

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 12, 2024

**MOSER:** [RECORDING MALFUNCTION] for the Transportation and Telecommunications Committee. We'll now come to order. I'm Mike Moser. I represent District 22, Platte County and parts of Stanton County. I'm Chairman of the committee. Senators will self-introduce themselves starting with Senator Bosn.

**BOSN:** I am Carolyn Bosn, the senator for District 25, which is southeast Lincoln, Lancaster County, including Bennet.

**BRANDT:** Senator Tom Brandt, District 32: Fillmore, Thayer, Jefferson, Saline, and southwestern Lancaster Counties.

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

**FREDRICKSON:** I'm John Fredrickson, I represent District 20, which is central west Omaha.

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

**MOSER:** Our committee clerk is Lynne Woody, and our legal counsel is Mike Hybl. Ethan and Ruby are our pages today. We have blue testifier sheets on the table near the entrance to the room. If you're going to testify on a bill, fill one of those out and hand it to the pages when you come up to testify. If you're going to testify, please populate the front row so we don't have to wait so long for people to approach. All right. For those not testifying but would like to record your presence, sign the gold sheet in the book on the table near the entrance. Handouts provided by testifiers will be included as part of the record. Please provide 10 copies of any handouts and give them to the page. Senators may come and go during the hearing, it's common and required as they may be presenting bills in other committees during this time. Testimony will begin with the introducer's opening statement. Then we'll hear from supporters, then in opposition, and then those speaking in a neutral capacity. And the introducer of the bill will be given the opportunity to make closing statements if they wish to do so. Please give us your first and last name and spell them for the record. We'll be using a 3-minute timer light system today. No demonstrations of support or opposition are allowed on any testimony. Be sure and turn off your cell phones or put them on vibrate. Do as I say, not as I do. All right. And with that, Senator DeKay, welcome to the committee-- your committee.

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**DeKAY:** Good afternoon, Senator Moser and members of the Transportation and Telecommunications Committee. For the record, my name is Senator Barry DeKay, B-a-r-r-y D-e-K-a-y. I represent District 40 in northeast Nebraska and I'm here today to introduce LB1038. LB1038 is a simple bill that would change one membership requirement for the Nebraska Information Technology Commission or NITC. There are currently 9 members who are appointed by the Governor, with 5 considered to be from the general public. There is also one member from this committee selected by the Executive Board who serves as an ex officio member. LB1038 simply provides that of the 5 members representing the general public of the-- on the NITC, the principal business or occupation of at least one such member shall be from agriculture. There are two members of the general public currently on the NITC, who are set to leave on April 2 due to term limits. There would be no disruptions if this bill was enacted after that date. The rationale for this change is simply that agriculture is one of the primary sectors of this-- of our state's economy and is intertwined with rural Nebraska. In discussions I have had with Farm Bureau and others, it is clear that the future of agriculture is tied to an ever growing reliance on technology like those associated with precision agriculture. Agriculture is often tied to rural areas, which is part of the reason the committee included a representative of the agribusiness community on the Rural Broadband-- Broadband Task Force, or RBTF, a few years ago. We already have someone representing agriculture on NITC. And having someone with an agriculture background on NITC, discussions can continue with input from the rural areas, which can help ensure more of the state is represented in the commission of strategic planning and accountability now and in the future. I did want to add briefly that I brought this bill prior to LB1417 being introduced. That bill proposes to cut, among many other appointed boards and commissions, the Rural Broadband Task Force. If cutting the Rural Broadband Task Force is on the table, having a representative of agriculture sector would provide a way to partly make up for the elimination of the Rural Broadband Task Force by ensuring a degree of rural representation. Whether or not we end up losing the Rural Broadband, Broadband Task Force this year or not is subject to whatever happens later this year. Regardless, the NITC does have a sizable role in shaping how our state looks at the issue of expanding access to broadband and information technology, and it would be wise to have this discussion regardless if LB1417 is still in play or not. In closing, having agriculture represented on the NITC would help address a potential gap I see in how we are currently looking at our state's strategic information technology planning. Additionally, we can make this a decision this year without disrupting the NITC's operations or booting anyone off

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prematurely. We would just be maintaining the status quo. With that, I'm happy to try to answer any questions. Thank you.

**MOSER:** Questions for the testifier? Senator Fredrickson.

**FREDRICKSON:** Thank you, Chair Moser. Thank you, Senator DeKay, for being here and for bringing this bill. I just want to clarify, I think maybe you mentioned this in your opening. The member designated to represent agriculture, is that an additional member? So a new member to the committee or it's just one of the already existing members would be on there?

**DeKAY:** No, this is a member that's already a member that's being term limited off that's already engaged in agriculture. It's just maintaining the status quo so that member-- so a member of agriculture can replace that person as-- be part of the makeup of that board.

**FREDRICKSON:** Got it. So same committee numbers, folks on the committee, just one--

**DeKAY:** Exactly.

**FREDRICKSON:** Thank you.

**MOSER:** All right. Thank you very much. Supporters for LB1038? Seeing no others, opposition for LB1038? Neutral for LB1038? Senator DeKay waives his closing. That'll move us on to our next bill-- oh, there were no comments received on that bill-- 10-- on LB1336, also by Senator DeKay. Welcome once again.

**DeKAY:** Good afternoon again, Chairman Moser and members of the Transportation and Telecommunications Committee. For the record, my name is Senator Barry DeKay, B-a-r-r-y D-e-K-a-y. I represent District 40 in northeast Nebraska and am here today to introduce LB1336. LB1336 would enact two major changes. The first major change would move the administration of Nebraska Broadband Bridge Act from the Public Service Commission, or PSC, to the Nebraska Broadband Office, or NBO. Second, the bill would lower the required match for a Bridge Act grant from 50% to 20% if located outside of high-cost areas, and as determined by the Nebraska Broadband Office inside high-cost areas. Rural broadband continues to be a major focus of the state. We have been working on providing adequate service to every Nebraskan for over 2 decades, and now have some good programs in place, and the Broadband Bridge Act is one of those. It was created in 2021 to facilitate and fund the deployment of broadband networks in unserved and underserved areas of Nebraska. We are currently appropriating \$20 million per year

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to the bridge program, which is currently administered by the PSC. Another program will be added this year when Nebraska receives its portion of the federal Broadband Equity Access and Deployment Program, also known as BEAD. Thank you. This will be an infusion of another \$405 million to fix our rural broadband issue. This program is administered by the NBO, both the federal BEAD fund and the Nebraska Broadband Bridge Program share the same mission. I am bringing LB1336 to have a discussion on how we want to handle these two programs now and future programs moving forward by balancing the relationship between the PSC and NBO. One could make the argument that it would be inefficient to have these two programs administered by two separate agencies. Consolidating the authority into one entity could be more productive to the state to achieve the long-term goal of making sure every Nebraskan has adequate broadband service. In theory, we, we could avoid unnecessary costs, resources, and duplication. I did have a conversation with members of the PSC regarding this bill, and I told them I just wanted a discussion on these points. However, I do think with NBO now up and running, it is appropriate to discuss the relationship of this office with the PSC and make sure we are being as efficient with our resources as possible. The second major change that LB1336 would make is that it would lower the required match for a project from existing from 50% to 20% if located outside of high-cost areas and from existing 25% to, as determined by the NBO inside of high-cost areas. This is another topic I believe is deserving of discussion. As we continue to reach more areas of the state, the last unserved locations will likely be the most sparsely populated areas. My point in bringing this change is that we need to start discussing how we can get out to that last mile. Obviously, we want providers to have skin in the game. Perhaps we might need to adjust the 50/25 match currently in statute or maybe we don't. In closing, I do not expect this bill to go anywhere, but it does open up the dialogue on where we want to go and airs out any current concerns with the relationship between the PSC and the NBO. With that, I am happy to try and answer any questions for you. Thank you.

**MOSER:** Questions from the committee? Senator Brandt.

**BRANDT:** Thank you, Chairman Moser. Thank you, Senator DeKay, for bringing this. Trying to go through the fiscal note and it's very convoluted. Do you know, if this were to happen, how many positions do we eliminate at the PSC and how many do we add over at Nebraska Broadband Office?

**DeKAY:** That would be-- that would be a discussion with those people. If we're going to eliminate positions or not, that would be a

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discussion on where we go going forward. This is opening up that discussion to see what pathways will be taken in regard to how we-- if we leave things the way they are or how we maneuver around going forward.

**BRANDT:** Well, I guess what's confusing to me is on, on our Fiscal Office note, they didn't add any people but they gave them-- 6 employees a 10% raise, which is-- I've never seen that before on a fiscal note, usually they're hell bent to add FTEs or, or take them away and then the next year they give a 5%. And I guess maybe I'll wait for the PSC to come up here to, to see what kind of manpower-- they already have the expertise of manpower over there. What do we, as a state, gain by moving this to the Broadband Office?

**DeKAY:** Well, it, it would be just to make sure we're not duplicating the same type of services so that, one, if, if it can be, they could work in conjunction with each other to make sure that it's a station-run operation for broadband going forward as we can. So hopefully eliminate some undue cost that would be coming. So I would appreciate it when PSC comes up that you address that with them.

**BRANDT:** I will. Thank you.

**MOSER:** Senator Cavanaugh.

**M. CAVANAUGH:** Thank you. Thank you, Senator DeKay. We, we talked about this a little bit earlier. So the Broadband Bridge Act, we created the Broadband Office, but it is supposed to be a temporary office for a specific federal program to be administered. If we were to enact LB1336, what would happen? Is it your intention that the office-- the Broadband Office would become permanent or would this have to go back to the PSC after the Broadband Office is dissolved?

**DeKAY:** Again, that would be a discussion worthy with the NBO and the PSC to see how we can-- how they can join forces more cohesively to see where we need to go with this and hopefully try to eliminate duplicating duties and arguing over which, which office would carry out those duties and the rural Broadband Office would go away. I don't have the answer to that right now.

**M. CAVANAUGH:** Well, so last year, LB684, the committee bill, that moved the Broadband Act, the administration of the Broadband Act from the PSC, creating a new office under the Department of Transportation or not under the Department of Transportation, but transportation adjacent, I guess, because the Governor declared it to be so at the

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start of the Legis-- actually, before the Legislature started, he declared creating this office so the Legislature was forced to take action to create the office, moving the purview of the program from the PSC to a new office. And the office was supposed to be temporary. And now we're proposing to move additional things from the PSC to this office. So I understand wanting to eliminate duplicative work, but we here, not me, but the majority of the Legislature created this situation to begin with, and I'm very concerned about continuing to perpetuate the problem. It feels like it's an attempt to erode the office of the PSC, which serves a very critical regulatory purpose and has much more transparency in the fact that those that are elected to the board cannot hold any other job, that the pay is such to make it a "livable-ish"-- although it probably isn't quite livable enough-- wage because of concerns over conflict of interest, because this is such an important industry that involves a lot of money. So I'm concerned about diluting that consumer protection piece and putting it under the purview of an agency that has the least government oversight of any agency in the state. So there's my concerns if you want to speak to them or not.

**DeKAY:** I will speak real quickly--

**M. CAVANAUGH:** OK.

**DeKAY:** --and then I will leave that to the testifiers behind me. Obviously, we don't want to create more government. We do want the offices that are in place to be able to handle the situations as far as broadband, that that's done effectively and efficiently. And hopefully those two offices rather NBO goes away in a time frame of a year and a half or whatever, that would be something that would be discussed. Then, obviously, with PSC he would want them to be able to understand the needs of rural broadband and, and the importance of being able to do it in an expedient manner to get these underserved and unserved areas of Nebraska done so it's a conversation to have with those two groups to be able to come together to find a way to work through this and get to our unserved and underserved areas of Nebraska.

**M. CAVANAUGH:** And then to Senator Brandt's question about the fiscal note, was any explanation given to you as to why there would be that increase in salaries?

**DeKAY:** I-- no, and that-- and that's--

**M. CAVANAUGH:** Well, we can ask them.

**DeKAY:** Yeah.

**M. CAVANAUGH:** Thank you.

**DeKAY:** Thank you.

**MOSER:** Thank you, Senator. We received 1 proponent email and 6 opponent emails. Supporters of LB1336? Anybody to testify in support? If you're planning to testify, please come take the positions in the first row so that we can move a little more quickly. Welcome.

**ELAINE MENZEL:** Thank you, Chairman Moser and members of the Transportation and Telecommunications Committee. For the record, my name is Elaine Menzel. That's E-l-a-i-n-e M-e-n-z-e-l, here on behalf of the Nebraska Association of County Officials in support of LB--

**MOSER:** LB1336.

**ELAINE MENZEL:** --I appreciate that-- sometimes I've had the benefit of the number but-- that would transfer the Broadband Bridge Program. The basis of our support is the synthesizing and creating the program so that it would be, perhaps, not duplicative and those types of things and removing redundant processes. So that's the primary rationale for our support and we would encourage you to support the legislation. However, we do recognize that there's further discussions to be held as the-- as Senator DeKay testified to. So with that, I'd attempt to answer any questions. But just to let you know, I'm not the one that generally deals in this topical area so I may have to give back to you with my answers.

**MOSER:** OK. Any questions for the testifier? Seeing none, thank you for your testimony.

**ELAINE MENZEL:** Thank you.

**MOSER:** Anybody else to speak in support of the bill? Anyone to speak in opposition to the bill? Welcome.

**TIP O'NEILL:** Thank you, Chairman Moser, 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 am president of the Nebraska Telecommunications Association. The NTA is a trade association which represents 21 companies that provide landline, voice, and broadband telecommunications services to Nebraskans across the state. The NTA opposes LB1336. Our companies are generally pleased with the manner in which the Public Service Commission has administered the Broadband

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Bridge Program since its inception with the passage of LB388 in 2021. We also believe that this is an incredibly busy and important time for the Nebraska Broadband Office in getting the BEAD Program off the ground, as it anticipates awarding funds later this year or early in 2025. We are not saying that we would never support transfer of the Bridge Program to the Broadband Office. However, we believe now is not the right time. We have confidence that the commissioners and staff at the PSC and Patrick Haggerty and his staff at the Broadband Office will continue to work closely together in helping to bridge the digital divide in Nebraska. We believe it will take the efforts of both agencies. Again, we oppose LB1336 at this time. I'd be happy to answer your questions.

**MOSER:** Questions? Senator Brandt.

**BRANDT:** Thank you, Chairman Moser. Thank you, Mr. O'Neill, for your testimony today. Can you tell me how this bridge program has benefited your membership?

**TIP O'NEILL:** Again, I, I don't necessarily have specific details. I, I know that they have had projects that were approved by the Public Service Commission. And, and, again, you know, this is a different type of program than the BEAD Program is. The BEAD Program, the federal money program is, is a lot more money, you're talking about \$400 million or so that's going to be allocated in Nebraska in that program. This is a smaller program. This is a \$20 million program, which is still significant. But it has allowed the smaller companies that I represent to build out further into the rural areas because, again, the priority for broadband bridge dollars is for unserved locations. And that's what this has-- this has done, that 50% match or 25% match that, that, that companies have if it's in a high-cost area is helpful. The more sparse areas there are, the more that really helps in reaching people who are in the rural areas, so.

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

**MOSER:** Senator Bostelman.

**BOSTELMAN:** Thank you, Chairman Moser. Good afternoon, Mr. O'Neill.

**TIP O'NEILL:** Good afternoon, Senator.

**BOSTELMAN:** Do you happen to know about how many locations do we have out there or areas that's unserved now from your members? Do they-- can-- have they expressed, you know, what they feel, how much more is out there to be done?



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**TIP O'NEILL:** I believe there is new data from the Nebraska Broadband Office that has just updated that information, Senator. I don't have-- as, as I recall, those numbers went from about 50,000 unserved locations to somewhere between 14,000 and 15,000. But I'd have to get you the actual number.

**BOSTELMAN:** Yeah, I think-- I think that was in the report that we got, the annual report, those numbers were in there. I think the Broadband Office had it or PSC had it. So would one of-- is-- timing is one of your oppositions, but the match, what about the match? To me, that's the interesting thing why we would-- as you said, the whole purpose for the Bridge Act is to get to the hardest places in the state. Most difficult, most expensive, most difficult. Why would we-- I guess my question is-- I don't understand why you'd want to drop it to 20% on the outside of the high-cost areas, but, is the only opposition you have is just the timing or is it on the match as well or something else?

**TIP O'NEILL:** We, we-- I-- generally the position of the NTA is that the current match requirement is appropriate.

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

**MOSER:** Thank you, Mr. O'Neill, and welcome back.

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

**MOSER:** Come back again.

**TIP O'NEILL:** I'm sure I will, Senator.

**MOSER:** OK. Other opposition? Anybody else to speak in opposition? Seeing none, anyone here to speak in the neutral? Welcome.

**TIM SCHRAM:** Thank you. Good afternoon, Chair Moser and members of the committee. My name is Tim Schram, T-i-m S-c-h-r-a-m. I represent the Commission's third district. I'm here today on behalf of the Commission to provide testimony on LB1336 in the neutral capacity. We understand the Legislature is the ultimate decision-maker in determining which agency should distribute bridge funding and we want to let the committee know we respect this authority. The Commission has successfully administered the Bridge Program economically. In three rounds administered, we have awarded 120 grants to reach 5,434 unserved and 11,477 underserved locations with minimum speeds of 100 by 100. I have a handout with my testimony showing grant awards. We administer this program for a low cost. In three grant cycles, the

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Commission has spent an average of \$152,700 per year at 1.62% admin cost. We value transparency in how we administer the Bridge Program. Every year, we have an open process where we ask for comments and hold a public hearing on the requirements to consider public input and possible changes to the program, much like rules and regulations. We release program guidance, the scoring sheet, and all requirements before the grant cycle so applicants and challengers know exactly what to expect. We post all applications, challenges received, and scoring summary on our website. We recommend that transparency be maintained through the administrative procedure process described in the bill. We seek clarification on this bill. The bill does not address continued administration of grants already issued by the Commission. Currently, the Commission oversees past awards, reviewing progress reports, invoices, and speed test, and making reimbursements on a regular basis. The Bridge Act contains 15-- a 15-year performance obligation, which the Commission, as regulatory body, has the tools to enforce. We have started the 2024 Bridge cycle. I brought a handout showing our procedural schedule for this year. Because the bill is not clear at this time on the transition of the Bridge Program, our fiscal note includes costs of continued administration, the cost of those grants. The language regarding agreements with the DED to administer federal grants needs clarifications. Page 14, lines 21 through 25. As written, this change would impact the continued administration by the Commission of the federal Capital Projects Fund grant funded by the U.S. Treasury. If-- in CPF, the Commission is in the middle of a second and final grant cycle. All projects are to be completed and funding expended by December 2026. Stopping the current cycle and transitioning the administration of the current grant performance would delay awards and jeopardize the remaining \$24 million in grant funds. Grant awardees from the first round have agreements with the Commission for monitoring and reporting. These agreements would need to be renegotiated by the Broadband Office. Regarding rates, we believe it is important that there is a public benefit from a publicly funded network. We do not dictate rates, rather, we believe the public is entitled to know what they are paying for. Thank you for your time. I'd be happy to answer any questions.

**MOSER:** OK. Do we have questions for the testifier? Senator Fredrickson.

**FREDRICKSON:** Thank you, Chair Moser. Thank you, Commissioner Schram, for being here--

**TIM SCHRAM:** Yes.

**FREDRICKSON:** --today and for your testimony. I appreciate that. I had a question. Senator Cavanaugh was asking this a little bit earlier. Do, do you have a sense, based on your reading of the bill, of where this might be housed in, in the future? So there was some concern about this possibly going from the PSC over to the Broadband Office and then potentially back to the PSC in the future should the Broadband Office no longer be in existence. Do you have a sense of what that might look like?

**TIM SCHRAM:** Well, we already have a process in place. I mean, we have a proven record of three grant cycles so far. So, I mean, if, if that should take place, if that's a-- you know, it's the determination of your body of what the future of the Broadband Office is.

**FREDRICKSON:** Thank you.

**MOSER:** Senator Bostelman.

**BOSTELMAN:** Thank you, Chairman Moser. Thank you, Commissioner Schram. A couple of questions-- a few questions, maybe here. One question is, there's 120 grants that were awarded and the majority of those grants have gone to underserved locations instead of unserved locations. The Bridge Act is for unserved locations. Why are there so many underserved locations being awarded when the grant program is for unserved?

**TIM SCHRAM:** That's a good question, Senator. And early in the first rounds, there were a lot of grants that were primarily submitted from the underserved areas. It had some unserved areas in them. And-- but the, the last-- I should have had this broke down somewhere in your information, but the later grants had-- was more weighted towards unserved than underserved.

**BOSTELMAN:** So how many of the awards had challenges to them?

**TIM SCHRAM:** I would have--

**BOSTELMAN:** Some-- maybe-- I mean, I don't-- I don't expect you to have a number off the top of your head. Sorry.

**TIM SCHRAM:** Yeah, the, the Commission has a process that, that, first of all, you have to file a notice of intent to challenge. And once that notice of intent is a challenge, everybody knows what the rules are. And then at that point, if there is a challenge and, and, and I'm glad you asked a question because one of the important things as far as challenge is, the first rounds we had probably more challenges. And

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each time we go through a grant process it seems like there's fewer challenges because every carrier or ISP applicant knows what to-- what to look for. But one important thing is, is that requiring the speed test. And I know there's been some discussion and comments about they, they think-- a challenger thinks it's too onerous to have speed tests, but it's really difficult for the Commission to determine whether or not a challenge is viable without that speed test.

**BOSTELMAN:** So how many of those challenges have had extensions?

**TIM SCHRAM:** You mean as far as time to do the project?

**BOSTELMAN:** Right. Because statute says that-- I'm understanding the statute says they can't have an extension. If they are, then, then there's consequences to that. So how many have had extensions?

**TIM SCHRAM:** I can't give you an exact number, but I, I will have our staff look into that.

**BOSTELMAN:** So my concern is, is that if someone challenges a project and then asks for an extension and then granted an extension, when the-- when I think statute says they're not-- if, if they ask for an extension that there's penalties with that, but yet we're giving them an extension and giving them more time and, again, we're back to-- I'm back-- I'm just-- my concern is on our unserved locations because of our, our BEAD funding, if that's going to go out to everybody else, we got to get our unserved locations done and we have the money for it if the state's going to put the money into it that's where it goes and we could have build out. The other question I have is, is overbuild. How many of these grants have had overbuild in them? Over existing projects, or projects that are in the ground or being made?

**TIM SCHRAM:** Well, subject to check, I'd, I'd say maybe three that I know of. There's probably more than that. But when you're looking at speeds, you know, the, the 100 by 100 threshold or the federal 100 by 20 threshold, I mean, it's, it's very difficult to avoid all overlap because if you have a wireless provider that comes in there with a fixed wireless product--

**BOSTELMAN:** Well, they have to prove it, right?

**TIM SCHRAM:** Correct.

**BOSTELMAN:** So if the statute says that they have to prove, they just can't say it, they have to prove it, so, that's what hard about that.

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**TIM SCHRAM:** Correct. They have to submit speed data. But what I'm saying is, is, is census blocks awarded are, are usually either square or rectangular in shape in census blocks and fixed wireless, of course, comes off of a tower in, in a circular or, you know, in a-- in a circle pattern. So you, you may have some overlap in that situation.

**BOSTELMAN:** OK. Thank you.

**MOSER:** Other questions? Seeing none, thank you so much.

**TIM SCHRAM:** Thank you.

**MOSER:** Next testifier. Welcome.

**EMILY HAXBY:** How are you?

**MOSER:** We're doing well.

**EMILY HAXBY:** My name is Emily Haxby, E-m-i-l-y H-a-x-b-y, and I am a county board member in Gage County. I lead our board's broadband committee in the building of our rural broadband project in 2022 and help challenge the FCC broadband service map statewide. I have been committed to bringing fiber to all of Gage County which, as you know, is a difficult process. LB1336 proposes the transfer of responsibility for distributing broadband development funds from the Public Service Commission to the Broadband Office. While I remain neutral on the outcome of the bill, I believe it is essential to emphasize the significance of maintaining a robust and efficient process for allocating these funds. In NBBP 1, only 40% of the funding went into the ground on time, and about 40% of the locations received subsidized service in a timely fashion. We've gone on to give nearly half of the funding from the other rounds to the same 9 companies that were unable to deploy their NBBP 1 infrastructure in the initial time frame allotted. Some of these extensions are intriguing. There were weather, material shortages, and labor issues. A good number of extensions were filed after the deadline, yet the PSC appears to have approved each and every one of them. They were due-- they were due June 1. Most of them were within a week. However, one was filed as late as August 29. Consolidating the responsibility for broadband funding distribution into a single office has the potential to streamline the process and enhance coordination and efficiency. BEAD will be stretched thin to hit all unserved locations and NBBP could be the supplement-- supplement this funding to reduce the burden for some of these 40,000-plus for passing, or it could be used to extend areas targeting small pockets of unserved, underserved locations instead of

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large-scale projects, leaving the match requirement at 50% or capping the award amount. However, while the structure of the distributing agency is important, it is equally crucial to prioritize the integrity and effectiveness of the process itself regardless of what office is tasked with administering the funds. Ensuring transparency, accountability, fairness, and allocation of the process must remain paramount. If moved, how will the Broadband Office set their rules and regulations for accountability? Will they take time to hear from the public on suggestions? Effective broadband funding distribution requires comprehensive approach that engages stakeholders at all levels, especially local. We can see the importance of involving local permitting agencies in the last Broadband Bridge Program. In the picture, you can see the application area on what was selected for funding. Overbuilding cannot happen and it should be avoid-- and it can be avoided with local involvement. This bill also strikes 50% match to be an 80/20 match. So until this point, statute had required a 50% match. As a note of interest, I believe only two applications met this requirement in the last round of funding. I understand the need for flexibility in this change and appreciate the language that will have scoring way more for higher matching funds. My biggest concern about lowering the match requirement is that we have already seen that low match requirements lead to low match applications, which was very apparent in capital projects where there was not a match requirement in many 100% funding requests. I have one sentence left. In conclusion, while I acknowledge the potential benefits of centralizing broadband funding distribution into a single office, I urge the committee to prioritize the integrity and the effectiveness of the process itself for whoever distributes the funds.

**MOSER:** All right. Thank you. Comments? Senator Bostelman.

**BOSTELMAN:** Thank you, Chair Moser. Could you explain your handout to us?

**EMILY HAXBY:** Yeah. The picture-- so the, the top picture-- we had five applications in Gage County. This was just one of them. The, the picture on the top is the original application and so we noticed that over half-- about half of it was within our project area. And so we reached out to the Public Service Commission and let them know. I followed up with an email on September 15. I supplied this picture to show the overlap of our fiber build as well as the permit that actually covered the rest of it, because we had permitted the, the rest of that build by working with the provider and the people that lived in that area. There was only one application selected in Gage County and it was this one. And the, the picture below is what-- is

the-- what was the area. So the orange area was the project area that was selected. The red dots were the project areas funded. And then the-- there's a dot on the bottom right, singular dot within our project area that was kept, but it still allowed them to hit all of those other homes, like the 21-home subdivision and the few others. I should also note that the-- this one that was selected, it is double the population density, that's what our project was. And we had funded our project at \$4,210 per home. This funded this bill at \$25,500 per home. So not only was it an overbuild, it funded it at five times at what we did.

**BOSTELMAN:** So you've notified the PSC that they were overbuilding in those areas?

**EMILY HAXBY:** Yeah.

**BOSTELMAN:** And what happened with that?

**EMILY HAXBY:** It was still selected.

**BOSTELMAN:** They're still going to overbuild at five times the amount?

**EMILY HAXBY:** I know that there was a reconsider filed, but I haven't seen anything on that. We-- I had emailed this on Sep-- like I said on September 15, which was the last day of the challenge timeline. But then prior to that-- and in April, I had actually sent the KMZ file, which is the SHP file of our project, and it was even uploaded into their own website already. So it was in the-- on their maps to see that, that was already funded.

**BOSTELMAN:** And your ARPA project is well underway, I guess, in those areas, it's already been built or it's near built or could you explain--

**EMILY HAXBY:** Yeah, we've already made our first payment. I think our second one is going to be coming up here very shortly. I would say almost ahead of schedule.

**BOSTELMAN:** And you think that there's been challenges-- there's been extensions, so those who've challenged them probably shouldn't have been extended?

**EMILY HAXBY:** Well, the, the, the ones that challenged were also the ones that have been receiving more funding, which if, if they're not going to-- if they can't get the project done, should we still be allocating the same amount of funds?

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**BOSTELMAN:** Do you agree that the-- just got a last question. Do you agree that the, the match that's out there now is 25% in the unserved areas and then the underserved is 50% by those who have come in. So, in other words, if someone comes into Gage County in an unserved area, they should only have to bring 25%, that the Bridge Act would give them 75%. Do you think that's-- that should be accurate? I mean, if it's most-- it's the hardest place to serve, then we give more funds to that than we do for the underserved area. Would you agree--

**EMILY HAXBY:** Yeah.

**BOSTELMAN:** --that's better?

**EMILY HAXBY:** Yeah, I think there's, there's, there's got to be some way to formulate that where you, you can calculate your, you know, average mile per passing or something and, and figure a fair-- a fair way to distribute those funds.

**BOSTELMAN:** OK. Thank you.

**MOSER:** All right. Thank you for your testimony.

**EMILY HAXBY:** Thank you.

**MOSER:** Other testifiers? Senator DeKay, I guess you're open to close.

**DeKAY:** Thank you, Senator Moser and members of the committee for the hearing on this bill. I appreciate the discussion we had today. I'm sure there is going to be further discussions going forward. With that, however this plays out with the discussions between Nebraska Broadband and the Public Service, the-- my goal with this is, is to get funds to the underserved and unserved members of the state to get rural broadband to them as efficiently and cost effectively as we can. And I think that's the purpose of the discussions going forward between these two groups. With that, if any questions, I'd try to answer them.

**MOSER:** All right. Seeing none, thank you for your appearance.

**DeKAY:** Thank you.

**MOSER:** That'll close the hearing on LB1336. Now we'll move on to LB1112. Senator Clements, welcome to the Transportation Committee. Welcome.



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**CLEMENTS:** Thank you, Senator Moser and members of the Transportation and Telecommunications Committee. My name is Senator Rob Clements, R-o-b C-l-e-m-e-n-t-s, and I represent Legislative District 2. I'm here to present you LB1112, a bill to limit permitting fees and to provide approval deadlines by local governing entities for the use of poles and towers to provide broadband services. I became aware of this issue in 2023 with events occurring in Cass County, which is in my district. A broadband company called Nextlink already provides a wireless broadband Internet service in Elmwood, Eagle, and rural customers nearby. Nextlink had, until recently, equipment set up to serve the village of South Bend and two lake communities. Their equipment was located on a private pole at a local restaurant, which had to be temporarily, temporarily relocated in 2022 due to expansion of the restaurant. This broadband service had been set up in 2003. Since then, Cass County entered into a contract with a company called Center for Municipal Solutions, CMS, an engineering consulting service. I haven't seen the contract directly, but in other contracts signed with Sarpy, Douglas, Saunders, and Madison Counties, there's a \$3,000 application fee plus an \$8,500 escrow deposit. When other fees are added on the average cost for a permit comes to \$16,000. These are just permitting and engineering fees and don't even include the cost of equipment to be mounted on one pole or the installation of a new pole. On my handout, page 2, has examples of where the \$16,000 comes from. The service at South Bend was recently taken down because the permit for the temporary tower ran out. Nextlink was unable to make a business case for constructing a replacement tower due to the permitting fees so service to 32 customers was terminated after more than 20 years. They told me that the cost of the tower is about the \$16,000 already. Please reference the first page of the handout I provided in contrast those costs with the more reasonable fees charged in counties such as Dawson, Hall, and Otoe who have not entered into a contract with a third-party consultant. Lincoln and Saline Counties charge no permit fee at all is what I've been told. These high fees stifle competition between broadband communication providers. In the example of South Bend, there is currently only one other broadband service available, Kinetic by Windstream, which now has monopoly on that area. It would be in the best interest of residents to have choices in selecting Internet providers. For the price tag of \$16,000, one might expect that an applicant will receive premier service from companies like CMS and have their permitting completed very rapidly. However, the fact is that CMS takes between 6 and 9 months to complete this permitting process. Every county or city that has entered into a contract with companies like CMS is having the ability of smaller broadband companies to offer services. My bill aims to remedy this

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issue by setting some reasonable fee limits that local entities are allowed to charge. The bill sets an application fee maximum of \$100 and a permit fee of no more than \$250. The \$250 fee matches a similar fee found in the Small Cell Communications Act [SIC] in Section 86-1239. I worked with your legal counsel on drafting this to try to pattern it after that act but the committee may be seeing this for the first time. I am willing to work with the committee on these limits if you have suggestions. The point is that there needs to be a limit below the current fee being charged. LB1112 doesn't forbid a local entity from seeking assistance from a third-party reviewer. However, it would require the local entity to pay most of the cost of such services. Other things this bill does is requires local government transparency on a website defining the application process. It requires a response from the governing entity within 5 days to confirm the receipt of the application. Notification to the applicant of missing information would be within 10 business days, and approval or denial of a completed application within 30 days. If no reply is received by then, the bill says the application would be deemed to be approved. The bill forbids any local governing entity from unreasonably denying access to any pole or tower that is not otherwise prohibited in law; from imposing any discriminatory or preferential terms or conditions for a permit; from requiring an applicant to designate a final contractor who will complete the project; and from imposing a moratorium on the issuance of permits. I believe this bill represents good government and some steps we can take to facilitate appropriate business practices and competition in Nebraska. Representatives from Nextlink will follow me to be able to answer more detailed questions. Thank you for your time and I will take any questions at this time.

**MOSER:** All right. Questions? Senator DeBoer.

**DeBOER:** Thank you, Senator Moser. Senator Clements, I sent you a note earlier to tell you-- sorry, I didn't sooner-- I spent quite a lot of time on this issue. Many, many, many, many, many hours on this issue when it was LB520 in 2022. Actually, I think it was introduced in '21. We had an AM2679 that we introduced that I'll have you look at. But one of the things that we tried to do that I'm wondering if you would be amenable to is harmonizing it with the FCC's? So we had a 60-day shot clock instead of a 30-day because that matches what the feds do.

**CLEMENTS:** Certainly. Yes.

**DeBOER:** OK. So--

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**CLEMENTS:** And not being on your committee, I wasn't sure of those details but that would be fine.

**DeBOER:** I have a, a number of things I could talk to you about with this and I, I don't necessarily need to do it in detail, but I think we all agree the problem exists that some places, the timing is really long. Plus, the escrow issue was one. It seems to be one particular vendor, which I think you mentioned. But anyway, if you would like to talk more about the specifics of it and if you would be willing to look at AM2679. That wasn't the final, final, and I can send it to your office. Not everybody was 100% there, but that might be a good place to start from when we're trying to figure out a way to get sort of everybody around a, a methodology that works for, for everyone.

**CLEMENTS:** Yes, thank you. This was a localized issue. I know that the bill would be statewide application and I was expecting that. I'm not answering all the questions that have arisen, but thank you for that offer.

**MOSER:** Senator Bostelman.

**BOSTELMAN:** Thank you, Chair Moser. Thank you for bringing this, Senator Clements. As Senator DeBoer said, this has been a pain for the state and I think for many people across the state in getting these type of facilities and poles to be, one, done in a reasonable time frame; two, being done at a reasonable price and not to be excessive, which that both have been very excessive. My understanding is we've talked about this before is this, this, this, this specific incident is on private property, well away from any highways and it's replacing what already was existed before. And now we're at however many thousands of dollars a year down the line, maybe you'll get something put back. Am I kind of on the right track with that?

**CLEMENTS:** Yes. The, the restaurant had a pole on the roof. Then they remodeled, expanded the restaurant and that pole had to be removed and a temporary one on the trailer was set on the property with a temporary permit from the county and that expired and terminated it.

**BOSTELMAN:** It's their private property. It's not in--

**CLEMENTS:** It is on--

**BOSTELMAN:** --a right-of-way, it's not near a highway, it's not near a county road, it's not near a railroad. It's not near anything but a pasture and a parking lot.

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**CLEMENTS:** Well, there is a Highway 66 that goes by this.

**BOSTELMAN:** But that's, that's a long ways away from where the pole would be established.

**CLEMENTS:** We could set that back, definitely.

**BOSTELMAN:** Yeah, because this, this needs to get resolved so thank you.

**CLEMENTS:** Thank you.

**MOSER:** I think the comments by Senator DeBoer and Senator Bostelman kind of highlight the difficulty in trying to change lead into gold and finding the right formula. I mean, I think it's, it's that complicated and maybe that impossible to straighten out. But I, I compliment you for wanting to dive into it.

**CLEMENTS:** Well, I'm one of the users that got terminated.

**MOSER:** Oh. Well, we're going to have a-- you're going to have a-- an ally in Senator Bostelman. He's still trying to get fiber at his house.

**CLEMENTS:** I appreciate the help from the committee to help answer questions.

**MOSER:** Yeah, I, I went to some of the meetings that Senator DeBoer set up and she went through the iteration 3 or 4 times trying to get all the entities together and, and nothing. No agreement was ever reached, so to speak, so. All right. Any other comments? Thank you.

**CLEMENTS:** I don't intend to close. I have my own committee meeting now.

**MOSER:** You got to go?

**CLEMENTS:** Yes.

**MOSER:** OK. Thank you. Supporters for LB112-- LB1112. We had 2 proponent emails, 3 opposition, and no neutral comments. Welcome.

**AARON CLARK:** Thank you. Thank you for your time today. My name is Aaron Clark, A-a-r-o-n C-l-a-r-k. I'm the regional director of operations for Nextlink Internet, and I'm responsible for our operations in the state of Nebraska. I'm a Lincoln native and have spent most of the last 20 years working for companies that provide

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Internet service to the residents of Nebraska and the surrounding areas. I was an active participant in the department's broadband stakeholder meetings and helped develop Nebraska's strategic broadband plan. I'm here today to speak in favor of LB1112. As all levels of government are working to bring broadband Internet to the unserved and underserved residents of our communities, it's imperative that we work together to streamline processes and find ways to be more efficient with the limited time and resources we have available to accomplish these goals. LB1112 is a necessary step in getting all stakeholders aligned towards that common goal and ensuring taxpayer dollars are used to do the most good with as little waste as possible. As the largest winner in the CAFII auction and the third largest winner in the auction RDOF auction, Nextlink Internet has an enormous obligation. We are committed to bringing the highest level of service to our customers in the process and to maintaining and updating our networks constantly to keep up with the technology. These projects and upgrades require us to work regularly with state, county, and local permitting offices. LB1112 will help greatly in clearly defining what is expected of a telecommunications provider throughout the permitting process. It will provide timelines that we as a provider can plan around, and it will ensure the associated fees are fair and reasonable. While my responsibility is in the state of Nebraska, our planning team interacts with more than 400 counties across 11 states, from Texas to South Dakota, Wyoming to Indiana. I'm proud to say that the vast majority of Nebraska's counties are fair and reasonable and, frankly, excited about the investments and upgrades we're making in our communities. LB1112 serves to set some reasonable guardrails and expectations while maintaining local control of the process. It's in Nebraska's economic interest to encourage access to world-class telecommunications infrastructure. Streamlining the associated bureaucratic processes will enable telecommunications providers like Nextlink Internet to focus on the significant technical, geographic, and financial challenges posed by operating in a state as varied and diverse as Nebraska. I'm here to ask for your support in LB1112 and be honored to answer your questions.

**MOSER:** Yes. Senator DeBoer.

**DeBOER:** Thank you. So I think you maybe heard a little bit of what we were talking about with the introducer. Is something like a 60-day shot clock going to work for you?

**AARON CLARK:** Absolutely.

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**DeBOER:** OK. There are a couple of other things with respect to how we'd work the money out and all of that that we still need to work on, but if you'd be willing to lend your voice to the many others in this conversation we could--

**AARON CLARK:** Yeah, absolutely.

**DeBOER:** --work together on it. All right. Thank you.

**MOSER:** OK. Thank you for your testimony. Anybody else to speak in support? Seeing none, any to oppose LB1112? Welcome.

**VALERIE GRIMES:** Hi. Sorry, I'm getting old enough that I need my reading glasses. Good afternoon, Senator Moser and members of the committee. My name is Valerie Grimes, V-a-l-e-r-i-e G-r-i-m-e-s, and I'm the director of planning and development for the city of Norfolk. I'm here today to speak in opposition of LB1112. This bill unfairly restricts our ability to oversee telecommunications equipment installation in our city without placing the burden on our taxpayers. The city of Norfolk does have a third-party reviewer assisting in this very specialized area of engineering and law. These invaluable consultants have the unique experience, knowledge, and expertise to assist us with the type of construction that is uncommon to our city staff and infrequently carried out. We have approximately 26,000 citizens who are not the same size as Omaha and Lincoln and shouldn't be expected to hire a full-time telecommunications expert to manage situations that only occur an average of 6 times per year. Our city taxpayers should not front the cost of compliance that should be on the telecommunication companies who, in our experience, are often eager to push projects quickly and without any regard for local health and safety regulations. I respectfully ask you not to pass LB1112. If you pass this, you'll remove the ability for communica-- communities to receive assistance from the few truly knowledgeable people available and place the increased burden of funding this experience on the taxpayers. And a few of the examples where our consultants have been most invaluable: replacing of so-called similar equipment. However, the new equipment proposed for installation was going to add 5 times more wind blow to the tower, which then presents a safety hazard to the citizens of the jurisdiction. The consultant understood this hazard, whereas I, who doesn't have the experience, had no idea that the new equipment proposed this hazard. Also, there was an agreement to put certain equipment and number of equipment up on the city's public safety tower. What was installed were 8 radio units instead of the 4 in the agreement, and 3 dishes instead of 1 in the agreement, which adds load and hazard. This public safety tower is

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particularly important due to it specifically being built for that function with other public safety entities potentially desiring to place equipment in the future. We do not want to do anything that may jeopardize that safety function and the consultant is vital for that. And removing the ability to continue to currently receive escrow paid by the telecom companies and placing that burden on taxpayers seems to be misplaced. For the 21 closed-out projects, an average of \$4,000 of unspent funds have been returned after the close, and every company that has done this has received money back. The more transparent and cooperative the telecom company is with submitting all requested information at one time for quick and easy review, the faster the review, even being as quick as 2 days and the more funds are returned. If there's any questions.

**MOSER:** Senator DeBoer.

**DeBOER:** Yes. Thank you, Senator Moser. So just to get some of the newer members up to speed on this issue. What we're looking at is, of course, you can see the reason why a company would not want to just have their request go out into 20 years later they still haven't heard back. I'm sure they'd want a timeline. That's understandable. And that they want to have some certainty with respect to these, right, that's that perspective. Because here I am, I want to balance this because I see both sides. On the other hand, you want to be able to have control over your area so that you can make sure that there aren't dangerous things happening. Can you explain what that might look like? Has there been any problem with a collocation of towers in, in Nebraska that you know about?

**VALERIE GRIMES:** In ours, we do. Our consultant found sheared-off bolts on towers when they did their review and we have had shoddy electrical equipment. And so that we actually had to dig up electrical wires from underneath with just essentially they spliced and taped together electrical equipment. So there are issues like that and in specifics to our public safety tower we-- the agreement that I gave in my testimony that was going to put our public safety tower to about 70 to 72% capacity so it still allowed other public entities to come on there when they needed to. And when they were trying to so-called switch similarly-- similar equipment, we went to 97% capacity. I myself do not have the expertise to say why did you go to 72% to 97% capacity? I rely on our third-party consultants who actually has that expertise and can look and see why and how that can potentially come back down again.

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**DeBOER:** OK. But you know that they're-- the third-party consultants that-- some of the third-party consultants that are being used have been accused of taking too long, of using too much money. I mean, this, this is not the first time we've seen this issue, right, this is Groundhog's Day a little bit. So are there other third-party consultants you might consider that would sort of not take the same amount of time or why have you chosen not to look for a different-- faced with legislation taking away your local control, why have you not looked for a different vendor?

**VALERIE GRIMES:** I don't believe our current consultant takes too much time.

**DeBOER:** OK.

**VALERIE GRIMES:** Like I said, one person turned a project in and 2 days later they were getting the approval to move forward with that project because they gave all the information in one fell swoop and they didn't try to necessarily hide things, not tell us everything. They just gave us everything at once and the consultant that we have commits to a turnaround time of the initial review within 10 days.

**DeBOER:** So the length of time that this takes is often because of not having all the information. Is that what you're saying?

**VALERIE GRIMES:** Yes. I, I would say that the time that the delays comes from the telecom companies not providing information as requested.

**DeBOER:** So if we did a shot clock of 60 days, which is like we found some FCC language that we harmonized it with, do you think that that would be adequate for you to turn around these issues?

**VALERIE GRIMES:** And that's what we have currently in our code, is the FCC law. That is a, a shot, shot clock, whatever that is. But it can be told-- that shot clock can be told if they don't have all the information.

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

**MOSER:** Senator Bostelman.

**BOSTELMAN:** Chairman Moser. So historically, what we've heard here is there's one vendor that takes a long time. It's very expensive. We're frustrated. So from-- let's come from towns and cities. The bill specifically here-- my question is, Norfolk has a different situation



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than what Senator Clements has. He's got a 100-foot wooden electrical pole, telephone pole, wooden pole with one repeater on it and that seems to have a, a different impact-- look at then what you would have potentially in Norfolk on, on a-- on a facility going up within the city itself. This is something out in the country, do you think-- my question is, do you think there should be a difference in approach to this when we have these types of situations where we're not waiting so long, not costing so much? Because I think this is apples and oranges what we're talking about. But I do think we still have a problem with timing and cost. So the question is, do you think there's a possibility to having more than one application process and timing process on the type of facility and where the facility is located?

**VALERIE GRIMES:** Honestly, I, I don't want to and don't feel like I have the expertise to answer that,--

**BOSTELMAN:** That's fine.

**VALERIE GRIMES:** --honestly.

**BOSTELMAN:** That's fine. Thank you.

**VALERIE GRIMES:** Um-hum.

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

**VALERIE GRIMES:** All right. Thanks.

**MOSER:** Other opponents? Welcome.

**LASH CHAFFIN:** Thank you. Good afternoon, Senator Moser, members of the Transportation 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 today, I'd like to offer the League's opposition to LB1112. What I'm handing out-- and I'm going to bypass a lot of my testimony because, as several senators have already indicated, you've heard it before and-- but I'm going to-- there are a couple points, new points I would like to hit. The, the-- what, what you're being handed out is a tower that fell down less than a decade ago. And the point of this picture is-- this is from the Columbus Telegram, and it was-- it was in the north central part of Columbus. And this makes the point that regulation of telecommunications facilities merits regulation. It, it merits scrutiny. Not everything is a cookie cutter sort of we're adding a, a new 2-- 2-pound facility to the top of a tower. Every story is a little different. And what I found over the years on working with this particular issue is every story is

different, every delay-- when you really break it down, there might be a good reason there was a delay. The vast majority of these permits are processed in days, even by the consultants that, that are-- that are in question. What, what, what you-- what you start to see when you really break down the, the, the horror stories are instances of information not being provided, or towers that are particularly sensitive. A public safety tower that has the, the 911 system on it-- you know, those are sensitive towers; those merit extra regulation. Not every story is the same. And taking a broad-stroke brush-- broad-brush approach-- broad-stroke approach and just sort of saying everything in the state has to be done the same way doesn't yield good results. What happens is towers fall over and, you know, this-- and this isn't a made up scenario. This really happened. And, and so I, I think the, the answer here is if this is a localized situation, let's look at it and maybe bring some people in and see if we can solve the local issue rather than try to have a statewide approach that probably isn't necessary for the vast majority of permit applications, so. And also very quickly, I used to say not every city had a website. That's a little misleading because I'd say most cities have websites now. However, what we've found is not every city has an interactive website. This just-- there are cities that could not put this on their website. They have a website, but it's pictures. Come visit us. You know, this is come-- it's sort of a storybook, more than an interactive website. There are some cities, including some small ones, that have very active, interactive websites, but that's just not the case and that would be an additional mandate, an additional burden on cities that don't have those type of websites. But I'll certainly answer any questions.

**MOSER:** Senator DeKay.

**DeKAY:** Thank you, Chairman Moser. This picture, was that a tower-- was that an act of nature or was that negligence or what caused that tower to go down?

**LASH CHAFFIN:** It was-- I, I don't think it was negligence. I think it was structural. And perhaps, we, we can go off mic and talk with Senator Moser about it. Senator was the-- Senator Moser was the mayor of Columbus at the time. And, you know, I'm, I'm not-- I was not privy to the various lawsuits that, that followed but it, it fell and almost hit a house.

**MOSER:** Yeah, it fell across 17th Street and it, it blew down in a windstorm, but they had too much load in the tower and it wasn't either engineered heavily enough or some bolts failed or something.

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But you can see in the picture, it's laying there in several pieces. In the background that's a grain building there. And then, yeah, you can see 1, 2, 3 sections that it broke into. That wouldn't just be a single failure there but some other problems. I don't know what the final result was, if we got any money out of it.

**DeKAY:** Thank you.

**MOSER:** Senator Bostelman. Are you done? Sorry, Senator.

**DeKAY:** I'm done. Thank you again.

**MOSER:** Senator Bostelman.

**BOSTELMAN:** Thank you, Chair Moser. In the previous testifier, she made on the second page on the escrow it says the average return on the escrow is around \$4,000 for the closed-out project. Does that money-- who does that \$4,000 go to do you know?

**LASH CHAFFIN:** It goes back to the applicants.

**BOSTELMAN:** Back to the applicants themselves?

**LASH CHAFFIN:** And I-- and I will say she-- you know, I hate to speak on behalf of someone else, but the, the companies or the cities that do use the escrow method often have difficulty finding somebody to take the money. There-- there's contractors involved, there's subcontractors involved so sometimes I'm not even sure if the company realizes they got money back. It might be a different division that gets the, the money back so, so I think sometimes the application fees are deceptively high because there is escrow money that's paid back.

**BOSTELMAN:** So my-- is my memory correct in that-- in that we-- before when this issue came up it seemed like we had one contractor, engineering company that seems to be what everybody uses and that's the one contracting company, the engineering company that's out there that's taking longer than what people feel like they should in order to get this done, like this one was maybe a year, put a 100-foot wooden pole, pole into the ground?

**LASH CHAFFIN:** Well, there is one company-- well, interestingly, it's the same consultant that Norfolk uses that with select companies turning them around in a matter of days. It's the same consultant.

**BOSTELMAN:** So maybe some cities get better results than others.

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**LASH CHAFFIN:** Or maybe some companies-- interesting-- let me put a slight twist on that, Senator. Some companies provide the information upfront a little-- a little better. Some, some people don't seem to be able to learn what they need to put on their application.

**BOSTELMAN:** Is there a-- is there a, a database or record of how many applications have been made and how long they've taken to be completed? Is there something like that out there?

**LASH CHAFFIN:** There, there-- there's not. Interestingly, though, there's a-- there's a, a bill in front of Urban Affairs that would require all building permits to be sent to the Urban Affairs Committee.

**BOSTELMAN:** OK. Thank you.

**LASH CHAFFIN:** Which would literally be hundreds of thousands of pieces of paper, but.

**BOSTELMAN:** Well, yeah, I, I mean, this seems to be a big enough issue from enough-- we've heard about it enough from this committee for a couple years.

**LASH CHAFFIN:** You know, I do have some internally collected data and it's, it's not fit for prime time. But at some point if you want to talk about it, the vast majority literally are days.

**BOSTELMAN:** They can turn around.

**MOSER:** Senator DeBoer.

**DeBOER:** We're back here again. It feels like Groundhog Day. So the complaint does seem to be localized to one vendor when we get complaints about lengthy periods of time and they go through the first escrow amount, they ask for additional escrow, and all of this sort of thing. It seems like maybe that might be something that something like a league could talk to their members about and say please use a different vendor if we don't want to lose the local control situation. Have you found that there are more than-- that there's more than one vendor that is sort of mixing it up and getting, you know, into trouble with some of these telecoms?

**LASH CHAFFIN:** Well, I, I wasn't-- we've had those conversations and what the-- what the cities come back with are painfully detailed records showing that the vast majority of these examples just don't happen. There are a few isolated examples that are being blown out of

proportion. And, and so they come back with why we like this vendor. Some of this-- some of this really is misleading the way the stories are being told. That's what they come back with.

**DeBOER:** But faced with losing local control, how much do you like a vendor? I mean, it's a-- it keeps coming back. Now, it may not go anywhere this year. I don't know if Senator Clements-- I mean, you know, we're close to priority designation, maybe it won't get a priority, but like every-- it keeps coming back it seems like. So here's what I would say. I think if you have data that shows that the delays are exaggerated, certainly we should have that data that would explain some delays, and I would open it up to anyone else who says there are unexplainable delays to send that data in and maybe as a committee we can put both sets of data next to each other and try and figure out if this really is the kind of a problem that we've been hearing about for years that is slowing down deployment of some of these facilities because I don't want to take away local control for nothing. But if we really are having a problem with inconsistency-- inconsistency amongst how much it costs to do this, and if we're really having a problem with how long it takes, I mean, this is something we ought to resolve then. And so here ye, hear ye, everybody send in their outlier pieces. I've asked for this for years.

**LASH CHAFFIN:** Sure.

**DeBOER:** And maybe we'll just figure this out this year and we'll figure it out together. Because, you know, I'm afraid term limits are going to happen. You're going to lose Senator Bostelman after this. And we might find ourselves in a situation where there are folks who come into this committee haven't heard the years of history on this and suddenly you're slapped with a bill you really hate. So I think everybody should just present their information and maybe we can work together to figure it out.

**LASH CHAFFIN:** Sure.

**DeBOER:** That wasn't a question. That was a statement. I'm sorry.

**LASH CHAFFIN:** Well, no, and I'd be happy to, to cooperate on, on that and, and I can send you what we've got from Columbus and Norfolk. They-- I mean, they keep extremely detailed--

**DeBOER:** That'd be great. Thank you.

**LASH CHAFFIN:** --like, painfully detailed records.

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**MOSER:** Possibly the League of Municipalities should open a new division to sort out applications for broadband permits, tower permits.

**LASH CHAFFIN:** Hopefully, hopefully that's a joke.

**MOSER:** Well, it'd be a good--

**LASH CHAFFIN:** Sure.

**MOSER:** --service to provide your members.

**LASH CHAFFIN:** It's a lot.

**MOSER:** Just think of the good will that'd you generate.

**LASH CHAFFIN:** Thank you, Senator Moser.

**MOSER:** OK. Thank you for your testimony.

**LASH CHAFFIN:** Thank you.

**MOSER:** Other opponents? Welcome.

**BLAIR MacDONALD:** Thank you, Chair Moser and members of the Transportation and Telecommunications Committee. My name is Blair MacDonald, spelled B-l-a-i-r M-a-c D-o-n-a-l-d, and I appear before you as the registered lobbyist for the Greater Nebraska Cities in opposition to LB1112. The Greater Nebraska Cities is a municipal association representing the cities of Aurora, Grand Island, Hastings, Holdrege, Kearney, Lexington, and Minden. So I'm also going to try to jump around in my testimony. So we specifically wanted to come in with our concerns with regards to the timeline or shot clock within the bill. 30 days is certainly very restrictive for this process to all take place within a municipality and 60 days would certainly be much better. Just taking into regard both the kind of public notification process of notifying that this property has an application open for a pole placement, as well as then just going along the lines of the reasonable costs within the bill. \$100 for an application fee as well as \$250 for a building permit fee is much lower than what we see in some of our other communities. Grand Island, for example, charges \$1,000 for an application fee to review this. I'm not here also standing up for CMS, my member municipalities do not utilize CMS, but-- so we are doing this process internally within our planning department. So all that to say is that we don't feel that this bill takes into account different sizes as well of the applications for

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these poles. For example, the last time we had-- \$250 per pole would kind of we think would be comparable to a structure that's worth about \$20,000. And we, we had in Grand Island a, a 100-foot pole, monopole that they issued a permit for which had a valuation of \$103,000. So just-- we just think that some of the specifics in the bill are a little bit too prescriptive for this process happening within municipalities also not utilizing the third-party reviewers for these, these applications, so. One other aspect I wanted to bring up, the administrative appeal process laid out in the bill. This would require all of the municipalities to create an internal administrative appeal-- appeal process. And as it exists now, that process is essentially done through district court. So rather than having every different municipality do it differently, potentially, you know, the uniformity of the district court would provide more consistency across the state for those appeal processes. I can try to answer any questions you may have.

**MOSER:** All right. Seeing none, thank you for your testimony.

**BLAIR MacDONALD:** Thank you.

**MOSER:** More opponents? Welcome back.

**ELAINE MENZEL:** Thank you. Good afternoon again, Chairman Moser and members of the Transportation and Telecommunications Committee. I apologize, I'm used to being in here in Judiciary for the most of the time as you've seen me. My name for the record is Elaine Menzel. It's E-l-a-i-n-e M-e-n-z-e-l, here today on behalf of the Nebraska Association of County Officials in opposition to LB1112, which would provide various restrictions on counties. And I won't replicate the prior testifiers' testimony, but for purposes of the opponents that just say that we do concur with them. I do have-- based on discussions I've had with some of our zoning administrators, which were who we discussed the bill with to develop our opposition to this, a lot of-- while there are-- while there is the one consultant that's being discussed for purposes of perhaps different pricing and those types of things, I will suggest to you that he perhaps brings more in-depth analysis to the offerings available to counties on some of the other services that are available to them for consultants. With that, if there's any questions, I'd be glad to attempt to answer them.

**MOSER:** OK. Seeing none, thank you.

**ELAINE MENZEL:** Thank you very much.

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**MOSER:** Other opponents? Opposition? OK. Seeing none, neutral testimony. Welcome back.

**EMILY HAXBY:** My name's Emily Haxby, E-m-i-l-y H-a-x-b-y. I apologize, I had noted this one prior, and I finished my other testimony at about 3 a.m. because we're calving right now. So you can catch my notes here. I just scribbled down what I was thinking prior to this and while here. I do understand-- the reason I'm in neutral is I do understand, like, the situations that have been happening and even, like, equipment upgrades also need another permit, which is very cumbersome. And I, I do understand that. But we just went through another bill, where they wanted to do a 60 day for special use. And that's what it is for us for a tower as a special use. And even if we tried our hardest, we're not going to meet 60 days. So the-- and, and the other part of that is, like, if there is a delay and a delay on the applicant's part, does that automatically go through on, on their end? It's the same kind of concept for that one. Sometimes even when reviewing our regs or if we're-- if we're-- like, our regs-- we are working on our regs to renew them since they have not been done for a while. Sometimes a moratorium is used so that we don't see an application until it is done. But I also do understand it can be-- like, people may use it to-- as a way to deny it. So that's-- I do understand where we're coming from, but I think it's a very slippery slope. The, the, the fee or the limit of the fee, that's for, like, a planning and zoning administrator time. And then towers can provide challenges in rural areas. So that's why we do have that local control, which, like, I, I-- from, from your guys's comments you guys do all understand that. So I just am concerned about the bad precedent that will set for a couple of bad eggs and the slippery slope on the other things that it can affect in the process.

**MOSER:** OK. Questions? Senator DeBoer.

**DeBOER:** Thank you. I just-- I'm not sure I heard exactly what you said. This room is terrible for hearing. Did you say there's no way you guys can meet a 60-day shot clock?

**EMILY HAXBY:** Yeah, when we were figuring-- because most of our planning-- ours is a special use permit. So if you have planning and zoning that meets once a month, and then you have, like, the informational, then you have the 10-day statutory requirement, which is, you know, 2 weeks where you have the business days. And then I had this all written out on the other one, but it put it like right over 60 days and that's it in a perfect case scenario.



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**DeBOER:** So how long does it normally take?

**EMILY HAXBY:** It just depends on how quick or-- we, we just had a tower that went through-- I will look it up because we just-- we just approved a tower, like, at my very last meeting. And it was-- I will look it up for you and I will email you.

**DeBOER:** Can you email me because, you know, the feds wants 60 days.

**EMILY HAXBY:** Yeah.

**DeBOER:** So if it's-- if, if that's not even-- like, if it's not even possible to do 1 in 60 days, that's the lower limit, I'm concerned about what the upper limit could be.

**EMILY HAXBY:** It just depends I think more on the opposition part of it, but I will look it up because we just passed one and it was a very painless process.

**DeBOER:** OK. If you could let me know, that'd be great.

**EMILY HAXBY:** Yeah, absolutely.

**DeBOER:** Thanks.

**MOSER:** Senator Bostelman.

**BOSTELMAN:** Thank you. So my question would be is, do you think that there is an opportunity to have maybe different classes of towers that have a different time frame? Again, what we're talking about with this is a 90-foot wooden pole with a repeater on it that repeats down into a lake community so people have broadband.

**EMILY HAXBY:** Oh, yeah, that's--

**BOSTELMAN:** And that seems to be completely different than if you're putting up a 200-foot tower that's going to have multiple devices on it, whatever you want to say, that may have wire support. So you're going to have to have maybe in the middle of town, may not be, but it seems like there's a-- there's a complete disconnect with, with what's going on out there. I mean, could you see where there might be some differences in types of-- types of structures going in, or applications for those that maybe have some different requirements like this would?

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**EMILY HAXBY:** Yeah, absolutely. I think-- I think my biggest concern with, like, the special use and putting a time clock on it is just because there's a lot of different kinds of special use permits. So I don't want to see us getting on that slope of where, well, we got this time clock for here. But I do see that point too, it's more-- that's-- it's closer to, like, a telephone pole versus that, like, I believe ours was-- want to say 200 foot that we just passed last week.

**BOSTELMAN:** Yeah, the other question is-- I would have would be, how many different contractors does Gage County use when surveying for a tower application? Is there one, is there multiple do you know?

**EMILY HAXBY:** We have a surveyor, but I believe if we have, like,--

**BOSTELMAN:** An engineering firm.

**EMILY HAXBY:** --a Nebraska stamped approval plan. I mean, if it's-- if it has a Nebraska stamp of approval we're--

**BOSTELMAN:** The engineering company that does a review of the process or the county, is that--

**EMILY HAXBY:** I don't think we have one, to be honest.

**BOSTELMAN:** OK. All right. Thank you. I didn't-- I didn't know if you've had some towers go up and if you used a certain contractor that did that or not.

**EMILY HAXBY:** No.

**BOSTELMAN:** Not yet. OK.

**EMILY HAXBY:** We-- like I said, we just-- this one is very fresh. It was not that difficult, so.

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

**MOSER:** Other questions? Seeing none, thank you for your testimony. Other neutral testimony? Seeing none, that will close our hearing on LB1112. Thank you for attending.