

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 13, 2024

**KELLY:** Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the twenty-seventh day of the One Hundred Eighth Legislature, Second Session. Our chaplain for today is Zeke Pipher, Heartland evan-- Evangelical Free Church, Central City in Senator Lippincott's district. Please stand.

**ZEKE PIPHER:** Let's pray together. Our Father in Heaven, I thank you for the men and women representing our great state of Nebraska. You are sovereign and perfect in all your ways. You determine who leads and who follows. So I thank you for everyone here this morning and the important work that they are doing. Father, I pray for each representative that they would have the eyes to see the truth that you have given us in the scriptures. Grant them wisdom and a heart of courage to speak and act and vote for the things that are good and true and beautiful. By your spirit, help our representatives carry out their honorable responsibilities with integrity and the humility of Christ. I also ask for your blessing and your goodness upon their families this day. Our Savior Jesus, we eagerly await for your return and your perfect justice and your perfect mercy. Until that moment, help us to be of good courage and strong heart. It's in your name, Jesus, that we ask. Amen.

**KELLY:** I recognize Senator von Gillern for the Pledge of Allegiance.

**von GILLERN:** Please join me in the Pledge. I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

**KELLY:** I call to order the twenty-seventh day of the One Hundred Eighth Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

**CLERK:** There's a quorum present, Mr. President.

**KELLY:** Are there any corrections for the Journal?

**CLERK:** I have no corrections this morning.

**KELLY:** Are there any messages, reports, or announcements?

**CLERK:** I do, Mr. President. Your Committee on Revenue, chaired by Senator Linehan, reports LB1197 to General File with committee amendments. Additionally, notice of committee hearing from the Government, Military and Veterans Affairs Committee. Your Committee on

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Business and Labor, chaired by Senator Riepe, reports LB906 and LB851 to General File, LB851 having committee amendments. Notice that Senator Armendariz has selected LB1087 as her personal priority for the session. Senator Armendariz, LB1087 as her personal priority. Notice that the Health and Human Services Committee will have an Executive Session it-- at 10:00 in room 2102; Health and Human Services, Executive Session, 10:00, 2102. The Revenue Committee will be holding an Executive Session in 2022 at 11:00 this morning; Revenue, Exec Session, 2022 at 11:00. That's all I have at this time, Mr. President.

**KELLY:** Thank you, Mr. Clerk. Senator Albrecht would like to announce the physician of the day, Dr. Dave Hoelting of Pender. Please stand and be recognized by your Nebraska Legislature. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR299. Mr. Clerk, for items on the agenda.

**CLERK:** Mr. President, first item on the agenda, LB829A by Senator Blood. It's a bill for an act relating to appropriations; appropriates funds to aid in carrying out the provision of LB829. The bill was read for the first time on February 12 of this year and placed directly on General File.

**KELLY:** Senator Blood, you're recognized to speak.

**BLOOD:** Thank you, Mr. President. Fellow senators, LB829A A is simply the A bill that goes with the highly popular colonoscopy bill. I ask for your green vote on LB829A.

**KELLY:** Thank you, Senator. Seeing no one else in the queue, you're recognized to close, Senator Blood, and waive. Members, the question is the advancement of LB829A to E&R Initial. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 31 ayes, 1 nay, Mr. President, on advancement of the bill.

**KELLY:** LB829A advances to E&R Initial. Mr. Clerk.

**CLERK:** Mr. President, LB61, introduced by Senator Brandt. It's a bill for an act relating to dark fiber; authorizes the licensing of dark fiber by an agency or political subdivision in the state as prescribed; eliminates Public Service Commission jurisdiction relating to certain violations and appeals; harmonize provisions; repeals the original section; outright repeals Section 86-578. The bill was read for the first time on January 5 of last year and referred to the Transportation Telecommunications Committee. That committee placed the

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bill on General File. There are no committee amendments. There are other amendments, Mr. President.

**KELLY:** Thank you, Mr. Clerk. Senator Brandt, you're recognized to open.

**BRANDT:** Thank you, Mr. President. The pages have passed out a handout from the NREA that explains a lot of the questions that you may have about this. Good morning, colleagues, and good morning, Nebraska. Today I stand before you to introduce LB61, a pivotal step towards enhancing broadband accessibility across our state. This journey towards achieving widespread broadband coverage in Nebraska has faced numerous challenges, with one significant hurdle being the limited involvement of public power. Historically, these entities have excelled in delivering reliable and affordable electricity to all corners of our state. Leveraging existing fiber owned by public power presents a unique opportunity to not only connect homes and businesses, but also to modernize critical infrastructure such as substations. Regrettably, outdated laws have hindered the formation of beneficial public-private partnerships, particularly concerning the leasing of dark fiber by public power to broadband providers. These laws, initially established in 2001 amid tensions between public power utilities and telecom providers, impose cumbersome processes, ambiguous restrictions and disincentives for fiber leasing. Despite attempts to amend these statutes over many years, the process remains convoluted, resulting in minimal progress. With the immediate influx of federal funding, it is imperative to dismantle unnecessary barriers to fiber leasing and streamline the leasing process. The guidelines set forth by federal BEAD funding emphasize the removal of laws restricting public power participation in infrastructure deployment to ensure equitable access to broadband for all Nebraskans, especially those in rural areas. While significant state and federal investments have been made to support rural telecommunications networks, some carriers have failed to adopt new technologies or maintain existing infrastructure effectively. Therefore, it is crucial to allocate incoming federal funds more efficiently to address this pressing issue. Public power utilities utilize a network of communication infrastructure, including fiber optic cables used for electric systems operations. We want to make this very clear. These public power utilities are not seeking to enter the commercial broadband market. However, restrictions on dark fiber leasing enacted in 2001 hinder their ability to leverage existing infrastructure to address the ongoing rural broadband deficit. The urgency for comprehensive broadband deployment spans across our state, from rural communities to underserved areas in urban centers like north and south Omaha. Drawing

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inspiration from states like Alabama and North Carolina, which have successfully lifted barriers to utility-driven broadband expansion, it is evident that Nebraska must prioritize broadband accessibility to bridge the digital divide that persists after decades of inconsistent deployment efforts. This legislation is supported by a wide array of groups such as the Nebraska Telecom Association, Public Power, the Farm Bureau, Corn Growers, Pork Producers, Soybean Association, Farmers Union, Nebraska Association of County Officials, the League of Municipalities, the small schools association, NRCSA, Nebraska Rural Health, and the Nebraska Economic Developers Association. These groups cover rural Nebraska. Rural Nebraska is supporting this bill. The ones that oppose the bill are some incumbent providers that have had over 20-plus years and received millions of dollars worth of taxpayer funded grants to get broadband out to rural areas and still have not. They cannot make the business case for rural broadband, even with the generous taxpayer subsidies from all the grants they received. Something has to change. This is not a silver bullet to get broadband out to all Nebraskans, but will certainly help. LB61 represents a critical opportunity to propel Nebraska forward in achieving universal broadband access. It is imperative that we seize this moment to enact meaningful legislation reforms and unlock the full potential of broadband connectivity for the benefit of all Nebraskans.

**KELLY:** Thank you, Senator Brandt. Mr. Clerk.

**CLERK:** Mr. President, first of all, I have a series of motions: MO215-221 from Senator Machaela Cavanaugh, all with notes that she wishes to withdraw.

**KELLY:** Without objection, they are withdrawn.

**CLERK:** Mr. President, next item. Senator Brandt would move to amend LB61 with AM2296.

**KELLY:** Senator Brandt, you're recognized to open on the amendment.

**BRANDT:** Thank you, Mr. President. AM2296 represents an agreement to address the concerns of internet providers. After 23 years, public power and internet providers have come together on this compromise. Specifically, what this amendment does is reintroduce the safe harbor language that was stricken in the original bill. This will make sure all telecoms are on the same level playing field. The other part of this amendment deals with subsidization. It makes clear that public power shall not use any ratepayer dollars from electricity generation on anything fiber-related, and conversely, any revenue earned from the

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lease of dark fiber shall only be used for costs associated, associated with fiber deployment and operations. We are still working with the Governor's Office on language to ensure dark fiber is fully utilized to enhance public-private partnerships. LB61 along with AM2296 will ensure that we are removing the last of the hurdles that remain to get broadband service to every Nebraskan. A vote for this is a vote for rural Nebraska and for every Nebraskan that needs broadband. I ask for your green vote on AM2296 and the underlying bill.

**KELLY:** Thank you, Senator Brandt. Mr. Clerk, for an announcement.

**CLERK:** Mr. President, the Education Committee will have an Exec Session at 9:30 in Room 2022. Education will have an Exec Session at 9:30 in Room 2022.

**KELLY:** Thank you, Mr. Clerk. Returning to the queue, Senator DeBoer, you're recognized to speak.

**DeBOER:** Thank you, Mr. President. Good morning, colleagues. First I want to say Senator Brandt is to be commended because this dark fiber issue is one that we have been working on in the Transportation and Telecommunications Committee for a very long time. And Senator Brandt has done a lot of work on this LB61. This AM2296 is a good amendment. Senator Bostelman also has a good amendment, and then I have an amendment, colleagues. And I've just noticed it's drafted as an amendment to this amendment. So we're trying to get that filed in the correct way here in a minute. What Senator Brandt has said in his statement of intent that he wants to do is to get broadband out to the rest of the state where there is not current service. And that is absolutely the goal that I have and everyone else that I've talked to about this issue. What we want to do is get service out to those unserved and underserved areas of our state, because it's important to make sure that everyone in the state gets service before we get seconds in places that already have service. So to that end, I will be bringing this amendment later to-- later in this whole process that will add some language that specifically addresses the issue of unserved and underserved and says that these leases on this public entity, this public asset, can only be used to serve those areas which are unserved and underserved. I'll talk about that more when my amendment comes up. But I wanted to telescope for you that that is what is happening. And that will be happening here in the next few seconds. So I appreciate it. And I would ask for your green vote on my amendment to this amendment to this amendment. Thank you, Mr. President.

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**KELLY:** Thank you, Senator DeBoer. Senator Jacobson, you're recognized to speak.

**JACOBSON:** Thank you, Mr. President. I'll be very brief here. I, I know I've-- I'm waiting for Senator DeBoer to file her amendment. First, I just want to say a huge thank you to Senator Brandt for all the work he's done on LB61. I know he's been working on this for a long time, has really brought a lot of collaborative efforts together to bring something I think is critically important. When you look at the dollars that are coming to the state to really build out broadband, this is that one and maybe only time that we're going to have an opportunity to get this done right in, in rural Nebraska. And so I applaud his efforts for bringing the bill to us and working through all the pieces to bring the parties together to make this work. I've, I've seen a little bit of an advance copy of Senator DeBoer's amendment, and I'm going to be inclined to support that because it-- I think it does a better job of-- or actually really zeroes in on underserved and unserved, which I deal a lot with out in my part of the state. So I'm looking forward to that getting, getting filed and would hope that everyone will get behind LB61 as amended and move it forward. Thank you, Mr. President.

**KELLY:** Thank you, Senator Jacobson. Senator Lowe, you're recognized to speak.

**LOWE:** Thank you. Thank you, Lieutenant Governor. Senator Brandt, would you yield to a couple of questions?

**KELLY:** Senator Brandt, would you yield to questions?

**BRANDT:** Yes, I would.

**LOWE:** Senator Brandt, this dark fiber kind of is a mystery to me, I might say. So you've got your cable fibers, and some of them aren't being used. Is that correct?

**BRANDT:** Yeah. So a dark fiber is a term, typically on a, on a fiber cable, there today are 288 pairs. OK? And to move through the cable, they use light. OK? The fibers that are not lit, or the ones not being used, are called dark fiber and that's why we use this terminology. The concept of this bill is the power districts are using fiber for a number of things. One is to interconnect their substations in an effort to harden the electrical grid in the United States. And they probably will face a requirement down the road to do that. So if they're going to lay a cable between all their substations that

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utilizes 288 pairs and they use maybe 20 or 30, and they have 250 pairs unused out there, it only makes sense that the stranded asset can be leased to help other Nebraskans.

**LOWE:** All right. Thank you. And so can multiple providers use this dark fiber at the same time?

**BRANDT:** That's a technical question. To give you an honest answer, we'll get back to you. I would assume yes. I would guess that different providers could even lease that same cable. But I'll need to check on that for sure.

**LOWE:** Thank you. And because I'm kind of wondering if, you know, if you have multiple providers for the internet or, or for broadband, does somebody win the contract for that area? And how is it divided up? Can one person from, say, a different state buy up all of Nebraska?

**BRANDT:** It would be up to each individual power district and power districts in Nebraska are like school districts. They go from very small to very large. My power district is Norris Public Power, and my power district covers 6 counties. And they would deploy this, this cable and then they would probably put it up for lease. And that would result in a bidding, hopefully a bidding contest between multiple providers that are internet-- interested in that. I mean, it could be a current telecom or current internet or current cable company could lease this cable, and then they could spur off of that cable to go out to these areas.

**LOWE:** So if I'm a customer and I don't like the broadband company that has my section leased, do I have a choice then maybe to get a second broadband company to?

**BRANDT:** That's a good question. And that's going to depend on which one of these amendments we move forward. As it stands today with my amendment and my bill, the answer would be yes.

**LOWE:** All right. Thank you, Senator Brandt. I appreciate this conversation. I yield the rest of my time to Senator Brandt.

**KELLY:** Senator Brandt, you have 1 minute and 5 seconds.

**BRANDT:** Thank you, Senator Lowe. Something else people need to be aware of, Nebraska is going to get 400 and I believe 8 million dollars in BEAD funding. And this BEAD funding will be used by the Nebraska Broadband Office to further develop our unserved and underserved areas

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in the state. And part of the sign-off to get BEAD funding from the federal government, the, the feds have this in their statute that the state must waive all laws concerning broadband, utility service or similar subjects, whether they predate or postdate enactment of the Infrastructure Act, that either predate certain public sector providers from participation in the sub grant competition or impose specific requirements on public sector entities, such as limitations on the sources of financing, the required imputation of cost not actually incurred by the public sector entity, or restrictions on the service a public sector entity can offer.

**KELLY:** That's your time.

**BRANDT:** Thank you.

**KELLY:** Thank you, Senator Brandt. Senator Brandt has some guests in the north balcony: Ben and Archer Schwartz with Blue Valley Community Action in Fairbury. Please stand and be recognized by your Nebraska Legislature. Mr. Clerk.

**CLERK:** Mr. President, Senator DeBoer would move to amend AM2296 with AM2471.

**KELLY:** Senator DeBoer, you're recognized to open on your amendment.

**DeBOER:** Thank you, Mr. President. This is the amendment which I was telescoping earlier to you. This is the amendment that puts in the language about these leases only being permissible to areas that are serving underserved or unserved locations. It's location by location. So this would say that the only way that you can use these leases is if you are serving customers-- end user locations-- that are unserved or underserved, where underserved means 100 by 20. Anything less than 100 by 20 is considered underserved or if it's really bad, unserved. But any of those locations where it is underserved or unserved are the places that we allow, in this amendment, this dark fiber leasing to take effect. It's sort of like this, colleagues. Imagine that if you look outside, we have this great green space around the Capitol and we say, oh, look, this is a public asset. It's just sitting there. It could be used. It's a nice big green space. If we said there are no restaurants in this area so we're going to lease this area, these green spaces, and we're going to let people put up restaurants there with that public asset. That's fine if there are no restaurants. But if there are restaurants around, how do you think Billy's and Tico's and some of those will feel about us using our public asset to give certain private individual entities a leg up? The long and short of it

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is, colleagues, that we need this unserved and underserved locations language for two reasons. One, the government should not be entering into public-private partnerships to help people compete against private companies. The government just shouldn't be going in and picking winners and losers and competing against private companies. So that's the first reason. The second reason is the very intent of Senator Brandt's bill, which is to get to the unserved and underserved areas of our state with broadband. Because here's the real truth. We know that if we allow anywhere in the state to be using these leases, if we allow folks to come in and overbuild over areas that already have service, they're going to do that. There's clearly a business case being made about why these areas are served in the first place. There's enough customers, they can go there. The difficult places, they're not going to get first shot at these new-- newly locate-- newly-connected services. Why are they not going to get these first shots at the newly connected service? Because someone else has done all of the work and provided the backbone. If I'm a company and I'm trying to decide whether I'm going to use a lease that takes away all of my risk for a fiber network, or if I'm going to use my own funds to take the risk to build a fiber network where there is not one, and I'm choosing between an area where there are lots of customers or an area where there aren't very many customer, I'm clearly going to go, if the law allows it, to the place where I don't have to take a risk and build my own backbone and there are many, many customers. That just makes good business sense. So what we need to do is have the specific amendment language that I have in here that limits this building with the use of these leases to areas that are unserved or underserved so that we can make sure that the capital, which could be spent to build with these leases, will be spent in unserved and underserved areas. Because we think this. We think everybody should have firsts in the buffet line before others go back for thirds, fourths, fifths, whatever it is. I think every Nebraskan ought to have a shot at being served by high-speed internet before some Nebraskans have 13, 14, 15 choices. We have many choices for broadband providers in Omaha. And there are places in our state that have no choices. We want to make sure that everybody has broadband in Nebraska, because broadband should be considered as a basic thing that people need. This is how we get people back out into other parts of our state. So the amendment that you have before you, colleagues, says that these leases of a public asset can only be used to serve underserved or unserved areas where the underserved is defined as 100 by 20. That's what we as a body decided a couple of years ago constituted good broadband service. That's 100 by 20, and that's what's required to have less than that to get this lease to be used and to have more than that to be considered

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served. So I ask for your green light on AM2471 and then on AM2296. And I want to thank Senator Brandt for all of his work. Thank you, Mr. President.

**KELLY:** Thank you, Senator DeBoer. Senator Lowe, you're recognized to speak.

**LOWE:** Thank you very much, Lieutenant Governor. Would Senator DeBoer yield to some questions?

**KELLY:** Senator DeBoer, would you yield to some questions?

**DeBOER:** Why, yes, I would.

**LOWE:** Why, thank you. So I asked Senator Brandt a few of these questions. So if, if we have this dark fiber not being used, and the-- I want broadband and the power, power district has leased the, the light fibers to one company, is there a way that I can go with a different company on a different pair of fibers?

**DeBOER:** If you're trying to get to an--

**LOWE:** So I might have a choice between providers.

**DeBOER:** If you're trying to get to an unserved area, then you can have one of these for those households that are unserved. Once there is a lease, arguably under my amendment, once you have access to those-- that internet that's above the speeds, then you wouldn't be able to do another lease on that same fiber. I don't know if the public-- if the public utility would want to do that or not. But under this, if you're serving somebody who's already been served, no, because we want to get everybody first before we get everybody seconds.

**LOWE:** OK. So there would be only one choice on--

**DeBOER:** One choice using these leases. Now, a private company could be there, could come in later, could whatever. But in the-- in the moment of the lease, there would be one choice using these public leases. Because the idea is that we're going to go not to Kearney, where you live. Right? There are already business cases to be made to do multiple different providers in Kearney. But these are these very, very rural areas where we aren't going to get built out otherwise. That's the kind of thing we're trying to do here. What we-- what has always been the argument made to me about dark fiber is that it is not about getting service the third, the fourth, the fifth time to an area. This is about getting those very difficult areas that we can't

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otherwise get built out, because there are areas in Nebraska that don't have choices of internet, or their internet is very poor. It's 10/1 or something like that. So we are trying to get to those very rural areas with this and trying to get to those places that have no internet. That's what we're trying to do.

**LOWE:** All right. Well, my house that I just moved out of, and one of the reasons why we moved out of the-- my river house was because we could not get internet. We could not get telephone down to my place. And, and even cell service was very spotty. I think you had to stand on one leg on, on the top step in order to receive cell service at my house. So I, I, I call it heaven. My wife called it something else. But just being 2 miles outside the city limits, we weren't able to receive broadband or cell service.

**DeBOER:** This is exactly-- the bill and this amendment is exactly the thing that you would need so you could get Kim some internet then. Because what this would do is this would say in those areas that are difficult to serve otherwise, even though you're only a few miles outside of town, for whatever reason, they can't make the business case to do it. Then we need to come in as a public governmental entity and say, you can use our public assets to try and get to those places where there is no business case to get to.

**KELLY:** One minute.

**DeBOER:** Don't spend your time rebuilding Kearney. Spend your time building out to your lake house outside of Kearney. That's what we're trying to do here.

**LOWE:** All right. And will this broadband service, this service be reasonably priced?

**DeBOER:** So the amendment that Senator Brandt has done, which I think is a great amendment, which is why we're amending onto it, says that the Public Service Commission will have a safe harbor sort of window in which to charge these leases. And so the, the cost of the lease should be a reasonable cost. So I have no reason to believe that it will not be reasonable.

**LOWE:** All right. Thank you, Senator DeBoer.

**KELLY:** Thank you, Senators Lowe and DeBoer. Senator Blood, you're recognized to speak.

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**BLOOD:** Thank you, Mr. President. Fellow senators, friends all, I am not sure I stand in support of AM2471, but I do support AM22-- I cannot see the board. Senator Brandt's amendment and the underlying bill. But I would ask that Senator Brandt yield to a question, please.

**KELLY:** Senator Brandt, would you yield to some questions?

**BRANDT:** Yes, I would.

**BLOOD:** Senator, do you consider this latest amendment a friendly amendment?

**BRANDT:** Well, I-- I'm just looking at it now. It's a little awkward to comment on something you've not seen before. I'm, you know, I am probably opposed today to passing it, but I'm-- once we look at it and vet it and make sure that it does everything that everybody says it could do, it could probably be introduced on Select. But today I would oppose AM2471 and, and get AM2296 and LB61 across the-- across the wire.

**BLOOD:** Fair enough. Thank you, Senator Brandt. Friends, I just want to remind you a few things. When I hear a senator saying that it's not our job to pick winners and losers, that is exactly what we did when we first started trying to address the broadband problem in Nebraska. I just want to remind everybody of the follies that have happened with bad decisions. When we first started investing in rural broadband, we didn't measure what we treasure. We didn't have any metrics. We basically became an ATM and said, here's a whole bunch of money, please put broadband in Nebraska. And that went on for several years before, I believe it's the-- the Transportation Committee put together a bill that had oversight. And that happened after Senator DeBoer and I got into the body. But, but what happened before was there were no metrics. There was no responsibility. We did pick winners and losers. We wrote really big checks to those winners, and they laughed all the way to the bank. And we still have our friends in rural Nebraska that don't have effective broadband, if broadband at all. And then last year, many of you decided that it was important to move much of this under the executive branch. We're talking about the, the PSC having oversight on, on the amendment that goes onto Senator Brandt's bill. But how much oversight are they really allowed, Senator Brandt? So I just want to remind everybody how important it is for you to know what happens historically when we have these debates, because so often we vote against our own best interests. I think and understand why Senator Bosn and Senator DeBoer have brought their amendment forward. And with much of it I do agree on. But I wonder if that is better left

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to Select File so we can have a better one-on-one discussion so people know actually what they're voting on, as opposed to whether they like you as a senator and not want to support what you're bringing forward. We've made so many mistakes when it comes to broadband. We have-- and I believe it was a mistake, by the way, to put it under the executive branch. But that's an issue for another day. We have the Public Service Commission, whose job it was to oversee these issues. We had in place bad legislation originally that made us lose millions of dollars to people who didn't do what they were told they were supposed to do. And now we have an opportunity to do some good things. All I'm asking my peers is to make sure that you understand what each amendment does and its purpose, decide whether today is the right day to do AM2471, or if we can go ahead and hold it over until Select. But have these discussions, and let's make sure that whatever we do, we do well. With that, I would yield any time I have remaining to you, Mr. President.

**KELLY:** Thank you, Senator Blood. Senator von Gillern, you're recognized to speak.

**von GILLERN:** Thank you, Mr. President. For-- I want to thank Senator Blood for all of her comments and for all the things that she said. I also will not be voting for AM2471. This literally was posted minutes ago. I was trying to refresh my computer, and it finally came up maybe 10 minutes ago to where I could actually read it. And quite frankly, I'm not well enough informed on the intricacies of what that amendment would do. It's been challenging to get up to speed, frankly, on what the, the bill does and what Senator Brandt's AM2296 amendment does to get up to speed on that and make sure that we're making the right decisions based on that information. But to, to try and absorb the information that is in AM2471 in the amount of time that we have here, I think, is just purely unwise on any of our parts. There's no way that we can follow this debate on the floor and really render a, a solid opinion on, on which way to go on that. So I think we'll, we'll do our best. We'll study it over-- I'm-- and I am hoping that AM2296 and LB61 pass and I'll be voting for those. And I would encourage Senator DeBoer to, to bring back AM2471 on Select File after we've all had a time to digest what it actually says. Thank you, Mr. President.

**KELLY:** Thank you, Senator von Gillern. Senator Brandt, you're recognized to speak.

**BRANDT:** Thank you, Mr. President. The unserved and underserved argument, we looked at that a long time. And we did not include that in our amendment. Unserved and underserved areas historically have

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been defined by census blocks in the state of Nebraska. A census block is a defined neighborhood. It could be a couple hundred houses or out in the country it could be-- it could be 50 houses in a township. And how a census block works is if one home is served, they color the whole neighborhood as served. And the FCC a couple years ago finally gave up on doing their maps on census blocks because they knew it was inaccurate. Congress had pushed back on them and said you're disqualifying these huge swaths of rural America because of these maps. And that-- that's a little background on what unserved and underserved is. And this amendment relies on inadequate maps that have been challenged on every level. This amendment will allow cable companies and others to challenge, delay and stop virtually all broadband deployment in the state. To sum up this amendment, this will take Nebraska backwards. More hurdles and regulation, less to no broadband being utilized, this amendment, DeBoer amendment, is not in the best interests of Nebraska today. Now, that doesn't mean there aren't some parts of it that could probably be saved. But I'm looking at it for the first time. And on the bottom of page 11, I'm a little concerned there's a Trojan horse in here. But starting on line 28, the statement goes in, in the AM2471: No internet service provider has an enforceable commitment to make broadband service available at speeds of at least 25 megabits per second for download, and at least 3 megabits per second for upload, with a latency sufficiency [sic] to support real-time, interactive applications. I'm not a lawyer, but I look at that and it kind of lets people off the hook. And the fact that 25/3 is even in here takes us backwards years in this-- in this race for speed out here. 25/3 shouldn't even be in an amendment. As far as I'm concerned, everything should be 100 by 100. But we have compromised on some things so 100 by 20. And with that.

**KELLY:** Thank you, Senator Brandt. Senator Bostelman, you're recognized to speak.

**BOSTELMAN:** Good morning, Nebraska. Good morning, Mr. President, thank you. Good morning, colleagues. At this time, I'm going to stand opposed to AM2471. And the reason is, is, as I've talked to Senator DeBoer about it off the mic, she understands, there's some changes need to be made in the bill. They're not-- in the amendment it's not-- I don't think it's substantive, but when we come in on-- and I think Senator Brandt was just talking about it, when we talk about unserved locations on page 11, line-- let's look here-- 17, 16 and 17, the Bridge Act, the capital projects, the BEAD funding that's all 100/20 is unserved. So this is changing that language again. So to harmonize all of our statutory language and what we're doing, with the bills and what we've been working on for years and years and years, what I've

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been working on on years and years and years is to make the buildout to be-- at a minimum, the federal is 100/20 on these grant programs. So your unserved areas should be 100/20 as well as your underserved areas. That's what we already have in statute. That's what the, the grants are geared towards. And, and I don't think there's real opposition to that, to making those changes from what I understand. But until we see those type of changes come in, we need to understand this is an issue that I have talked about, I think, for a long time about getting broadband services built out and fiber built out across the state. We have great providers, and then we have providers that don't do so well. And we have some areas, rightfully so, that are-- that need help because none of the providers want to build out there because it's a high cost. Well, then we start getting into problems. We had a hearing yesterday. We started talking about problems where there's grants being-- and it's a little bit on the-- on another subject-- grants are being awarded that are overbuilding existing projects. So there's-- we need to stay consistent in statute. We need to stay consistent with what we're doing. When we-- when we talk about unserved, it needs to be 100/20. So what we're talking about is whether there's a piece of copper coming to your house or a piece of fiber coming to your house, or whether you have-- well, if you think fixed wireless or satellite will do the job-- my problem with both of those is, I've had those. And as soon as the weather goes bad, you lose connectivity. So when that tornado's headed torn-- towards my house, I want to know what-- I want to be able to know what's going on. And typically when that happens with satellite or fixed wireless, I lose connectivity so I'm in the dark on that. So with that, I would-- I, I do support Senator Brandt's AM2296. Senator DeBoer's AM, her amendment, if she makes some changes to that amendment, I think that'll make it a lot better. Maybe we could do that between General and Select Files. But my-- I had amendment in there also. My amendment will be pulled. It's-- it is included in both AM2296 and AM2471. My concern with that is cross-subsidization. That's just something that, that I don't think we should be dealing with. But on AM2471 right now, as it's written, I think we need to harmonize the statutory language that we have in the state, along with the grant programs that are out there. And the 25/3 language needs to go and it needs to be 100/20. With that, I'll yield any of the rest of my time. If Senator Brandt wants it, you can have it.

**KELLY:** Thank you, Senator Bostelman. Senator Brandt, that's 1 minute, 15 seconds.

**BRANDT:** Thank you, Mr. President. Thank you to everybody that's trying to get fiber out to the areas of the state where they have nothing.

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**KELLY:** One minute.

**BRANDT:** That's what you hear from rural Nebraskans. The other thing that you don't hear that I hear all the time is they want a choice. So there are going to be areas where that fiber spring off of another one is going to go past some served areas. Is there something wrong with knocking on the door and say, hey, if you want a choice or you don't want to pay \$150 a month because you're in a rural area and this is they got you captive, I don't see competition as a bad thing. 23 years ago, they locked public power out of this game. In 23 years, how many millions, tens of millions of dollars have we given to internet providers to build across the state of Nebraska, taxpayer money? So it's a little disingenuous to attack public power when they're at the public trough. Thank you.

**KELLY:** Thank you, Senator Brandt. Senator Bosn, you're recognized to speak.

**BOSN:** Thank you, Mr. President. I rise in support of the amendment. I apologize that no one had it before now. I recognize that that's not ideal. We are where we are, and that certainly wasn't intentional. Here's what I can tell you. This amendment incorporates the language of Senator Brandt's amendment and Senator Bostelman's amendment. It adds the requirement that dark fiber be used to serve underserved and unserved areas. If you do not direct them to use the funds for underserved and unserved areas, nothing will require them to do that. This is our chance to require that this be provided for western Nebraska, for other areas of the state that do not have service. And absent this, we will have dark fiber in areas that are already served, which we may get to at some point, but we're not there yet. Before we start providing that, let's get to these individuals who are without any service or who are without appropriate levels of service. I would ask everyone to look at the original language of the bill that Senator Brandt filed. And if you look at that language, you will see that there is-- they-- he has struck the definitions of served and unserved areas. That language is taken out. Why is that? Because he wants to be able to serve served, served areas. You wouldn't strike that language for any reason other than wanting to be able to go there. This amendment from Senator DeBoer's AM217-- excuse me, AM2471 adds that definition back in. It directs them to use this to areas that are unserved and underserved. This eliminates-- this amendment eliminates the provisions of the dark fiber statute that currently requires 50% of the profits from dark fiber leases in served areas to be remitted to the USF or Universal Services Fund for the broadband expansion in rural areas. So right now they're limited. That 50% has to go into the

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USF fund. We've removed that with this language. The private capital investment will always go to areas with the greatest return on investment. Just think about that. If you're able to run a mile in a-- in a-- in a rural area, you're looking at maybe serving maybe 20 houses in that mile. If you run a mile of dark fiber in an urban area, in one mile you could hit 200 houses. You could hit 400 houses. If we don't tell the companies, listen, you can use the dark fiber, but we got to get to those 20 houses before we're even going to have a conversation about the 200 houses that are already served, they will-- their return on investment will not be there in those rural areas, and nothing will motivate them to do it and nothing will require it. Certainly nothing will require it. The cost for one mile of fiber infrastructure is relatively the same, regardless of where you are in the state. Therefore, the greatest return on investment for a broadband provider will always be in a more densely populated area of the state. I don't know how else to explain that. I'm happy to answer those questions off the mic. Without our amendment, dark fiber leases in served areas already served with broadband internet will become more attractive because 50% of the lease profits are no longer going to the Universal Services Fund. Without this amendment, LB61 diverts investment away from expanding broadband access in rural areas and, and, and it disincentivizes private providers from continuing--

**KELLY:** One minute.

**BOSN:** Thank you-- to invest. It disincentivizes private investors-- private providers from continuing to invest in those networks where they face government subsidized competition. The solution is to ensure that LB61 lives up to its declared statement of intent. I'd ask you, look at the statement of intent for LB61. It specifically says the intention is to provide service to unserved and underserved areas. How are you going to accomplish that? How? Without this amendment, there is no definition of what those two things mean in the bill, and there is no requirement that dark fiber comp-- or that public power use their dark fiber to serve underserved and unserved areas because they aren't defined. It'd be a pipe dream to, to expect them to do that. This amendment protects the ratepayers. It protects--

**KELLY:** That's your time, Senator.

**BOSN:** --the investment. Thank you, Mr. President.

**KELLY:** Thank you, Senator Bosn. Senator Brewer, you're recognized to speak.

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**BREWER:** Oh, I'm up. Well, here we go. That's why I'm here. All right. Well, first off, I wanted to thank Senator Bosn. It's refreshing that a Lincoln senator has taken on the, the challenge of making this bill right for rural Nebraska. Most of what she said was exactly what I wanted to say. So I'm not going to relive all that, but what I wanted to go through with the amendment-- I'm kind of dug in to the point now where I believe without AM2471 I'm not going to support the bill because it doesn't do what we need to have done to serve rural Nebraska. And that's the reason why I wanted the bill in the very first place. So let's, let's kind of go over what this amendment does again. OK. So what-- without, without Senator DeBoer's amendment, dark fiber leases, it serves areas that are going to be more attractive under LB61 and, and I think it's going to divert things away from the rural areas. AM2471 protects Nebraska taxpayers from the risk and requirements that the dark fiber leases only be used as a tool for expanding broadband to underserved and rural areas. And so what, what I'm hoping to hear now that we're kind of have this back and forth going, is how AM2471 hurts rural areas because I think it's, it's an-- it's an addition to what we're trying to do that's a good one to help rural areas. And, and if it's not, then I, I will challenge, will challenge Senator Brandt to, to put that in a-- in a way that is clear because, as I see it now, I agree with Senator Bosn's comments. And I think this is, this is the bottom line on why AM2471 is needed. But I'd also like to give Senator DeBoer a chance to address this. So I would like to yield the remainder of my time to her.

**KELLY:** Thank you, Senator Brewer. Senator DeBoer, that's 2 minutes, 25 seconds.

**DeBOER:** Thank you, Senator Brewer, from this Omaha Senator, also concerned with making sure that the rural areas of Nebraska get served. So the issue is, of course, what my colleagues have just explained is that we have a limited, a finite amount of resources. Those businesses which would like to participate in broadband in Nebraska have a finite amount of resources. We have a public asset. It is our duty, I believe, as senators in this state, to make sure that that public asset is leveraged to get to those unserved areas of the state, those areas that do not have 100 by 20. Now, this amendment has been going around-- it sounds like-- from the way it sounds, it sounds like I'm a sloppy senator who just pulled this thing out 2 seconds ago and didn't, didn't have it, didn't show it to people. But of course, we've been working on this, I would argue, for years. But this particular version of this, maybe not in the very form that the Bill Drafters puts it in, but all the bullet points getting up to there has been circled around for over a week, and Senator Brandt has seen it

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and so have a lot of others. So just defending myself for a second and saying I'm not sloppy. This is a thing that because there's a lot of technical language that needed to go in here, had to happen in the time that it did and Bill Drafters got it done--

**KELLY:** One minute.

**DeBOER:** --in the time that they did. So I want to thank Bill Drafters for putting a rush on such difficult language that they have to do in order to work in the area of telecom. So thank them. But indicate that this has been something we've been working on for years. There were all sorts of ideas about maybe we should exclude Omaha. I said, no way, because there are unserved/underserved areas of Omaha. We need to get those served. But any place in the U.S.-- or sorry, in the state, in Nebraska that is unserved or underserved-- and I'll work with Senator Bostelman on making sure that that mirrors his upcoming AM1031-- anyplace under 100 by 20 needs to be served. People need to have firsts. We need to get those people a chance at entering into an age in which the internet is so important for school, for, you know, kids to come home and do their schoolwork, for work from home, for all the things, telehealth--

**KELLY:** That's your time.

**DeBOER:** Thank you, Mr. President.

**KELLY:** Thank you, Senators Brewer and DeBoer. Senator Jacobson, you're recognized to speak.

**JACOBSON:** Thank you, Mr. President. Well, I echo the comments that have been made by both my colleagues, all 3 of the last 3 speakers: Senator DeBoer, Senator Bosn, and also Senator Brewer. There-- if there are concerns about fixes that need to be done on AM2471, we could still pass AM2471. And if we have fixes, we can fix those on Select. The idea of killing the amendment on General and trying to bring it back on Select doesn't make sense to me. Because at the end of the day, I believe that AM2471 truly embodies the spirit of LB61. This was a bill. And when we first heard about the BEAD money coming here, this was to come out and serve unserved and underserved areas of the state. We have areas in rural Nebraska where no one has any internet or any fiber at all. They're out there trying to use either Starlink or some other facility to get their internet. If we're going to grow rural Nebraska and we are committed to doing that, it's going to need-- we're going to need this kind of internet coverage. So I want to make abundantly clear that any bills that get moving forward,

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that we're going to focus those efforts first and foremost in the unserved and underserved areas of the state before, as Senator DeBoer has very eloquently said, instead of giving others seconds and we're going to go in and have public power, for example, use their dark fiber to allow private competitors in the metro markets to compete with the folks that are already there. That doesn't make sense. That's not what LB61 should be about. That's not what the BEAD program is about. So if there are technical fixes with regard to speed, I understand what Senator Bostelman is saying, that could be fixed on Select. If there are other minor tweaks, that could be fixed on Select. But it seems to me that what, what AM2471 does is further zeroes in on making certain that we're going to be providing these dollars towards the unserved and underserved areas of the state. I want to also point out, if you really look at the amendment-- and I have had a chance to study it, and, and others can certainly study it between now and Select if they want to make changes to it-- but there is a large area here in the bill that also talks about having the Governor being able to come in and make administrative changes, if necessary, when it comes to negotiations or some issues that may arrive. So I do believe that there are, there are opportunities for changes to be made administratively if we need to. I think the amendment's been well thought out. If there are some minor fixes, we'll fix them on Select. But otherwise, I'm going to support LB2471 [SIC] and LB61. Thank you, Mr. President.

**KELLY:** Thank you, Senator Jacobson. Senator DeBoer, you're recognized to speak.

**DeBOER:** Good morning again, colleagues. I'm sure you're tired of hearing my voice, but I just wanted to, come up now on my time and just really outline what's in this amendment so everybody is clear. This amendment is a culmination of work that we've been working on. LB61, 61 is obviously a small number. That means it was introduced last year. And I think Senator Brandt would recognize that I was working with him on this bill last year as well. And we were trying to talk about the same issue, which is-- it has always been since the hearing, the hearing on LB61-- I asked the question, is this for unserved/underserved areas only? And that was the intent of the bill was to get unserved and underserved. We talked about this in the hearing. We talked about this in the previous version of this bill. Every time we talk about dark fiber, I can't remember how many times I've done it in 6 years, the sort of reason we're given for why we should have these dark fiber leases from a public asset is that this fiber, which is in the ground, could be useful in deploying broadband to those areas of the state that don't have it. That's it. That's what

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we're told, that we are deploying broadband to areas of the state that doesn't have it. And I have always said that is my goal. And in order to do that, the language of the bill needs to say-- the language of the statute needs to say that this allows leases that go to unserved and underserved locations. In the past, the problem has always been that we did not have the kind of mapping that we have now. In the past when I first started, if one house in an entire exchange or census block, sorry, was served, it was considered served. That was nonsense. I tried to bring bills to help with mapping because that's nonsense. But that's not where we're at. We have put lots of money into mapping. We have much better maps than we used to. We can now identify. And this amendment says at the date; it has a date specific. When you look at the map and you say, was it unserved or underserved on a location-by-location basis, you can get a lease to serve those areas that are underserved or unserved, which means anybody under 102-- 100 by 20 and you can serve those areas using these leases of a public asset. It, it really shouldn't be complicated. Getting the details is right, but the policy isn't. The policy is we want to get broadband out everywhere. And the way that we do that is we leverage everything we've got. We leverage all the funds we've got. We do that with the Bridge Act from state money and the BEAD act from federal money. There's others, E-ACAM things. We leverage all of those funds, and now we're leveraging our assets, our public assets, to try to get to those areas of the state that are unserved or underserved. That's what this amendment does. This amendment says we're not going to let folks come in and gobble up the assets in areas that already have broadband service. Even though I'm an Omaha senator, I know that what's best for our state is to get broadband to everyone. That's what's best for our state. It's best for my constituents, even though they have broadband, that everybody in the state has broadband because we are more efficient as a state--

**KELLY:** One minute.

**DeBOER:** --If we have access to broadband, if we have access to work from home everywhere in the state so that folks can stay where they are and don't have to move into Omaha where the jobs are or something like that, that they don't have to move where the access to the internet is. So this Omaha senator is fighting for rural Nebraska because I know that that's best for my Omaha constituents. And the way to do that, the way to get this done properly, is to make sure that we are specifying in the bill that we need to be serving underserved or unserved. I'm not going to trust anybody that says, oh, well, we won't; we promise; cross our heart that we're not going to serve

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served locations. I need it in the statute. It's that simple for me. Thank you, Mr. President.

**KELLY:** Thank you, Senator DeBoer. Senator Brandt, you're recognized to speak.

**BRANDT:** Thank you, Mr. President. So if public power is a public entity, what are private corporations that have taken, let's say, \$100 million in taxpayer money to build out there? Do the taxpayers not own that cable in the ground too? And yet the rules-- they want these rules to be different. We worked for 2 years on this, and we worked with the telecoms and power, and they all gave up a little bit and we came up with AM2296. And when that was dropped, the last group, which are the cable TV companies, came in and what they wanted was to exclude Omaha and Lincoln and to put these provisions in here on unserved and underserved with enforcement. And we figured maybe they would compromise. There was no compromise with these people. You guys are seeing what's happening here. We've had an amendment on the floor for maybe 50 minutes that I'm trying to dig my way through here to figure out. Do not pass AM271 [SIC] on General File. If we have a chance to go through this with all the parties, and it's a, maybe the greatest amendment in the world, we can drop it on Select. But do not pass this white copy amendment that's got a lot of stuff in it and some Trojan horse stuff that I can see, on this round. And we'll take a look at it for next round or Senator DeBoer is welcome to introduce it on, on next round. Unserved and underserved is outlined in the BEAD program, the NUSF, the CARES Act, and the Bridge. If you want to take public funds to, to put fiber in the ground, you have to meet unserved and underserved areas through those acts or you will not get the money. Public power is not retailing broadband. So let's be clear about that. The language, as far as I know-- and Senator DeBoer is saying trust me on these maps and I'm not; I don't know where these maps came from. I don't know if they're still using census blocks. In a hearing yesterday, a supervisor from Gage County came in there and explained to us how another internet company overlapped an existing service area and used a-- one house in a different census block to up the cost in Gage County-- public cost, mind you-- from \$4,000 a home up to \$25,000 a home. OK, this is the stuff that's going on with our public funds here, folks. So we need to be very careful on how we do this. Yes, some language was excluded from AM2296, and we're more than happy to look at putting it in there with the consensus of everybody involved. But I would say today do not-- do not support AM2471. And we can look at that. Would Senator Bosn be available for a question?

**KELLY:** Senator Bosn, would you yield to some questions?

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**BOSN:** Sure.

**BRANDT:** Senator Bosn, do you have a copy of the amendment?

**BOSN:** Are you speaking of AM2471?

**BRANDT:** Yes.

**BOSN:** Yes.

**BRANDT:** OK. On the bottom of page 11--

**BOSN:** OK.

**BRANDT:** --starting on line 28, it says: No internet service provider has an enforceable commitment to make broadband service available at speeds of at least 25 megabits per second for download and at least 3 megabits per second for uploading, with a latent sufficiency [SIC] to support real-time, interactive applications. I'm not--

**KELLY:** One minute.

**BRANDT:** I'm not an attorney. What does that mean?

**BOSN:** Well, so we had a meeting last Wednesday, February 7, you and myself, along with some of the individuals who are involved with this, and we spoke specifically of that because you and I were both questioning what that meant. And what we were provided with was an answer that that means that a internet provider who has a contract to provide service to an area has what is defined as an enforceable commitment. And that essentially means that they have a contract for purposes of, of an area that's defined in their enforceable commitment that they are the provider. And your question, which I shared with you, your concern was what happens if someone comes in and says, we're providing service here and they're not doing it? And you asked me to add dispute resolution language.

**KELLY:** That's your time. Thank you, Senators Brandt and Bosn. Senator McKinney announces some guests in the north balcony from the senior longevity participants Eastern Nebraska Community Action Partnership in north Omaha. Please stand and be recognized by your Nebraska Legislature. Senator Dorn, you're recognized to speak.

**DORN:** Thank you, Mr. Lieutenant Governor. I really want to thank Senator Brandt for bringing this bill. Many of you don't-- I guess we've had a lot of conversations throughout the years about internet,

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dark fiber, not dark fiber, but underserved/unserved areas. And how in parts of rural Nebraska, there are many areas that just, quite frankly, don't have internet service, can't get it, cost is too high, we can go on and on about what or why. I think through the years since I've been up here, learned so much about fiber, so much about where our broadband, I call it, goes and also about underserved areas. We had, if you remember, we had a lady from Gage County that really worked on our state, our broadband off-- we, we didn't have a Broadband Office. Before we had it, the PSC said that we didn't have any-- or they did not go after federal funding that said we did not have this location; this location is underserved. At one time, if one house in the county had broadband, that whole county was considered served. She went to work, filed many papers, and due to her work and some of that work of the Governor's Office, we ended up with about \$400 million and now broadband funding through our new Broadband Office that's going to be allocated and, and, I call it, put to work to allocate some funds for some of these areas. Very much appreciate the comments and everything that's been going on here this morning. Senator DeBoer talking a little bit about the amendment. I, too, would like to see how this amendment really, I call it, has an effect or will have an effect as we go forward. Now, I don't see Senator Bosn here. I wanted her to continue her discussion about what Senator Brandt just asked her, because I was intrigued with that comment. She's coming there so would Senator Bosn yield to a question?

**KELLY:** Senator Bosn, would you yield to some questions?

**BOSN:** Yes.

**DORN:** Thank you. Thank you, Senator Bosn. You were, I call it, cut off there kind of in the middle of that explanation. Could you continue that? Because that is a little bit, I call it, we need to have that better understanding of what this amendment really does.

**BOSN:** Thank you. And yes, I'm happy to answer that question. So last Wednesday, I had a meeting with Senator Brandt regarding the bill as it was written. This amendment was just a dream at that time. Nothing had been filed as it relates to this. One of his concerns was the language that he articulated on page 11 about what a enforceable commitment is, and I shared his concerns. I didn't understand what that meant. And so we spoke with the parties and agreed that that had to be tightened up and clarified. That was one of his requests. He also wanted to know what happens if a provider comes in and says, I'm providing service. Let's say my row is a service area and a company has a contract to provide service to Bostelman, Murman and Bosn. They

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have that contract, but they're not doing anything. They're just laying in wait and preventing dark fiber from serving us all under the terms of, oh, I've got this enforceable contract, you can't come in. And he was right. And I said, I totally agree. We should have an ability to have dark fiber come in and say, somebody got this contract, but they're not doing anything. How do we allow dark fiber? So we drafted what's now on page 14, starting with subsection (5)(a) that talks about if a dispute arises and explains what that arbitration process looks like.

**DORN:** OK. Thank you. Thank you for that explanation. Because I-- Senator Brandt talked a little bit about-- and I, I didn't visit with him about-- somebody from Gage County. Gage County used a bunch of their ARPA funds to, what I call it, to put a lot of broadband out to a lot of the county.

**KELLY:** One minute.

**DORN:** But there's also been a situation where another company came into town, laid in, I call it-- not a subdivision, but close to town, they laid now a fiber out where the county was also going to lay a fiber out, just hadn't got to the program, would have been the next year, that connected these 20 houses. They went right by the 20 houses and connected 1 house a quarter mile down the road. So now all of a sudden, here we are again. And I guess my question is, how do we make sure that, that doesn't happen, that we're now duplicating services? Because we have so many areas that need service. And, and that's just some thoughts I have. So it-- and we can't-- we cannot solve every one of those. I will also say that. So thank you, everybody, for working on this, appreciate it.

**KELLY:** Thank you, Senators Dorn and Bosn. Senator Bostelman, you're recognized to speak.

**BOSTELMAN:** Thank you, Mr. President. Senator DeBoer and I are working on an amendment to her amendment. And with that, I think it's pretty interesting that so many people now are picking up the whole broadband issue in the state of Nebraska, since this has been something I've been hounding on for years and years and years about this. So my concern is with the 25/3 language again in there, which we're working on right now and how we define unserved and underserved areas. And we're working on that language specifically right now, what that looks like. With that, then I think that's a much better amendment to go ahead. If we get it done today would be great. I really don't want to see it move to Select File without some changes in it. The thing that

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I always talk about, as you know, on the mic is, is a lack of fiber in Nebraska. And the lack of those-- there's been over \$1 billion trying to get fiber out to Nebraska. And those companies with 25/3 with copper in the ground are those who are responsible to build out that fiber. And that hasn't happened always. There's a lot of companies that have done that, and that's what we need to make sure this body has a policy, this body takes a stand to say that we need to do everything we can to get fiber out to every location that is possibly that we can get to. That's what we're trying to get done with, with this bill. That's what we're trying to get done with the amendment. There is some back and forth as to what that language may or may not be. I think there may be a path forward on part of this. I'm working on amendment for that. And I'll-- I guess I'll repeat the things I've said before. I live 32 miles from here, and I don't have-- I don't have broadband at my house. I've got to use a hotspot. I had satellite. We got rid of satellite, Viasat, because after 10 years, they want to hike the price on us. And our connectivity was going to crap. This summer-- I always like to throw these tidbits-- and this summer I was in a tent in the Serengeti. In a tent in the Serengeti, and I had better broadband service than I have at my house. That's not right. So we need to give our providers the incentive to get out there and build everything they can to every location they can. And we have grants out there. We have the Bridge Act that's out there. And in that, there's been some overbuilding on that, and the PSC needs to get it right, and PSC needs to stop doing that. We've got counties and communities out there doing the right thing and we need to make sure every single penny of every single dollar that we have in grants that's going out, either from the state or from the federal government, is used to the greatest extent that it can to connect every single individual in this state. There's kids in my district at school that don't have connectivity at their homes in the country. The school has hot spots in their buses for the kids when they go to an event, when they come back from the event, they can now download their homework and do their homework. That's not right. That's just within 50 miles of where I'm standing today. So when you talk 25/3, do you get my attention? You're darn right you do.

**KELLY:** One minute.

**BOSTELMAN:** When you talk about building out fiber to every location, do you get my attention? You bet you do. If you've got a question about this bill, come talk to me. I've been fighting this fight. I've been working on this language. I've been working on these bills for years, years. We're getting really close, folks. So with that, I yield the rest of my time back to the Chair. Thank you.

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**KELLY:** Thank you, Senator Bostelman. Senator Machaela Cavanaugh, you're recognized to speak.

**M. CAVANAUGH:** Thank you, Mr. President. This is a real inside look into the Transportation Telecommunications Committee this morning. As Senator DeBoer and Senator Bostelman and Senator Brandt have all stated this morning, this is an issue that we have grappled with for a very long time. And I rise in support of LB61 and AM2296. I am not currently supporting AM2471. I, I want to see this bill move forward from General to Select. And I think that there's an opportunity for all parties concerned to continue the conversation and negotiation around what the final version should look like. I think it's time that we do this, and it's time that we start tapping into dark fiber and doing a better job of serving the people of Nebraska at the most cost-efficient way possible. Prior to the pandemic, broadband, fiber, internet connectivity were all really critical issues and infrastructure, and we saw how critical and how great of deficiencies we had because of the pandemic. Everything that wasn't working was exposed and brought to light. And I think now is the time while we have that muscle memory, while those that are serving here served during that time that we take this head-on and that we move forward and it's not going to be perfect. LB61 is not going to be perfect, but I think it's time that we move it forward, and we can always continue the discussion between General and Select on what the final iteration should look like. But for today, I hope that people will vote to move Senator Brandt's bill forward. Thank you, Mr. President.

**KELLY:** Thank you, Senator Cavanaugh. Senator McDonnell has guests and announces guests in the north balcony, members from Children and Family Coalition of Nebraska, Family Focused Treatment Association; Nebraska Association of Homes and Services for Children; and The Alliance. Please stand and be recognized by your Nebraska Legislature. Senator McKinney, you're recognized to speak.

**McKINNEY:** Thank you, Mr. President. Not necessarily sure where I'm at on any of this. I've been honestly listening to the conversation, trying to digest it all. I'm sort of confused on-- what is this? AM2471. I'm wondering why, if we're saying in AM2471, this language for underserved and unserved needs to be included in LB61, why are there provisions in this that says no internet service provider has an enforceable commitment to make broadband service available at different speeds? If, if that is what we want to make sure that underserved or unserved communities get access, then why aren't we making sure in any of these amendments or this bill that the service providers have an enforceable commitment? So I'm confused. So maybe

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when I get off the mic, somebody can let me know because I don't-- I'll just be honest. I just don't have a lot of trust in this world for a lot of things. And, you know, my community, some will argue that we're served, and I would argue that maybe we are, but a lot of people would tell you that we aren't. Sometimes, you know, the internet is very slow often. And then also there is also a conversation that we need to have about cost. The average cost of internet, in my opinion, has like doubled in the last 2 to 3 years. It used to be like 50 bucks, 40 bucks. You can't get good internet for under 80 bucks now, and it's really more than that. So I think we have to talk about that when you-- especially when you talk about underserved communities. Sometimes it's not just about internet speed, it's about cost. A lot of people don't have internet or they don't have the greatest internet because they can't afford it. So I would love to see some language about that if-- especially if we're bringing up north and south Omaha. It's not always about the speed. It's about the cost as well. It's unaffordable. Internet is very unaffordable these days. Inflation, all, all those things are factors. So I'm still a little confused about why we're saying we need language that includes unserved and underserved. But also in the amendment it says-- well, it has language that says internet service providers have no unen-- no enforceable commitment to these certain speeds. That doesn't make any sense to me. And I think if we're talking about underserved communities especially, we have to have a conversation about affordability and cost because that's a part of the problem. And why they are underserved it's the cost; it's the-- that, that is a factor that you can't leave out this conversation. It's not a just-- it's not just about speed. And I'll yield the rest of my time to Senator Brandt if he would like it. Thank you.

**KELLY:** Thank you, Senator McKinney. Senator Brandt, you have 1 minute and 20 seconds.

**BRANDT:** Thank you, Mr. President. Who ceded me time? Oh, thank you, Senator McKinney. I was just talking to Senator von Gillern and so this is-- this is where I'm a little confused. We are trying to work out something here on the sidelines to see--

**KELLY:** One minute.

**BRANDT:** --what, what can be done to move this forward. I'm sure everybody wants to see some form move forward. But once again, my concerns are we really haven't had a chance to go through this line by line and see how it affects everybody in the state of Nebraska. And that's why I'm at this point still asking maybe that we look at AM2471

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on Select as opposed to this round so that we can get a, a super bill out. So thank you.

**KELLY:** Thank you, Senator McKinney and Brandt. Senator von Gillern, you're recognized to speak.

**von GILLERN:** Thank you, Mr. President. I stand again today. I just want to reiterate my concern about the, the speed that this is trying to move through the floor and the lack of understanding that's around it. And, and I know that there are parties that are working in good faith underneath the balconies and making great explanations. And when I get my head around this and have enough time to digest it and talk to people that I trust and know about what this amendment actually does, I may be 100% supportive of it. But until that time, I can't be supportive of it. So I'm just trying to get, get myself there. I've heard the same comments out of Senator McKinney and Senator Blood and Senator Cavanaugh and others so I'm concerned about that. So I do have a couple of questions. Would Senator Brandt yield to a question, please?

**KELLY:** Senator Brandt, would you yield to some questions?

**BRANDT:** Yes, I would.

**von GILLERN:** Senator Brandt, I know you're having conversations under the balcony and whether those yield a result today or not, are you committed to working with Senator DeBoer? If this-- if this amendment did not pass today, are you committed to working with Senator DeBoer between now and Select to bring it back in a form that would be amenable to all parties?

**BRANDT:** Yes, I am. But let it be understood that last year when we tried to get the amenable parties in the same room, there was no movement. So it's a little tough sometimes when one side's willing to negotiate and the other side isn't. But I know Senator DeBoer would, would not be that way. That hopefully we can get all the parties on board with this.

**von GILLERN:** And in your opinion, do we lose anything by working that out between now and Select? Is there anything-- any strategic advantage, or? Is there a reason that we're rushing this through today?

**BRANDT:** I, I don't know why you want to rush it through. You can only gain by taking some time to make good legislation. The time that I've

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served in this body, things that we've done really fast usually come back to bite us.

**von GILLERN:** Thank you. Mr. President, could I ask Senator DeBoer to yield to a question, please?

**KELLY:** Senator DeBoer, would you yield to a question?

**DeBOER:** I'd be happy to.

**von GILLERN:** Thank you. And I'll ask you the same questions. And I know-- I know the answer is you would-- you would deal, and I'll not put words in your mouth, but I know that you are already working with Senator Brandt and others trying to work out the language on this. So I know that you'll work in good faith. I'm curious, what is the-- what is the urgency to get this through today, rather than to work through it and get it to, to a form that all parties can get signed up and get on board between now and Select?

**DeBOER:** There are a number-- that's a can of worms, but I'll try to answer it. First of all, we've been working on this for a while. And while Senator Brandt thinks one side is intransigent, I think the other side is. So when we've been working on this in the past, we have never gotten as close as AM2471 is to coming to something that everybody can agree to. Unfortunately, I find there are some folks who want to just say no, no matter what. And I ran into that last year and I've run into it other years, so I don't see how it's going to change. So that's one piece. Another piece is that there are a number of motions that would be ahead of anything that we wouldn't be able to get it on to Select. So that's a problem. Another is I am concerned that this legislation without these provisions would have a number of ill effects. And it is a grave concern of mine that we would allow it to go to Select. As Senator Cavanaugh always says to me, don't let them take you to a second location. So when someone is-- you know what I'm talking about.

**von GILLERN:** Unfortunately.

**DeBOER:** Yeah. So I am very reticent to be taken to a second location with folks who have been unwilling to give me anything but a no, no, no, no, no when I say we need to include language about underserved and unserved.

**von GILLERN:** OK. Thank you for responding to the question. Again, I'm not--

**KELLY:** One minute.

**von GILLERN:** Thank you, Mr. President. I'm not hearing a ton of resistance in the room on what, what the amendment wants to do. What I am hearing is a lack of understanding and confusion and concern about the, the pace that we are moving forward and desire to want to get-- to really get it right. So my encouragement, again, would be to slow down and trust the folks that have been involved in this conversation the longest. And let's just slow down and get it right. Thank you.

**KELLY:** Thank you, Senators von Gillern and DeBoer. Senator Bosn, you're recognized to speak.

**BOSN:** Thank you, Mr. President. I wanted to go back and answer the question that Senator McKinney posed on the mic as it relates to the language on page 11, starting on line 15 through line 19 and then again on line 28 through 31, maybe the top of the next page. So that talks about no internet service provider has an enforceable contract. That language essentially means this. If I have a contract to provide service to an area, it is an enforceable contract. If I have that contract to provide service to that area, the state of Nebraska can expect that I'm going to follow through on that contract, and there's consequences if I don't do it. But while that contract is enforceable, you can't run dark fiber through that same exact area and undermine my private investment in that same area. What Senator Brandt posed to me was a reasonable question and is addressed on page 14. What happens if I'm a bad actor? What happens if I'm an internet provider who comes in, gets this enforceable contract, and doesn't take any steps towards putting in the internet services? What is the recourse for public power? And that is what we drafted or added on page 14, starting with Section (5) (a). If I am a bad actor, I get this contract and I don't come in and start moving forward, public power can come in and say, listen, we want to run dark fiber here. You're not making any steps towards progress. We have to have an option to terminate your contract because you're not moving forward in good faith. That's what Section (5) (a) does, because I shared his frustration with the confusion that that may result in if people-- if you get bad actors, the world's full of bad actors. Nothing in this bill can eliminate that. And, and the reality is, they will still exist with or without this bill. But what that language does is it's a safeguard for dark fiber to come in and say, you've done nothing. These households still have no-- have no internet services. We want the ability to come in and provide it using dark fiber, and quite frankly, they should be able to. So once again, the language there allows them to have an enforceable contract to protect their investment, but doesn't give them carte blanche ability

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to prevent dark fiber in unserved and underserved areas. I'm happy to answer additional questions on that off the mic, if there are any. I would once again ask everyone to consider that the intent of this bill specifically says to provide-- use dark fiber to provide service to unserved and underserved areas. And if you're going to use dark fiber to provide service to unserved and underserved areas, you have to define what those areas mean. And if you don't define it, there isn't any obligation to provide it there. There isn't even an incentive to do it. You will disincentivize private investment in providing internet in those areas, because they could never be guaranteed that their business wouldn't be undercut by public power at some random time. You have to have these parameters. You have to have this ability to do it the right way, or you're going to just have trouble with all of-- with, with dark fiber and the-- and the investment. You won't incentivize anyone to provide in the area. It's so ironic that as a senator in an urban area, I'm, I'm trying to convince rural senators of the importance of this for their own district. If you want internet out there, it's going to be ungodly expensive. You have got to incentivize private investment to come to those areas to provide it, to make their investment worth it. And I'm fine using dark fiber for those purposes.

**KELLY:** One minute.

**BOSN:** Thank you. We've got to incentivize them to use the dark fiber in a way that provides access to internet to the most individuals who don't have-- either don't have it at all or don't have good internet. I don't necessarily disagree with Senator McKinney's question about affordability and what does this do to address that? The long answer short is, unfortunately, this doesn't address that. The affordability issue is a separate issue. I share those frustrations because I think we could run public power or, excuse me, we could run dark fiber in some areas. But if they can't afford the, the service, they still don't have internet. We've got to figure that out as well because this is now a utility. So I'm happy to work with him on that legislation at some other time. This bill does not move that needle forward or backwards. Thank you, Mr. President.

**KELLY:** Thank you, Senator Bosn. Senator Kauth, you're recognized to speak.

**KAUTH:** Thank you, Mr. President. I fully support getting internet to unserved and underserved areas. I'm concerned with how many amendments we have popping up on this bill and how much work it, it seems like

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still needs to be done. I'd like to ask Senator Bosn a few questions if she wouldn't mind.

**KELLY:** Senator Bosn, would you yield to some questions?

**BOSN:** Yes, yes.

**KAUTH:** So, Senator Bosn, how exactly would this amendment, AM2471, encourage providing service in those unserved and underserved areas? And, and how is it different from the other amendments?

**BOSN:** So what this amendment does is it allows dark fiber to be used for the purposes of getting service to unserved and underserved areas. Currently that's defined as anyone with-- or what this bill would do is change that to anyone who's got service 100 over 20 or less. So it would encourage them by saying, you can use this dark fiber that's already in the ground or that we're putting in the ground anyway to harden their electrical grid. And you can use it to reach those homes that are hard to reach, that are otherwise cost-prohibitive to get to. So you have an internet service provider and the cost to build that mile-- don't quote me on this. I want to say it was close to \$20,000 per mile to build this. It's incredibly expensive. And if you live one mile off the road, that's approximately \$20,000 to you. If Senator Arch lives one mile off the road, that's another \$20,000. They're never going to see that return on investment unless you want to pay \$20,000 just to get internet to your home. What this does is it allows dark fiber to be used to get close, to help bridge that gap of cost, and incentivizing them to do that in areas where we are underserved and unserved versus areas where we already have competition or service providers already built in.

**KAUTH:** OK. And so when you say underserved, is it possible that there are some of those in the urban areas as well that are still underserved?

**BOSN:** There-- yes, there are some areas. I don't have the map. There are some areas specifically in Omaha that would qualify as unserved because they don't have the 20 by-- or, excuse me, the 100 by 20. At least not currently.

**KAUTH:** OK. And I know you've been working really hard on this. When did you start working on this particular amendment, just this part?

**BOSN:** So Senator Brandt approached me last Wednesday and asked if I was willing to have a conversation with him about the amendment and the language in an effort to come to a resolution on LB61. I was

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certainly amenable to having that conversation. The amendment here is the draft that came as a result of that conversation on Wednesday, February 7, as a result of our coming to terms as to what would at least be a starting point for moving forward. He didn't commit to agreeing to it, just said, these are the bare minimums of where I'm at. 25 over 3 was a nonstarter for him and he wanted the arbitration clause. So we came to that. We worked on that last Wednesday, and we've been working on it pretty much non-- Senator DeBoer, Senator Brandt and myself-- pretty much non-stop since then.

**KAUTH:** So and without this amendment, does the underlying bill, LB61-- would it divert resources away from the rural areas or would it just make it less likely that they would say that that's an attractive prospect?

**BOSN:** It does not divert resources away from rural Nebraska. It does not incentivize--

**KAUTH:** OK.

**BOSN:** --companies to make the investment in rural Nebraska.

**KAUTH:** OK. And then one more question. The, the arbitration clause that you put in, can you walk me through that?

**BOSN:** I can. So that's on page 14, subsection (5)(a). It says that if there's a dispute between the internet service provider who claims they have an enforceable commitment. So if I'm a provider--

**KELLY:** One minute.

**BOSN:** --and I-- do want me to continue or do--

**KAUTH:** Yes, please.

**BOSN:** --and I claim that I have that commitment so dark fiber can't come in and I'm using that commitment to prevent dark fiber, I have-- they have the ability to challenge that and say, you're not coming in. You're not acting in good faith. You're not moving forward towards providing service. It then goes in front of whichever granting agency provided it, whether that's the Broadband Office or the Public Service Commission, and gives them an opportunity to say Bosn Cable Company didn't make any efforts towards building broadband in this area. We would like to terminate her contract for lack of good faith efforts and be able to run dark fiber there. And then the Broadband Office or the PSC, whoever the granting agency was of that contract, would have

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the ability to say, yeah, Bosn's-- Bosn Service Company didn't do what they said, that cable company didn't do what they said they would do. You can now run dark fiber there. So this is the granting language and explains to them how that would look.

**KAUTH:** OK.

**KELLY:** That's your time, Senator.

**KAUTH:** Thank you.

**KELLY:** Thank, thank you, Senator Kauth and Bosn. Senator Erdman, you are recognized to speak.

**ERDMAN:** Thank you, Mr. President. Good morning. Been listening this morning to the conversation. Senator McKinney made a lot of sense in what he said. This is a very complex issue, trying to figure out exactly what it means and how it is going to be better for my district and rural Nebraska. So I was wondering if Senator Brandt would yield a question to help me understand some of this.

**KELLY:** Senator Brandt, would you yield to some questions from Senator Erdman?

**BRANDT:** Yes, I would.

**ERDMAN:** Senator Brandt, on the handout I received this morning, let me read this little paragraph to you, and then you tell me what it means. It says the telecom space on utility pole is lower on the pole, often meaning utility poles need to be replaced to increase the height of the clearance for requirements. Owning the fiber may allow the public power to hang fiber higher up in the utility space where they are allowed to maintain the infrastructure. So evidently they're going to hang this fiber line-- wire on the utility poles; if they, the utility company, owns the wire-- the fiber-- they can hang it closer to the, to the utility, the electrical service. Is that correct?

**BRANDT:** Yeah, that would be correct. Because if, if they own that fiber, their linemen can go up among the energized conduits up there.

**ERDMAN:** OK, so the utilities, the utility company, the public power utilities, they are not internet providers. Is that correct?

**BRANDT:** That is correct.

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**ERDMAN:** So they could-- could they own the facility and then lease that to the internet provider?

**BRANDT:** We talk about burying fiber, but the other alternative is to put it on their own poles. And from an engineering standpoint, it's better to have that up higher so they don't have to extend the poles higher. They would own that fiber on the poles to connect their operations, i.e., their substations and then internet providers would spur off of that line fiber.

**ERDMAN:** OK. So I'm just making an assumption that hanging on the poles would be less expensive-- less expensive than burying it. Would that be true?

**BRANDT:** I have asked that question to some of the contractors in the past. Today it's over \$30,000 a mile to install fiber and on the poles saves about \$5,000 a mile, is what I've been told.

**ERDMAN:** OK. Thank you very much. So getting back to AM2471, as I begin to understand exactly what this means-- and it's difficult because I just seen it for the first time this morning-- I don't think a complicated issue such as this, we can quickly vote to advance this. I-- at this stage of the game, I'm not supporting, I will not support AM2471. I'm not sure exactly what amendments are coming. Senator Bostelman are work-- is working on an amendment. I would like to see what that is. But if we're voting on AM2471 without being amended at all, I'm, I'm in opposition. Thank you.

**KELLY:** Thank you, Senator Erdman. Senator DeKay, you're recognized to speak.

**DeKAY:** Thank you, Mr. President. In my years in the public power world, from every aspect of it, from distribution to generation through transmission, I do not ever recall having conversations about getting into the broadband business. I know that there's fiber already available and in the ground that could possibly be utilized to be able to be most efficient and cost-effectively going forward. Ultimately, LB61 needs to be able to totally get to the-- to the underserved and unserved and definitely get to the last mile. In the electric world, electricity has been delivered to everyone in the state, no matter where they lived. The utilities have done a great job of doing this cost-effectively. I think that with the equipment, which is fiber that's already available, it can work with the private companies to "expediate" getting high-speed internet to the last mile in the state

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of Nebraska, and that's ultimately where we all want to get. So thank you. I yield back the rest of my time.

**KELLY:** Thank you, Senator DeKay. Senator DeBoer, you're recognized to speak, and this is your final time before your close on the amendment.

**DeBOER:** It's a little dry in here. I got shocked. Thank you, Mr. President. Hello again, colleagues. Talking about how do we get from here to where we need to go? Because clearly, it's my intention to work with Senator Brandt. Senator Brandt is a good friend of mine, Senator Brandt and I sat together in Judiciary for, was it 4 years? 4 years next to each other. Doing that time together in Judiciary, we became good friends and I respect him immensely. I hope he does me as well, and I want to work with him. I think we need to have a little more discussion today about this so that we can get everyone sort of so that they know what they're looking for when they're reading the amendment. If we can talk a little bit more and make sure that everybody understands what it is we're talking about, then I think this evening we might have some time for Senator Brandt and I and some others to get together, along with our committee counsel, along with our committee Chair, and talk about how we find the best path forward here. AM2471, again, just wants to make sure that the aims of the bill, which are to get to underserved and unserved areas, are met. That's why we put in the language unserved and underserved. Now, Senator Bostelman has rightly brought to my attention that maybe we don't need to define anything with respect to 25/3 because that's right out and everybody agrees, Senator Bostelman, right out, anything under 100 by 20 is unserved. Anybody who doesn't have 100 by 20 should not be counted as served. And I agree with that. And I supported Senator Bostelman in making that change in the Bridge Act a couple of years ago and some other places. I can't remember what that-- where all those places were. Folks, 100 by 20 is the basic minimum that we need to have. So if this evening we get together and we work on some language that incorporates Senator Bostelman's good suggestion of just getting rid of the sort of unnecessary language of 25 by 3-- which it is right now, because in my amendment, AM2471, if you are in an area that is underserved or if you are in an area that is unserved, the effect for purposes of this bill is the same. So we don't need to even talk about anything less than 100 by 20. 100 by 20 captures all of the folks that we would like to help get service in Nebraska. If somebody has anything less than 100 by 20, we want to serve them. And then once we get all of those folks served-- and I think it's going to take a while. I heard from the Broadband Office and I am so optimistic and hopeful that they're right, that when we're done with the BEAD money that came from the feds and some of these other monies, like the

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Bridge Act, that every location in Nebraska will have service. I asked again, are, are you telling me every location? And he said yes. So I'm hopeful that we're going to get there. We're not there yet. So we have to find the best way to use the resources that we have to try to get there. And to my mind, the best way to use those resources is to put them in those places and to be--

**KELLY:** One minute.

**DeBOER:** --very specific about putting them in those areas and to help get them in those areas by leveraging those federal funds, by leveraging the state funds and by using our state assets, our public assets rather. And those public assets are the fiber that is or will be in the ground because of our public power. The reason they need fiber from-- is they need to be able to communicate between their various stations, right? But fiber-- you don't put one strand of fiber in the ground, you put hundreds. And you put those strands in there and you can use all of those. So we do have an asset that at this point, if it's in the ground or strung from the poles, dark fiber can be either place, that is unutilized or underutilized at the moment--

**KELLY:** That's your time, Senator.

**DeBOER:** Thank you, Mr. President.

**KELLY:** Thank you, Senator DeBoer. Senator Bostelman, you're recognized to speak, and this is your third and final time on the amendment.

**BOSTELMAN:** Thank you, Mr. President. A couple of things I do want to talk about is there are-- I think there's 1 or 2 other things in here that we need to address. I, I believe that our state maps are probably better than the FCC maps. I've never liked FCC maps. They've always been way behind the time. And what the state-- the FCC map has typically always done was take the word of the provider in a sense and not necessarily a proven process to how they are. If, if, if you go to your site-- if you go to your home and you pull up the map and click on and see who says they're providing at your location, at what speeds, and then you actually do the check online or otherwise, it's not always accurate. And so that's a challenge, but I [RECORDER MALFUNCTION] it's going to be much better than the FCC map. So that's something I think we want to talk about and, and address in this, because it's important for us to have the right tools available at the right time. Because as I said before, it is critical that we get this-- get all of our opportunities that we have, make sure they're done the right way at the right time, especially with our grants, the

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funding that we have, because it is important to all Nebraska, and we need to make sure that's right. I sit on the Rural Broadband Task Force. This is one of the, one of the items that the Rural Broadband Task Force has talked about and has brought up in their last report, specifically is a need for public-private engagement and opportunities. And that's what we're trying-- that's what, that's what LB61 is doing. It's bringing those opportunities in those hardest served areas, those places where no one else [COUGHS] excuse me, where no one's necessarily wanting to build because there's a-- there's a cost associated with that. But the public utility has a need in that area where they've-- or they may have already built out fiber to like a substation or to some other location where they have fiber in the ground. Well, it makes total sense to be able to give them the opportunity, within the right circumstance, the right parameters, right guardrails, if you will, in an unserved area to be able to lease, lease those dark fibers out so that everyone has that opportunity to make that happen. Now, we want to make-- we're very careful and want to make sure that as we do this, that that's not a competitive at all. But it is something that is kind of like the, the last opportunity, the best opportunity we have to partner together, both public and private, to make it work the best that we can in those, in those locations where financially it just doesn't make sense. There's not a business model to do that. And this is a way that we can make-- we can expand, stretch the dollars, if you will, or multiply the dollars, if you will, and grants, because you still-- the provider can still apply for a grant in that area and just work off of that backbone or those-- that, that dark fiber, I believe, is the intent what we're trying to do is just giving those-- making those opportunities available. So as we continue to talk about this, Senator DeBoer and I have talked; Senator Brandt and I have talked. As we continue to work on this, we want to make sure since the amendment was given to, to me literally this morning on the floor, probably about 9:30 this morning. And as we work through this and as we look at it, there's, there's a couple of changes I think are really good to have in here. I think Senator DeBoer has some very good language in here. My language in here on, on cross-subsidization is in, in here. The safe harbor language is in here. The many things are important to us as we-- as we build out in rural Nebraska--

**KELLY:** One minute.

**BOSTELMAN:** --is, is very important to what we're trying to do. And I want to go back to the Rural Broadband Task Force as we work through that. That was a thing that we're trying to do as well, to make sure that we're able to reach every location, every person, every business,

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no matter what, the best we can, with the best services available we can and especially at the best speeds that we can. At a no fooling, we're going to check those locations to make sure that when they connect that location, that connection is providing the service at that location to the box, if you will, at that location that they're required to do. So that home, that business has that opportunity to contract for that service at, at those higher speeds, we make sure that that's at that location for them to have that ability. Because as we know, across rural Nebraska, we're losing--

**KELLY:** That's your time, Senator.

**BOSTELMAN:** Thank you.

**KELLY:** Thank you, Senator Bostelman. Senator Dorn, you're recognized to speak.

**DORN:** Thank you, Mr. Lieutenant Governor. I, I-- the conversation this morning, I call it, is pretty technical, especially when Senator Bosn gets up and talks. But remember a couple years ago when Senator Bostelman brought the bill for the 100 up, 20 down or whatever, and all of the conversation-- I remember sitting here on the floor at that time and going, why do we need that? Why do we need that amount of, I call it, speed? Why, why do we have to get to that area? And, since then I realized that, no, that, that is right. That's correct. We need that minimum amount because we don't need to be out there installing, I call it, something that gives less than that. Where I live today, I'm on a DSL underground, buried line by Windstream; I have 12 up, 3 down or whatever it is. They come out and they test ours and I have 9 and 3. And just so people-- I would consider myself a served, served person. But yet many of these streaming services that we want to do through, I call it, the Wi-Fi or the internet or whatever, we can't connect to because they go in and out and that type of stuff. I think this bill-- I'm so glad that we're having the discussion that this is being brought forward and that we have this, this discussion. It's part of a bigger picture of how we go about as a state of Nebraska. And Senator McKinney was right. But how do we go about as a state of Nebraska, getting this service to as many people or everybody in the best possible way? You find out and found out through the years that I've been here that many of this is really technical. Many of this is, I call it, a private business now, not wanting to do the service and not being able to, I call it, make a profit because of something we have imposed or whatever. So I think that part, that makeup needs to very much be there and how we work through this process so that we can get there. Many people have asked me about dark fiber. What does it

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constitute? Why do we have it? All of those types of questions and now I don't see her. Senator DeBoer was going to answer some questions for me. But basically, the dark fiber, the one question I have and Senator Brandt or Senator DeBoer can answer, answer it later. Today, I understand that when we have this buried line out there or whatever, we have so many fibers out there in that fiber cable. There are so many-- maybe 30 lines, 20, 30 lines now, maybe 3 to 5 are being used and the others are dark. They're not being used. They're going unused. So the thought process behind this is instead of now laying another mile of this out there and costing \$30,000, why not use some of those dark lines in that fiber and, I call it, make the cost of getting everyone broadband, make it cheaper and more effective and also quicker? Quicker I refer to as the fact that how can we get those unserved areas, how can we get them broadband? This might speed some of those areas up by a year to 3 years that now they have that broadband that they need and necessary. One of the things I think people forget about all of this is, I call it, the economic activity, the economic development that our state of Nebraska can have by the state doing everything possible to get broadband to everyone usable, the 100 by 20 broadband--

**KELLY:** One minute.

**DORN:** --that we wanted. Thank you. And how we can get it to them and the economic activity that now that creates. You remember during COVID we heard many schools, especially in western Nebraska, they had to go into town, sit by the library so they could get broadband or Wi-Fi so that they could do their homework and those types of things. This is so critical, so important to many people in the state of Nebraska and the economic activity that it can bring with them-- bring with this done right. And I'm thankful for the discussion on the amendment and how they're trying to work through that. But if we can do this, help speed up people getting broadband, the economic feedback, the economic activity would be so huge for the state of Nebraska. Thank you very much.

**KELLY:** Thank you, Senator Dorn. Senator Moser, you're recognized to speak.

**MOSER:** Thank you, Mr. President. And good morning, colleagues. Good morning, Nebraska. Well, how did we get here? It's a bit of a convoluted discussion in that we've had some amendments come up that haven't been thoroughly absorbed by some of us, and I think we do need some time to, to look at these. The original bill was about utilizing fibers that are already installed for public power purposes to supply

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broadband in places where broadband is currently not available. The, the problem with living way out in western Nebraska or way south Nebraska, north-- anywhere where there's not a lot of population-- there's no business case for running a line a couple of miles at, you know, \$30,000 a mile. And then you need certain termination equipment to connect to the fiber so that you can actually transmit signals on the fiber. The fiber is just the, the pipe that connects it. And that equipment has a finite life, you know, 7, 8, 10 years. You have to replace those hubs and, and connections. So the odds of having high-speed internet by fiber when you're not in a populated area are not good. So that was the impetus behind the bill. And Senator Brandt has been a champion for improving broadband. He lives out in rural Nebraska and he understands the, the need for better connection. And I agree with him. I applaud him for wanting to do it. Senator DeBoer is a techno wonk. She really gets into the details and the, the legal meaning of the phrases and words that we use. And so I appreciate her trying to get some consensus on this so we can move forward. The companies that are in this business for profit don't want the public power companies competing against them when they're using their electrical supply, their electrical system to keep them in business to, to compete with a for-profit company. And so there have to be some protections to protect where the for-profit telecoms and internet providers are doing a good job. So the, the-- there's agreement among the senators as to what our purpose is. The disagreement is in exactly how we implement that. And there's a lot, a lot of money involved in this. And so we want to make sure we get it right. You know, the turn of a phrase, a word or two here or there could make a big difference in how this moves forward. So if you're watching at home, you know, we're trying to work through this. We're probably going to look at it later today if this appears like it'll probably go till noon. And so after our hearing today, we may have a discussion amongst some of the players here to, to try to come to some conclusion. And it would be good if we could work out the details before we come back with the bill so that we don't have to drag all the other senators through all this discussion. It'd be better to have the people who have strong opinions and good knowledge and a lot of work in this--

**KELLY:** One minute.

**MOSER:** --to get their details worked out. And then, then it should be a slam dunk to move it forward at that point. So thank you, Mr. President, and we'll get back to you as we know more.

**KELLY:** Thank you, Senator Moser. Senator Brewer, you're recognized to speak.

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**BREWER:** Thank you, Mr. President. Well, here we are, back and forth on this. It's interesting how, I guess what you'd call more of the country bumpkins: Senator Dorn, myself and, and Senator Brandt are working back and forth to try and get through this. We're using the knowledge of some of the ones that have a legal mind to go through the verbiage, because you can write these bills in a way that the average person reading it really doesn't understand what they're about to vote on, because it's done that way on purpose. And I have learned over my years here that be very careful when you're dealing with public power, because they're very good at hiding what they want to do. So as I've gone over this several times now and have asked for, I guess, what you'd call legal advice, I think there are parts of it that are in question. But I think what Senator Bostelman is trying to do fixes some of these concerns. So there is a, a path ahead. And I think there's a good place to, to where this bill can move forward. But I think we also have to be very careful about how we, we go through that so that we get it right. So with that said, I would like to yield the remainder of my time so that Senator DeBoer could walk us through and help us to understand where we're at with this amendment of hers, AM2471.

**KELLY:** Thank you, Senator Brewer. Senator DeBoer, you have 3 minutes, 20 seconds.

**DeBOER:** Thank you, Senator Brewer. Colleagues, so here we are trying to figure it all out. This is Nebraska. This is how it works. You know, you get a bunch of ideas in the hopper, and you try to figure out how to mesh all the good ones together and get rid of the ones that maybe aren't as good. So that's what we're trying to do today. So where we're at right now is we have Senator Brandt's amendment, which I think has some really good pieces in it. And we have my amendment, which I think reins it in just a little bit. So right now in Nebraska, our dark fiber statute, which allows for leasing of this fiber that is in the ground or on the wires that's already existing, it's a pretty tight statute. It's pretty hard to make use of it. And so we haven't seen very many leases over the years using our current dark fiber statute. Under current law, it's quite difficult to make one of these leases make sense. So what Senator Brandt would like to do is open up the statute and make it more permissive of more types of leases, less regulation, all of these kinds of things. [COUGH] Excuse me. And what I'm saying is he's gone a little bit too much, and we need to pull back just a little bit so that we can make sure that we're targeted in our use of our public fiber to get to those areas which are unserved or underserved. So all we're simply doing-- what we're doing now with Senator Brandt is an argument of refining it. These refinements are

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very important. But in the basic principle, Senator Brandt and I agree that we want to get service out to the entire state of Nebraska. This is the, the part of lawmaking that when you first come in, it's kind of surprising to see that you agree exactly on the principle. It's how to get to that principle that becomes a little bit more tricky. They say the devil's in the details and--

**KELLY:** One minute.

**DeBOER:** --we have an example of that today. So what we're doing is we're opening up our statute. But the question is in what way are we opening up so that we can allow more of these leases, which everybody says that's where we're at? We want to do more of these leases. We want to make it easier to make one of these leases work. We want to use more of that dark fiber. The question is how, how many circumstances should it apply to? And my AM2471 says that we should apply it in a lot of circumstances, but those that allow service to unserved and underserved areas, because we're trying to make sure that those areas of the state have a shot at getting served. We want to make sure that even though there's no business case, right, because you can't make money off of serving these 5 people in rural Nebraska--

**KELLY:** That's your time.

**DeBOER:** Thank you, Mr. President.

**KELLY:** Thank you, Senator DeBoer. Speaker Arch, you're recognized to speak.

**ARCH:** Thank you, Mr. President. I've obviously been listening carefully and talking to a lot of you about, about this particular bill and the amendments now that are in front of us and the amendments that are filed yet to come. I, I guess I get lost a little bit in the technical aspects of this bill. I don't understand all of the-- all of the technical side of this. So I have got a-- I-- I'd like to dialogue just a little bit with Senator DeBoer if she is willing to respond to a question.

**KELLY:** Senator DeBoer, will you respond to some questions?

**DeBOER:** Absolutely.

**ARCH:** Senator DeBoer, you have helped me and attempted to help me understand this a little bit better. I have a-- I have a very basic question, which really applies to every bill that comes to the floor

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here. And that is setting aside the language of how you do it, what are you trying to accomplish with this amendment?

**DeBOER:** Yeah. Thank you for the question. I think that's very helpful. So, as you know, Senator Brandt's bill is trying to say that this statute around how we use this public fiber, this dark fiber, is, it's really too strict to make it practicable to use. So what his bill is doing is saying, let's open that up. And what I'm saying is, let's put some guardrails on that open so that it's not just open season. So that when we are opening up that statute and allowing more of these leases, that we're not just saying any lease anywhere, any reason, anyhow, we're saying that those leases need to be those leases that are leasing the, the fiber that's going to go to those places that are unserved or underserved. Now Senator Bostelman has said, let's just call it for, for simplicity's sake, let's just call it all unserved, because the, the result of underserved or underserved is the same. So we're trying to be a little bit simpler and say anything under 100 by 20, unserved. Let's open our statute up all the way for those areas. And let's allow this fiber that's in the ground to be used by whoever wants to come to use it to serve those areas. That's what-- so my amendment says, anybody who wants to come and serve in those underserved or unserved areas. Without my amendment, it would just be anybody who wants to serve in served areas. And so this is-- that's the distinction.

**ARCH:** So I have a follow-up question.

**DeBOER:** Yeah.

**ARCH:** This definition of unserved, do we have-- by that definition-- what, 100/20? By that definition, are there unserved areas in our metropolitan areas that would qualify for this?

**DeBOER:** You know, that is a fantastic question because I've never been able to, myself, get to the bottom of that. I have heard that there are and I haven't looked at a map. I should have, I'm assuming. So someone wanted to bring me an amendment, and at this point, I can't even remember who, that would say that no one can lease at all in our metropolitan areas or the primary class cities, which would be Lincoln. And I said no, because if there's an unserved area in Lincoln or if there's an unserved area in the Omaha metro, they should have just as much access as anybody else. They should have just as many bites of the apple as anyone else. So the answer is, I don't know. But if there is, my amendment says they have just as much opportunity as anyone else.

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**ARCH:** Is the-- is the 100 and 20 a different definition of unserved than that you would find in, in federal regulations?

**DeBOER:** No, pretty much everyone is going to this 100 by 20. So sometimes symmetrical speeds are harder to get for some types of technology. That's why we did--

**KELLY:** One minute.

**DeBOER:** --100 by 20 instead of 100 by 100. 100 by 100 is pretty much your, your fiber optic. There are some other technologies which are still very good that do the 100 by 20. So that's why that definition. Now there's some messing around with underserved is under 100. And if you get below 25/3, that's really underserved and we call it unserved. And I think Bostelman has rightly pointed out, look, if it's under 100 by 20, at this point, it's unserved. We're not going to mess around with saying, well, it's a little bit unserved or it's a lot unserved. It's just unserved. Anything below 100 by 20 is unacceptable.

**ARCH:** So it sounds like there's a strong willingness on the part of the senators here to support certainly where there is no broadband or where there is inadequate broadband. I think that there's-- that's a-- that's I hear that's a pretty general consensus. So now we're talking about where are those pockets perhaps in a metropolitan area. Should there be any of that? So I, I appreciate your--

**KELLY:** That's your time, Senators.

**ARCH:** I appreciate your answers. Thank you.

**KELLY:** Thank you, Senators Arch and DeBoer. Senator John Cavanaugh, you're recognized to speak.

**J. CAVANAUGH:** Thank you, Mr. President. Well, happy Mardi Gras to everybody. I don't know if anybody's said that yet. I apologize if you have, but I always think of the saying was that let the good times roll. I've been saying that a lot this session because I just feel like things are going OK so far. So let's just let the good feelings continue. So I don't know where I'm at on this amendment. I generally support the principle of the bill, and I've been listening. I'm not on the Telecommunications Transportation Committee. So it's a lot of terminology here I have to learn. I do appreciate all of the folks who are on that committee engaging passionately and substantively in a debate about a complicated issue that some of us still need to learn about. You know, this AM2471 I know is a, a nuanced and complicated proposal. And so I think we need some time to digest and ask some

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questions. And I've been talking to people off the microphone as well to try and understand some of these things; have been looking at a few maps that have been provided to me by others. Senator Bostelman pointed out that we might have better maps than the feds, and I do have concerns when we're talking about what is underserved or unserved, as Senator DeBoer just said, what we're characterizing as unserved and how you define that. And if in that definition you set a geographic boundary that then potentially captures some people who are effectively still unserved, if they are living in close proximity to people who are classified as served. So I'm still trying to understand some of those nuances and appreciate everybody talking about it. I do share Senator McKinney's concerns about our characterization of served as being limited to a definition of just amount of data per second upload and download, and that we should perhaps take into consideration a cost consideration, because there is-- you can be effectively unserved if you can't afford to get-- to pay for the service, the only service that's available to you. And I, I do recognize the concerns of the telecommunications companies. They have a large amount of sunk costs. It's expensive to get out and serve folks. It's too expensive to get out to Senator Bostelman's house. And I, of course, am probab-- very invested in making sure that Senator Bostelman gets service because he doesn't get to watch the streaming shows about Star Wars. And I would like to talk to him about those. So I think it's important that we make sure that he gets covered at some point. But I will continue listening. I know that we're getting close to the end of the day here. I imagine that there will be continued conversations and perhaps some compromises by folks between now and when this gets taken up again. But this is a really interesting conversation and I'm learning a lot. I've got a lot more to learn about telecommunication regulation. And I'm-- continue to be appreciative of the folks who serve on the Telecommunications Committee who take up these issues all the time. And I would-- I guess if Senator DeBoer wanted my time, I could yield her the remainder of my time. I don't know if that-- if she does, but I would yield her the remainder of my time. Thank you, Mr. President.

**KELLY:** Thank you, Senator Cavanaugh. Senator DeBoer, you're yielded one minute from Senator Cavanaugh.

**DeBOER:** Senator Cavanaugh, thank you for the time. I must admit, I have no idea if you asked me any questions prior to-- OK. He says he didn't. Good, because I would not have been able to answer them as I was talking to someone else on the microphone. So Senator Arch asked me a question as we were going off the microphone, and I wanted to finish answering it because I think he didn't quite characterize it

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right. But I don't see him. I was going to ask him what that question was because I forgot it. But essentially what we're talking about with my amendment, he asked me why, why we want to do it. And that is that we want to put some guardrails on in order to make sure that we're getting to the unserved and underserved folks with these assets that we have. So we want to help out those, those folks who are trying to get to the unserved and underserved locations. There isn't a great business case to go serve 5 people in the Sandhills. It is so expensive to put in fiber that if you have to do it yourself, if you put your own company's money-- and these are ma and pa companies. These are not giant companies that are serving--

**KELLY:** That's your time, Senator.

**DeBOER:** Is that my time?

**KELLY:** That's your time, yes. Thank you, Senator DeBoer. Senator Dorn, you're recognized to speak, and this is your third time on the amendment.

**DORN:** OK. Thank, thank you very much, Lieutenant Governor. Thank you for being third time. In a little bit, we're going to have-- ask Senator DeBoer a question again, I really think the comments or the questions Speaker Arch had and stuff, it explains some more in detail. And I guess will Senator DeBoer yield to a question?

**KELLY:** Senator DeBoer, would you yield to a question?

**DeBOER:** I feel like the prettiest girl at the prom today. Yes, I will.

**DORN:** Thank you. Thank you very much. I, I guess my question is we, we talk about the dark fiber all the time. And we, we understand today I guess-- I don't know where the maps are at, but, you know, the lines are laid there and not all of them are in use and all of that. What does this do or what criteria in this bill are we trying to-- or in the amendment, I call it, basically what we're doing also is determining for future. Why would some company come in and lay some fiber somewhere they know it's going to be dark and then does this require them or does this mandate now that they have 20% of it or 40% of it available, that they now allow another one? Or can, can you explain that? What about, I call it, future use or future, future laying of the dark fiber or the telephone-- on the telephone poles or whatever? What constitutes some company now wanting to do that even? Because, you know, now there's this out there and they go, well, if we do that, we're going to just open it up to somebody else.

**DeBOER:** Thank you, Senator Dorn, for the question. So I think maybe there might be a slight misunderstanding there. So it's not companies building dark fiber. This is-- this is the public utilities who have to build fiber to connect their stations, to connect different parts of their own grid. So they connect these parts of their grid by laying fiber, which they need to get quickly enough between the two places. But they don't need to-- when you put fiber in the ground or you hang it on the wires, you don't just put 1 strand, 2 strands. You put a whole bunch of strands all at once in one big cable. Right? So these-- I don't know how big they are, but they're pretty big and there's lots of fiber in there. They don't need all that capacity in the-- in the utilities that they build out. So what the excess is, is unlighted because it-- fiber optics work-- it's optical. Right? It's a-- it's light. So we call it dark because it means it's not lit. So that is underutilized fiber that's available in those areas. So there are projects that are going to be happening for the public power where they will build new fiber. So there might be some future dark fiber as well as what's already in the ground. In fact, in a lot of cases, they are building more fiber in the ground. So dark fiber is simply referring to those underutilized fibers that are being put in there by the, the utilities.

**DORN:** Thank you. I guess that brings another question when you talk about the public utilities then. So this is specific criteria for them. This isn't, I call it, a for-profit company now goes and lays 20 miles out there. This does not, I call it, require them now to do anything. Or if they have in that 20 miles they still have dark fiber, it doesn't require them to open that up to another company for profit.

**DeBOER:** No, no, no. The basic premise of the dark fiber concept is that this underutilized public utility fiber that is not all being used up, that those public entities could enter into leases with private companies to just borrow that fiber space, that capability. And if I am a private-- and in fact, this is true in Nebraska, we have many what we call middle-mile backbones of--

**KELLY:** One minute.

**DeBOER:** --fiber that are already in the ground. And those folks who provide that service have risked their own, you know, money and everything to build that. And they have done a good job and helped us get our fiber out by doing that. And those folks are not affected because they are not part of that public utility, that public fiber.

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**DORN:** OK. So you're going to ask this question-- answer this sometime in the future because we're about out of time. So then the-- because we are a public, I call it, public utility state or whatever, public electric and that type of thing, this only refers to those type of entities and not to a for-profit company?

**DeBOER:** Correct. The dark fiber statute that we're talking about here is in what circumstances can these public entities lease their fiber to private companies?

**DORN:** And we're trying to open that up and make that more accessible to get broadband out to some of those unserved--

**KELLY:** That's your time.

**DORN:** --10/20 areas. Thank you very much.

**KELLY:** Thank you, Senator Dorn and Senator DeBoer. Senator Erdman, you're recognized to speak.

**ERDMAN:** Thank you, Mr. President. Good morning again. So the discussion continues. It appears what we're doing this morning is I shouldn't say wasting time, but we're holding off on voting on this until the amendments that Senator Bostelman has put in place can come about, and that'll probably be tomorrow or Thursday. So I have some breaking news for you. I received this last night. Someone sent this to me. Florida has a proposal to rescind all their property tax. Florida has introduced a bill to eliminate their property tax. Imagine that. Imagine that another state is thinking about doing something very similar to what we're trying to do. So in Tallahassee, Florida, that's the capital of Florida, a bill would be set out to eliminate property taxes based on the study and potential impacts of doing so by the Office of Policy and Analysis by Government Accountability. HB1371 is the bill, would require the Office of Policy Analysis and Government Accountability to study the potential impact of eliminating property tax in Florida and replacing lost revenue through the establishment of, guess what, a consumption tax. OK. So the Ways and Means House Committee Republican Ryan Chamberlin from Ocala, Florida, sponsored the bill. A companion bill has not yet been introduced in the Senate. So Florida becomes another state with North Dakota and Wyoming and Nebraska that are trying to eliminate property tax. Now, Florida has a leg up on us. They don't have income tax nor do they have inheritance tax. And so when we are trying to fix a broken tax system in the method that we're using this year and we state that the consumption tax will force people to go across the border to buy

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things, they call that border bleed, I can tell you right now our current system, what it does, it's permanent border bleed. Because when they go across the state line, they don't come back. And so this proposal that's coming out of the Revenue Committee is going to be one where it is regressive for low-income people, for people who buy used things, we're going to raise the rate to 6.5%. It's very regressive on low-income people who will be paying the brunt of the increase on the 1 cent increase in sales tax. And so when we began this concept of a consumption tax, Art Laffer told me we would have numerous agencies and groups in opposition. He did not indicate to me that it would be this organized and this significant. The opposition is now seeking to receive-- ask for \$5,000 from organizations and agencies to help fight against the consumption tax. I sent an email to Laffer a couple 3 weeks ago and told him about the situation we're in. And he said, welcome to the good fight. That's what happens when you try to change the tax system that those who are in power use to pick winners and losers. And so those of you who are watching today understand that you are the losers, because what we do in this body is we're going to make adjustments to our current 1,271-page tax code. We'll add other pages to that code this year, and it won't mean anything significant to you in the taxes you pay. I did a presentation a couple weeks ago and I asked the audience, did your property tax go down? And about 5 out of the 50 raised their hand and said, yes.

**KELLY:** One minute.

**ERDMAN:** And I said, did they go down to a level that is acceptable? And they said, no. So we passed LB1107 a couple years ago to help with property tax. And it has reduced in some cases, some people's taxes. But the point is, they've never been reduced to where you can afford to pay them. And so when you hear the phrase "property tax relief," what you need to understand it's going to be a reduction-- a decrease in the increase. That's exactly what it's going to be. So there I've almost taken 5 minutes, Bruce, that maybe help you, Senator Bostelman, get to 12:00. Thank you.

**KELLY:** Thank you, Senator Erdman. Senator Lowe, you're recognized to speak.

**LOWE:** Thank you, Lieutenant Governor. Currently, state statute 86-575 authorizes political subdivisions to lease fiber under a seldom-used Public Service Commission process. The cumbersome process established in this statute has only been used a few times in more than 20 years since the original statute went into effect in 2001. The fiber leasing statutes draw a delineation between leasing fiber in served or

unserved locations. Unlike other areas in the statutes that define broadband service as 100 by 20 mps-- Mbps or 100 by 100 Mbps service, broadband service is defined in these statutes as 25 by 3 Mbps. If an entity can receive service of 25 by 3 Mbps, they are deemed to be served with broadband. The statute includes a challenge process where a broadband provider can distribute-- dispute whether or not a location is served by 25 by 3 service, and the PSC can make a determination if a location is served. The challenge process within the PSC has been a contentious issue and can be abused and cause the delay of broadband produ--projects. The accuracy of Federal Communications Commi-- Communication Commission's data and the broadband maps, as well as questions about defining what constitutes a served area have all been points of debate. This is from the NREA, Nebraska Rural Electric Association. The current statute calls for the PCS [SIC] to establish a safe harbor lease rate based on a market rate. If a lease rate between political subdivisions and internet provider falls within this established rate, the lease should be deemed approved by PSC. In areas where fiber is being leased at served locations, a political subdivision is required to remit 50% of any profits they make off the lease to the Nebraska Universal Service Fund. What does LB61 and AM2296 not do? LB61 and AM2296 do not put public power in the broadband business. They simply follow political subdivisions to establish an agreement to lease fiber with broadband provider. If the lease rate falls within the safe harbor rate established by the PSC, the lease is deemed approved. It does not authorize public power to provide retail broadband service. AM2296 also provides protections to ensure that electric ratepayer dollars are not used to subsidize broadband service. LB61 opens up the possibility of more public-private partnerships. Both public power utilities and private internet providers see a need to deploy fiber to better serve their customers. The high cost to serve rural areas of the state can make it difficult to find a business case where companies can justify building in these areas. Removing this restrictions in the current statute could allow for more partnerships, saving all parties money and more efficiently utilizing deployed fiber. The dark fiber statutes--

**KELLY:** One minute.

**LOWE:** Thank you, Lieutenant Governor. The dark fiber statutes have been long viewed as a hindrance to leasing of fiber. AM2296 moves the statutes out of the way and lets 2 companies sit down together and decide if they can come to terms on fiber lease agreement. As long as the leased-- I have a mouse at my desk, a very big mouse. As long as the agreed upon leased rate falls between the established safe harbor

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rate, the lease will be deemed approved. The bill and the amendment simply let public power lease fiber to an internet provider without a contentious PSC challenge process, trying to determine who is served and not served. Thank you.

**KELLY:** Thank you, Senator Lowe. Senator Clements, you're recognized to speak.

**CLEMENTS:** Thank you, Mr. President. I have also had an interest in the internet services out in the rural areas. I do have a lake house that's been provided by wireless, not fiber, wireless internet service. But before I talk about that, I want to correct something I said yesterday regarding Senator McDonnell's bill, LB644, regarding the site development projects. And I had said that there's already no money in the Cash Reserve. Well, that was incorrect. There is \$850-- \$850 million unspent in the Cash Reserve currently. There, though, there also is 924 million additional dollars in there that are-- so there is actually \$1,774,000,000 in the Cash Reserve earning interest. That's why the interest is going so fast. But the \$924 million earning interest is because we have not transferred \$574 million over to the Perkins Canal Fund. We have not transferred \$100 million-- still has \$100 million that needs to be transferred to the new prison and \$250 million for the east Omaha-- north and south Omaha. Especially I know Senator Wayne would like to get that money moved over to the economic development plan fund that it would be earning interest for north Omaha and south Omaha. Right now, the interest on the Cash Reserve just goes to our General Fund and not to the Perkins Canal or the new prison or to north and south Omaha. So those monies have not been transferred, but we have already taken what I would call, we've deducted it from our checkbook as if they're spent. And we do have \$850 million still in Cash Reserve. Now I want to go back to internet service. I had a bill yesterday regarding internet service, but it was a wireless internet service. I've had a problem in my county near the village of South Bend. There's been a company that's been beaming wireless internet service to the rural area there off of a temporary pole. Well, they had a temporary permit. They wanted to put in a permanent pole, but the county was wanting to charge \$3,000 application fee and \$8,500 escrow fee for, for engineering consultants so \$11,500 plus the cost of the pole, which is another \$16,000, I think they said. And right now they only have 32 subscribers and they can't spend \$30,000 to charge people \$40 a month. And so my bill would reduce the amount of fees that an entity like that could charge. And Senator Bostelman is more of an expert on wireless internet and pole attachment. Would he yield to a question?

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**KELLY:** Senator Bostelman, would you yield to a question?

**BOSTELMAN:** Yes, I will.

**CLEMENTS:** Senator Bostelman, you've told me that you've been working for quite a while on the cost of people wanting to attach something to a pole or--

**KELLY:** One minute.

**CLEMENTS:** --utility pole. Could you tell me what the problem has been there?

**BOSTELMAN:** Well, the problem that we have-- and Senator DeBoer has worked on this also for years-- we-- this has been something been in committee a number of times, as we have-- seems to be we have one contractor out there that everybody contracts with, which takes a long time, charges a lot of money, and it really makes it cost-prohibitive in some instances. In your specific, it's one pole. It's a standalone pole, wooden pole that now it's, what, \$11,000 or something you got to come up with to--

**CLEMENTS:** Yes.

**BOSTELMAN:** --to take-- to put a pole in the ground, to put-- to put their wireless repeater I guess it is in order to move the, the broadband service into your lake community.

**CLEMENTS:** Just for the permits. That was the permits, not the pole cost. Yes.

**BOSTELMAN:** All right. And the, and the problem has been over time, as what we've seen in committee, is the cost of this is coming in, the time it takes this one contractor to do the work for every city, every county, everybody in the state.

**KELLY:** That's your time, Senator.

**CLEMENTS:** Thank you, Mr. President.

**KELLY:** Thank you, Senators Bostelman and Clements. Senator Arch, you're recognized to speak.

**ARCH:** Thank you, Mr. President. I wanted to continue my discussion with Senator DeBoer and where we left off. I think I was-- I think I was making the statement that there seems to be a general consensus

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that, that doing something like this could be very beneficial to those areas that don't have broadband capacity, don't have that capability. And so there are obviously other questions that are in your amendment that you attempt to answer. So if Senator DeBoer would yield to a question.

**KELLY:** Senator DeBoer, would you yield to some questions?

**DeBOER:** Yes.

**ARCH:** So, Senator DeBoer, you introduced a white copy amendment, which, which took Senator Brandt's amendment, folded in, changed some things, all of that. You, you are obviously in support from what I see in, in expanding broadband capacity and capabilities. What is-- there's going to be a-- there's going to be a number of conversations over the next day or so. And, and what-- what's yet to be resolved in, in your-- on your list?

**DeBOER:** So I think my amendment resolves an issue that Senator Brandt's amendment does not. And that issue is that we want to get to the unserved and underserved. We talked about that quite a lot. But it also-- so this was the example I was trying to make with the lawn out front. There are a lot of folks in this state who have been good actors, and oftentimes it's the smallest companies that have put broadband out in areas that it's-- there's not a great return on their investment. There's some. And the, the concern for those companies is if we have someone who comes in and uses a public utility to now prop up a business where they don't have to take the risk to put that fiber in themselves, and then they can come and serve our same 10 customers, how is that fair to them? So the concern is that we don't want this, this fiber that is public fiber being used to compete against these folks who have served areas, who have gone out, who have risked their own capital to build a line, and now they don't want someone else to come out and say, we're going to use a public resource to compete against you in the areas that you're making a profit off of, and then these areas where it's not profitable that they've done, maybe they won't go. Right? The idea is they probably will go to the most dense areas. So the reason for my unserved/underserved piece is because we would like those to be propped up by this public asset, which is this fiber that's in the ground or hanging. So we want to be able to allow the asset that is public to support getting out to those difficult to get to areas, but not to be used to make it easier for someone who hasn't, hasn't spent the money to put in a fiber backbone to compete against someone who has. That that's a kind of unfair competition against someone who has put their asset in the ground to try to

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provide service in these areas where maybe the margins are pretty thin. So--

**ARCH:** So I have a follow-up question.

**DeBOER:** Yep.

**ARCH:** So then-- so then the definition that we talked about last time on unserved I believe was this 100/20. Do we have-- do we have areas of the state where a provider or an internet provider has gone in but isn't meeting that higher standard?

**DeBOER:** What an excellent question. I'm sorry I haven't talked about this before. We do. It's the old copper network that Senator Bostelman would--

**KELLY:** One minute.

**DeBOER:** --would talk to you a lot about. And that service that is being provided on these old copper networks is just not adequate. So we consider those areas unserved. They have to have something better than the old copper network. And we as a state, a couple of years ago, I think you were in the body too, because I was, made the decision that those old copper networks were not going to support them, as being sort of the place to, to serve internet because they just are incapable. The technology is not capable of the speeds that you need to have minimum today.

**ARCH:** So what I'm hearing you say then is just because somebody has done something in that area, if it isn't the 100-- if it isn't better than the 100/20, then then, then there would be capability of doing something else. They're not being frozen. The people aren't going to get frozen out just because somebody has done something in that area. They, they have to meet a minimum standard.

**DeBOER:** Absolutely. We have decided as this body, as a state--

**KELLY:** That's your time, Senators.

**ARCH:** Thank you, Senator DeBoer.

**KELLY:** Thank you, Senator Arch and Senator DeBoer. Mr. Clerk.

**CLERK:** Mr. President, some items. New A bill: LB992A from Senator Dungan. It's a bill for an act relating to appropriations; amend Laws 2023, LB814, Section 203; to decrease appropriations to aid in the

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carrying out of the provisions of LB992; and repeal the original section. Your Committee on Business and Labor, chaired by Senator Riepe, reports LB1170 and LB993 to General File; LB993 having committee amendments. Additionally, your Committee on Health and Human Services, chaired by Senator Hansen, reports LB905, LB1035, LB1143, LB1214 and LB1087 to General File; LB1087 having committee amendments. Amendments to be printed: Senator Arch to LB307 and LB1321; Senator Clements to LB857; Senator Walz, LB358; Senator Aguilar, LB909; Senator Bostelman, LB61. Notice of committee hearings from the Education, Health and Human Services Committee. Notice that the General Affairs Committee has selected LB1204 as a committee priority bill for the session; General Affairs, LB1204 committee priority. Senator Hughes has, has designated LB1035 as her personal priority for the session; Senator Hughes, LB1035 personal priority. The State-Tribal Relations Committee has selected LB1288 as the committee priority for the session; State-Tribal Relations, LB1288 committee priority. Name adds: Senator Vargas to LB947; Senator John Cavanaugh, LB1050; and Senator Hughes, LB1373. Notice the Transportation Telecommunications Committee will hold an Executive Session of the committee following completion of scheduled hearings this afternoon in 1202; Transportation Exec Session after the hearing, 1202. Judiciary will have an Executive Session at 1:00 in Room 2022; Judiciary 1:00 Exec Session, 2022. The Agriculture Committee will have an Executive Session upon the completion of their hearing this afternoon; Ag Committee Exec Session after the hearing. Mr. President, finally a priority motion. Senator Albrecht would move to adjourn the body until Wednesday, February 14, 2024, at 9:00 a.m.

**KELLY:** Members, you've heard the motion to adjourn. All those in favor say aye. All those opposed say nay. We are adjourned.