

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 11, 2025
Rough Draft

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MOSER: The afternoon hearing for Transportation and Telecommunications will now come to order. My name's Mike Moser. I represent the 22nd District: Platte County and most of Stanton County. I'm also the chair of the committee. We have with us Connie Thomas, our clerk; our legal counsel, Gus Shoemaker. And then we'll start introductions with senators, on my left.

BOSN: I'm Carolyn Bosn, from District 25, which is southeast Lincoln, Lancaster County.

DeBOER: Good afternoon, everyone. My name is Wendy DeBoer. I represent District 10 in beautiful northwest Omaha.

BALLARD: Beau Ballard, District 21, in northwest Lincoln, northern Lancaster County.

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

FREDRICKSON: John Fredrickson. I represent District 20, which is in central west Omaha.

STORER: Good afternoon, Senator Tanya Storer. I represent District 43: Dodge, Sheridan, Cherry, Brown, Rock, Keya Paha, Boyd, Garfield, Loup, Blaine, and Custer Counties.

MOSER: Thank you all. Green testifier sheets are at the table at the entrance of the room. If you plan to testify, please complete it and hand it to the page when you come up. Those not testifying but would like to be recorded as present at the hearing, please sign the yellow sheet in the book in the-- at the table near the entrance. The Legislature's policy is that letters for the record must be received by the committee by 8 a.m. Handouts submitted by testifiers will be included as part of the record. Provide 12 copies and give them to the page. Additional copies could be made, if necessary, for you. Senators may come and go during our hearing. We lost one already and we didn't even get started. This is common and required, as they may be presenting bills in other committees at the same time. Testimony will begin with the introducer's opening statement. Then we'll hear from supporters, then those in opposition, then those speaking in the neutral. The introducer of the bill will then be given the opportunity

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to make closing comments if they wish to do so. Begin your testimony by giving us your first and last name and spell them for the record. Today, we'll be using a three-minute timer system. No demonstrations of opposition or support are allowed on any testimony. Please be sure to turn off your phone or put them on vibrate so they don't disturb the meeting. With that, that brings us up to the first bill for today, LB666.

STORER: I don't know what to say.

MOSER: Did you pick that number?

STORER: No, I did not.

MOSER: All right. Senator Storer. Thank you. Welcome.

STORER: Thank you. I, I-- Chairman, I think I might consider a resolution that we don't allow LB666 to be applied to any bill in the Legislature. But nonetheless. Good afternoon, Chairman Moser, fellow members of Transportation and Telecommunications Committee. I am Tanya Storer, T-a-n-y-a S-t-o-r-e-r. I represent District 43, which includes much of the Nebraska Sandhills. I'm here today to introduce LB666, a bill making a simple but important change to the Rural Communications Sustainability Act, which this Legislature unanimously passed two years ago. LB666 allows competitive providers, not just the incumbent carriers, to initiate actions at the Public Service Commission to receive the Nebraska Universal Service Fund support. In rural Nebraska, the cost of providing essential broadband and voice services far exceeds what customers can afford. This bill ensures that providers willing to serve these areas long term can access the necessary funds to sustain those services. The Nebraska Universal Service Fund is critical for rural Nebraska. It helps keep broadband and telephone services affordable again, ensuring rural communities remain connected. Without the NUCS-- NUSF support, even basic telephone service would be unaffordable in most areas outside of Lincoln and Omaha. Nebraska is set to receive \$400-plus million in federal broadband equity access and deployment funding-- otherwise known as BEAD-- to expand broadband, but we must ensure the long-term sustainability of this network after deployment. Currently, only incumbent local exchange carriers, carriers-- otherwise known as ILECs-- can request a transition of the, the Nebraska Universal

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Service Fund support. However, no ILEC has done so. LB666 fixes this by allowing the competitive providers to initiate the process, ensuring that customers continue to be served by providers who accept that long-term responsibility. The carrier under-- to the 2023 act, which was signed into law by Governor Ricketts, competitive providers receiving the NUSF support must accept to be the carrier of last resort duties, which were previously imposed on ILECs. These responsibilities are crucial for rural Nebraska, as they ensure that all residents, regardless of location, have reliable and affordable telecommunications access. Other obligations of the carrier of last resort include providing access to 911 services, ensuring that all communities have emergency connectivity, offering both voice and broadband services at rates comparable to urban areas, which prevents dig-- the dig-- a digital divide and serving all customers within a designated area, ensuring no one is left without access. Also, their obligations include providing low-cost service options for those most in need, maintaining affordability for rural residents. These duties are policy cornerstones of the Nebraska Universal Service Fund Act, and the PSC is responsible for enforcing them. Ensuring compliance with these requirements is essential for maintaining equitable and sustainable broadband access in rural Nebraska. We must avoid the duplication of the subsidies. Currently, inefficiencies mean that in some areas two providers are receiving subsidies while competing for the same customers, which is a waste of taxpayer and ratepayer dollars. Rural Nebraska cannot afford to sustain two subsidized providers. This bill ensures funding goes where it is needed the most. For over a year, the PSC has been reforming the Nebraska Universal Service Fund allocations, and this bill aligns with those changes and builds on LB683-- which was passed in 2023-- which permitted ILECs to initiate those transactions. Additionally, this bill relates directly to Senator Bosn's LB4 and Senator DeBoer's LB311, which should work together to create a sound policy approach for sustaining rural broadband access. This bill is about long-term, sustainable service for rural Nebraska. We need to ensure that competitive providers willing to take on the, the provider of last resort duties have access to the Nebraska Universal Service Fund support. I urge the committee to please advance this bill to streamline the process and help sustain broadband deployment in rural areas. Happy to answer any questions.

MOSER: OK. Questions from the committee? Senator DeBoer.

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DeBOER: Thank you. So am I understanding this right? I'm a little off my game today. This is only for the-- when there's that-- they want to transition a small area on the edges of their service to someone else as the COLR. This is only affecting the, the--

STORER: The ILEC.

DeBOER: --the money for the-- for, for that issue only, only for that transition where they become the COLR.

STORER: I believe that is correct. There will be some folks coming up behind me that, if I am incorrect in my answer, they will provide better information.

DeBOER: OK.

STORER: But, but, yeah. The-- in a nutshell, the way it was written is there-- it, it's kind of only a one-way street. So only the ILECs can initiate the transfer.

DeBOER: Only the ILECs can initiate it. We thought that then there was an agreement between the two. So--

STORER: But, but still only the ILECs can initiate that with the PSC. So this is just allowing the competitive provider to initiate that.

DeBOER: So are there any concerns that CLECs will be bringing these kind of as a sword rather than just as a-- like, to cause trouble?

STORER: No, I don't think so. A lot of times, this is-- you know, it's just more in the interest of the CLECs to get the ball rolling. And a lot of times, our ILECs are just not doing it because-- it's not because they're opposed to it. It's just not a priority.

DeBOER: OK. Thank you.

MOSER: Other questions from the committee? Senator Guereca, can you introduce yourself?

GUERECA: Oh. Sure. Dunixi Guereca, Legislative District 7. That's downtown in south Omaha.

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MOSER: I didn't-- you-- never mind. Want to make sure we're not introducing you twice here. Keep track of where we're going. OK. No further questions that I can see. Thank you.

STORER: Thank you.

MOSER: Supporters for LB666? If you plan to testify, please come forward and take the front seats so we don't have as much downtime between testifiers. We got a full day of hearings today and everybody's got somewhere to be, I think. Welcome.

BACHTIYER KHOLMATOV: I understand. Good afternoon, Chairman Moser and members of Transportation and Telecommunications Committee. My name is Bachtiyer Kholmatov. I'll spell that for you. First name, B-a-c-h-t-i-y-e-r; and last name, Kholmatov, K-h-o-l-m-a-t-o-v. I'm CEO and President of Pinpoint Holdings, which consists of our two subsidiaries, ILEC, incumbent carrier Cambridge Telephone and competitive carrier Pinpoint Communications. I'm appearing on behalf of our companies, as well as Nebraska Rural Broadband Alliance, which we are a member of that group. I'm here to support the LB666. And thank you, Senator Storer. You did an excellent job in, you know, explaining the bill. And Pinpoint, we serve a lot of rural areas, both in northwest and-- I mean southwest and southeast Nebraska. We serve about 20-plus communities in 11 counties in Nebraska. Very committed to the rural areas, serving with the fiber-based broadband services. We're currently ready to serve about 15,000 locations. And that, that numbers is growing as we are participating in a number of broadband deployment programs. And out of these existing locations, about 1,700 which, which are in the high-cost areas which are very den-- very low density, very rural areas. And other members of our group, NRBA, also serve a lot of rural Nebraska, rural counties and in various parts of the state. When we deploy to telecom, you know, networks, in order to sustain these networks and to serve-- provide the quality of service and affordable service to our customers, those networks have to be maintained and operated on a long-term basis, not only during the construction, but over the long time. The fiber cuts happen, the locating services, [INAUDIBLE] a lot of operational, or customers may have some questions or we need to, you know, send our, you know, people to, to deal with the outages and whatnot with a customer site. And, and all of that in, in, in high-density areas can be supported with paying customers. But in very rural areas, it becomes very

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problematic from an economic standpoint. And those high-cost defined areas require additional support to sustain it over a long time, over a long time. And this sustainability issue has been passed by legislation and supported by public and supported by Public Service Commission, obviously. And the, the, the-- some of the rules were tightened up when LB1031 were passed in a-- in prior sessions. So obviously that, that is, you know, good, good for customers. Public Service Commission, you know, initiated docket of NUSF-130-- 139 that defined the support for all these high-cost areas overall for the-- all the locations in Nebraska. And that methodology has been over-- you know, went through the very rigorous process. And, you know, Public Service Commission has those-- staff has those numbers. And as was, as was mentioned earlier, the bill that passed Rural Communications Sustainability Act that, you know, passed in a prior session primarily talks about the ILECs seeking such support for high-cost areas. And there was no provision for competitive carriers like Pinpoint Communications to receive such support in order to sustain these networks and serving customers.

MOSER: OK. I'm going to ask you to just end it right there because the red light's on. And to be fair to everybody, we've got, got to treat everybody the same.

BACHTIYER KHOLMATOV: Yeah. OK.

MOSER: Questions from-- that's OK. Questions from the committee? OK. Seeing no questions. Thank you. Appreciate your testimony.

BACHTIYER KHOLMATOV: OK. Obviously I support this.

MOSER: Yes. Thank you.

BACHTIYER KHOLMATOV: Yeah. I appreciate that. Thank you.

MOSER: Next supporter. Greetings.

TIP O'NEILL: Greetings, 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'm the President of the Nebraska Telecommunications Association. The NTA represents 20 companies providing broadband and landline telecommunications services in Nebraska. The NTA supports LB666. We believe this bill simply

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clarifies that a competitive provider, which has completed a broadband project in an incumbent provider's local exchange area, should have explicit statutory authority to apply to the PSC for carrier of last resort responsibility and for transfer of NUSF allocations and distributions previously received by the incumbent. We ask that this bill be advanced to General File. Be happy to answer any questions you may have.

MOSER: OK. Questions from the committee? Senator DeBoer.

DeBOER: Thank you. So is this the only instance in which a CLEC will be able to get continuing support?

TIP O'NEILL: I, I'm not sure I know the answer to that question. I, I think so.

DeBOER: I think so too.

TIP O'NEILL: I think so. Yeah.

DeBOER: And so I would have a little bit of concern about that. As I understand when we were-- I'm thinking back to those exec sessions. And when we were thinking about this, we were thinking, look, if a CLEC wants to voluntarily take on this area and get the COLR, but we never thought we're going to-- like, they're voluntarily taking this on. I don't think we ever envisioned them getting continuing support for that. This was something that they were doing because, look, we're here. We're going to take it over. I don't imagine that-- can you speak to that issue?

TIP O'NEILL: It, it probably would provide-- would-- provide a need for a more nuanced answer. And I would ask-- I know Mr. Pollock will be following me as a testifier. I would, I would defer that question to him.

DeBOER: OK. Thank you.

MOSER: Other questions from the committee? OK. Well, I have one kind of along the line of what Senator DeBoer asked earlier. Will the incumbent carriers complain if somebody else takes over their status of carrier of last resort and they get suffi-- the NUSF funds?

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TIP O'NEILL: Well, again, we're, we're talking about the competitive provider who is-- who was approved for, for a, a, a project because the incumbent provider was not providing a 100/20 coverage of, of, of that particular area that's being overbuilt. So the incumbent may not like it, but I don't-- I, I-- there's no-- there would be no--

MOSER: No grounds for them to object?

TIP O'NEILL: --justification for them to object.

MOSER: OK. Thank you. Other questions from the committee? OK. Thank you very much.

TIP O'NEILL: Thank you.

MOSER: Appreciate the brevity of your presentation. Welcome.

ANDY POLLOCK: Thank you, Senator Moser and members of the Transportation and Telecommunications Committee. My name is Andy Pollock. I'm a registered lobbyist for the Nebraska Rural Broadband Alliance, the same group that Mr. Kholmatov testified on behalf of. And we appreciate Senator Storer for bringing this bill. And I think she did a wonderful job explaining it. I think you heard an explanation from Mr. Kholmatov and Mr. O'Neill about how it works. I would say just a little bit about the Nebraska Broadband Alliance. It consists of about 15 companies. Most are-- have a record of being a traditional ILEC in their territories for about the last almost 100 years. Many of those also have a competitive branch. Cambridge is a CLEC that Mr. Kholmatov represents. He's also the CEO of Pinpoint, which is their competitive branch. And they have branched out into areas that are not served by certain carriers, mostly price cap carriers. And in their own territories, these ILECs have built fiber to the prem. Every home and business in town, every farm and ranch in the country. They took their USF responsibility, their COLR responsibilities seriously. And they've got fiber to every customer in almost all instances. In their CLEC territory, they're in the same darn thing. They are rural carriers with a passion for rural Nebraska. They know how to serve rural Nebraskans. But USF support is critical to that. With that, I would conclude my questions and welcome questions from-- or, my comments and welcome questions. I know Senator

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DeBoer has asked some good questions-- as have you, Senator Moser-- so I'd be glad to avail myself to your questions.

MOSER: OK. Senator DeBoer.

DeBOER: Thanks for coming up here. And I think you heard a little bit of my questions to Mr. O'Neill. Is this the only place in which a CLEC will be getting continuing support?

ANDY POLLOCK: No. A CLEC can good-- currently, many C-- many-- not CLECs, but competitive providers get support under boundary changes from the commission.

DeBOER: I remember that.

ANDY POLLOCK: Yep. And I handle the boundary change. And to your question about is this a, a way to give the CLEC a sword? I would say absolutely not. It's a way to give them a voice and a trigger. And we had a boundary change. I represented Stanton. Lumen was on the other side. They initially protested it. We negotiated it. I served some discovery on Lumen to find out what plant they had in the area. I didn't play lawyer games, neither did they in providing information. A negotiation ensued. Stanton paid Lumen for its undepreciated plant in the area. And all thr-- all two companies, both two companies walked away happy. In fact, Lumen asked Stanton to take on ten more customers than we'd actually applied for. So it was a professional, businesslike transaction. I think you've probably heard from companies like Lumen that they're looking for a way out of some of these exchanges. And--

DeBOER: And, and-- let me stop you there for a second.

ANDY POLLOCK: You bet.

DeBOER: Because that's, that's the boundary change process?

ANDY POLLOCK: Yeah.

DeBOER: Does this cover the boundary change process?

ANDY POLLOCK: No. This is separate.

DeBOER: This is separate.

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ANDY POLLOCK: Yeah.

DeBOER: Right. So under this circumstance, if you're going to allow someone in to be this-- the CLEC to be the COLR, right, how is that different than the boundary changes?

ANDY POLLOCK: Not a whole heck of a lot, Senator DeBoer. It can happen on a larger basis. The boundary changes are typically one or two people at a time. We took on 30. We ended up with 40 in a change. That's the biggest one. I can tell you that was a royal pain in the rear. I made a lot of money off of it as a lawyer, but that's not the way it should be. The process needs to be simplified. And under the Rural Communications Sustainability Act, the NU envisioned larger changes in territories. We really need to do-- these boundary changes are not helping Nebraska. They may help one or two customers at a time, but we have big things to do. And so this allows that, but allows the same kind of table to be set for the ILEC and the, and the CLEC to have a professional negotiation to figure out how to best transfer that territory.

DeBOER: I'm trying to remember that exec room where we talked about this. And I don't recall-- I remember talking about making sure that we transfer the COLR.

ANDY POLLOCK: Right.

DeBOER: But I don't recall that we were talking about continuous support, continuing support for those. Is there ever a situation where the COLR is transferred without the continuing support?

ANDY POLLOCK: No. That was heavily negotiated. This bill was heavily negotiated. We had big lawyers from both coasts for Lumen and, and Windstream and Cox. And Charter's an issue that's on their radar screen nationally. And the cable industry said, we don't want to be saddled with COLR responsibility and we're not going to go to the USF trough. At first I said, you're crazy. But then as Minton-- Mr. Bur-- Murty from Charter explained it to me, I got-- I, I, I got. There's certain areas that are pretty close to town-- they're not what we consider rural-- where you can make a business case without USF support even though those locations may qualify as high cost. So this would kind of loo-- limit the field a little bit more. It would allow

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a company to go and accept COLR responsibilities and receive USF support that they-- ILEC's not getting, but it would not force them to do that. I'd also say that to date no ILEC has availed itself of the law, which is one of the reasons my clients are chomping at the bit. They'd like to be able negotiate those actions.

DeBOER: Well, that's the thing. So when you put it in the hands of the ILEC, you know that you've pretty much got an agreement going into it so that there's not going to-- I mean, if the ILEC is the one that's saying, OK. We'll turn it over, you pretty much know that both parties are there. If the CLEC is the one that's coming in and saying we want to, to initiate this, isn't there some question of whether or not the ILEC is game?

ANDY POLLOCK: I would say absolutely not. They have a right to be at the table. They would be at the table. I envision this happening the same way or very similar to the way boundary changes are happening. And that's initiated by a CLEC or a customer. And ILECs been at the table and sometimes they've opposed, but-- and they have the right to oppose too, Senator. So it does not leave them out. It does not force their hand. The reality is they're getting subsidies to serve areas that they're not-- locations that they're not serving anymore. That just doesn't make any sense. We're giving grants to companies like Pinpoint, but, you know, some ILECs are still receiving subsidies for that same area. We're subsidizing two carriers. So this gives the CLEC the power to say--

DeBOER: We're subsidizing in different ways, one to build and the other is to--

MOSER: Maintain?

DeBOER: --continuing--

ANDY POLLOCK: Yeah. Exactly.

DeBOER: Yeah. OK. I think, I think I got it. Thanks.

ANDY POLLOCK: OK. Great questions. Thank you.

MOSER: Other questions from the committee? Seeing none. Thank you for your testimony.

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ANDY POLLOCK: Thank you very much.

MOSER: Are there more supporters? More supporters for LB666? OK. Are there opposition? Opponents of LB666? Anyone here to speak in the neutral? We finally got to your category. Our page today is Alberto. Welcome.

CULLEN ROBBINS: Thank you. Good afternoon, Chair Moser and, and members of the committee. My name is Cullen Robbins, spelled C-u-l-l-e-n R-o-b-b-i-n-s. I'm the Director of the Nebraska Public Service Commission's Telecom and NUSF Department. And I'm here today, today on behalf of the commission to testify in a neutral capacity on LB666. This bill seeks to amend the Rural Communications Sustainability Act passed by the Legislature as part of LB683 in 2023. At that time, we noted that we seek to ensure customers can be transferred between carriers smoothly and that carrier of last resort obligations and NUSF, and NUSF support continue without interruption. We continue to support these goals and continue to work with carriers to ensure NUSF funding is maximized and customers are supported. In fact, as has been mentioned before, our commission is in the middle of a docket, NUSF-139, that is exploring how funding to support broadband-capable networks might be allocated to competitive carriers that are willing to assume carrier of last resort obligations. I'm here in the neutral capacity, however, because this bill does not create any significant change to the commission's existing authority. Currently, a competitive carrier can petition the commission to take on carrier of last resort obligations and receive NUSF support through a process set forth in our rules and regulations in Chapter 10, Section 004.02(G). If we were to receive such a petition, we would hold a public hearing on the application and make a determination as to whether the petition should be granted based on criteria set forth in our regulations. While we do not oppose memorializing this process in statute, we also do not anticipate that LB666 would improve our existing processes. And with that, I conclude my testimony. Thank you for your time. And I'd be happy to answer any questions that you might have.

MOSER: Senator DeBoer.

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DeBOER: Thank you. You've heard some of the conversation I've been having. So the other than-- is-- does this-- the COLR always goes with the NUSF support? Is that right?

CULLEN ROBBINS: It can. It doesn't necessarily have to. And maybe I-- I'll add a few pieces of clarification on, on some things that were said before. First of all, you asked about boundary changes. Boundary changes are by definition modifications of ILEC territories.

DeBOER: Right.

CULLEN ROBBINS: So they only involve ILECs. There's no CLECs that could receive-- would receive anything in a boundary change. And I'd also maybe--

DeBOER: You don't transfer continuing support with the boundary change?

CULLEN ROBBINS: It can, but there are always ILECs that are part of a boundary change, so.

DeBOER: Right. So help me out.

CULLEN ROBBINS: Yeah.

DeBOER: If, if, if I'm an ILEC, I have some people, some people who would like to go over here to my CLEC. They do a boundary change. Is that how it happens? Or is it between ILECs always?

CULLEN ROBBINS: Between ILECS always, yes.

DeBOER: Thank you. OK. Now I'm there. So do CLECs ever get continuing support?

CULLEN ROBBINS: Not currently. They could potentially through our NUSF-139 process. We are having that discussion now on how you might port support to a CLEC.

DeBOER: So do you think that the commission will be able to set up a mechanism for providing that--

CULLEN ROBBINS: Yes, I do.

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DeBOER: --sort of walled-off support for that particular area?

CULLEN ROBBINS: Yes, I do. It's, it's a little-- it's going to be a little bit interesting because we've tended to only, you know, change boundaries so that every-- the area's contiguous and you're-- we're probably going to have kind of like islands now with some of the bridge and potentially BEAD, BEAD grants that might create those islands. But that's kind of the issues that we're trying to work through in, in NUSF-139.

DeBOER: And you're confident that you'll figure it out?

CULLEN ROBBINS: I am, yes.

DeBOER: Good. All right. So you all think this is going to work out just fine?

CULLEN ROBBINS: Yeah, I, I, I think we have the, the ability now for a CLEC to come in and apply to assume those obligations. And frankly, I think some of the requirements, requirements that we have in our rules are good ones that make the competitive carrier--

DeBOER: More competitive?

CULLEN ROBBINS: --more competitive and make them, you know, meet some additional obligations that we think are important.

DeBOER: Great. Thank you for your testimony.

CULLEN ROBBINS: Thank you.

MOSER: Other questions from the committee? Thank you very much for your testimony.

CULLEN ROBBINS: Thank you.

MOSER: Are there any other neutral testifiers? Any neutral testifiers? OK. Seeing none. That'll close the hearing on LB66-- well, except for the-- come on up, Senator. We'll have closing comments from the introducer. We, we didn't receive any comments on this bill online. So welcome back.

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STORER: Thank you, Chairman Moser.

MOSER: What do you think?

STORER: I, I don't have a lot, a lot to offer beyond what you already heard. I think what-- most questions got answered. And at the end of the day, this was really just sort of providing a little-- one other avenue to expeditiously allow the Rural Communications Sustainability Act to work as it was designed to work. So I appreciate your support and would ask the committee to forward this on to General.

MOSER: OK. Any other questions for the maker of the bill? Thank you very much.

STORER: Thank you.

MOSER: OK. Then we'll move on to LB4. Wendy, are you still OK--

DeBOER: Yeah. I think this will--

MOSER: --with her going first?

DeBOER: --this will be OK.

MOSER: OK.

DeBOER: Let me, let me see if I can figure out what happened with my phone real quick.

MOSER: Yeah. I heard it talking.

DeBOER: Yeah. I'm very sorry about that.

BOSN: You can always interrupt me. It does not even throw me off anymore.

MOSER: I find you in contempt.

DeBOER: I am in contempt.

BOSN: Then you have to stay with her.

DeBOER: That's true.

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MOSER: Senator Bosn, welcome.

BOSN: Thank you. Thank you, Chair Moser. And good afternoon to the members of the Transportation and Telecommunications Committee. My name for the record, Carolyn Bosn, C-a-r-o-l-y-n B-o-s-n. I represent District 25, which is in southeast Lincoln, Lancaster County, including Bennet. LB4 represents a critical step forward in modernizing Nebraska's telecommunications code to reflect the realities of today's diverse connectivity landscape. While the bill is labeled a deregulation act, the real outcome would be to let free-market principles govern and label these exchanges as competitive. The Nebraska Telecommunications Exchange Deregulation Act aims to update our telecommunications regulations to better align with the current environment where multiple service providers exist, particularly in urban areas. Our existing regulations were crafted in the late 1990s in a time when consumers had little-- excuse me-- limited connectivity options, which is starkly different from the choices available today. It is imperative that our telecommunications code evolves to reflect these changes, ensuring that Nebraska remains competitive and efficient in this rapidly advancing sector. First, this act promotes regional consistency and market efficiency. By aligning Nebraska's regulations with those of our neighboring states, we create a more competitive regional market. This alignment ensures that all providers operate on an equal regulatory footing in the urban areas where multiple service providers are present. The use of market forces will naturally enhance service quality, thereby benefiting customers. Second, modernized regulations are attractive to investors looking to enhance infrastructure and services. This allows carriers to redirect resources towards innovation, thereby improving service offerings and overall consumer experience. Third, while the act facilitates deregulation, maintaining high service standards, especially critical services like 911, remains a very top priority. The act ensures that essential services remain reliable even as carriers gain this flexibility in their operations. Under the Nebraska Telecommunications Exchange Deregulation Act, the deregulated carriers will experience increased operational flexibility. They will be free from compliance with quality of service standards or reporting requirements except when they remain tied to a specific grant condition or compliance sections. Additionally, they will be relieved from the obligations of carrier of last resort when they've applied

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and been qualified. The act mandates that the commission issue orders to reclassify carriers when deregulation impacts a carrier's status as either regulated, transition, or deregulated. Then deregulated carriers will operate in a competitive environment without reliance on the state or federal funding, including the Nebraska Telecommunications Universal Service Fund, or NUSF. This ensures that market-driven forces primarily determine service quality and availability, ensuring that market-driven forces-- excuse me. The commission will be able to receive and work with companies on consumer complaints, notifications on outages, and billing issues. In conclusion, the Nebraska Telecommunications Exchange Deregulation Act is designed to adapt our telecommunications statutes to the demand of the modern era. It provides a balanced approach to deregulation, ensuring that consumer protection and service reliability remain prioritized while fostering a competitive and innovative telecommunications market in Nebraska. I urge this committee to support the legislation for the betterment of our state's telecommunications future. I also want to reiterate that this bill does not change broadband. It only applies to tele-- to landlines. As an example-- and just-- and for those who haven't been on the committee as long as Senator DeBoer, who seems to know a lot about this area-- and I'm excited to answer some of her questions, I'm sure. But it does talk about-- I-- one of my notes was making sure that I explained where carrier of last resort is defined in the bill. It's on Section 4, which is page 4, starting at line 22. And then it explains the process in the following section, mostly on the last page, page 6-- or, the next page, page 6-- of how a COLR carrier can apply and qualify to become deregulated. So this isn't about losing their obligations. It's-- when there's a second service provider who's meeting the needs, having us spend those dollars to require one company to continue servicing them when there's another company who's providing likely better service in that-- for those landlines, allowing them to exit that market so that they can provide services in other areas at a more efficient and better rate. So that's the goal of the bill. I have been approached with some amendments on this, some we were able to get incorporated in time and others I think we're still working on. So you may hear some of that from the testifiers behind me. And just know that I am open to those conversations and willing to work with those groups so that we can have the best bill come forward. Happy to answer questions.

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MOSER: OK. Senator Guereca.

GUERECA: So COLR can only deregulate if there's already another service provider?

DeBOER: Right. So-- yes. There's two ways that they can deregulate under this bill. Starting on page 6, under Section 2(a), it talks about making the determination. So it's in areas where there is at least 100,000 inhabitants. Or if there's less than that, there are two providers instead of just the one provider. And then there has to be two carriers within-- in at least 75% of the square miles in the exchange. So it isn't allowing anyone out unless we have some sort of verification that there's another competitive carrier in the area providing those services.

GUERECA: Thank you.

BOSN: You bet.

MOSER: OK. Other questions? Senator DeBoer.

DeBOER: Thank you. So-- two questions. Sort of. It doesn't-- so you say it doesn't apply to broadband, just lon-- landlines?

BOSN: Correct.

DeBOER: What if you're providing both through the same sort of service? Right? So they do a lot of digital voice now and that sort of thing.

BOSN: So this doesn't apply to that. So there's-- I asked someone that question earlier and I want to make sure that I, I--

DeBOER: I can also ask whoever you asked if you just tell me who it was.

BOSN: That's fair. But I basically wanted to make sure that this-- I wasn't misunderstanding something. Broadband can provide voice service through voice over IP, and that is not something that's being--

DeBOER: So this is just the, the copper?

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BOSN: Copper.

DeBOER: This is just copper?

BOSN: Just copper for telephone lines.

DeBOER: OK. The next question I have is the 75%. So if you have-- you said if there's 75% of the area has two providers in it.

BOSN: Yes.

DeBOER: Is that-- am I getting that right?

BOSN: It's-- it's-- words it differently. But I think the answer--

DeBOER: Can you show me where that is? Because I'm trying--

BOSN: It starts on line 16 of page 6. It says at least two other carriers are providing voice communication service in at least 75% of the square miles in the exchange.

DeBOER: Yeah. That's what I was thinking about. So what happens if I'm in the 25% where there aren't two and now nobody has the COLR because it's deregulated? Do I still have somebody who's going to provide services to me?

BOSN: I feel like the answer to that was yes because we had that conversation. But I-- there may be someone behind me who can better articulate that.

DeBOER: OK. I'll save that one. Thank you.

BOSN: And if not, I'm happy to work with you on fixing that.

MOSER: OK. Any other questions from the committee? Thank you very much for your-- bringing your bill.

BOSN: You bet.

MOSER: Other supporters for LB4? Greetings.

TRENT FELLERS: Hello. See if I can read this thing in three minutes. Chairman Moser and members of the Transportation and

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Telecommunications Committee. My name's Trent Fellers, T-r-e-n-t F-e-l-l-e-r-s. And I'm the Vice President of Government Affairs for Windstream. I'm here to testify in favor of LB4. We appreciate Senator Bosn bringing forth this legislation. The Nebraska Telecommunications Exchange Deregulation Act allows incumbent providers to seek degra-- deregulation from landline phone service regulations, including carriers of last resort obligations, in specific exchanges. This deregulation is contingent upon the presence of at least two other providers providing voice communication service, meaning telephone service. LB4 proposes regulatory relief for exchanges with populations over 100,000 and grants the Public Service Commission the discretion to consider deregulation for exchanges with populations below 100,000, provided there is competition covering at least 75% of the exchange. Car-- the carrier of last resort provision mandates that companies like Windstream must provide landline phone service upon request within an exchange. This obligation often involves maintaining outdated copper network infrastructure even in areas where customers have multiple wire lines and wireless service options. Importantly, the Nebraska Telecommunications De-- Exchange Deregulation Act does not eliminate authority over service quality, reliability, and affordability. The Nebraska Public Service Commission maintains oversight of emergency services such as 911, where-- wherever delivered via VoIP, tradition-- or traditional networks. Moreover, states have the authority to condi-- to condition Universal Service Fund support on maintaining service quality, reliability, and network availability in areas lacking competition. The mo-- the monitoring of wholesale performance metrics continues to be a critical indicator of network health. Last year, legislation mandated that Universal Service Fund support only be provided to locations with broadband service over 100/20, favoring fiber technology over copper. Without state support, companies should not be-- here we go-- should not be required to maintain aging infrastructure or provide legacy landline telephone service in areas where there is competition. Competition provi-- between providers ensures adequate service and exchanges, and no companies should be compelled to service customers who receive state subsidies for legacy services like landline telephone. To date, 38 states have enacted legislation partially or forly to-- fully to deregulate retail telecommunications. In these states, carriers continue to offer basic services and serve as COLR only in areas with limited or no competition. Outdated laws obligating telecommunications

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companies to maintain decades-old copper phone lines are ripe for commonsense reform. These laws directly hinder the priority of maximizing resources to expand the reach and resilience of high-capacity, high-speed broadband, and fiber broadband. Instead, efficiently transitioning providers compelled to undergo a lengthy and cumbersome process to obtain government position to discontinue plain, old telephone service. And I'll wrap up there. I didn't get all the way through it, but you got the copy from--

MOSER: Just go ahead and continue quickly. We'll give you--

TRENT FELLERS: Yeah.

MOSER: --30 seconds.

TRENT FELLERS: Maintaining copper lines involves significant expense and effort. As manufacturers cease production of obsolete equipment, some network operators are forced to search platforms like eBay for replacement parts. Most Nebraskans have already moved on from landlines to cell phones and other advanced technology. Eliminating laws that require companies to up-- uphold outdated and unnecessary technologies will emboost-- will boost investment in future broadband networks that consumers and our economy demand. LB4 is a necessary step to modernize our telecommunications regulation and foster competition. I'm happy to answer any questions you have.

MOSER: Senator DeBoer.

DeBOER: Thank you. OK. I'm not sure I got all of that because it went very fast.

TRENT FELLERS: Yeah. Sorry.

DeBOER: That's all right.

TRENT FELLERS: There's a lot here.

DeBOER: So let me ask you, you're talking just about the areas where there's the copper line, right? You want to make those areas deregulated?

TRENT FELLERS: Well, you know--

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DeBOER: Or you want a deregulated copper line where there's better technology available? Is that kind of it?

TRENT FELLERS: Yeah. Yeah. When there's more-- when there's more than one company that's providing, providing service. So, like, say, for instance, our Lincoln exchange. We do have fiber in Lincoln, but we also have our copper service in Lincoln. And there's also two other competitors that are, you know, wired to the home in, in the community as well.

DeBOER: And you're getting COLR and you're getting continuing support for the-- Lincoln?

TRENT FELLERS: We don't get any continuing support for Lincoln because it's a competitive exchange. And-- but we are the COLR. So if somebody requests landline telephone service, we're compelled to provide it to them and also maintain whatever network is there. And we, we believe that we should-- we, we shouldn't have a carrier of last resort obligation, that, that should be-- the-- in a competitive exchange, one carrier shouldn't be held over another.

DeBOER: OK. So that I get.

TRENT FELLERS: OK.

DeBOER: But what happens if-- the way this bill is written, there's an area that has 75% of the exchange. There's two or three people. But you've got 25% of this area. And you're it.

TRENT FELLERS: Right.

DeBOER: And that's it.

TRENT FELLERS: Yeah.

DeBOER: And we know those exchanges exist where on the corners of that there is somebody who's relying on that copper network. We take away your requirement that you maintain it and now we've got people who don't have anything. We're back to 1920.

TRENT FELLERS: Yeah. So that's where we wrote the bill to give the commission discretion over choosing whether that carrier of last

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resort obligation should be preserved or whether the, whether the area should be deregulated. So the commission would have the discretion there. So there's two levels of how this would work. So in exchanges that have over 100,000 people, the, the deregulation for-- of those COLR obligations would be automatic.

DeBOER: Except you could have 100,000 people in an area and one corner of that-- I mean--

TRENT FELLERS: The, the way the exchange boundaries are-- the way the exchange boundaries are divided up, really the only two exchanges that would be over 100,000 would be the Omaha and Lincoln.

DeBOER: Are there not, like, places in Sarpy where you've got a whole mass and then there's a little area that doesn't? Do you know what I'm talking about? I'm just--

TRENT FELLERS: Yeah. Yeah. Yeah.

DeBOER: And in the future, couldn't there be?

TRENT FELLERS: There could be. There, there could be. And that's why we gave the commission discretion over that 75% number.

DeBOER: But you, you gave the commission discretion in the under 100,000 but not in the-- why not just give the commission discretion on all of them instead of the automatic over 100,000?

TRENT FELLERS: Yeah. We designed it after the, the Texas law for-- so growing urban areas out of-- that were-- had over 100,000 people. We basically ripped their language from there. And we'd be happy to look at that suggestion.

DeBOER: Because I don't think it would be particularly onerous here in Nebraska where you have two or three exchanges where this would be relevant. But I'm really thinking about, like, Sarpy and-- so--

TRENT FELLERS: I'm, I'm not, I'm not as familiar with the-- because we don't serve Sarpy County. I'm not as familiar with the Sarpy County's exchanges. It's something I could go back and look at. But it'd be something we, we would-- we could take a look at.

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DeBOER: OK. Let's, let's put a pin in that then.

TRENT FELLERS: Yeah. OK.

DeBOER: And then what happens with the-- if we deregulate an area because there's three people providing in an area, what happens to the consumer complaint, the outage reporting, the 911 obligations, all of that?

TRENT FELLERS: Yeah. So all those are preserved. So-- you know, if we have an outage, we would file with the commission, just as we normally do now. And as far as the 911 responsibilities, there's both state and federal requirements that for anybody that has the certificate that continue to provide those services. And then what was the last part of it?

DeBOER: Consumer complaints.

TRENT FELLERS: Yeah. Consumer complaints. You know, we don't want unhappy customers. I think in this case, the only thing that-- if a customer is upset, the only thing that they couldn't compel us to do would be provide service, you know, under that carrier of lor-- last resort obligation. We would still be able to respond, respond to commission complaints on, on service-- or, [INAUDIBLE]-- with customer complaints.

DeBOER: So that part's not getting deregulated. You would still be regulated by the PSC for consumer complaints, 911, and outage reporting?

TRENT FELLERS: Yes.

DeBOER: OK. Thank you.

MOSER: Other questions from committee members? OK. Thank you for your testimony. Oh, I'm sorry. I thought you were waving at him.

BRANDT: Well, I-- he went-- I thought he was raising his hand before.

MOSER: And I thought he was getting water, so.

GUERECA: No, I was getting some coffee.

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BRANDT: Sorry.

MOSEER: So do you have something to say after all?

BRANDT: Yeah. Thank you, Chairman Moser. Thank you, Mr. Fellers, for--

MOSEER: Senator Brandt.

BRANDT: --testifying today. You aren't obligated to extend the copper today under COLR, are you? You could, you could extend broadband to that new customer. Right? Or fiber.

TRENT FELLERS: What do, what do you mean?

BRANDT: What I'm saying is that if you got, God forbid, a new customer out there and they wanted a landline, would you extend the copper line to them or would you just use modern technology to hook that individual up because you're the COLR in that--

TRENT FELLERS: It de-- it depends on-- it depends on what the network looks like there. So if it is in an area where, say, we've-- you know, from our own private investment or we received a grant where we can provide fiber, we would extend the fiber to them.

BRANDT: OK.

TRENT FELLERS: If it's in an area that, say, we haven't extended fiber or we haven't got a grant to upgrade their service, we would be-- we would be extending the copper.

BRANDT: OK. And just--

TRENT FELLERS: Or maintaining the copper plant that's already there.

BRANDT: OK. And just so I'm clear, a lot of my exchanges are under 100,000. Like--

TRENT FELLERS: Sure. Yep.

BRANDT: --all of them.

TRENT FELLERS: Mm-hmm.

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BRANDT: So let's say we have competition. It gets deregulated, and then everybody walks away. Are you still hung with being the COLR? Or did you get off the hook because it was deregulated? And right now I've got an exchange without COLR in it. And I've got a bunch of rural people that have no maintained phone system.

TRENT FELLERS: Yeah. So I think what would happen in that case is, you know, I think the commission-- if the commission deregulated that area, we, we would no longer be the COLR. And I think there would be some process that they would have to reinstate that. But, you know, that might be something we need to look at in the bill and we can talk to you about.

BRANDT: All right. I'll ask PSC when they come up here.

TRENT FELLERS: Yeah. Absolutely.

BRANDT: Thank you.

TRENT FELLERS: Yeah.

MOSER: Senator Guereca.

GUERECA: Sorry you're the first one out, so you get all the questions.

TRENT FELLERS: No, you're good. Yeah.

GUERECA: So Windstream primarily covers Lincoln, right? That's the big area.

TRENT FELLERS: Most of the southeast portion of the, of the state, yeah.

GUERECA: But of the-- oh, gosh-- the, the, the service population over 100,000, Lincoln is one of them, right?

TRENT FELLERS: Yeah. The main one for us.

GUERECA: Main one. Sure. OK. Is there-- are they-- to your knowledge, is-- would there be anyone-- if you were to deregulate, automatically be able to deregulate, that would be left without service? Are there

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any pockets of Lincoln that only-- that you are the only provider that if you were to deregulate they would be left without service?

TRENT FELLERS: As far as wireline service to the home--

GUERECA: Correct.

TRENT FELLERS: --for other companies? No. And that's because both the other two companies that are in the marketplace there are companies that have a agreement with the city of Lincoln to provide border-to-border broadband. And they also provide phone service as well.

GUERECA: OK. Thank you.

TRENT FELLERS: In addition to the wireless options--

GUERECA: Yeah.

TRENT FELLERS: --that customers would have.

GUERECA: Thank you.

MOSER: OK. Other questions from the committee? Seeing none. Thank you very much for your testimony. More supporters? Welcome.

PETER GOSE: Good afternoon, Chairman Moser and members of the Telecommunications and Transportation Committee. My name is Peter Gose. That's spelled P-e-t-e-r G-o-s-e. I'm the Director of State and Local Government Affairs for Lumen Technologies, which is the parent company of CenturyLink. I'm pleased to be with you here today to share with you support for LB4, the Nebraska Telecommunications Exchange Deregulation Act. Lumen believes this legislation will be a catalyst for modernizing Nebraska's telecommunications landscape. As a former telecom regulator, I know full well that the word deregulation almost always raises eyebrows. But let's be clear. LB4 is at most a modest change to the regulatory landscape. It does not automatically trigger statewide relief, nor does this bill cut costs or sacrifice service quality. It's about something much more important. It's about modernizing Nebraska's telecom framework to reflect the realities of the 21st century. When Nebraska's telecom rules were written, many of us were still using dial-up internet. We had very few choices for

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telephone service. Fast forward to today. Myriad choices abound in many locales, from cable to cellular to fiber to fixed wireless and other modalities. Customers have numerous alternatives for voice services. LB4 recognizes that the current regulations are stuck in the past, as they were designed for a monopoly world, a world that no longer exists. FCC data shows that, at the end of 2023, there were 2.7 million voice subscriptions in the state of Nebraska. Of those, only 136,000 were incumbent local exchange carrier copper lines. Modernizing outdated regulations will assist companies like Lumen and others to more swiftly provide modern services customers desire. Leveling the playing field is critical, as incumbent local exchange carriers in Nebraska-- which provide service to only 5% or fewer of all voice subscribers in the state-- are subject to regulations that the remaining 95% are not. That's simply an unfair atmosphere and one that no longer makes sense. LB4 creates a more balanced regulatory environment where every provider plays by the same rules. The backbone of our digital economy is the-- a modern infrastructure. Wherein incumbent carriers are hamstrung with requirements to maintain aging networks for fewer customers, they're unable to invest scarce resource dollars in modern upgrades to the latest technologies. To conclude, let me pose two quick questions. First, does reg-- deregulation mean sacrificing essential services? We heard that question already. The answer is absolutely not. LB4 maintains critical safeguards, especially for emergency services like 911. The importance of reliable communications is well-understood, and we're committing to ensuring those lifelines remain strong. The last and sec-- and most important question's, what will happen to small towns and rural Nebraskans under LB4? The answer is clear. This bill is primarily focused on areas where robust competition already exists. We all know the challenges in rural areas are unique and they require a different approach. And at Lumen, we're committed to working with policymakers and communities to find solutions to bridge the digital divide for all Nebraskans. In closing, LB4 is a smart, forward-thinking piece of legislation through-- recognizes progress we've made in telecom. It creates an improved regulatory framework and encourages investment and innovation. We at Lumen are proud to support this bill, and we urge the committee to give it favorable consideration. Thank you. Take any questions.

MOSER: Thank you. Questions from the committee? Senator Fredrickson.

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FREDRICKSON: Thank you, Chair Moser. Thank you for being here and for your testimony. So I, I'm, I'm hearing the argument for the deregulation. Certainly, I, I, I think that modernization is something we should be thinking about. And I'm, I'm hearing your reassurances that essential services are not going to be compromised, like 911, et cetera. What-- help me understand a little bit more. What benefits your company with the deregulation? Is it, is it the fiscal piece primarily? Like, what, what's the driver for your position here?

PETER GOSE: Today, Lumen supports a very, very aged, copper-based telephone network. We have digital switches in central offices all across the country, in downtown Omaha and, and other locations, and those are connected with copper wires out to customers. It's just a service customers don't want anymore. And forcing a company to maintain that archaic copper network when customers desire more advanced services is a, a burden and drain on company resources. Because the more I have to support copper, the less I can place to modernizing my network. As you mentioned before, those statistics really bear that out. Only 5% of all Nebraskans use a copper landline. 95% of the remaining customers use some other modality for their communication services.

FREDRICKSON: Sure. So assuming this were to pass into law, how would Lumen look differently in, in Omaha or Nebraska? Like, what-- how would you-- what would your allocation of resources look like if you weren't having to maintain those, those copper lines?

PETER GOSE: Largely, from a kind of provision of service standpoint, it would look business as usual, but Lumen is very committed to investment in Nebraska. We have-- and the last several years have had about 127,000 fiber passings jobs. We're trying to push that modernized network to customers. We'll do over 20,000 additional this year. You'd like to do it at a faster pace, but resources have to be allocated among a host of different competing requesters. And so in addition to those, we are also very actively participating in Nebraska Universal Service Fund projects. Over the last few years, we have had 12 to 14 rural projects that have brought on at least 5,000 additional customers to gigabit and above bandwidth speeds in rural Nebraska. I have four or five other projects ongoing right now that will bring several hundred more, so.

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FREDRICKSON: So would-- it-- would it be fair to say that this would enable Lumen to further invest in those types of projects?

PETER GOSE: Absolutely.

FREDRICKSON: OK. Thank you.

MOSER: Senator Guereca.

GUERECA: Thank you for your testimony, Mr. Gose.

PETER GOSE: Gose. Correct.

GUERECA: So-- and I'm new to the committee. Lumen is the carrier of last resort for the Omaha area, correct?

PETER GOSE: Correct.

GUERECA: And you've stated that only 5% of Nebraska's purely on copper, right?

PETER GOSE: That's correct.

GUERECA: Any of that 5% in the Omaha area?

PETER GOSE: A fair amount of it, yes.

GUERECA: OK. So sort of like my, my question to Mr. Fellers, are-- to your knowledge, so-- are, are there people-- would there be anybody in the Omaha area that if you were to deregulate as the carrier of last resort that would be left without services?

PETER GOSE: No.

GUERECA: OK. Thanks.

MOSER: Senator DeBoer.

DeBOER: Let me nuance his question.

PETER GOSE: Sure.

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DeBOER: It's not that they would be left without services. Would they be left without a carrier of last resort? That is, if suddenly a neighborhood in Senator Guereca's district-- which I have walked. It's very, very hilly. And if some neighborhood in that area, suddenly everybody's like, you know what? This is only copper-- which I bet it is, because it's around the zoo area that I'm thinking about. It's only copper. And everyone's like, I just don't want to serve this area. It's hilly. It's kind of sparse. I'm going to pull out of this area. And everybody pulls out and there's no COLR left. What happens to those folks?

PETER GOSE: So there are myriad of different choices for those folks. There are cable TV companies that provide voice over internet protocol, or interconnected VOIP. There-- all the large cellular carriers in the state are there. That's interesting. The statistics that I cited earlier in the state of Nebraska, the 2.7 million customers, 80% of those customers in the whole state, all-- 80% of every voice connection in this state is provided by a wireless carrier. Even-- more interestingly, the United States Department of Health and Human Services annually conducts a survey they call their wireless substitution survey. And the, the last most current data in that survey, 74.5% of all Nebraskans live in a wireless telephone only home. So there are those options.

DeBOER: I, I absolutely understand all of that. And all of that absolutely makes sense in terms of statistics. But I think what Senator Guereca, or at least-- maybe I'm putting words in his mouth-- what I'm concerned about is the one-off person who lives in there. And what you're I think telling me is it's just too remote a possibility that all eight different service providers in Omaha would all decide independently that they're not going to serve this neighborhood. Is that kind of what I'm hearing?

PETER GOSE: I, I believe so. And I think that can be borne out. If you look-- the Federal Communications Commission has what they call their broadband data collection maps on their website. And you can pull up a map of Omaha and you can pull-- drill down to the last person in your district and find out where they live and every fixed broadband provider and every wireless broad-- and provider. And you can ini-- immediately determine how many available alternatives are located in that area.

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DeBOER: I just know that Senator Wayne, who represents-- used to represent an area very near mine, but now there's someone in between us after redistricting. And Senator Guereca's districts in particular, the previous senators who held those positions were complaining about some of the service in that area not being up to snuff. Whenever we would talk about rural broadband, they'd say, what about urban broadband? And so I think maybe what we're, we're hearing is a little bit of nervousness about this automatic deregulation of an area where we still have some pockets that we're worried about.

PETER GOSE: You, you, you raise a very good point about kind of the urban broadband on the edge, right. And so just immediately north of your district, in Washington and Bennington, we have a project going on right now. We're-- Lumen is expanding broadband to those communities. Likewise in south Omaha, just immediately south down toward the Platte River, we're engaged in another broadband expansion project there as well.

MOSER: Other questions from the committee? So let me ask a question, kind of a combination of Senator Guereca and Senator DeBoer's. So to say I'm a stick in the mud that still gets a newspaper at home, still has copper landline, and all the carriers abandoned copper landlines. How does that person get coverage, phone, and is it going to be more expensive than the old copper landline if they do get, you know, a fiber connection but it still operates like a plain, old telephone.

PETER GOSE: So pri-- price comparability is certainly a very important consideration. And if you were that customer, if you were a Lumen customer and you decided that, you know, I'm going to live in the 21st century and I'm going to have a broadband data connection in my home, for \$10 extra-- just for \$10 beyond-- you're just getting your internet in your house-- you can get what we call connected voice. And connected voice provides you your local telephone service, plus call waiting, caller ID, plus unlimited nationwide long distance and even some-- a bucket of minutes of international long distance for \$10. So those price comparabilities, as competition evolves, will improve that for everyone. But to your question about how would that landline customer get service-- again, they can get it from the fi-- a fiber provider if it's there, from their cable TV company, from their cell phone company if they have it. And again, 80% of all Nebraskans are

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choosing to use cellular wireless for their telecommunications needs.
And the--

MOSER: But if we had 80% of Nebraskans with electrical power and 20% without, that's not a-- that's not a good deal. Just, just because 80% of them choose the higher technology, we want to make sure everybody's got connectivity. I mean, we've got connectivity. Let's not, you know, fritter it away.

PETER GOSE: And again, it's like, you know, connectivity is being pushed out further and further. Senator, in your district-- is it Shuler [PHONETIC] or Schuyler on the-- [INAUDIBLE]--

MOSER: Schuyler is not in my district, but it's right next door.

PETER GOSE: Contiguous to it. Correct. So-- and, and that area, we're building out, like, 1,300, 1,400 new fiber broadband locations there, so. Connected.

MOSER: Yeah. My wife's family place had-- what do you call it when you're all on the same line? Party line. So you had to listen when you pick up the phone to make sure nobody's on it already. And then they had ringers and the house would only ring when your number was being rung.

PETER GOSE: Yeah. If, if, if, if I can belabor, the-- just the committee for a second. I was a regulator at the Missouri Public Service Commission when we had a Missouri Telecom Modernization Act. And we held public hearings to-- about that modernization act. We had people come and testify that they did not want to lose their party line because that was in the days before the internet, before cable TV.

MOSER: They found out what's going on.

PETER GOSE: And a party line was a source of entertainment to know what your neighbors were doing. So I, I, I completely understand what you're saying.

MOSER: Yeah. I, I still have a big roll of telephone wire in my basement that I salvaged from the farm. All right. Any other questions from the committee? Thank you very much.

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PETER GOSE: Thank you, Senator.

MOSER: Any more supporters? OK. Are there any opponents? You're from the government and you're here opposing it.

TIM SCHRAM: Yes. Good afternoon, Chair Moser and committee members. My name is Tim Schram, T-i-m S-c-h-r-a-m. I am the current chair of the Nebraska Public Service Commission. Here in opposition to LB4. The commission has promoted a light regulatory framework and competitive market since the '96 Telecom Act. We encourage competition and consumer choice. Even in a competitive market, we do two things: ensure there is universal access to communications, telecommunications relay service, and emergency services, and protect consumers by enforcing service quality, customer billing rules, and resolving consumer complaints. LB4 would remove these protections. Last fiscal year, the commission processed 551 consumer complaints and saved consumers \$44,000. Many of the complaints were filed by customers of multistate carriers-- carriers that seek deregulation. While LB4 states the commission can take-- still take consumer complaints, we would not be able to help consumers in deregulated areas without legal authority to require a carrier to refund a customer or restore service. And so this provision is misleading. We apply service quality and consumer protection standards fairly across all wireline carriers. Competition does not protect consumers from having billing or service issues. In the current statutes, 86-126 and 86-134, carriers can request a waiver of commission requirements in competitive markets to discontinue service if there is a competitive option. Carriers can also transition carrier last resort, COLR, obligations upon request where there is another comparable provider serving the area. The commission may also currently transfer COLR responsibilities. Our framework uses an evidence-based standard that ensures consumers will not be harmed in the transition. LB4's provisions requiring deregulation in areas with 100,000 or more residents would remove this process. Exchange boundaries do not mirror city boundaries. LB4 would likely mean we have consumers at the edge of an exchange without a viable option. When service fails due to aging infrastructure or a cable cut, this bill allows the carrier to walk away from their obligation to repair services or decline service to nonprofitable areas. And LB4's deregulatory process appears to be irreversible. 25 years ago, Congress set a framework to open the local telephone market to competition and spur innovation. COLR obligations ensure at least

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one network is available for consumers in an exchange. In return, incumbent carriers have had the benefit of both federal and state universal service financial support. Relative to our state universal service program, the carriers seeking deregulation received millions in subsidies to maintain and upgrade their network, promising to serve every customer with comparable and affordable service. LB4 jeopardizes investments Nebraska ratepayers have made without any oversight, protections for consumers. Transitioning COLR responsibility should be done in a manner to ensure every consumer has access to reliable service and that carriers are accountable to the public they serve. We'd be happy to work with Senator Bosn and the committee. And I'd be happy to answer any questions.

MOSER: OK. Questions from the committee? Yes, go ahead. I was just getting everybody else a chance before--

DeBOER: Sorry.

MOSER: No, you're-- we appreciate your expertise. Senator DeBoer.

DeBOER: Take me through the removing consumer complaints, outage reporting, and 911. You're arguing, Commissioner Schram, that because you can't require them to pay the consumer back that there's no teeth in your consumer complaints, outage reporting, and 911 in these deregulated areas? Is that what you're saying?

TIM SCHRAM: Yeah. The, the way I read the bill is in-- LB4, if you have an area that, you know, has a 75% threshold of square miles, then that exchange gets deregulated. I, I really question what authority we would have to intervene in, in-- and just like-- close to you, the, you know, the tornado in western Douglas County, as far as restoring service to those customers in some of those areas. And so they were some of the issues we were concerned about.

DeBOER: So-- that's a-- OK. So there's two mechanisms in this bill. One is the automatic deregulation. Let's put that aside for a second.

TIM SCHRAM: The automatic trigger.

DeBOER: Yeah, let's put the automatic trigger for deregulation aside for a second. And let's talk about those areas where it's the 75% has three or more, basically, providers. And we're talking about those

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kind of outlier areas where there's 25% that maybe then gets not regulated. Does that-- what now are the teeth behind your consumer complaint, outage reporting, and-- what teeth do you now have?

TIM SCHRAM: If we have a, a customer or consumer that files a complaint with, with the communications department, we will work with the carrier. If we don't get any results and we have multiple complaints from an area, we'll have a-- hold a hearing and gather evidence, bring the carrier in, listen to the customer or consumer's testimony. And in, in south Omaha, we did that a couple years ago and, and had a hearing at the Metro Tech campus for service outages. I mean, some of these individuals were without a service for weeks. And the consumers told us that they would take a-- half a day off work to schedule a technician and that they would be at home and took a half day off work and the technician would never show up. And so those are some of the things we hear. And in that hearing, as we heard today, discussion of, you know, the, the requirement of copper networks. I challenged the price caps in that hearing. I says, find me a statute or a commission rule that requires you to maintain a copper network. And the-- they never got back to me on that one.

DeBOER: Because you're saying they could alternatively provide a digital service?

TIM SCHRAM: Correct. And of-- I've been at the commission since 2007. And we're here today because we have multiple carriers in the state of Nebraska. Many of them do a great job. I, I, I want to state that. And the folks that the price cap carriers have in government affairs do a great job. And of course they, they follow direction from the corporate headquarters. And the philosophy of, you know, phone companies is different. The price cap carriers, of course, they have the choice of, you know, how much money do we reinvest into our network? Or, what do we want to tell our shareholders? And so I, I've told numerous companies over the years that they should take a page out of John Deere's book from 150 years ago. And he said, if we don't improve our product, someone else will. And we've had these old copper networks, competitive carriers have seen, here's an area that's really not being served. They deployed fiber. And now they're being asked to be deregulated. And-- example, under our NUSF-99 program, we kept moving, trying to push the large companies to deploy fiber. And towards the end there, we-- on U-- NUSF-99, we asked them to use 90%

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of the money or required them to use 90% of the money for build-out of new, new network. As-- and they could use 10% for ongoing support. And we kept moving that threshold up. And as a result of that, they returned-- the price caps returned us money. And that's why we did a reverse auction, because both the-- Lumen and Windstream have to return this money that we did reverse auctions with that was available to the-- build new network.

DeBOER: So-- OK. Let me see if I understand what you just said. If we deregulate an area, you're not going to have the same ability-- I was asking what teeth you had. So you, you bring them in-- the consumers complain-- you bring them in, you find out that in fact they have done bad things to the consumers. Let's just call it that way. What can you do at that point as the commission?

TIM SCHRAM: Well, we have the ability to fine, but--

DeBOER: You fine them.

TIM SCHRAM: We, we could. But what we try to do is get the carrier to improve the network--

DeBOER: Sure.

TIM SCHRAM: --is-- are what our ultimate goal is.

DeBOER: OK. So what you've testified is that, under the bill that we have before us today, you would lose the ability to fine them, is that right?

TIM SCHRAM: Yes.

DeBOER: OK. Now talk to me for a second about this automatic. Because if you were presented with-- I'm less worried about this 75% served, 25% less served because I think you, the regulators, can say, eh. Probably we're not going to let you deregulate this area because you've got this pocket of 25% that's not regulated. Right?

TIM SCHRAM: Correct.

DeBOER: So I feel less bad about the under 100,000, nonautomatic, goes through you guys. You guys can look at it, look at all the

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information, do a better job than we can here today. The automatic is the piece that's giving me some heartburn. Am I wrong to have heartburn about the over 100,000 people automatic deregulation, or do you think that there are some areas of, of these exchanges that have over 100,000 people in them that are not quite served?

TIM SCHRAM: You're spot on in the fact that once the automatic trigger hits, it's, it's over with. And, and typically now, you know, if we're looking at issues, whether it's support or problem areas with customer complaints-- like I said, we'll go into an area and have a hearing and, and gather evidence. And the one, the one docket I mentioned that we had a hearing on was C-5303/PI-240. And in that, we instructed the carriers to have a required corrective action plan. And we're still working with them on that. So-- but, yes. It removes our ability to, to do something for the consumer, in our opinion.

DeBOER: OK. So let's imagine that instead of the two different avenues, both the over 100,000 and the under 100,000, if we just treated all the same and it's all the under a 100,000 process-- so you get to look at each of these applications for deregulation-- does that take away your opposition?

TIM SCHRAM: I'd have to-- I'd have to consider that and, and look at everything. But as I stated in my testimony, there's already two statutes that, that-- you know, the carriers have the ability 86-126, 86-134. We heard earlier today the Rural Sustainability--

DeBOER: The Rural Sustainability and then the border one. But this, I think, envisions a much larger deregulation than just the Rural Sustainability, which obviously wouldn't apply to Omaha, Bellevue, that sort of thing.

TIM SCHRAM: Correct.

DeBOER: So is this potentially a mechanism where we would-- not automatically. That gives me heartburn-- but if we have a process where it goes through you all and you can do your due diligence and determine whether or not in fact this looks like this place is pretty well-set, we can deregulate it, would you be-- first of all, would you all be willing to take on that responsibility?

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TIM SCHRAM: Yes.

DeBOER: And do you think you guys would be able-- I mean, if I'm a regulator, I'm going to be hard-pressed to say, no. You guys go without regulation. Do you think that the Public Service Commission would be able to make a determination and say, OK. Yes. That one's, that one's able to go away. We can deregulate that. And, and that you all would be willing to do that even though I know you would lose some of the ability to regulate consumer complaints and some of those things. Do you think the commission would be willing to give up those-- the, the regulation of those areas?

TIM SCHRAM: We would, but I, I'd still want to have a hearing in those areas.

DeBOER: Absolutely. So that's what I'm saying. Not the automatic, but you have a hearing in every area before they go away. All right.

TIM SCHRAM: Under that agreement, yes.

DeBOER: Let's think about that then. OK.

MOSER: OK. Other questions from the committee? Thank you. I appreciate--

TIM SCHRAM: Thank you.

MOSER: --appreciate everything you do besides this. OK. Other opponents to LB4? Come on down.

TRACY AKSAMIT: Afternoon, Senators.

MOSER: Welcome.

TRACY AKSAMIT: I'm Tracy Aksamit, T-r-a-c-y A-k-s-a-m-i-t. I'm a licensed architect and a data analyst. Representing myself. Comments here are-- address the wireless reference in the bill. So not the, the copper. I'm here today to express my concern for the proposed elimina-- elimination of quality of service standards for deregulated carriers. I view the quality of service standards as essential in assuring the telecom equipment risks of harm are minimized. And I contend that the potential harms from relying solely on a carrier's

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antenna certification for its safe electromagnetic radio frequency emission levels does not meet the threshold of reasonable care. States like California, Washington, New York, and Texas have already implemented RF emission standards and regulatory oversight to protect public health. Unfortunately, most people are unaware of the potential health risks associated with RF exposure. The graphic provided compares some of the benefits and harms electricity and RF are documented by doctors since the 18th century and the overlap with symptoms listed in a 2023 Scientific American article on COVID symptoms, including such respiratory infection-- symptoms as re-- respiratory infection, chest pain, and shortness of breath, just to name a few. Like the static on a radio, the impact of RF emissions on people can range from barely perceptible to totally disruptive. And since the S-- FCC has not revised its exposure limits since 1996, does not provide an adequate level of protection. The FCC RF exposure limit of 1,000 microwatts per centimeter squared, 61 volts per meter is based on thermal effects-- tissue heating-- and doesn't consider nonthermal biological impacts, nor does it consider independent recommendations such as the EUROPAEM's exposure limit of 0.45 volts per meter. This threshold is critical because it addresses health risks from the nonthermal effects of lower level RF signals, which disrupt the fundamental electrical flow of fourth-phase water, a gel state that plays an essential role in cellular processes. Electrical flow is not currently considered in the absorption rate calculation used by industry to assess negative health effects and is currently set at approximately 108 volts per meter for local exposure. The fast-track expansion of wireless networks makes it increasingly challenging for acutely impacted Nebraskans to find low-static space and quietly impacts all Nebraskans long term. You'll find that emissions monitoring for nine locations in my neighborhood over the past three years show that three locations and safe ranges under 0.6 and several that are 6 volts per meter and over. The current lack of updated FCC regulations, coupled with the rapid pace of technical-- technological expansion makes it critical to act now. Adding provisions to LB4 that would establish independent oversight of RF emissions as part of the quality of service standard for telecom providers should include third-party monitoring, transparent reporting, and community oversight and enforcement mechanisms, ensuring minimum regulatory emission standards. We must not wait for further scientific studies to emerge when we already have sufficient

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evidence of the risk. Compliance monitoring to protect Nebraskans from harmful R-- RF exposure is a responsibility we must take seriously. Thank you for your time.

MOSEER: Thank you. Questions from the committee? Hang on. We might have questions for you. OK. I'll ask a couple.

TRACY AKSAMIT: Oh, OK.

MOSEER: So you're testing for signal strength only at the frequencies of cell phone communications?

TRACY AKSAMIT: Antennas from small cell-- any-- whether it's a router in a home that's-- like, an ALLO router, that's-- the small-town technology.

MOSEER: Well, you have measurements here from a neighborhood.

TRACY AKSAMIT: Oh, these measurements.

MOSEER: Yeah. What I'm-- I, I'm saying that you're just measuring the signal strength of--

TRACY AKSAMIT: From my meter at--

MOSEER: --cell phone--

TRACY AKSAMIT: --various--

MOSEER: --transmitters.

TRACY AKSAMIT: --distances from the cell tower. Yes. Yes. That's correct.

MOSEER: Yeah. So how does this have anything to do with LB4?

TRACY AKSAMIT: Well, I understood line-- page 5, line 11 referenced wireless. And so I understood the de-- deregulation was for all carriers.

MOSEER: OK. All right. Well, I, I have a passive signal strength meter on my desk down the hall, and it has real long antenna on it. People always laugh at me and they ask what it's for, but. But it's not for

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these frequencies. It's for 40 meter, which is way, way shorter frequency than what you're talking about. Other questions from the committee? OK. Thank you very much.

TRACY AKSAMIT: Thank you.

MOSER: Appreciate your testimony. Anybody else to speak against LB4? Anybody to speak in the neutral capacity on LB4. Welcome.

ANDY POLLOCK: Thank you again, Chairman Moser and members of the Transportation and Telecommunications Committee. Again, my name is Andy Pollock, A-n-d-y; Pollock is P-o-l-l-o-c-k. As before, I'm here representing Nebraska Rural Broadband Alliance, about 15 companies, both ILECs and CLECs, that have fiber [INAUDIBLE] throughout all of their areas of the state. We wholeheartedly support the concept of LB4, and I want you to know that. We had a few concerns about it, but generally we support it. I will start with the big city piece. We don't have a position on that. We understand what the carriers, Windstream and Lumen are saying. Also understand what Commissioner Schram said and Comm-- and, and Senator DeBoers in terms of an automatic. But we don't take a position on that. We don't serve Lincoln and Omaha. We don't have any desire to. We are in the business of trying to serve rural Nebraska cities and outlying areas. So no position on that particular part. The only objection-- well, let me, let me start with a concern that we have about the bill. This bill, like I said, is good in concept. But-- and I've told Windstream this. They shared with me a couple weeks ago. We had a great conversation. We've had another conversation since, and I hope that continues. But this largely repi-- replicates the Rural Communications Sustainability Act. And there are some differences, frankly, there's some things here in Senator Bosn's bill that I think should be part of that act. And I'd be glad to talk to the committee and Senator Bosn about that. COLR, defining COLR, that's a heck of a good idea. Having a, a trigger for the threshold at which the commission makes a decision, that's a good idea that we've wrestled-- my clients have wrestled with. Let's do it within the scope of existing law. And here I'm putting my lawyer hat on. If we have two bodies of law that essentially do the same thing, that's going to lead to confusion. I love litigation, but we shouldn't have litigation here. This should be as streamlined as possible. This should be simple. It shouldn't be, do I pick this law or do I think this law? I think we can fold the two together and make

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them a really good law. And I, I, I would commit to helping do that. The only objection we have to the bill is that, like the Rural Communications Sustainability Act, it does not allow the competitive provider-- who might be a CLEC, who might not-- to petition the commission for basically deregulation of the existing carrier so that that carrier, the new carrier, can take on their CLEC and their COLR responsibilities. I'll take issue with one thing that you heard on our bill from the commission. There is uncertainty in this law. They do have reg-- rules and regulations. But LB4-- L-- LB666 is needed to clarify to avoid future disputes. And I think the commission staff, when I met with them last Friday, had a good, good discussion. I think they generally agreed with that. So with that, I'd be glad to try to answer any questions you guys might have.

MOSER: OK. Questions from the committee? Senator DeBoer.

DeBOER: I'll just ask the-- you say you don't take a position on the automatic class-- reclassification, but we don't have anywhere else an automatic reclassification, right? You have to go through the process if you're doing that. If you're doing the rural exchange piece, the rural re-- reclassification--

ANDY POLLOCK: Yeah.

DeBOER: --if you're doing the border change-- you go through the PSC every one of those times, right?

ANDY POLLOCK: That's correct.

DeBOER: So is there any other place where the COLR would transfer or they would deregulate without going through the PSC? I ask you because I know you've been around this stuff for a while.

ANDY POLLOCK: Yet, not-- Senator DeBoer, not that I'm aware of. There should be-- there's rules from 2004 that I didn't know about and I learned on Friday. So I'm not going to say no, there's not, but not that I'm aware of.

DeBOER: OK. Thank you.

ANDY POLLOCK: Yeah. Thank you.

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MOSER: Seeing no other questions. Thank you.

ANDY POLLOCK: OK. Thank you very much.

MOSER: Anybody else to testify in the neutral? Seeing none. Let's see. LB4, we received 2 proponent comments, 2 opponent comments, and no neutral comments. Senator Bosn, you're welcome to close.

BOSN: Thank you, Chairman Moser. I tried to take notes as best I could, and a lot of things were hit from some of the other testifiers. I guess one thing I just want to make real clear is it wouldn't make sense for all of these company-- for one of these COLR providers to deregulate and then everyone to leave the market. I mean, that's-- that doesn't make business sense. People don't do that. By way of example of that, we have the 38 other states who have gone through some process of deregulation and none of them have been without internet-- or-- excuse me-- without landline phone service in those states. As an example of this isn't going to just result in, in everyone leaving the market in some area, certainly not yours or any other, because that's how they make money. They, they need customers in order to continue making those profits. So I, I don't think that's a legitimate concern. I'm certainly happy to have the conversation about the 25% that would potentially be, you know, left off a cliff on this and how we can make sure that that's taking-- not happening. But I really don't think that the concern is, is that we're going to deregulate and then, poof, all these companies are going to leave an area, leaving everyone back to the, you know, 1700s where we didn't have landline phone service. I think that was one of the main things that I wanted to talk about. I also think that a number of the con-- I was trying to-- I-- it would be interesting to know how many of the complaints, consumer complaints were referenced in the commissioner's testimony were 911-related calls that would still be given the opportunity for them to still appear versus how many were for providers where they weren't getting quality service. The other thing I would point out-- in his testimony, he talked about the universal service program and these carriers received millions of dollars in subsidies to maintain and upgrade their network. But they're not receiving ongoing support. So I don't want anyone to think that, oh, well, they should just put in fiber network so that they can continue being the carrier of last resort. They can't afford it. They're not receiving ongoing support to upgrade and maintain those. How many--

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we're at 5% of Nebraskans are receiving telephone services through copper lines. Are we going to wait till it's zero before we start talking about the realities here that no one's using this service? Or are we going to start taking steps to see what that looks like so that we can remain competitive for these companies and provide the best service to Nebraskans across the board? And I don't want to just pull all the services so people are left without telephone service options. But I think we do need to have a realistic conversation about how this is going to look going forward and-- at what point are we willing to have that conversation if not at 5%? So with that, I'll take any questions.

MOSER: Questions from the committee?

BOSN: Come on. I didn't do that good.

MOSER: I still get a newspaper delivered and I still have copper phone lines. Although, we do have cell phone data also, so. In fact, right now, the little stripe is green, so I'm downloading data for something as we speak. Thank you very much.

BOSN: I think the difference, though, is, is that you may still have a cell-- a landline-- which, you know, good for-- it's Frontier in Columbus, is it not?

MOSER: Yeah.

BOSN: This isn't saying that those are going to go away. It's just saying that if there's somebody-- for example, in Lincoln-- and that's-- I only use that because I live here-- we have ALLO all over. And so for us to say you, you have to continue maintaining this service when we have another provider who's providing equal or better service isn't really the best use of government funding to continue supporting those things or maintaining those things when the businesses can remain competitive on their own. I mean, if you had two phone companies and they're both offering the service that you can receive for essentially the same dollars, why are we telling one they have to do it when the other is doing it and, and competitively so?

MOSER: OK. All right. Thank you very much for your closing. That'll close our hearing on LB4. And now we're-- will be moving to LB311.

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Senator DeBoer. On LB311, we received 2 proponent online comments, no opponent comments, 1 neutral comment. And then we received one comment through an ADA accommodation written testimony from John Wyvill from-- representing Cox Communications. OK. Welcome.

DeBOER: Good afternoon, Chair Moser and members of the Transportation and Telecommunications Committee. My name is Wendy DeBoer, W-e-n-d-y D-e-B-o-e-r. And I represent District 10 in beautiful northwest Omaha. I appear today to introduce LB311. The intentions behind this bill-- the intentions behind this bill are simple: to clarify in state statute that the FCC has certain authority over reg-- the regulation of broadband which supersedes state or local political subdivision authority. So let me say at the outset that it comes to find out that this bill's kind of got some controversy around it. It's not as simple as we first thought. Perhaps it has been drafted in a strange way. That will be my fault. So what we're going to do is we're going to have a nice conversation about this bill in which everyone will tell you all the reasons it's terrible and a few people will say it's not. And then later we'll go figure out what the best way to make this bill work is, if that's OK with everyone. So that's to say do not feel bad if you think this is a mess, because I understand that there are some things we're still working on. I was presented with an issue in which a provider, Charter, was looking to build in the locality and they were told by a local town administrator that they had to provide internet service at a certain speed before their rights-of-way permitted-- permits were granted despite all other parts of the application being valid. I commend this administrator for wanting to ensure service provided in their area is adequate, but it is not something that they have jurisdiction to do nor enforce. As such, I introduced LB311. As you can imagine, I've heard a lot of feedback from cities, counties, public power districts, the PSC, and of course just about every telecommunications provider about this bill. Turns out just about everyone has a problem and has suggested amendments. So you'll hear-- be hearing from them today, as I encouraged everyone to use this hearing to air their grievances. And then after today, I will convene a meeting of the minds and I'll work with all the stakeholders to find the language that works best so that we can do the purpose of the bill, which is to make sure everybody knows that the FCC has preempted certain areas of regulation, without making all the myriad

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mistakes that I apparently have made. So that's the introduction. I'm happy to answer any questions.

MOSER: Could I ask a question first? So if the FCC has preemptive authority over all of this, why do we need your bill?

DeBOER: So technically, we don't and we do. We don't in terms of clarifying the law. The law is clear. If the FCC has preempted it, federal law preempts, we're done. But not every city administrator in every town has that level of sophistication in legal analysis to be able to--

MOSER: Well, they've got legal counsel, right? And the counsel from whatever ISP that's having problems could just send them a letter and say, hey--

DeBOER: That has not--

MOSER: --it's not your jurisdiction to regulate this.

DeBOER: That is not-- my understanding is that has not been successful. So they wanted to have a piece in state law where-- that they could point to. Again, Senator Moser, I--

MOSER: And who wanted that?

DeBOER: Originally, I was brought the bill by Charter.

MOSER: OK. All right.

DeBOER: So I-- you know, I think we're going to here today and we'll figure out what to do after that.

MOSER: OK. Well, we have more questions. I just-- apologize for going first. Are you OK, Senator? OK. All right. Well, thank you. Supporters for LB311. Welcome.

DAYTON MURTY: Thank you. Good afternoon, Chairman and members of the TNT Committee. My name is Dayton Murty, spelled D-a-y-t-o-n M-u-r-t-y. And I'm the Senior Manager of Government Affairs for Charter Communications. We do business in the state of Nebraska under the brand name Spectrum. And we have 156,000 customers in over 90

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communities. We employ over 270 Nebraskans, and last year we invested over \$38 million in the state to evolve and expand our network to an additional 2,000 homes and small businesses. Most of my testimony-- again, like the senators-- will be talking about the intent of the bill. I'm here to-- today in support of the intent of LB311, which was to clarify that rates and service or contract terms, conditions, and requirements for entry for broadband internet is not regulated by state or local governments. It's already spelled out in state law that the Nebraska PSC shall not regulate these aspects of service. This bill expands that to other government agencies, boards, commissions, or political subdivisions of the state. However, the bill also expressly exempts the authority delegated for the administration of a federal or state broadband grant program. The reason for this bill is the same as the reason for the underlying statute. Companies like ours provide service in many states and communities across the nation. Charter, for example, provides service in 42 states and over 10,000 communities across the country. It's not feasible to have a different regulatory scheme for rates, terms or conditions, or barriers for entries for each state or community, which is why any regulation of broadband is rightfully regulated at the federal level. The intent of this bill was not to impede on the authority of the Public Service Commission. The intent of this bill was not to hinder the ability to have pull use agreements or wide-- right-of-way use agreements. So I, I hope that we can get a new version of the bill which will not impede those services or those, those agencies. And we can have it clear in state law that the regulation of broadband is, is handled at the federal level.

MOSER: OK. Questions from the committee? Yes, Senator Ballard.

BALLARD: Thank you. Thank you, Chairman. Thank you for being here, Mr. Murty. Senator DeBoer mentioned in her opening this was an issue you faced in a local community. Can you give us a little detail on-- you don't have to say the community it was, but just kind of give us broad--

DAYTON MURTY: Yeah. So-- I mean, there's a number of examples across the state where communities think it's a good idea to regulate service characteristics or rates, terms, and conditions of broadband service. And so, you know, we've been approached. And to this point, we've been able to have those conversations and, and explain why that's not

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feasible. With that said, it's easier to have those conversations and, and-- if it's in state law and we can avoid any confusion with, with local communities later on. But that has been an issue on a number of occasions.

BALLARD: OK. Thank you.

MOSER: OK. Other questions from the committee? All right. Thank you for your testimony. Other supporters for LB311. Welcome again.

TIP O'NEILL: Thank you. Mr. Chairman, members of the Transportation and Telecommunications Committee. My name's Tip O'Neill, T-i-p O'-N-e-i-l-l. And I'm President of the NTA. We represent 20 companies providing broadband and landline telecommunications services in Nebraska. We support the intent of LB311, which we understand attempts to clarify the authority of the state and its political subdivisions to regulate broadband internet access services unless granted specific authority delegated to the PSC or to a state agency to administer a federal or state broadband program pursuant to a federal or state statute, rule, or order. We know of entities that are here behind me that are currently opposed to the introduced version of this bill, and the NTA would also support clarification of elements of this bill relating, for example, to the authority of political subdivisions of the state to regulate access to rights-of-way by telecommunications and broadband providers. We look forward to robust conversations with Senator DeBoer and other interested parties on this bill. I'd be happy to answer any questions you might have.

MOSER: Questions from the committee? All right. Thank you very much.

TIP O'NEILL: Thank you, senators.

MOSER: More supporters for LB311.

***JOHN WYVILL:** Dear Chairman Moser and members of the committee: Cox Communication is in support of the concept put forth in Senator DeBoer's bill, LB311, and we understand that there may be amendments to the bill after the hearing.

MOSER: OK. All of you don't rush the table at once. Opposition for our-- LB311.

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CANDACE MEREDITH: Good afternoon.

MOSER: Welcome.

CANDACE MEREDITH: Thank you. My name is Candace Meredith, C-a-n-d-a-c-e M-e-r-e-d-i-t-h. And I'm with the Nebraska Association of County Officials, otherwise known as NACO. And here in opposition to LB311. So NACO has-- does have concerns regarding the language added on page 2, lines 24 to 27, which could be understood to limit a political subdivision's existing authority to manage and protect our public rights-of-way. Over the years, counties and taxpayers have faced significant challenges due to improper broadband deployment practices by subcontractors. These include fiber being buried improperly down the middle of roads through culverts or in unstable locations, leading to costly repair that ultimately fell on the taxpayers. Additionally, improper-- improperly placed pedestals and in-- inadequate coordination with local governments have created safety hazards and maintenance burdens, burdens for counties. However, Nebraska has many, many providers that serve as models for sustainable deployment and collaborate effectively with, with counties. So in this effort over the last year, NACO has been working over the past year on a broady-- broadband readiness toolkit to educate and help counties prepare for the NBEAD project areas. The toolkit-- we've had many conversations with many of the providers behind us. And again, it's still in the works and we're still collaborating on it. We have varying opinions on what the agreement should look like, but I know we're going to come out with a positive outcome for this. But the goal of the toolkit is being developed in, in partnership with these stakeholders to streamline agreements and permitting processes, maximize public funding to connect unserved and underserved areas, protect public right-of-ways and critical infrastructure, and establish best prac-- practices for long-term maintenance and provider county communications. As we roll out on the NBEAD deployment, the county's roles are going to be very significant, as that \$405 million of public funds do go to those rural project areas. So it's really going to be important that our, our authority is protected in those right-of-ways, which it sounds like we're going to be working towards that goal. So with that, I'll be happy to answer any questions.

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MOSER: Questions from committee members? So your objection to the bill is not that you want to tell company's speeds, pricing, and those sorts of things. You want to control your right-of-way?

CANDACE MEREDITH: Correct. And it just looks--

MOSER: And does the bill change the, the balance of negotiation on the cost of pro-- them using your right-of-way?

CANDACE MEREDITH: The way the bill reads, it seems like it's stripping the, the ability to protect the right-of-ways. And so that's--

MOSER: So, so you feel you would be at a disadvantage in negotiating the use of your right-of-way?

CANDACE MEREDITH: Right.

MOSER: Because they could point to this bill and say--

CANDACE MEREDITH: Yes.

MOSER: --can't do that.

CANDACE MEREDITH: In all law. So that's where we're-- had some concerns about it.

MOSER: Senator Ballard.

BALLARD: Thank you for being here. I-- you mentioned the toolkit. So the toolkit that you sent to counties, is that, that's just with permitting-- what, what's included in [INAUDIBLE]?

CANDACE MEREDITH: Sure. So what we're working on is a resolution to standardize our resolution in agreement that we, we work with providers and a permit application. And the point of that was to--

MOSER: The resolution by the-- NACO.

CANDACE MEREDITH: The county. By county. For each county would have a resolution to set that--

MOSER: But you're providing a model--

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CANDACE MEREDITH: Yes.

MOSER: --of verbiage that they can use. OK. Thank you.

CANDACE MEREDITH: Yeah.

MOSER: Sorry to interrupt.

CANDACE MEREDITH: Oh, no. You're good. So the-- basically the toolkit's there to help educate and put a template in place for our counties to help streamline our permitting practices and our agreements. Many of the project areas under BEAD are in multicounty areas. So what the goal was in this effort was to help streamline the agreements and the permitting practices for counties and providers. So if a, a provider came into one project area with three counties, we try to streamline those practices to maximize those public dollars. As we know, counties-- 93 counties do it 93 ways. We're help-- trying to help streamline some of those practices to help those providers come in to those project areas. So if they have to cross a county line, it would be similar in how we practice deployment.

BALLARD: OK. I have one follow-up if-- and respond to my statement. That's the question. I have this concern with this toolkit of just-- there's this-- I respect local control. I get that. But there's this patchwork from county to county. Is that, is that a concern of NACOs, that providers, like, they come into a county and they're-- they don't know what to expect? It's just a-- the patchwork is a tool-- toolkit supposed to help with that?

CANDACE MEREDITH: Yes. And it's supposed to be a tool. And that's where we're trying to come together with providers, because that's something that we've heard from providers that one county does it this way, one county does it that way. In an effort to work on standardizing for the BEAD money, specifically when there's public dollars at-- and-- at play here, we wanted to make sure that we were trying to be as welcome as we can to the providers and at the same time making sure that when we-- when the providers come in that we get sustainable deployment because we've had some practices in the past that haven't been up to par and it's ended up costing the counties quite a bit of money to repair.

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BALLARD: OK. And sustainable deployment, that means with the permitting process or is that speeds and--

CANDACE MEREDITH: No, no, no. What the permitting practice is basically where we're not plowing down the road at a level that is-- has to be fixed within two months after a, a bad rain. We want the, the deployment to go successfully so it's buried properly and it doesn't have to be repaired with later on.

BALLARD: All right. Thank you.

MOSER: You feel that this bill would hinder your ability to control the quality of work that they do in your right-of-way?

CANDACE MEREDITH: Yes.

MOSER: OK. Other questions from committee members? Thank you. Appreciate your testimony. Other opposition? I believe we're on already. Well, another familiar face. Welcome.

DAN WATERMEIER: Good afternoon, Chair Moser, members of the committee. My name is Dan Watermeier, spelled W-a-t-e-r-m-e-i-e-r. I represent the Nebraska Public Service 1st Co-- 1st District. And I am here today on behalf of the commission in opposition to LB311 ad-- as it is currently drafted. The bill amends Section 86-124 of the commission statutes to state only the Federal Communications Commission may regulate broadband internet access service. While the bill does include some limited expe-- exceptions for the commission to administer broadband grant programs, the language of the bill is very broad. We are concerned that this bill could have far-reaching and unintended negative consequences-- first and foremost, 911 service in Nebraska offered on networks that provide both voice and broadband services. Next-gen 911 services rely on ESInet, which is an internet protocol network used for emergency communications. A pro-- the prohibition on the regulating all broadband activity would keep the commission from investigating 911 outages set-- just such as those as we saw over the last year, year and a half. You are also likely aware that the regulation of broadband service at the federal level is in flux at this time. The FCC, now led by newly appointed chair, Brendan Carr, may or may not intend to regulate broadband going forward. With the last FCC's net neutrality order stayed by a federal court, it is

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unclear whether the FCC will choose to or be able to regulate broadband service. The commission feels that it is premature to pre-empt all state regulation of broadband service not knowing what the federal landscape may look like in the next year or two. Because the commission administers the NUSF and provides support for broadband-capable voice networks, we would not want to inadvertently leave those public funded networks fully deregulated. We have been working with Senator DeBoer and with Charter on potential amendments to the bill. The language of the bill as currently drafted precludes state agencies and commissions from enacting any type of broadband regulation at all, rather than taking a narrow approach focused on specific problems that have been encountered by broadband providers. The commission is therefore opposed to the overly broad language of the bill as it is currently written. We would be happy to work with the committee to find more a fine-tuned approach. This concludes my testimony. And I'd be happy to answer any questions.

MOSER: Questions from committee members?

DAN WATERMEIER: There one-- maybe one thing I would add I heard several times in these three bills today on regulation is that we provided you with our annual report last fall, November and December. We talked about complaints, outages, different things. And there's a good report that we put out every year. I might just go ahead and send it to all of you again, especially the new members so that you can have it to study in a little bit. And some of the questions that may have come up you may have a little better understanding of that, so.

MOSER: Would the PSC be interested in coming in and just doing a little remedial training for new members or-- well, for all us.

DAN WATERMEIER: Absolutely. At any time. I'm sure we can provide that.

MOSER: Yeah. The committee members show interest in that.

DAN WATERMEIER: OK.

MOSER: OK. Well, we may try to work that out.

DAN WATERMEIER: Absolutely.

MOSER: Other questions for Mr. Watermeier? Thank you for your--

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DAN WATERMEIER: Thank you.

MOSER: --testimony. Appreciate it. Other opponents? Welcome.

LASH CHAFFIN: Good afternoon, members of the Transportation Committee, Senator Moser. My name is Lash, L-a-s-h; Chaffin, C-h-a-f-f-i-n. And in the interest of brevity, I will say that much of my comments mirror very closely the comments of, of NACO. The, the overly broad language in the bill as currently drafted do-- would have a chilling effect on sort of day-to-day right-of-way management. And, and, and it-- an-- a, an example is, in some places-- I wish there were more places-- but in some places in Nebraska, multiple providers are trying to access the right-of-way at the same time. And I don't think it's an unreasonable request to say, can you all do your work at the same time so we don't have to put a barricade four separate times across Main Street when you're digging holes?

MOSER: Or dig the same ditch five times.

LASH CHAFFIN: Or dig the ditch multiple times. And an aggressive attorney could easily say this language is a barrier to entry. You're saying we can't, we can't come in now under those-- unless we meet those conditions. There's a, there's a plethora of those sort of things that happen every day that, that I, that I think the, the NACO toolkit is trying to get a handle on. And it's, it's just not that simple just to say, oh, great, the right-of-way, go for it. Sometimes the right-of-way-- it's often in the downtown area and it involves barricading, involves traffic changes. It disrupts people's lives. And, and those at the local level need to deal with the, with the people whose lives are disrupted. So I, I think the, the, the chilling effect on that, on that type of activity is something that, that cities really are worried about. So. But we'd be-- we'd love to work with the committee and all these-- and, and Senator DeBoer and try to come up with some language. If, if there, if there's language to be had, like to be part of it.

MOSER: OK. Questions from committee members? Seeing none. Thank you for your testimony.

LASH CHAFFIN: Thank you.

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MOSER: Other opponents to LB311? If you plan to testify, please come forward and get in the front row so we have a little less downtime between testifiers. Welcome.

SETH VOYLES: Thank you. Good afternoon, Chair Moser and the committee members. My name is Seth Voyles, S-e-t-h; last name, Voyles, V-o-y-l-e-s. And I'm a registered lobbyist with the Omaha Public Power District. And we are here in-- to oppose LB311. We've already talked with Senator DeBoer about our opposition. It's more about those barriers to entry on some of these issues, and we feel that some of that language needs to be tightened up a bit because it could be a barrier for us if it's-- they won't sign a master agreement that we have with all of our broadband providers or [INAUDIBLE]. Whatever those issues are, we just want to make sure that our way issues are covered during this as well to make sure that we still have that jurisdiction on wherever we're going. We are-- we look forward to working with Senator DeBoer on a meeting of the minds, as she stated previously, to make sure we can get there. We've, we've talked with Charter as well. And we're all going to work together to try to get where we are. So that's those-- the--

MOSER: OK.

SETH VOYLES: --to be quick. That's all I have. Thank you all.

MOSER: Questions from committee members? Seeing none. Thank you for your testimony. Are there other opponents to LB311? Welcome.

DIANNE PLOCK: Good afternoon, Senator Moser and the committee. My name is Dianne Plock, D-i-a-n-n-e P-l-o-c-k. I'm running-- representing myself. And I could be reading this particular bill incorrectly, but it looks to me like some of-- is taking away total state control in connection with this bill and, and providing-- or, turning it over to the FCC. Any time we give up total control to the FCC, I'm against that. Simple.

MOSER: OK. Is that the majority of your--

DIANNE PLOCK: That's it.

MOSER: --testimony? OK. Questions from committee members? All right. Thank you. Appreciate your input. Anybody else to speak in opposition

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to LB311? Anybody to speak in the neutral? Seeing none. Senator DeBoer, are you going to speak in opposition of your own bill?

DeBOER: As promised, it was a opposite of a love fest, but that's OK. We will work with folks. I think some people know the germ of the idea we're talking about. We'll see if there's some language that can get that without being overbroad, that will not draw the kind of opposition that it did today, and see what we can get done and let the committee know when we think we have it in a little better position.

MOSER: OK. Questions from committee members? Thank you. Appreciate your-- testifying for your bill today. That will close the hearing on LB311 and take us up to LB347. Senator Prokop.

BALLARD: Senator Prokop.

PROKOP: OK. Good afternoon, Chairman Moser and, and members of the Transportation Committee. Appreciate the time this afternoon. My name is Jason Prokop, spelled J-a-s-o-n P-r-o-k-o-p. And I represent Legislative District 27, which covers west Lincoln and Lancaster County. Excuse me. I'm here today to, to discuss LB347. LB347 would eliminate a statutory requirement for common carriers to seek approval from the Nebraska Public Servant-- Service Commission before issuing certain securities. The common carrier is a person or business that offers transportation of goods or people to the public for a fee. Telecommunications companies offers-- offering service-- services to the general public are considered to be common carriers under Nebraska law. Common carriers are responsible for transporting people or gor-- or goods along the established routes, schedules, and rates. Some examples include phone companies, airlines, and railroads. The bill I'm discussing today would eliminate a statutory requirement for common carriers to seek approval from the Public Service Commission before issuing certain securities or, in layman's terms, taking out debt. This law has mainly been applied to telecommunications providers. When the law was enacted originally in 1963, most Nebraska households were served by a single, closely regulated monopoly telephone company. If this company's landlines went dead, customers would be unable to make outbound calls or contact emergency services, which posed a threat to public safety. In many casie-- cases, these companies were small, unsophisticated local exchange carriers. The Public Service Commission debt approval requirement was intended to

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protect public interest by ensuring these small local companies didn't make risky financial decisions that could jeopardize their ability to provide phone service. Today, nearly all Nebraska households have numerous options for phone, internet, and other communication services. Additionally, modern tel-- telecom operators undergo a rigorous vetting process when seeking financing. The due diligence done by banks and potential investors exceeds the Public Service Commission's abilities to assess the financial fitness of companies. Continuing to require the Public Service Commission to approve these transactions no longer promotes the public interest and is not an efficient use of, of Public Service Commission's staff time. Bottom line on this is that LB347 would remove an obsolete, obsolete regulatory requirement and a barrier for companies that are investing their own private capital to bring high-speed broadband to Nebraskans. Thank you for listening to my comments. And would be happy to take any questions that you might have.

BALLARD: Thank you, Senator Prokop. Are there any questions? Seeing none. Proponents. Commissioner, how are you?

CHRISTIAN MIRCH: Good afternoon, Senator. How are you? Good afternoon, senators. My name is Christian Mirch. That's C-h-r-i-s-t-i-a-n. Last name is M-i-r-c-h. I'm the Commissioner with the Nebraska Public Service Commission, representing the 2nd District. I am here today on behalf of the commission to provide testimony in support of LB347. As you just heard from Senator Prokop, this bill seeks to eliminate Nebraska Revised Statutes Section 75-148. This statute is a part of a series of statutes governing common carriers and their issuance of stock and consolidation of debt. Currently, a common carrier seeking to acquire debt a term longer than 12 months must obtain an order from the commission authorize-- authorizing the issuance of such a debt. Failure to comply with that requirement is punishable by a civil fine of up to \$5,000 for each offense and may be further punishable by a Class III felony, in fact, which carries a term of incarceration of up to four years and/or a \$25,000 fine, or both. The commission sees a few of these applications each year, mostly from telecommunications companies. When presented with an application, the commission must review the financial information presented and determine if the debt sought to be acquired is appropriate for the company and whether or not that debt in question will be used for the purposes within or outside of the state of Nebraska. Practically speaking, this puts the

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commission in an untenable position of second-guessing a lender's determination as to whether the requested debt is appropriate for the company or reasonably required for the purposes of the carrier. This further places the commission in the position of potentially restricting or interfering with private contracts, something that I would caution this committee against. While regulators perform a number of important tasks, developing and reviewing potentially complex internal business strategies should be left to the private sector. Although we have some financial and auditing staff, our staff is not in the position to complete comprehensive audits of company's books, nor when there is competition in the marketplace should they. The commission feels that given the strict requirements that lenders apply to their debt, the financial institutions and private industry are in the best position to determine the risk associated with that business strategy. I think it is also important to mention that these applications require, pursuant to Nebraska statute, an application fee, which is significantly larger than any other fee that the commission generally requires. The application fee is calculated by a formula relating to the amount of debt sought. In nearly every circumstance that we have seen, applicants must pay the maximum application fee of \$2,500. For context, most other applications at the commission generally range from \$25 to \$300. We feel that the financing application fee is outsized and is an unnecessary burden for carriers and further acts to stifle the entrepreneurial progress within our state with little, if any, public benefit. For those reasons, the commission supports LB347. Thank you. And I'm happy to answer any questions.

BALLARD: Thank you, Commissioner. Are there any questions? Senator Fredrickson, Fredrickson.

FREDRICKSON: Thank you, Vice Chair Ballard. Thank you, Commissioner, for being here and your testimony.

CHRISTIAN MIRCH: Thank you for having me.

FREDRICKSON: This is actually really interesting. I had no idea this was something that we did. But I-- based on your testimony, I, I, I'm, I'm just kind of curious about a couple things. One is you said that the commission currently receives, like, two or three applications of, of this a day. Should the commission say, for example-- I'm not

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implying this happens-- but should they second-guess a lender's determination? Do you have the authority to inter-- intervene then? Like, what's the enforcement of this?

CHRISTIAN MIRCH: Well, with a-- we-- and to, to clarify, we don't receive one or two of these a day. It's typically one or two a year. In the time-- the two years that I've been on the commission, I believe we've seen two-- staff might correct me, but I believe we've seen two. And I only know that because I voted present in both of them because I-- we didn't have the information to make a determination, in my opinion, whether it was appropriate or not appropriate. Based on the, the statute currently, I would-- it would appear as though if the commission says that it's not authorized, we would be preventing that debt from occurring or they would have to restructure their debt to be under 12 months or figure out another way that would be allowed by the commission.

FREDRICKSON: Interesting. Thank you.

BALLARD: Thank you, Senator Fredrickson. Senator Brandt.

BRANDT: Thank you, Vice Chair. Thank you, Commissioner Mirch, for your testimony today. Do you have any historical context about why this was originally included in statute?

CHRISTIAN MIRCH: I reached out to, to folks-- and this predated my birth by many decades, actually. This bill was first introduced and adopted in 1963. Prior to that, when, as Senator Prokop noted, when there were not several carriers within the state, when you still have those ma and pa bell's-- monopolies. The concern was, is that if a telephone company went out and took on a, a significant amount of debt and then became insolvent or bankrupt that they would leave-- that that company would fold and leave those individuals or those ratepayers, the telephone users, without service to contact emergency services. Today, we, we don't see that. And I've spoken with a number of folks in the industry to ensure that if that were to happen, if that risk were to happen of a company makes a poor business decision and folds, there is likely several other carriers that would be able to fill into that, that area, which is why the concern is, is, is the lesson for our commission.

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BRANDT: All right. Thank you.

BALLARD: Thank you, Senator Brandt. Additional questions? Seeing none. Thank you so much.

CHRISTIAN MIRCH: Thank you.

BALLARD: Next proponent. Good afternoon.

ANDREW VINTON: Good afternoon, Vice Chair Ballard, members of the Transportation and Telecommunications Committee. For the record, my name is Andrew Vinton. That's spelled A-n-d-r-e-w V-i-n-t-o-n. I'm the Director of Legal and Regulatory Affairs for ALLO Communications. I'm here today to testify in strong support of LB347. A little bit of company background. ALLO was founded by Brad Moline in Imperial, Nebraska in 2003 and today is the largest telecommunications provider that is majority owned and managed in the state of Nebraska. For 20-plus years, ALLO has been building ubiquitous city to the-- citywide 100% fiber to the premise networks to serve customers and communities throughout the state. Today, ALLO has invested more than \$600 million of our own private capital to bring world-class broadband to Nebraskans. LB347 would eliminate a requirement for the PSC to approve debt financing made by a common carrier, which today primarily applies to certain telecoms. As Senator Prokop mentioned in his opening and Commissioner Mirch mentioned in his testimony, the consent process is no longer necessary to protect the public interest. Additionally, modern financial markets are able to assess the quality of debt instruments in a much more comprehensive manner than the PSC. For instance, a recent ALLO bond issuance was reviewed by dozens of financial institutions, and national bond rating agencies issued public reports about the securities. Furthermore, eliminating the PSC process will relieve commission staff of the time-consuming and low-value task and will have secondary benefits of reducing the barrier to entry for companies pursuing financing to invest in the state of Nebraska. In closing, ALLO encourages you to advance LB347 from committee and to support its passage. With that, happy to answer any questions.

BALLARD: Thank you. Are there any questions? Seeing none. Thank you so much.

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ANDREW VINTON: Thank you.

BALLARD: Mr. O'Neill. Good to see you.

TIP O'NEILL: Thank you, Vice Chairman Ballard, members of the committee. My name's Tip O'Neill. That's T-i-p O'N-e-i-l-l. I am President of the Nebraska Telecommunications Association. The NTA represents 20 companies providing broadband and landline telecommunications services in Nebraska. The NTA supports LB347. As Senator Prokop and previous testifiers have stated, there are no good reasons why companies should be subject to regulatory review regarding debt financing. It is ana-- it is an anachronism of another era. I'd be happy to answer any of your questions.

BALLARD: Are there any questions? I have one. How many of your members would undergo debt? Do all, all telecom members would have-- would undergo debt financing or is it just a handful?

TIP O'NEILL: Not, not all of them. I, I mean, they're-- some of them have significant borrowings for deployment. But, but-- I mean, cooperatives and stuff like that. And, and companies that are privately held make strategic decisions regarding debt. But I, I would say the majority of the-- have some debt, but not, not significant. I mean, obviously they-- the, the banker watches them pretty clear-- carefully, so.

BALLARD: Additional questions? Seeing none. Thank you for your time.

TIP O'NEILL: Thank you.

BALLARD: Next proponent. Seeing none. Anyone in the opposition? Seeing none. Anyone in the neutral? Seeing none. Senator Prokop waives closing. We have, for the record-- no letters? No letters for the record. All right. That closes our hearing on LB347 and opens on LB18. Senator Cavanaugh.

GUERECA: He's got pictures.

J. CAVANAUGH: Yeah. Visual aids.

BOSN: Woohoo. Colored copies.

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J. CAVANAUGH: You know, it's [INAUDIBLE], so I thought you guys needed something to look at.

MOSER: We should have you run all the meetings if you can get a whole bill done in ten minutes.

BALLARD: Clear a room too.

MOSER: Yeah. He got rid of a lot of testifiers. Welcome, Senator.

J. CAVANAUGH: Good afternoon, Chair Moser and member--

MOSER: Hang on just a second, Senator. Did you-- we have any comments on that other bill? That was LB18? On-- not that. OK. This is just on this one. OK. Thank you.

J. CAVANAUGH: This is LB18.

MOSER: Yeah.

J. CAVANAUGH: OK. Good afternoon, Chairman Moser and members of the Transportation and Telecommunications Committee. My name is Senator John Cavanaugh, J-o-h-n C-a-v-a-n-a-u-g-h. And I represent the 9th Legislative District in midtown Omaha. I'm here to introduce LB18, which requires local authorities to make a determination that a wireless facility placement complies with the Americans with Disabilities Act, does not impede or restrict the normal flow of traffic, and does not interfere with the lawful operation of utilities prior to allowing such installation. If the authorities determine that an installation does not meet the-- these criteria, it shall not permit the installation. LB18 is another attempt to address an issue first raised by a constituent several years ago when a cell tower was installed in the middle of a sidewalk outside their home. That's the picture you all have passed around. The-- this bill is less about that specific circumstance, it's more-- and more about preventing the lapse in communication and process which led to it happening in the first place. I don't want to rehash the finger-pointing and blame game of that event, but it came out of a feeling that the city and the wireless carrier could have both done better in communication with the neighbors to make sure the placement was not disruptive. Past versions of this bill have mandated notification, but I recognize that thi-- that this could cause delays. So this version of the bill is very

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simple. Requires the local authority permitting the placement to do its due diligence to make sure that it doesn't impede traffic or violate the Americans with Disabilities Act or otherwise interfere with utilities, lawful use of the right-of-way, and it does not-- and does any of those things, it should not permit the installation. This is something that the city has the discretion to do now, but it's clear that at least in, in this instance, it didn't happen. From a policy perspective, I think-- I, I think I understand if a city has discretionary authority to deny an installation, it is probably going to err on the side of approving the application in nearly all circumstances or risk a legal fight. If it's required to deny an installation that does not meet certain criteria, it will make sure it meets the criteria before approving it. This bill gives the city and counties and other political subdivisions certain-- certainty that if they deny an installation on this basis they have a solid legal foundation. It encourages cooperation between local authorities and the wireless company to find solutions that work for everyone. I don't believe this will create unnecessary delays, but it will give us greater certainty that the authorities are doing their due diligence before placing installation in the right-of-way, which could cause disruption to the neighborhood. I want to thank the committee for your time. And I'd ask you to support LB18. I'm happy to take any questions. And I just-- maybe I-- I should have numbered these, I guess. But the pictures, there's one that has one cone in there and just two sawhorses, I guess you'd call them maybe, or barricades. And that shows you the light pole just in the middle of the sidewalk where the city decided to put it. And the other one kind of has a few people in it. And you can see where the city has dug out on the si-- the street side, but have taken out the dirt and everything. That was where the city was planning to put the sidewalk. And what happened here was the-- Verizon, I think, or-- and their subcontractor needed to put a cell phone tower here. And they, because of the constraints, underground wires running right-- to the left of it, of it in this picture-- they couldn't put it immediately next to the sidewalk. And under-- and overhead wires running on the other side. They couldn't put it on the street side. And so they would have to put it further into this lady's yard. And what happened was they didn't want to do that. And they said, well, let's put it in the middle of the sidewalk. And then we'll jog the sidewalk around into that space on the street side that is dug out in this other picture. And then they submitted it

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to the city sidewalk engineer. And he said, that doesn't comply with the Americans with Disabilities Act. And so what they ended up doing-- I don't have a final picture, but they ended up joggging the sidewalk into the yard, into the place where they were going to put the cell phone tower in the first place. And so the whole point of this bill is to say, if you find yourself in this situation, city, talk to the sidewalk engineer first and make sure that your adjusted plan complies with the Americans with Disabilities Act before you do it. That's it. Simple. If they would have put the side-- put up the-- would have put pole in the yard, the sidewalk would still be straight and we wouldn't had all this problem. So. I'm happy to take any questions.

MOSER: Senator Fredrickson.

FREDRICKSON: Thank you, Chair Moser. Thank you, Senator Cavanaugh, for being here and for bringing this bill again. I'm, I'm glad that our new members of the committee are able to be introduced into the saga. So the-- so currently, this is the-- is this the same case as it was last time you brought this bill? This is-- happened more times since--

J. CAVANAUGH: So these pictures are from July of '21.

FREDRICKSON: OK. OK. So have you heard of any other complaints about this in your district since then?

J. CAVANAUGH: I haven't had any new complaints. I've had a few of the complaints that were contemporaneous to this.

FREDRICKSON: Sure. Sure.

J. CAVANAUGH: But, no. But I would tell you that that section of sidewalk did get ripped up again as a result of some underground wiring that got put in in this last fall.

FREDRICKSON: What, what, what street is this on?

J. CAVANAUGH: That is the corner of 54th and Poppleton.

FREDRICKSON: OK. I'm going to have to do a site visit, I think. Thank you, Senator Cavanaugh.

MOSER: Senator Bosn.

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BOSN: I just want to make sure I'm understanding because one of the online comments in opposition was the Americans with Disabilities Act already requires that this be resolved. But what your solution in here isn't so much that this is the only solution to the Americans with Disabilities, it's, hey, we could have just talked to the landowner and put it to the left and more in her yard and perhaps kept the sidewalk straight and really avoided an unnecessary conversation. And this bill would require them to at least have that conversation.

J. CAVANAUGH: Close. They don't even have to talk to her. The land-- the homeowner-- they'd still-- would have been able to be within the right-of-way. The right-of-way there goes 12 feet into her yard. And so they could have put it 12 feet in, which is basically where the sidewalk goes. But, yes. Exactly. If they--

BOSN: But I thought you said at the beginning of your story that she didn't want it there.

J. CAVANAUGH: No, no. The city didn't want it. They didn't want to, to intrude too far into her yard. That's why they said to do it--

BOSN: OK.

J. CAVANAUGH: --there.

BOSN: But just out of courtesy, not because she said anything.

J. CAVANAUGH: Right. I don't think they-- the, the-- this-- the previous iterations of this bill had a notice requirement for that very reason that she came home and found this in her yard.

BOSN: Oh, lovely. I'm there now. Thank you.

MOSER: All right. Other questions from committee members? Thank you, Senator.

J. CAVANAUGH: Sure.

MOSER: Supporters for LB18? We had 3 proponents and 1 opponent online in comments. Welcome.

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LASH CHAFFIN: Thank you. Thank you, Senator Moser, members of the committee. My name is Lash, L-a-s-h; Chaffin, C-h-a-f-f-i-n. And once again offering the league's support for, for this concept. The right-of-way-- right-of-way management is complex and it can get strange. And anything that we can do to bring a little common sense to the process we would certainly welcome, including this bill. And, and, and what I would hope-- you know, ignoring the ridiculousness of the, of the situation on Poppleton. In, in, in a perfect world, a lot of this stuff would get resolved ahead of time. And, you know, I, I, I think that-- you know, I agree with the online comment about the ADA. You know, I-- the, the ADA is an inter-- that's an interesting-- it's an interesting comment, but it bears a little bit of analysis in that-- really, there's two sections to the ADA. The, the section dealing with public entities is different. It's not preemptive. It's complaint based. And so using the ADA would actually not have helped here. It would have been-- it would have been at the, at the rear end. It, it would-- that situation would not have helped. But, but, of course, obviously, the, the city and Verizon want to follow the ADA. So you, you need to do that. You know, and this is another situation. 50 years ago, this wouldn't have happened because every construction crew would have been local. They wouldn't have been subcontractors. They wouldn't been with a-- they would not have been with a company whose headquarters are in a different state or country. They would have met in their pickups and said, we should put the sidewalk there. We should put the pole there. But that just doesn't happen anymore. And, and, and, and I think anything that, such as Senator Cavanaugh's bill, that we can do to bring a little clarity to the process would be most appreciated. Thank you.

MOSER: OK. Questions for testifier? So is the pole still here?

LASH CHAFFIN: I don't know.

MOSER: Is there still dirt around it like this? There's sidewalk right up to it. They put bumpers on the pole or anything so that you don't-- that's what you should put in your bill. Got to have wrestling bumper mats strapped to the pole. Other questions? OK. Thank you very much.

LASH CHAFFIN: Thank you.

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MOSER: Anybody else to speak in support? Anybody to speak in opposition to LB18? Anybody to speak in the neutral capacity with LB18? Wow. Should've had these bills first.

J. CAVANAUGH: I guess so. Well, you could-- always end the day with a little bit of something interesting, I guess.

MOSER: Yeah. A little positive vibe.

J. CAVANAUGH: And I did want to come back up and point out-- so, yes, that side-- the pole is there. The sidewalk jogs to the-- what is the north, but in the picture is to the left. And it kind of goes in, like, a half moon shaped several feet into this person's yard. And the-- this came to my attention. Obviously, it's in my neighborhood. It's in my district. Somebody complained about it. But-- so in my process of looking into this, I did request all of the emails about this transaction from the city of Omaha. I got 400 emails. And I looked through all of these emails to see how much, because there was a little bit of finger-pointing where the city didn't think they had, had approved putting it in the location they put it. And, of course, the cell phone tower people said, yes, you did. And I read through all of those emails. And out of 400 emails, there were 398 about what color to paint the light pole and two emails about where to put it. And, and then after that, there were several emails from the, the sidewalk engineer who said, you can't do this after it was already put in place. So that's why I, I think that-- they do have to comply with the Americans with Disabilities Act already. And all I'm saying is that you need to think about it before you mo-- dig up a sidewalk. And that's pretty-- it's pretty simple.

MOSER: OK. Questions from the committee? So how tall is this pole?

J. CAVANAUGH: It's a 5G tower, so it's probably 20 feet or so. I mean, they're not super tall.

MOSER: It wouldn't take a whole lot to dig that up and move it over.

J. CAVANAUGH: Well, yeah, the, the-- maybe it's the expense is the limitation, you know. They've already done all of the infrastructure work. And sometimes, you know, mistakes are made and they're just a learning opportunity.

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MOSER: Just think of the electrons you could save if you could get them to move that pole and we could quit talking about this every year.

J. CAVANAUGH: We could just pass the bill this year and we could stop talking about it.

MOSER: Well, they, they are still going to fix it.

J. CAVANAUGH: Well, no, they're not going to fix it. But I won't have any opportunity to come back and talk about it.

DeBOER: All right. Let me--

MOSER: Yes. Thank you. Senator DeBoer.

DeBOER: Thank you. So, Senator Cavanaugh, that was one of the 5G, right?

J. CAVANAUGH: Yes.

DeBOER: So as I recall, we passed that 5G bill finally, after many, many years, in 2019, I think. It might have been 2020.

J. CAVANAUGH: Just before I got here.

DeBOER: Yeah. So I think what happened here was the implementation of the, the small cell bill led to a proliferation of these little towers or poles going out. And maybe there's not so much of a problem now. Is that your understanding of the scenario?

J. CAVANAUGH: Well, I think they're still needing to build a lot more of them. And I don't want to stop them from building them. And I didn't-- I still would have wanted this one where it is, except for 4 feet to the north instead of where it currently is. And I think if they had-- if this bill had been in place, that's what would have happened. The sidewalk would have stayed the same and they would have put this 4 feet to the north.

DeBOER: OK.

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J. CAVANAUGH: That's my point. But, yeah. Your point-- so the, the real--

DeBOER: I don't think it's happening as much now doesn't mean we shouldn't have a nice, sensible bill like this one.

J. CAVANAUGH: I agree.

MOSER: OK. Other comments from committee members? Yes, Senator Brandt.

BRANDT: Is this your priority bill?

J. CAVANAUGH: You know, it's not, it's not-not my priority bill at this moment. Thank you.

MOSER: So are we spinning our wheels considering it is what he wants to know.

J. CAVANAUGH: I think-- you know, seems like there's a lot of movement on the floor. If you guys execed on it right now and kicked it out, this thing could be up on Friday-- or I guess next Friday maybe. We're not here on Friday.

BOSN: Tuesday or something.

MOSER: All right.

J. CAVANAUGH: Tuesday. That's the day we'll be here.

MOSER: Thank you so much.

J. CAVANAUGH: Thank you.

MOSER: That'll end our hearing on LB18. And so we're going to have a quick exec session. So if the Red Coats could clear the room for us.