, so then nobody else could come in except for the person--

**GEIST:** That would be correct.

**ALBRECHT:** OK, and why the DED and not just the Public Service Commission, if everything else seems to be going to the Public Service Commission?

**GEIST:** Originally it was written that way because the CARES Act went through DED.

**ALBRECHT:** Um-hum.

**GEIST:** So it's simply a-- it's a choice.

**ALBRECHT:** Because I'm seeing a fiscal note that they'd have to hire somebody to--

**GEIST:** Right.

**ALBRECHT:** --take care of all of it when everything should, I would think, be already in Public Service--

**GEIST:** And that's a-- a thing we would be willing to negotiate.

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**ALBRECHT:** Yep. OK, thanks.

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

**GEIST:** Thank you.

**FRIESEN:** Proponents who wish to testify in favor of LB604? Welcome.

**JOHN IDOUX:** Thank you, Senator. Thank you, committee. Again, thank  
you, Senator Friesen and members of the committee. My name is John  
Idoux, I-d-o-u-x, and I am CenturyLink's director of governmental  
affairs, and I appreciate this opportunity to be back today to express  
CenturyLink's support of LB604. As you heard me explain this morning,  
CenturyLink has provided communication services in Nebraska since  
1911. And in 2020, we changed our corporate name to Lumen  
Technologies, which is explained more in my written testimony.  
CenturyLink serves over 80 communities here in Nebraska, including  
Omaha, Grand Island, North Platte, McCook, but also has more than 20  
communities with fewer than 1,000 residents. In 2020 alone,  
CenturyLink invested more than \$20 million-- \$70 million in new  
infrastructure investments, and we have more than 7,500 ground miles  
of long-haul fiber throughout Nebraska. Also this morning, and it's  
also explained more in my testimony, you heard me ex-- my comments  
regarding the broadband economy and the ultimate goal of any broadband  
grant initiative should be to balance the inflow of capital from  
private companies and the competitive dynamics where it can be  
sustained while also extending a bridge to areas throughout the state  
that, due to population density and other factors, face significant  
economic challenges when it comes to rural broadband deployment.  
CenturyLink supports a pro-- properly structured broadband initiative  
and thanks Senator Geist for bringing forward LB604. Now LB604 differs  
from LB388 and LB456 more in form than in substance. All three bills  
call for substantial allocation for broadband grants for increase in  
available broadband seeds-- speeds in both unserved and underserved  
areas. LB604 outlines several guardrails that are not part of LB388 or  
LB456, and vice versa. All three of these bills have many compelling  
components. CenturyLink strongly supports the positions to LB388, as  
proposed by the NTA, which adopted the framework of LB388 and blended  
critical components of LB456 and LB604 with proposed AM126. I won't  
reiterate my earlier testimony, but I'll focus on several aspects that  
are not included in either bill but are included in LB604. In order to

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balance and to bridge and to ensure limited funding is used to the maximum benefit without waste or duplicate support provided, I suggested earlier that there is no public policy benefit to provide taxpayer-funded assistance to locations that currently have broadband, nor is there any such benefit to fund an advanced network, a network that is perfectly capable of providing both voice and broadband services, while at the same time also funding a legacy voice copper network. Supporting two networks, where one is not economical, is not justified and represents a potential waste and duplication of taxpayer assistance. And again, just for clarification, these concepts I just spelled out exclude mobile wireless applications. Now, LB604 proposes four changes to existing telecom laws intended to transfer existing regulation to the grant winner. Certain parties may attempt to paint LB604 as a deregulation bill or COLA relief bill, and I suggest that that is unequivocally a false narrative. While LB604 introduces concepts regarding company commitments, LB604 does not propose the elimination of a single telecommunications law, PSC regulation or obligation. Every regulation or obligation currently in effect will remain 100 percent in effect. LB604 merely-- merely declares that the company receiving the taxpayer assistance, and only that company, has the obligations and only for the areas for which state or federal funding is received. Without such changes, traditional phone companies will continue to be required to maintain a fully regulated legacy voice copper network even after a competitor has been given taxpayer assistance to overbuild and to deploy an advanced network capable of providing voice and broadband. The proposed changes is intended to apply to a specific area where an advanced network has been deployed and only when that network is complete. If the traditional phone company is also the company receiving the broad-- broadband grant, there is no change. When taken together, these protections ensure that there will be no gap in coverage for residents. Now, if you have concerns regarding the-- the four provisions, I encourage you to read my testimony and see the limited nature for the proposed changes, but the general concept proposal is to-- is straightforward. First off, commitments must follow the funding. And second, there is absolutely no public policy benefit for the state to support both an advanced network capable of voice and broadband, while at the same time supporting and funding a legacy copper voice network. Now the first concept, that commitments must follow the funding, is rather intuitive, and this is established not only in the FCC initiatives but also within the NUSF grant programs currently in place. However,

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unless there are changes to existing law, the traditional telephone company will be required to maintain a regulated legacy voice copper network, even after the competitor has been given taxpayer assistance to overbuild and deploy an advanced network and even after all regulatory relief from the FCC has been granted. In conclusion, again, CenturyLink, again, applauds Senator Geist for putting forward a comprehensive solution to address the critical needs of both citizens and communities lacking significant broadband services. We strongly support the blended proposal put forward by the NTA, which combines aspects of LB388, LB456 and LB604.

**FRIESEN:** Thank you, Mr. Idoux. Any questions from the committee?  
Senator Albrecht.

**ALBRECHT:** Thank you, Chairman. OK, so since I'm not going to get my WISP in my area to be able to service me, you're saying that like these other companies, whether it be yours or someone else's, they get \$5 million? Is that-- is that what you're saying on the back of this page here, the blending and-- and bridging the balance?

**JOHN IDOUX:** Yes, part of LB604 does have a project maximum of-- of \$5 million for any particular project, and that was part of the proposals brought forward by the NTA as well. And the thought process of that was we know that there's going to be limited dollars, and if we're using the number of \$20 million available to us, quite honestly, depending upon the size of the project, if you go into a, you know, a small- or medium-sized city, that one project could very easily eat up the entire funding amount.

**ALBRECHT:** But wouldn't you agree, though, that for that kind of money to be able to go out and take care of the underserved people, I mean, that's the whole idea with the funding, is to be able to take care of people who currently are underserved or-- or not served at all.

**JOHN IDOUX:** Well, the goal of the-- of the plan, I mean, there's going to be some-- if-- if the-- if the new goal is kind of moving towards 100/100, I mean, there's going to be even some cities that don't have that, some of the smaller cities, not the, you know, the Grand Islands or some of the-- the-- the ones where competitive providers come in. There's--

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**ALBRECHT:** But I guess-- I guess my-- my deal where I'm at in northeast Nebraska, and I'm sure you're very familiar, but these census blocks, when you say that you're serving a group of people and there's enough of them that pass the--

**JOHN IDOUX:** Sure.

**ALBRECHT:** --the test, then that's OK. But there are so many more not very far from the-- that little town that could be served and have been served over a ten-year period, but then all of a sudden they come in and decide that they're not going to upgrade any equipment any longer and we don't have the choices. So just because somebody comes in qualified and has serviced several anyway, I'm looking for that person who's going to be servicing those of us who do not have adequate service.

**JOHN IDOUX:** Yeah, and clear-- clearly, I mean, one key difference between broadband and electrical, the rural roll-out out of electrical, is with-- with broadband, you're constantly increasing capabilities and speeds. The-- two-- two thoughts: First of all, LB604 does include provisions. When we talk about looking at the census blocks, right now with some of the-- the federal programs, if one or two people within that particular census blocks [SIC] have that speed, that census block is automatically disqualified. We-- we agree, but that's how the federal programs have worked. And the thought process there, I'm not going to speak too long on this, but, I mean, there's more need than there is money, so let's just kind of hit-- I don't want to say low-hanging fruit, but the ones that can give you the bigger bang for the bucks. On the flip side what you also don't want is, if there's only one or two households in a particular census blocks [SIC] that can't get 100/100 and-- but the rest can, you do not want that area to qualify for one of these grants because you want that money to be prioritized someplace that might be able to benefit more people. And so the-- the blended approach that was taken with LB604 kind of combines that and throws out the 50 percent factor for any particular census blocks as the threshold. Is that perfect? No. Is there going to be need to-- to change over time? Absolutely. But that's going to be enough guidance at the start of this that there's going to be sufficient projects out there to be identified and funded because that \$20 million, even though it's significant, it's not going to go as far, I think, as people and-- and-- and folks really hope it does, even with the 50 percent match. You know, I know we could all

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talk-- most of the concepts that-- that we talk about and go back and forth with, I think there's a lot of agreement. The challenge is, how do you prioritize? And there's much more need out there than the dollars will-- will cover. And everybody is equally deserving of this. We heard this morning of all the different applications. I mean, everybody needs or uses the Internet differently. That's another difference between the electrical side and this. Everybody that uses broadband does use it a little bit differently and prioritization is going to be one of the biggest challenges.

**ALBRECHT:** Thank you.

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

**JOHN IDOUX:** Again, thank you, Senator. Thank you, committee.

**\*TIP O'NEILL:** Chairman Friesen, members of the Transportation and Telecommunications Committee, my name is Tip O'Neill and I am the President of the Nebraska Telecommunications Association. The NTA is a trade association that represents a majority of companies that provide landline voice and broadband Telecommunications Services to Nebraskans across the state. I indicated in my oral testimony supporting LB388 that the NTA also supports LB604. We took what we believed were the best parts of the three broadband proposals, LBs388, 456, and 604 and blended them into our amendment to LB388. LB604, as introduced, contains many of the guardrails that are in AM126 to LB388. In particular, the guardrail provisions are patterned after the program administered by the Nebraska Department of Economic Development that provided CARES Act federal funding for broadband enhancement. LB604 also contains provisions that relate to existing telecommunications laws, particularly relating to appropriate regulatory authority of the PSC of existing carriers when their areas are overbuilt by other carriers using public funds. Those provisions are not included in AM126, but we believe they should be considered by the committee as they are, at least in concept, supported by the NTA board. We look forward to working with the committee members in crafting legislation that best captures the intent of LB604 and other bills in deploying broadband successfully to unserved and underserved areas of Nebraska. Thanks for your consideration.



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**\*ERIC GERRARD:** Members of the Transportation and Telecommunications Committee: My name is Eric Gerrard and I represent Windstream at the Nebraska Legislature. Windstream is pleased to support LB604 and urges the committee to support the principals stated in the bill. We also thank Senator Geist for carrying this legislation. The COVID-19 pandemic has shed additional light on the need for broadband expansion in all areas of Nebraska but most importantly in Nebraska's high cost areas. As a provider of high speed internet to our customers in southeast Nebraska, we have appreciated the ability to participate in Nebraska's Universal Service Fund high cost program and the recent CARES Act Grants administered by the Nebraska Department of Economic Development. LB604 would allow the spirit of that Cares Act program to continue and telecommunications providers to apply for support in high cost areas currently lacking adequate broadband and necessary infrastructure. LB604 also includes much needed regulatory changes that are best outlined in Century Link's written and verbal testimony. We believe these changes protect the competitive telecommunications marketplace but also allow the transfer of regulatory obligations to grant recipients building new networks with taxpayer assistance. We understand there are other broadband bills the committee is taking up this session. Windstream supports all three options and urges the committee to develop a blended final bill. We would appreciate the opportunity to be a part of discussions as the committee finalizes these important details. If you have any questions, please feel free to contact Trent Fellers or me.

**\*JOHN SKRETTA:** Good afternoon, Chairman Friesen and members of the Transportation and Telecommunications Committee: My name is Dr. John Skretta and I am the Educational Service Unit 6 Administrator. We are headquartered in Milford in Seward County, and serve 16 public school districts across five counties with 1,300 teachers and over 14,000 students. I am providing this testimony on behalf of Educational Service Unit 6 in support of Senator Geist's LB604, which would create the Nebraska Accelerated Broadband Deployment Grant Program. By addressing the issue of the "digital divide," LB604 would expand opportunities for Nebraska's k-12 student population by helping to close the opportunity gap that currently exists in parts of our state where broadband options are limited or non-existent. This past year of the COVID-19 pandemic has brought to light the instrumental importance of connectivity and access for all. During last spring's school closures and with the sudden ramp-up of remote learning delivered via

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the internet, technology directors in districts and across ESUs realized there remain critical gaps in access and connectivity in our state. It has been said that broadband is the new base utility. In terms of educational delivery, we believe that internet for all is a chief component of ensuring equitable opportunities for Nebraska students. LB604 brings helpful definition and clarity to key provisions that should ensure providers meet the criteria necessary to demonstrate quality in broadband. These include but are not limited to: • Defining local exchange areas • Stipulating minimum thresholds for broadband speeds • Ensuring measurable outcomes by attaching practical pre-bid and completion timeline requirements • Fostering a competitive environment to open up areas to providers so that consumers (and schools are major consumers of the internet to provide educational delivery) have a suitable range of viable options. ESU 6 asks you to support LB604 to encourage innovation and entrepreneurship to bring broadband to unserved and underserved areas of Nebraska. We feel this coalesces with key educational priorities in ensuring equitable digital access for all Nebraska's schoolchildren, and we are grateful to Senator Geist for sponsoring this important legislation. Thank you.

**FRIESEN:** Any other proponents for LB604? Seeing none, anyone wants to testify in opposition to LB604? Welcome, Commissioner Watermeier.

**DAN WATERMEIER:** Thank you. Good afternoon, Chairman Friesen, members of the Transportation and Telecommunications Committee. My name is Dan Watermeier, spelled W-a-t-e-r-m-e-i-e-r. I represent the commission's first district and the current chairman of the Nebraska Public Service Commission, and I'm here to testify in opposition to LB604. The sections of federal law that this bill seeks to override are designed to protect consumers from the whims of the marketplace. They ensure that pursuant to federal and state collaboration, there will continue to be a carrier able to serve consumers. I will be providing more detailed written testimony that provides additional background into the arguments we are making today, but these are very complex legal and regulatory issues that warrant additional detail, and unfortunately, I cannot compress them into five minutes. We believe that the bill, as written, would remove important consumer protections for all citizens, especially those living in the rural areas. This bill would mean the majority of consumers paying into the high-cost mechanism will have no recourse if their communication services do not work or if they are charged incorrectly. Communications complaints,

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including misleading offers, installation issues, service problems, billing disputes consistently rank among the nation's top ten complaints and are consistently the top issue that the commission receives calls about daily. The bill also seeks to make significant changes to the ETC provisions, and I want to mention that a number of the larger carriers have already pleaded with the FCC to redefine their ETC obligations to match areas where they have received Universal Service support, much like this bill. The FCC has already declined to redefine the ETC areas to match where the carriers receive support. That decision was affirmed by a federal court upon review and for very good reason. The FCC found that granting this request would not be in the public's best interest and may, in fact, be harmful-- harmful to consumers. The FCC further found that the carriers' claim that would promote con-- competition were unsubstantiated. I have attached a copy of the federal court's decision to my testimony. Section 18 of the bill states that the commission shall not designate more than one ETC per supported area, appears to be unlawful. In 2004, the commission tried to limit the number of ETCs in a given support area, and a federal court told us we were wrong. I've attached a copy of that federal court Opinion to my testimony as well. Moreover, we are concerned about what this bill's implications are relative to areas where the commission and the FCC have already provided significant funding for network upgrades that might argue are no longer receiving support. For example, for price gap carriers, the commission allocates 80 percent of their NUSF funding to broadband grants, which can only be used for building out broadband networks in unserved areas. Carriers do not receive payment until they have made the investment, but upon completion, there is a needed oversight to make sure that the services work as promised. In 2018, the commission allocated \$50 million to CenturyLink to build out the rural Valentine Exchange. Once complete and CenturyLink has collected their support, are they allowed to walk away from any ongoing consumer protections and service quality oversights? Section 14 of the bill defines support area as where the commission designates an eligible carrier to receive state support from the high-cost fund or census blocks where it receives support from the federal program. The FCC's Connect America Fund, which I refer to as CAF II, program support is ending this year and some carriers will no longer be receiving federal support to provide broadband services. Last month, CenturyLink and Frontier notified the FCC and our agency that they may not have met their required build-out obligations in Nebraska. States have been asked to

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assist the FCC in certifying that the locations reported as served are accurate and that consumers are receiving the minimum speeds of service. However, this bill would appear to remove that ability. After allowing carriers to receive approximately \$140 million in CAF II support in Nebraska over the last six years, it would be imprudent to let carriers walk away from that investment without any responsibility to their subscribers and without any future oversight. Finally, this bill is silent about our ability to oversee carrier network quality and consumer protection, despite millions of other tax-- ratepayer dollars provided to these carriers through other Universal Service programs. The commission allocates Universal Service support to carriers through Lifeline for low-end consumers-- low-income consumers, telehealth support for rural hospital broadband connections, and E-Rate special construction support for schools and libraries. These are also critical services, yet if a carrier is not receiving high-cost support, the carrier-- the carrier would be free from the commission's oversight of this funding. Our overriding concern is that-- that we will have lost any authority to protect vulnerable consumers whose critical access to these services may be at risk. I thank the committee for its time and attention, and I would be happy to try and answer any questions.

**FRIESEN:** Thank you, Commissioner Watermeier. Any questions from the committee? So I'm going to-- I'm going to ask a couple of questions here, and I-- I think where-- where CenturyLink kind of wanted to go or what they're implying is that if you allow another company to overbuild them with fiber, and that's basically what we're saying in the other bills, so you've got two systems out there now that can provide telecommunications. Is that-- be correct?

**DAN WATERMEIER:** Well, you could have and there could be and that's what they're getting at, is to try to transfer that obligation of the carrier of last resort along to somebody else who may be receiving the funds that they've turned down.

**FRIESEN:** So we've-- we've subsidized someone to come in and overbuild them with tax dollars.

**DAN WATERMEIER:** Not overbuild them. I would agree with that.

**FRIESEN:** Well, if-- if they're not providing more than 100/20, we would be taking tax dollars and subsidizing somebody to overbuild them

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to provide broadband. And-- and now we're going to be, in a way is--  
are there companies could-- they have through the NUSF and USF fund,  
they're being given money every year to maintain their systems. Does  
that sound logical? So we've got two systems, both capable of doing  
all of the above, and we're giving money to both of them.

**DAN WATERMEIER:** That's correct. And in fact, the price carriers get 80  
percent, and we call that capital expenditures where they're getting  
80 percent of their cost up front, and the remaining 20 percent comes  
as an operational expense. That part is true. But I think the key is,  
is this transfer, and we've seen these boundary changes and many of  
you were around to see these work. And Senator Fischer in her years in  
the Legislature actually did a good job of allowing the Public Service  
Commission to actually allow these transfers to work, these boundary  
changes. But it still doesn't get away from the fact that there has to  
be a transition. I mean, you have this huge investment that Nebraska's  
made and the federal government has made and you just can't have a  
drop that big that says, OK, all of a sudden now our support is  
ending. For instance, if-- if these price gap carriers or [INAUDIBLE]  
any of these receiving funding would just all of a sudden say, well,  
you know, this last 5, 10 or 20 percent of our customers really aren't  
worth supporting, we just give up all our support and we'll just walk  
away, well, no one is going to support that last-- last-- that's what  
the customers were talking about. No one would pick them up and there  
would be no chance for us to take complaints, service issues. We just  
couldn't serve those individuals and the state would be doing them a  
huge disservice. That's just [INAUDIBLE]

**FRIESEN:** So would a-- would a-- would a reverse auction process work  
better then because somebody else is going to take over before--

**DAN WATERMEIER:** It's-- it probably cleaner in the fact that somebody  
is going to be taking it over. Or if it-- no one takes it over, that  
obligation stays with the previous carrier.

**FRIESEN:** Because we've-- we've-- in the-- the other process that's  
currently set up, I mean, you have an eligible ETC that's operating.  
And so if you do the reverse auction, you're going to hand over  
responsibilities off to someone else also. Right?

**DAN WATERMEIER:** Yes. But here's the process of-- the problem that I  
see personally with the bill is that there's already a process for ETC

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status change. They can come to us and ask that we're going to do this, and we've done sort of that through the boundary process and we're getting better at it. But here's another example that-- that really bothers me. If you're just going to say-- say we can't have-- we wouldn't have any ability to regulate somebody that was in-- not receiving support. Oshkosh, Nebraska, we've had two hearings out there in the last year from-- strictly dealing with service complaints. CenturyLink doesn't receive any money in the city of Oshkosh, but if this bill would go through, we couldn't even take a call from somebody in that city. It just hamstring us. I mean, it just takes us out of the picture. It takes all of us out of the picture as far as providing service for them.

**FRIESEN:** OK. Any other questions from-- seeing none--

**DAN WATERMEIER:** Thank you for having me.

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

**DAN WATERMEIER:** Didn't want to be the only one opposing your bill, Senator Geist. I should have got-- should have called you, so thank you.

**FRIESEN:** Any other opponents to LB604? Seeing none, anyone wish to testify in a neutral capacity? Seeing none, Senator Geist, you're welcome to close. We do have, in lieu of in-person testimony, we have a letter of support from Tip O'Neill, Nebraska Telecommunications Association; Eric Gerrard, Windstream; John Skretta, ESU 6. And we have position letters from-- in support from the League of Women Voters in Nebraska and a neutral letter from AT&T.

**GEIST:** Thank you. And I'd just like to sum up by saying we are willing, I am and we are as a group, willing to negotiate many of these points, especially a transition period from one carrier to another, I think that's logical rather than cutting things off in one day. And also, as I said earlier, this was written with DED being the overseer; however, we also understand that that-- it was written that way because of the CARES Act and the way that that was administrated. But we have had the discussion about whether PSC would be there, or DED, and either way-- we can work with either way. So with that, I would just like to close. Thank you. I take any questions.

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**FRIESEN:** Any questions for Senator Geist? Seeing none--

**GEIST:** OK.

**FRIESEN:** --we will now close the hearing on LB604 and close the  
hearings for the day.