

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications February 7, 2023

**GEIST:** Good morning and welcome to the Transportation and Telecommunications Committee. My name is Senator Suzanne Geist. I represent the 25th District in South Lincoln and Lancaster County, and I serve as Chair of the Transportation and Telecommunications Committee. We will start off having members of the committee and the committee staff do self-introductions, starting on my right with Senator Fredrickson.

**FREDRICKSON:** Thank you, Chair Geist. Good morning. I'm John Fredrickson. I represent District 20, which is in central west Omaha.

**DeBOER:** Good morning, everyone. My name is Wendy DeBoer. I represent District 10, which is in northwest Omaha.

**MOSER:** Mike Moser. I represent District 22. It's Platte County and most of Stanton County.

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

**DeKAY:** Barry DeKay, District 40, represent Holt, Knox, Cedar, Antelope, northern part of Pierce, and most of Dixon County.

**GEIST:** To my right is our committee counsel Mike Hybl, and to my left is our committee clerk Caroline Nebel. Sorry. Mental break. Sorry, Caroline. Also assisting our committee are our pages: Kaitlyn, from UNL, who is a history major; and Mataya, from UNL, who is a political science major. Where is she?

\_\_\_\_\_ : She was right here.

**GEIST:** OK. She'll be back. This morning we'll be hearing a confirmation and a bill, and we'll be taking them off in the order listed outside the room. On the table near the entrance of the room, you will find the blue testifier sheets. If you're planning to testify today, please fill one out and hand it to the pages when you come up. This will help us keep an accurate record of the hearing. If you do not wish to testify but would like to record your presence at the hearing, please fill out the gold sheet on the table near the entrance. Also, I would like to note the Legislature's policy that all letters for the record be received by the committee by noon the day prior to the hearing. Any handouts submitted by the testifiers would also be included as part of the record as exhibits. We would ask, if you have any handouts, you please bring ten copies and give them to the pages. If you need additional copies, the pages will be able to

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provide those for you. Understand that senators may come and go during our hearings. This is common and required as they may be presenting bills in other committees. Today, testimony for each bill will begin with the introducer's opening statement. After the opening statement, we will hear from any supporters of the bill, and then those in opposition, followed by those speaking in a neutral capacity. The introducer of the bill will then be given the opportunity to make closing statements if they wish. We ask that you begin your testimony by giving us your first and last name and spelling your name for the record. We will be using a five-minute light system. When you begin your testimony, the light will be green on the table. The yellow light is your one-minute warning, and then the red light, when it comes on, we ask that you wrap up your final thoughts. I would like to remind everyone, including senators, to please turn off your cell phones or put them on vibrate. And with that, we will begin with our appointment, Kirk Langer. Good morning.

**KIRK LANGER:** Morning.

**GEIST:** Good morning.

**KIRK LANGER:** Good morning. My name is Kurt Langer. I am the-- currently serve as the chief technology officer for Lincoln Public Schools, which, of course, is the second largest district in the state, serving about 42,000 students these days. I have served on the NITC technical panel since May of 2002. Time is relentless in its passing, and I had to actually ask the legal counsel for the NITC, Rick Becker-- I couldn't find emails going back that far-- to find out exactly when I started, and I couldn't actually remember, and he said, you started then.

**GEIST:** Mr. Langer, would you mind spelling your name for us, please?

**KIRK LANGER:** Yes, I'm sorry.

**GEIST:** No problem.

**KIRK LANGER:** My name is Kirk, K-i-r-k, and my last name is Langer, L-a-n-g-e-r.

**GEIST:** Thank you.

**KIRK LANGER:** So, yeah, so my-- my memory did not necessarily recall exactly when it started, but when I did, I became acquainted with Walter Weir, who was the CIO for the University of Nebraska System, and Brenda Decker, who is the CIO for the state, in the years that

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came; and in working with them over over several years, and then as each of them have gone in retirement, working with the current CIO, Ed Toner, and working with Mark Askren at the university, and now Bret Blackman, it's been-- it's been 20-plus years that have been interesting in all that I've learned about the work that's done by the Nebraska Information Technology Commission, its technical panel, its Ed-- it's Ed Council, and other-- and other pieces and parts of it. So with that in mind, I would just want to make a call out to some of those people I've worked so closely with and the opportunities I've had. I have served as the NITC technical panel chair since 2018, so, again, time is relentless in its passing. And so in-- in the number of years I've been doing that, it's been a-- it's-- that's been a different opportunity, to be sure. Walter Weir encouraged me to-- to accept-- accept his nomination as he left. I was a bit naive enough after all those years to think that I could step into his shoes. And the truth of the matter is, I've spent the last several years trying to figure out how he did as much as he did. He was truly a wonderful public servant to the state, and I consider myself privileged to have been somebody he-- he was willing to mentor. So that gives you a brief history of my time with-- with the NITC, and I would be happy to field any questions you might have.

**GEIST:** Thank you. Are there any questions from the committee? I see none. Thank you very much.

**KIRK LANGER:** Thank you.

**GEIST:** Are there any--

**BOSTELMAN:** Suzanne--

**GEIST:** Oh, I'm sorry. I'm sorry. I didn't see you, Bruce. Senator Bostelman.

**BOSTELMAN:** Thanks, Chairwoman Geist. I was just going to ask you some general questions on-- have you set on-- I see August is when you were appointed, so then have you sat into some of the meetings already, and-- and what's your thoughts on those meetings?

**KIRK LANGER:** Yeah, so I've sat in on a-- on a single-- on a single meeting of commissioners. That was my first opportunity to become acquainted with-- with Senator Geist. And I would say that the proceedings were approximately what I would have expected, given that as the NITC technical panel chair, I would give reports routinely to the-- to the commissioners. So it's important work that's being done.

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It's happening both at the-- at the-- sort of at the committee level in the technical panel and in-- in the Ed Council. But then with the commissioners coming together, it's an opportunity to take action on those things have been brought forth by those respective groups.

**BOSTELMAN:** How many times do you-- do they meet?

**GEIST:** Like--

**KIRK LANGER:** I would probably defer to Senator Geist. I couldn't tell you the exact number of times, to be honest with you.

**BOSTELMAN:** That's fine.

**KIRK LANGER:** I-- I-- I acc-- whatever the number was, I-- I accepted willingly to-- to serve in that capacity.

**BOSTELMAN:** Understand. OK. Thank you.

**GEIST:** I believe it's once a quarter. I--

**KIRK LANGER:** Sounds right.

**GEIST:** Yeah.

**KIRK LANGER:** Sounds right.

**GEIST:** Yeah. I know I attended, as well, when they gave me the-- they would give the request and you show up, but I-- I believe it's once a quarter.

**KIRK LANGER:** Yeah, we-- our-- our first meeting was over at over at Nebraska Public Media building. And Senator Geist and I both did some dodging about trying to figure out how to get in there, as they were doing construction at the time. The most obvious path in was not the-- was not the one that we--

**GEIST:** Was not the correct path in.

**KIRK LANGER:** --was not the one, was not the correct path, so that might in some ways describe a lot of what-- all of our lives, we-- we do in all of our lives.

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

**KIRK LANGER:** Thank you.

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**GEIST:** Are there any proponents for this appointment? Anyone who wishes to oppose this appointment? Anyone neutral? Seeing none, that will close the hearing on the appointment of Kirk Langer. Thank you. And with that, we will open on LB683.

**MIKE HYBL:** Good morning.

**GEIST:** Good morning.

**MIKE HYBL:** Chairman Geist, members of committee, my name is Mike Hybl; it's M-i-k-e H-y-b-l. I'm committee legal counsel and I am introducing LB683 on behalf of the committee. LB683 would propose four main changes to the broadband program administration for the state. First, it establishes the State Broadband Office. That office will be overseen by a Director of Broadband, individual who's appointed by the Governor, confirmed by the Legislature. The office is to be housed in the Department of Transportation, Administrative and budget decisions for the office shall be made by the Director of Broadband. The office provides a-- will provide outreach, collaboration with interested parties, develop state strategic broadband plan, coordinate state agencies on policy ma-- matters affecting the use of state and federal funding for broadband, ensure funding is used in a cost-effective manner, and it provides state advocacy for broadband issues on a federal level. Second, the bill transfers the responsibility for the State Broadband Map to the State Broadband Office from the Public Service Commission. Third change is it strikes a reference that the State Broadband Coordinator is to be funded from the Rural Broadband Task Force Fund. The bill also strikes language as currently contained in the Broadband Bridge Act that any federal funds received shall be in addition to State General Funds, and that federal funds may not be used as a substitute for General Funds. Bill also does contain an emergency clause. I do have some handouts for you. First is an amendment that-- that-- that I'm offering to you. It's AM217 and on page 5 of the bill, line 30, it would-- it would strike the word "received" and substitute the words "designated by the Governor. "Currently, the statute provides the Broadband Bridge Fund shall consist of money appropriated by the Legislature and federal funds received-- shall consist of money appropriated by the Legislature and federal funds received for broadband enhancement purposes. The effect of this change is the State Bridge Act-- Fund shall consist of state-appropriated dollars and any federal funding that has been designated by the Governor to be administered pursuant to the Broadband Bridge Act. I have another-- also another amendment, AM246. This is an amendment that was prepared by the Department of Transportation and they will be following me and can get into the

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details of that amend-- amendment. And then the last thing I have for you is that last week, when I was just sending you out the summaries for this week's hearings, I forgot to include a copy of the Governor's Executive Order that was issued that is creating the State Broadband Office through the Executive Order. This bill is kind of a follow-on to that to provide some additional details to-- to that Executive Order. With that, Senator Geist, that would conclude my introduction.

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

**DeBOER:** Thank you. I was wondering if you could just explain again this designated-from-the-Governor piece that is the amendment that you just handed out that I don't even know if I have my hands on yet, but-- AM217, there we go. Will that have the effect of allowing the PSC to hand out in the Broadband Bridge Program any monies that the Governor does not designate, or what is the effect of that language?

**MIKE HYBL:** I think the intent of the amendment is, as I understand the entire scheme, and hopefully there will be testimony from the administration that-- that'll cover anything I miss, is that the intent is that the Broadband Office that has been established will be responsible for the BEAD program--

**DeBOER:** OK.

**MIKE HYBL:** --and that it will administer those grants, take over the mapping, that type of activity. The intent of-- and [INAUDIBLE] that the [INAUDIBLE] commission continue to administer the Bridge Program and Capital Projects fund, that that is currently in process, that the applications are due in the next week or ten days toward-- towards the end of the month, that we're already in process with the Capital Projects Fund. The current statute reads that the commission will administer any federal broadband funding, so the point of that amendment is to make it clear that the Governor can take any of these federal funding sources and if-- and designate where he wants them to go, whether it's through the Bridge Program or through the-- the Broadband Office.

**DeBOER:** And that would be any future-- we have the BEAD, let's say there's a CEAD program.

**MIKE HYBL:** If there's BEAD-2 or what-- whatever else [INAUDIBLE] federal government.

**DeBOER:** OK. OK, BEAD-2 makes more sense than mine. So if BEAD-2 comes about, the Governor gets to designate how that's divided out. OK.

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**MIKE HYBL:** That would be the intent of the amendments.

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

**GEIST:** Any other que-- yes, Senator DeKay.

**DeKAY:** If this office was created, the Rural Broadband Office, and go through a confirmation for a Director through the Governor, would that office and director, would they report directly to the Governor or would they have to go through the DOT? How's that process going to work going forward?

**MIKE HYBL:** The bill as introduced, as the-- the Director of Broadband is-- is appointed by the Governor, serves at the pleasure of the Governor, is a direct report to the Governor, that the office will be administered through the Department of Transportation. They will provide office space, those types of things. The bill, as it's-- as introduced, says that the director will be responsible for the budget matters of the office. The DOT amendment makes a change in that, but I'll-- I'll let them explain the need for making that-- that change--

**DeKAY:** OK.

**MIKE HYBL:** --but that's the intent.

**DeKAY:** Thank you.

**GEIST:** Are there any other questions on the committee? I don't see any. Thank you.

**MIKE HYBL:** Thank you.

**GEIST:** Are there any proponents for LB683?

**VICKI KRAMER:** Good morning.

**GEIST:** Yes, good morning.

**VICKI KRAMER:** Good morning, Chairman Geist and members of the Transportation and Telecommunications Committee. I'm Vicki Kramer, V-i-c-k-i K-r-a-m-e-r. I'm the director of the Nebraska Department of Transportation. I'm here to testify in support of LB683. Access to affordable, dependable, high-speed broadband is essential to maintaining the high quality of life Nebraskans deserve. It's the intent of the Broadband Office to consolidate, coordinate and organize Nebraska's efforts to expand and improve access to high-speed

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connectivity. Multiple agencies and industry partners have been working to support broadband deployment and access for the last decade. However, the Broadband Equity Access and Deployment program, or BEAD, established under the Infrastructure Investment and Jobs Act, created a need to proactively assemble a structured entity to dispense incoming federal funds in an efficient and transparent manner. Through the Broadband Office, the NDOT is uniquely positioned to serve as the lead partner in managing the build-out of the broadband network in Nebraska for Nebraska's underserved and unserved communities. There is significant skill overlap with NDOT's existing duties and the duties necessary to effectively deploy broadband throughout the state. The department plans to capitalize off of these synergies, aligning resources to selectively achieve the Governor's vision by assisting with statewide short- and long-range planning, community engagement, permitting, right-of-way negotiations, procurement, contract management and infrastructure development. We manage and execute all of these tasks simultaneously across multiple projects daily. The experience will be highly valuable given the timeline of BEAD and the need to effectively deploy and manage broadband funding. NDOT's demonstrated experience with federal funds can be leveraged to assist the Broadband Office in successfully managing and distributing funds. NDOT has vast experience distributing grant funding from multiple federal agencies, including the Federal Aviation Administration, Federal Transit-- Transit Administration, the Federal Highway Administration, and the National Highway Traffic Safety Administration. NDOT's local assistance divisions, technical assistance Team has been working through the opportunities and requirements of IIJA to assist local governments over the last year. They're a team I intend to grow and synergize with the mission of BEAD. Technical assistance will create additional capacity to support local communities' efforts in deploying broadband. Transparency and accountability are also areas NDOT has experience with meeting federal standards. Our robust accounting and audit practices and processes can be mirrored and leveraged to streamline the establishment of reporting procedures required by grant recipients after the distribution of funds. Additionally, in-house geographic information systems capabilities and planning resources, as well as the established process for procuring consulting processes and services, will yield positive impacts on the development of the State Broadband Map and the federally required five-year action plan. NDOT has a long history of robust community engagement, with many experienced and seasoned staff who regularly work with communities on infrastructure plans, gathering input from key stakeholders, community members, and assisting communities with state and federal processes that affect and fund

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infrastructure projects. Partnership and collaboration will be vital to the successful deployment of broadband in Nebraska. NDOT has the capacity to scale the necessary resources to deliver on the development of broadband while supporting the Public Service Commission in promulgating rules and regulations, managing and planning for the maintenance of the broadband network, and facilitate coordination among common broadband carriers. We'll work with PSC-- PSC to avoid duplication of efforts and develop plans accordingly to ensure there is little to no interruption in the state's progress regarding broadband deployment. This includes the division of assignment of federal and state funds and ensuring grant cycles from different funding sources are managed in a way that maximize the funds awarded while continuing to progress towards the goals of efficiently distributing funds for broadband planning, deployment, mapping and adoption activities. For funding and staffing, all BEAD funding will be transferred to the NDOT Office. NDOT has also worked on a proposed amendment allowing us to fund the administration of this office as required by LB683. Thank you for your consideration of these concerns and your interest in bringing broadband to more communities in Nebraska. I'd be happy to answer any questions.

**GEIST:** Are there any questions from the committee? Yes. Senator DeBoer.

**DeBOER:** Thank you for being here. I'm wondering if you could-- I don't know if you have AM246 in front of you, but if you don't, I can read the language. On page 3, it says: The Department of Transportation may, in its sole discretion, use state highway funds for projects to install, operate, and maintain-- and maintain fiber-optic broadband or other similar technology when determined by the department to be in the department's best interest. This seems to give unilateral discretion to the Department of Transportation to use road money to build broadband. Am I reading that wrong?

**VICKI KRAMER:** No, Senator, that's not the intent. The intent is our ITS system, so our intelligent transportation system; so the-- the different pieces of technology that link our roadways and provide safety features, that's what we're looking to do. So it's not being an ISP provider, but it is continuing to deploy ITS in a way that improves safety.

**DeBOER:** I'm not so worried-- worried about-- in the moment, about the becoming an ISP provider, which I didn't think we would want to do anyway. It's more the way the language reads, and maybe there's an amendment or something that we can make sure it's a little more clear.

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It seems to suggest you could de-- sort of move money that was intended for roads--

**VICKI KRAMER:** No, so no-- no money-- we already use roads money on ITS because it impacts our roadway system. So on our fiber optic, that-- that's what we use. It's a direct correlation to our mission, so there's no commingling of funds. There's no BEAD funds that would go to roads projects. There's no roads money that would go to-- to infrastructure deployment that isn't directly linked to the transportation mission.

**DeBOER:** Got it.

**VICKI KRAMER:** And I'd be happy to-- to provide information on how we do our program with ITS. We typically publish it within our program book so we can give the public access to what things we're doing in terms of modernization.

**DeBOER:** And do you know if there's going to be anyone else from the administration that's going to come and testify today?

**VICKI KRAMER:** I don't believe so. I think you'll-- I believe you'll hear from PSC and a few others, but I don't believe anybody else from the administration.

**DeBOER:** OK, so then-- thank you. Sorry, didn't mean to cut you off-- then I'll ask you a couple of these questions. Why are we taking all of these duties away from the PSC and putting them into the Department of Roads? It's-- it's-- it's a bit of a concern for me because it seems like we're going from an elected board to one unelected member of the Department of Roads. And so I want to know what the-- and-- and also the PSC has been operating our Broadband Bridge Program for the last couple of years. I mean, this is the main question for me, right, like why are we-- why this shift? Is the broad-- or has the PSC done something wrong that we don't know about? It seems like-- I mean, the information we've gotten is that it seems like this is going very well over in the PSC, so I'm very concerned about moving away from an elected board, the Public Service Commission, that has experience with this to trying to start a whole new program. They've been working on-- I mean, I-- I know they've been working because I've been talking with them about-- on the fabric mapping, on all of these other things for years. So here you go. What's the-- what's the reasoning?

**VICKI KRAMER:** So I think it comes down to resources and scalability. So the DOT is already working under multiple programs within IIJA to

allocate those funds. BEAD changes the game in terms of level of funds, as well as requirements to the feds to report. That is a large job. It's not just-- we're going to increase ten FTEs just in the department and we have resources to backstop the necessary information and requirements and training you would need to do that. You have a strategic action plan that is due in August that dictates how we're going to spend this [SIC] funds. I would say that there's one organization in the state that can provide the level of support we need to be able to make sure Nebraska has the best use of those funds and it's DOT.

**DeBOER:** So if they could demonstrate that they could do it, then like maybe there's some resources you're not available-- or you're not aware of or something like that. Let's play hypothetical world. If they could demonstrate that they could do it, shouldn't we keep it with the group that's already been doing it?

**VICKI KRAMER:** To me, I'm here to tell you what the DOT provides in that--

**DeBOER:** Got it.

**VICKI KRAMER:** --in this source and in this conversation, I would argue that, again, a timeline and looking at where we have and the ability to procure a consultant, bring them on and set up a plan, or to even be able to manage that in-house, is troublesome. And we've already gone through multiple rounds of community action and stakeholder input to where dollars are on the table. And so my-- my main task here is to provide Nebraska with an opportunity to make the best use of these funds, and my department can do that.

**DeBOER:** And you think that because you have had experience distributing federal road funds and funds of that nature?

**VICKI KRAMER:** So programs under IIJA, so there's unique requirements on the back end of these funds that you have to report. It's a technical assistance piece; it's understanding what communities and the challenges they have through all of the federal funds. So when they go do this, we all know that most of the-- most of the communities across the state only have one or two people in their actual offices, if that. And so making sure that we can deploy technical assistance teams to do that, most of our staff within the local assistance division already had direct linkage to those communities and can work with them closely. So again, going back to the scalability piece, I do feel that we're unique in that we can

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scale up to provide the support needed to get to the August action plan, as well as provide the back end of the funding in terms of transparency and audit practices.

**DeBOER:** OK, that's helpful. There was another spot-- sorry, give me a second-- another spot I wanted to ask you about. Oh, yeah. So the strategic plan you're going to-- you think that'll be ready by August if you all take over this position?

**VICKI KRAMER:** We don't have a choice.

**DeBOER:** Yeah.

**VICKI KRAMER:** It has to be ready for August.

**DeBOER:** So do we have everything in place to hire someone? My understanding is that there was a similar attempt to create a broadband office in Oklahoma, and they have been unable to secure an individual for that position. Do you have any read as to whether or not we would be able to get someone for that position?

**VICKI KRAMER:** So we opened up applications as soon as the Governor announces EO. We've gotten several qualified individuals, so I do feel we'll be able to get somebody on for the Broadband Office, but I don't think that those things are mutually exclusive. I think that we under the administration would be able to provide a strategic plan. Even if we weren't able to get somebody on by March or April, we'd still be able to have enough knowledge and understanding of the needs and scale-up that we could have a plan out. That's not concerning to me. It's value added the sooner we get them here, but I think we can support it if not.

**DeBOER:** And what would be the method that you would use to work with the PSC? Because the PSC will retain the broadband bridge funds, so how will you work with them to make sure that, for example, if I'm company A, I might say, hey, I'm going to apply to both programs because we'll see which one I get if I get anything. How do you make sure there's not overlap, overbuilding, right? So you may get company A applying for the same area. There's a little bit of overlap in the area they're applying for with company B. Company B applies under the Department of Roads; company A apply-- applies in the PSC. Now we've got one, you know, part of the area that is being built over by one company over another one.

**VICKI KRAMER:** So there's a lot of policy issues in that conversation, more than just one or two questions, but I'm going to address two. So

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I think, one, the partnership piece is huge; but two, it's why the map is so important. So the map will give us the ability to understand and-- and articulate, as well as overlay, all of those different things. So it'll overlay where those unserved communities are, where those un-- underserved communities are, who's active in terms of providers in that area, as well as who's providing what entity, whether it be PSC or it be DOT through BEAD is providing those services. And so the map allows us to make sure that it is consistent throughout, and so we'll be leaning on PSC over the next couple of months to make sure that the map does what it says it's going to do and we can provide those services, because it is pivotal to make sure that: (1) applicants know where they're bidding; and (2) providers know what's available to them and what that actual service provides. So we're working through that. It's going to be a conversation. We've already set up multiple different ways to communicate with PSC and we'll continue to do that.

**DeBOER:** OK. Thank you.

**GEIST:** Yes, Senator Fredrickson.

**FREDRICKSON:** Thank you, Chair Geist. Thank you, Director Kramer, for-- for being here and for sharing your testimony. You know, I think-- I think what we all agree on is how important getting this right is. Right? I mean, I think broadband deployment is going to be key for our state, whether we think about this from a economic perspective with remote work, whether we think about this from education, with remote learning opportunities; I think also from a healthcare perspective, with, you know, telehealth. And so I think this is a really important equity issue for folks in parts of our state who might not have access to broadband. I think it might really prohibit as we move forward their ability to compete and, you know, fully access, I think, necessary resources for success. So this is extraordinarily important to me, and I know a lot of my colleagues as well. One question that I have regarding this, and I know, Director Kramer, we've-- you and I have talked about workforce a lot, and that's a-- that's a big passion of mine too. And to sort of piggyback a bit on Senator DeBoer's questions is, you know, this is such a niche expertise that-- that's needed. I think when you think about the complexities of our state, the topography we have, the geographic location and actual deployment of this. And so I-- I do have some concerns about whether or not we will be able to identify an expert to-- to-- to take over this-- for-- for-- in a director's role, for example. And so do you mind kind of maybe sharing a little bit on your thoughts on that as well?

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**VICKI KRAMER:** Absolutely. I can tell you that we've gotten qual-- several qualified applicants. We've done targeted outreach. We haven't just put it out there. We've actually gone after and recruited, headhunted a few people that we feel would be able to take this step and available. And so we're in conversation with a few of them right now, so we look forward to having an answer back. And I'll go into more detail with you in a closed-door with you, if you don't mind--

**FREDRICKSON:** Sure, sure.

**VICKI KRAMER:** --Senator, about what that looks like.

**FREDRICKSON:** All right. Appreciate it. Thank you.

**GEIST:** Yes, Senator Moser.

**MOSER:** So what's the relative size of the Public Service Commission versus the Department of Transportation? How many employees do you have compared to the PSC?

**VICKI KRAMER:** I'm not sure on the total numbers of the PSC. I do believe they're going to testify so they could provide that number. We're right around 2,200, keeping in mind I want to-- you know, we have different resources throughout the state that can help. We were talking through this a few days ago, and it's as simple as having-- if you're having a public meeting, instead of having to send three or four people out the day before to get the room set up, I can have my executive assistant that works in the office out there come up, set the room up. She's already on staff with DOT, so that gives us additional help while I use my public involvement staff to continue to plus up and work the community and do the materials. So instead of it taking me four people from the BEAD funding, I'm probably only using one person from the BEAD funding that's directly allocated to this mission, which allows me to have more meetings, more output, more outreach. Does that answer your question?

**MOSER:** So it was more than I asked, but that's OK. Do you anticipate hiring more people?

**VICKI KRAMER:** I anticipate-- well, so the ten FTEs that were submitted to the FCC-- or to NTIA/FCC, in terms of the BEAD plan, that will stay. That was part of our fiscal note. That will stay, whether it be at PSC; not exactly sure what theirs looks like, but ours is ten. Based on other states, they range from 10-- or from about 6 to 13 people that they have on staff doing this direct mission. So I-- I assume I can take some of the requirements and some of the work off

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and put it on my other staff. I will say just for transportation under other programs of IIJA, given the needs of local communities, the local assistance division will grow under my leadership.

**MOSER:** Do you anticipate-- do you think that some employees of the Public Service Commission may want to transfer to the Department of Transportation to work on broadband and--

**VICKI KRAMER:** So right now, there's three FTEs that are allocated to BEAD that are currently hired by the PSC. One of the--

**MOSER:** So they're going to switch to. DOT?

**VICKI KRAMER:** That-- that is the intent.

**MOSER:** OK.

**VICKI KRAMER:** Obviously, I understand the sensitivities around that, and so we're working with the PSC to make sure that-- that the-- what was-- what was promised to the employee is honored and that it's a seamless transition.

**MOSER:** OK. You don't see a shift in the emphasis to get more done? You don't look at this as a-- as a way to push things forward more quickly than what the PSC has been able to do?

**VICKI KRAMER:** I look at this as a way to accelerate what we're doing currently by what I've looked at. So I-- I know what it's going to take to stand up a program. We just went through this with the NEVI program, the electric vehicle program, and I know how-- how difficult it can be to navigate the federal process, whether it be on grant funding, setting up a strategic plan, outlining what that vision is, making sure that you have community outreach to it. It's not an easy plan and it's not a ten-person plan.

**MOSER:** OK.

**VICKI KRAMER:** And so--

**MOSER:** Thank you.

**GEIST:** Yes. Senator Cavanaugh.

**M. CAVANAUGH:** Thank you. Thank you for being here, Director Kramer. I'd like to start by saying you're throwing out a lot of letters, and I don't know what you're talking about. And so if you could actually

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say what these things are, because it's hard for me to follow. When you say IIAJ, I don't know what that is. So first, could you tell me what IIAJ is?

**VICKI KRAMER:** So it's the infrastructure bill.

**M. CAVANAUGH:** OK.

**VICKI KRAMER:** So the same bill that the Transportation Department got increased funding of about 30 percent on their formula funds, it's a program authorized under that same program.

**M. CAVANAUGH:** So IA-- IIAJ is the infrastructure-- the federal infrastructure bill.

**VICKI KRAMER:** Um-hum.

**M. CAVANAUGH:** OK. Thank you. I will just say that we're not all technical experts, and so just to be mindful of that. I-- I realize that you have more expertise on some of these acronyms, but it is a little hard to follow. OK. So I'm going to kind of follow up on some of the questions that Senator DeBoer had. I have some concerns. Where-- where it says the "sole discretion," I didn't-- I-- I guess I didn't feel like we really got an answer on that. That is very-- that's a red flag for me because there's a "may" here: The Department of Transportation may use highway funds, etcetera, etcetera; but, "in its sole discretion," is that something that the department is willing to have struck from this?

**VICKI KRAMER:** We can work through that.

**M. CAVANAUGH:** OK, because that--

**VICKI KRAMER:** It's the-- it's the intent, and we talked through this, is making sure that we can operate at our discretion to-- to use the opportunity, if you have it, to put in ITS. That's what we're looking for.

**M. CAVANAUGH:** Sure, and--

**VICKI KRAMER:** And that's the intelligent transportation pieces.

**M. CAVANAUGH:** I think, generally speaking, the intent of-- of the Legislature is not to put in restrictive language on how you operate, but putting in such broad language is a little bit concerning. Another concern that I have, that I want to give you the opportunity to speak

to, is Senator DeBoer mentioned that the Public Service Commission is a elected board and the Department of Transportation has a greater latitude than really any other department in the state because your funding is not reliant on the Legislature's approval. And because you have your own sort of pocket of funding, we-- we basically have a very different relationship with your department than we do with any other agent-- state agency. So moving something that is under an elected board to a department that has far less oversight than any other state agency, I think you can see where that would cause some pause, if you want to speak to that.

**VICKI KRAMER:** I can, I can. There are key requirements under the-- the program that we're discussing, of the-- the BEAD. So the BEAD is all of the federal money that was authorized by IIJA. And so there are key requirements for stakeholder engagement under that, very similar to what we have for our transportation projects through NEPA and public involvement. So any-- any time anytime you do an environmental portion of a transportation project, you have to do a public outreach portion for it. And so there's very similar requirements. To your point, I understand the need, but I will tell you that you'll have multiple opportunities to be either represented in your official capacity or as just members of your community. We will seek that output because we are required to, and we need that output to make sure that the solutions we would be providing or asking industry to provide and providers to provide need to meet the actual needs of the community, or we won't be actually serving than the active requirements around the money because it requires us to be unserved and then underserved.

**M. CAVANAUGH:** OK.

**VICKI KRAMER:** Does-- does that provide--

**M. CAVANAUGH:** Yeah, that does. And then in reading through the original language, not the amendment, it-- it does, in a lot of areas, just strike the Public Service Commission and put in the Nebraska Broadband Office. And so beyond just creating this BEAD program, it does seem that we are moving the responsibility of the Public Service Commission to the Department of Transportation. And I think-- I don't know if it was Senator Moser or Senator DeBoer that asked, but cannot-- the PSC cannot do this? I understand that you-- you have the argument for being able to do it more efficiently. But is the Public Service Commission not capable of doing this, not able to do this? This is a big move for us to make, and I-- I'm just curious why we would make this beyond-- and I appreciate efficiencies. I think that

they're important, but if that is the only reason, perhaps we need to reevaluate our reasoning.

**VICKI KRAMER:** So there have been key outreach from other states that we've been watching in terms of what's been done to make sure that we get the most amount of money possible under the federal rule. So we've been watching that as one way to gauge efficiency. I will let the PSC speak to what their efforts that they've been doing in terms of getting ready for the distribution of BEAD.

**M. CAVANAUGH:** The fiscal note does reflect that they have a contract that they would have to cancel if we made this move, so-- but--

**VICKI KRAMER:** I don't-- I--

**M. CAVANAUGH:** --I'll [INAUDIBLE]

**VICKI KRAMER:** I believe it could be transferred. I don't believe it would be canceled.

**M. CAVANAUGH:** Oh, OK.

**VICKI KRAMER:** That hasn't been decided.

**M. CAVANAUGH:** OK

**VICKI KRAMER:** So in working with the NTIA, it's our understanding that many of much of the progress that has been made can be moved over to the-- to the Broadband Office, so there wouldn't be a loss of services; we wouldn't be starting from scratch; we would be building off of what the PSC has already done, understanding that the scalability of what they've done versus what they're going to have to do in the next year is drastic. So though-- though you may have seen continued planning and progress, which we applaud PSC for, that is not reflective of what the next year looks like.

**M. CAVANAUGH:** OK. And I just would like to state that this is a committee bill, and I apologize for the number of questions, but I was not asked to be a co-sponsor of the committee bill, which I'm not sure why, but that's not for you to speak to, but I normally would not have so many concerns on a committee bill that I was a co-sponsor of. So thank you.

**GEIST:** Are there any other questions? I do have a couple. And-- and I think you partially answered one of my questions, which was to explain the relationship that you anticipate having with the PSC moving

forward, since they do have some FTEs that are already hired and they've done some mapping and contracts, and so if you would just flesh out for us a bit what your anticipated moving forward looks like.

**M. CAVANAUGH:** I think the vision is a strong relationship, understanding that-- that my role in the broadband piece is not a forever role. And as we bring the Broadband Director on, their future may be where they have some synergy-- more even more synergy with PSC or they have a home there. We don't know what that looks like. It depends on how the funding and what the requirements are and how far we get with BEAD funding. And so I look at it as we can provide support to PSC and we can-- while they focus on other things that are within their mission and purview. This is a very active area where there's multiple different programs and requirements that are being stood up, so if we can take this off of them, since we have so much experience executing federal funds, it's in everyone's best interest.

**GEIST:** Um-hum. And then I have one other question about the language in the amendment that is in the middle of that third paragraph. It talks about the department is further authorized to enter into either solicited or unsolicited public-private partnerships, or to use alternative project delivery methods, and I'm just wondering, would-- does that imply that you would be applying for other federal funding, other than BEAD, for-- to utilize?

**VICKI KRAMER:** Yes. We would not-- we would not use BEAD for our own fiber. We would use it-- we would use highway funds for-- for the deployment of our fiber or to-- and-- and what we would use our fiber for is to connect our own infrastructure. So as we look at the future of transportation, what's required to have both smart infrastructure vis-à-vis different elements of connected autonomous vehicle needs, right, as well as the different elements along our roadways that create a more safer environment, whether they be shutting down interstates, barriers or other things. The-- that's what we need fiber for.

**GEIST:** OK.

**VICKI KRAMER:** So this would allow us to use state funds and our federal funds to do that, to deploy those activities.

**GEIST:** OK. So just to be clear again, and I know you've been asked about this, but just to reclarify, this whole paragraph has nothing to do with BEAD funding.

**VICKI KRAMER:** No.

**GEIST:** This is just you being authorized to use federal highway funding to-- to advance the projects that you're--

**VICKI KRAMER:** Um-hum, yes.

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

**VICKI KRAMER:** Thank you for your time.

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

**SARAH MEIER:** Good morning. Good morning, Chair Geist and members of the committee. My name is Sarah Meier; that's spelled S-a-r-a-h M-e-i-e-r. And I'm an attorney at Rembolt Ludtke law firm, and I'm here to testify in support of LB683 on behalf of the Nebraska Rural Broadband Alliance, the NRBA. I have been asked to provide testimony in my capacity as the NRBA's legal counsel on broadband matters involving state and federal regulation and funding. So we understand there is more work to be done to prepare this bill for final passage, as evidenced by the recent DOT amendment that was presented here this morning, and we respectfully request to be a part of those collaborative efforts, and so I will offer our comments on LB683 briefly and section by section. So as to Section 1, the NRBA fully supports the establishment of the Nebraska Broadband Office. Nebraska needs a leader which is singularly dedicated to setting and implementing bold broadband policy and strategy. The NRBA appreciates the proactive approach the Governor and this committee have taken on broadband policy implementation. The drafters of Section 1 are to be commended for thoughtfully and thoroughly outlining what will be critical responsibilities of the Broadband Office. Collaboration at all levels will be imperative, as will strategic planning. We can't afford to continue to cobble together broadband infrastructure. Rapid large-scale deployment will be essential and we have to be smart about it. Other states and regions are competing for funding, as well as resources such as fiber and labor, and we will be competing with them as well. As to Section 2 and the mapping responsibilities laid out, in my capacity as the NRBA counsel, I have actively been working with Oliver Borchers-Williams, up in south-- of the Southeast Nebraska Development District, in consultation with the NTIA and in collaboration with the broadband coordinator and the PSC to ensure the federal government is aware of significant shortcomings in the new federal Broadband Map as related to actual coverage availability and

service locations in Nebraska. We are finally seeing results from these efforts and we wish to see this momentum continue. The priority of all Nebraska stakeholders is ensuring the accuracy of these federal maps. Accurate maps at both the federal and state levels are absolutely critical. They will have a significant impact on the allocation of BEAD funds distributed to Nebraska and will help us in determining our deployment strategy moving forward. As has been mentioned earlier today, accurate maps will also aid in any sort of collaboration between the agencies in coordinating efforts of the BEAD and Bridge programs. As to Sections 3 and 4, the NRBA believes that the Legislature should determine what agency is best suited to administer grant programs for broadband infrastructure. LB683 appears to direct BEAD funding through the Department of Transportation, while leaving state bridge funding and federal ARPA funding to be administered by the Public Service Commission. Having two state agencies administering funds for similar purposes will create duplication within state government, but our concern is the burden it will place on applicants for grant funding. Dealing with two separate agencies, the potential of two different application processes and the-- and the certainty of running questions-- and the uncertainty of running questions by two different sets of staff will create undue costs on the applicants, diverting resources and distracting them from the core aspiration of helping to design and build a broadband network throughout the state. In short, one-stop shopping would be a great benefit to everyone involved. Should grant funding be moved entirely-- should the grant funding be moved entirely to DOT, it would have the benefit of freeing up the PSC the needed time they need to focus on addressing NUSF and other issues that are critical to large-scale rapid deployment of a sustainable network. Essentially, the way we see it is that the PSC has a critical role in maintaining the safety and sustainability of our broadband network that needs to be built out here in the next five years. So in conclusion, the NRBA supports the creation of a strong Broadband Office to lead collaborative efforts to design, build and sustain infrastructure that is capable of providing all Nebraskans with affordable access to the broadband services critical to all facets of our personal lives and commerce. The NRBA urges you to advance LB683. I'm happy to answer any questions you might have. Thank you.

**GEIST:** Are there questions? Yes, Senator Fredrickson.

**FREDRICKSON:** Thank you, Chair Geist, and thank you for being here. I was thinking about what you said and I-- I appreciate your comments on the two agencies and sort of the undue burden that might do. I'm thinking about how, you know, we're not the only state who's going to

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be obviously looking to implement broadband. And if we have folks who are looking for bids, if there is sort of unnecessary complications seen in-- in our state, that could sort of "decentivize" maybe wanting to come here or prioritizing Nebraska as a place to do business, so I appreciate that. I-- I did have a question about you mentioned in Section two the idea of accurate federal maps for this. And so, I'm curious, would you be supportive of sort of accountability for what's advertised in terms of speed services around broadband, or is that what the implication is there or--

**SARAH MEIER:** That's a very good question. I think the NRBA would be-- so first and foremost, our priority is having an accurate map, and part of that is being able to determine the acc-- like accurate availability of service that is available in certain locations; also, the accuracy of the locations that are serviceable. And so part of that is ensuring that advertisements are-- are accurate, but I don't know that we would go so far as to comment on any-- any speculative position right now, other than that we want accurate maps, because that is-- that is critical for determining where money will flow to--

**FREDRICKSON:** Sure.

**SARAH MEIER:** --and to how we build out projects and-- and what our un- and under-served locations are.

**FREDRICKSON:** Sure. Thank you.

**SARAH MEIER:** Yeah.

**GEIST:** I have a question. You spoke about duplication and being concerned about that.

**SARAH MEIER:** Um-hum.

**GEIST:** And then you alluded to having a strong position for the coordinator. Would you explain what you're thinking? Are-- are you suggesting all the funding go to this coordinator or are you supporting the decision of having the division as it-- as it currently is or as currently projected?

**SARAH MEIER:** Yeah, thank you for the question. The NRBA has-- members of the NRBA have participated in the Broadband Bridge Program over the last couple of years. It's been a very good program. I think the-- the point we're trying to get across today is that having to do a similar process to two different agencies for grant money for the deployment of broadband is duplicative, both on the industry side and on the

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government side, and we would prefer, as an industry, to have one agency to go to for grant applications. We think the legislator-- the Legislature is best suited to determine which agency that needs to be, but we would prefer that there be one-- one source for grant funding.

**GEIST:** Understood, so both state and federal under one, one or the other.

**SARAH MEIER:** Yeah. Yeah, because that's-- they're doing one-- one function for deployment of broadband and-- and applications will be similar, yet different, given the different requirements of the program, the strings attached, so, yes, we'd prefer one agency.

**GEIST:** OK. Thank you. Are there any other questions? Yes, Senator DeKay.

**DeKAY:** Good morning. I apologize, I didn't hear your answer very well to Senator Fredrickson, but in Section 2 we-- we talked about private parties to create, improve, and maintain the mapping. Is there-- would there be any obliga-- or any problem working with private or public entities that already have a mapping structure in place as far as being able to expediate projects into the rural areas to-- with that mapping process that's already in place or what's your thoughts?

**SARAH MEIER:** I'm not sure I understand your question.

**DeKAY:** Well, I would say it this way then, like from a, you know, your different power districts in the state, they have meters that go out to every customer. That mapping is already in with AMR. Would there be a problem working off of those maps to figure out where broadband needs to be and how it gets there and do it most efficiently and cost-effective manner?

**SARAH MEIER:** Again. I'll go back to I think we want to make sure that the maps are accurately displaying the available service speeds at certain locations and the location, the accuracy of locations that are serviceable, primarily because this is what the federal maps require. And we want to make sure that our state maps similarly reflect and also provide maybe more information as to what our actual broadband network looks like in this state. I don't want to speak to certain tech-- technical capabilities of the maps because I'm not a map technician or an engineer, so I don't want to speak to that point. But really, we need to make sure that the maps are accurate so that we can actually deploy funds where they need to go, especially for

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determining locations that are un- and under-served so that we can meet the requirements of the BEAD program.

**DeKAY:** Thank you.

**GEIST:** Any other questions? I don't see any. Thank you for your testimony. Are there any other proponents? Good morning.

**JULIE BUSHELL:** Morning. Chair Geist and members of the Transportation and Telecommunications Committee, thank you for the opportunity to be with you this morning. My name is Julie Bushell, spelled J-u-l-i-e B-u-s-h-e-l-l, and I'm the president of Ethos Connected, formerly known as Paige Wireless. Ethos sees LB683 and the creation of the Broadband Office and a Director of Broadband that sits in the Governor's cabinet as transformative for rural Nebraska, agriculture, and our state's economy. For a handful of years, policy has focused on rural broadband, but that term doesn't mean the same to all. Traditionally, policymakers have focused on getting adequate broadband speeds to small towns across our state. That is what the federal USF Fund, USDA ReConnect, RDOF and BEAD funding and recent state grants have all focused on, and rightly so. Every person in Nebraska deserves broadband access, and it's a necessary goal for the survival of rural-- our rural communities. There's a bigger picture of rural broadband that's been in the state's blind spot, and that is why Ethos is so excited about the possibility of a Broadband Office. Agriculture is the number-one industry in our state. We are seen as the global leaders in food production and we are the leaders in the sustainable production practices we use to do that. Over the last few years we have worked with stakeholders in the agricultural supply chain from seed companies to large retailers. They have all made clear that they favor data-backed, verified information and are willing to pay a premium on products that are shown to be grown in a sustainable and humane way. Here in Nebraska, that is what we do. But without sufficient producer-run data to back that assertion, our ag products will be second choice to those that have data to drive their value-added premium. Etho-- Ethos believes connectivity is the foundation to putting the power in the hands of the individuals, communities, and specifically the ag producers that we serve. Over the last four years, we have constructed North America's first statewide LoRaWAN network here in Nebraska. We have covered the state with a network that connects cropland, livestock operations, villages and rural businesses. We know, through on-the-ground experience, connectivity is critical to increasing on farm revenues, retaining the next generation of leaders, and to allow Nebraska to finally tell our great story of how well we do agriculture. A Broadband Director who

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takes into consideration all perspectives of what rural broadband means, comes at a critical time in ag industry's technological evolution. Precision agriculture is happening now all over the world. We have a once-in-a-lifetime opportunity to prioritize our largest economic driver in the state and secure our global leadership. A fresh and focused perspective on connectivity and outside-the-box-thinking with a rural Governor's support makes now the time. For these reasons, Ethos Connected supports LB683. Thank you. I'm happy to take any questions.

**GEIST:** Thank you. Are there any questions from the committee? I do not see any. Thank you.

**JULIE BUSHELL:** Thank you.

**GEIST:** Good morning.

**EMILY HAXBY:** Morning. My name is Emily Haxby, E-m-i-l-y, Haxby, H-a-x-b-y. I am from rural Gage County. I'm a fifth-generation farmer, a wife, mother of four children. We have both row crops and a cow-calf operation, and then-- and with livestock, that typically means that we don't get a vacation and the concept of sleep has eluded us. I also serve as the chair-- vice chair of the Gage County Board of Supervisors, which gave me the opportunity to lead the Gage County rural broadband project that served many rural locations within our county. I know how important broadband is to rural residents across the state, especially our farmers and ranchers. I'm here today to testify in support of this bill, as I applaud what this committee and our Governor has done in creating the Nebraska Broadband Office. This has been done in many states across the country, including Colorado, Minnesota, Maine, Alabama, Kansas, just to name a few. I have heard people say that this is about taking things away from the PSC, but it is not that. This is good policy. It is great to see the Governor show how important broadband is to our state. Sometimes change can be scary, but sometimes it is necessary, and seeing our Governor and his administration proposing such a smart and good policy right out of the gate is awesome. I have a few questions and thoughts to consider that may help clarify this bill. How are agencies going to work together? As we've all discussed before, the PSC has great new leadership and a good staff that serves as a regulatory agency. Will this new Broadband Office provide direction and-- with policy and funding while the PSC follows through with the regulatory process? How will the Broad-- Nebraska Broadband Office coordinate or interact with the CIO's Office and their work in deployment of technology throughout the state? Can they be utilized for outreach? I think these are things that would be

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great resources and good interagency cooperation and support through the whole process and utilize those that are already in that capacity. I would encourage just a minor amendment to clarify how all these agencies will partner through this process, and I further support the amendment NDOT has put forward: perhaps a few more "shalls" instead of "mays." Thank you.

**GEIST:** Thank you very much, Ms. Haxby. Are there any questions on the committee? Yes, Senator Cavanaugh.

**M. CAVANAUGH:** Thank you. Thank you so much for your testimony. Do you have any examples of where you'd like to see a "shall" instead of a "may"?

**EMILY HAXBY:** I just think that they-- they really-- I'm glad that NDOT is getting-- taking part in this because we're talking about getting fiber or-- or things in right-of-ways. So it's good to see them getting involved and-- and they should be.

**M. CAVANAUGH:** Thank you.

**GEIST:** Any other questions? Yes, Senator Brandt.

**BRANDT:** I-- I apologize--

**GEIST:** Welcome.

**BRANDT:** --for being a little late. We had a bill in Agriculture we had to baby-sit. And I-- I regret not hearing the opening of the hearing. So if what I say is redundant, I apologize. Nebraska is going to get the BEAD money either way. Whether it goes through this office or the PSC, will it really make Gage County any difference?

**EMILY HAXBY:** Just the-- how it is directed and funded. What I see is this-- the money that's coming down is great, but it's probably not going to be enough. We are allocated \$4 million, turned it into, you know, anywhere from \$11-13 million project, covered only about 40 percent of our county, and you take that into millions. And-- and we're a little bit more populated than other parts of our state. We need to be able to come up with creative ways and a very direct, focused group that will try to stretch these dollars as far as possible so we can connect the entire state, because there's a lot of people-- I was on the other-- I'm-- I am on the other side of that digital divide where I hope for 25/3, but in reality I'm getting 6 in 2 and I have to hotspot to download an ag program, so.

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**BRANDT:** And-- and I know we've spoken before about what you've done in Gage County, and that's just terrific. I mean, you've really leveraged this. You did an outstanding job. But one of your main concerns was that you didn't have any fly-by-night outfits come in there; whoever installed the broadband was going to operate the broadband; and, I got the impression from you, you wanted a strong regulatory authority to supervise what was put in. Would that be correct?

**EMILY HAXBY:** We-- we need to have accountability within these things. Now I think the counties can play a role in that too. We-- we ended up with a 25-year contract with accountability features to make sure that-- that that service is provided over that time. So, yes, I think there's [SIC] needs to be something there over-- overwatch or get counties involved or-- or public power involved to over-- to make sure that these funds are going where they need to go and get stretched as far as possible.

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

**GEIST:** Senator DeKay.

**DeKAY:** Thank you, Senator Geist. Emily, with this, you-- you're talking about your project in Gage County, and there are other projects starting to take hold in the state of Nebraska. Are they looking to you-- your footprint or your blueprint, I should say, on how you're doing things and make a-- make it a successful project for them, like up in-- in around Platte County and down in the southern-- south-central part of the state? Are-- are they reaching out to you on that?

**EMILY HAXBY:** Yeah, we've had multiple counties reach out, request our RFP, and then I've answered questions and they've been-- they-- Platte County has put out an RFP and got responses, so, yes, it is being repeated.

**DeKAY:** OK. Thank you.

**GEIST:** Senator Bostelman.

**BOSTELMAN:** Thank you, Chairwoman Geist. Thank you, Emily, for being here today. If I heard you right, and correct me if I'm wrong, is, one of the concerns you have is right now our broadband coordinator is Patrick, who's in Fiscal and Budget Office; we have part of them that's in the CIO's Office; we have part of the people in the PSC's Office, so we're already scattered through many different agencies or departments. And your concern is, with the Broadband Office, that we

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really have a focused office where we have one office is looking at what the need is, identifying the best way to get the broadband out, best way to use money, rather than to have that one office do that, rather than right now we're scattered between may-- many different areas of the state. Does that--

**EMILY HAXBY:** Yes. Yes, because we-- I mean, there-- there was-- I mean, we went through the challenge process and trying to get all the agencies to get together, to work on it, to get it done. And, I mean, that's going to affect the funding coming down to our state, so we need to kind of have a focused effort.

**BOSTELMAN:** All right. And we've heard in the LR that we had before session, you came and testified as some of the work you're doing with the-- maybe NPPD and others to identify locations in the state, which we would hope that that would then-- this new office would be able to take that up, or similar type of process up, to ensure that-- that we're identifying un-- unserved and underserved areas of the state.

**EMILY HAXBY:** So we used--

**BOSTELMAN:** It's a challenge.

**EMILY HAXBY:** Yes. We used public power meter data. We were able to get it from all but one public power. And from that, we used a buffer or filter to find the missing locations within the fabric. It was close to 10,000 missing locations within the state of Nebraska. And then that-- that's not the solve-all. You know, we also need to be able to correlate the-- the technology used to service that location, as well as the speeds that they can receive, and I think that there's other ways we can get that information with reporting from companies to create our own maps that are a lot more accurate.

**BOSTELMAN:** Right. And I guess my comment was just the point that, with this Broadband Office, that's their focus.

**EMILY HAXBY:** Yes.

**BOSTELMAN:** Right now we have people that are-- that are in different agencies or departments that have other jobs they're doing also. This is really going to be the focus of the Broadband Office and those they hire, and that would be able to do same-- similar to what you've done. OK. Thank you.

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

**EMILY HAXBY:** Thank you.

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

**DANNY DeLONG:** Good morning. Good to be back. We've been before you several times and always glad to be back. We've worked with a number of you and have appreciated those relationships over the years. Let's start. Chair Geist and members of the Transportation Telecommunications Committee, my name is Danny DeLong, D-a-n-n-y D-e-L-o-n-g. I'm here testifying in support of LB683 as a volunteer on behalf of AARP Nebraska and its over 185,000 members. AARP Nebraska is a nonprofit, nonpartisan membership organization that works across Nebraska to strengthen our communities and advocate for the issues that matter most to families and those aged 50-plus. This includes a focused effort to ensure the availability, affordability and reliability of broadband Internet access services, which are essential to the health and quality of life of older persons. Let me say again, our three guiding principles have been, from the beginning, available broadband, affordable broadband, reliable broadband, and we've said that every time we come before you. AARP Nebraska strongly endorses LB-- or supports LB683 and strongly endorses the intent of the bill, which we've quoted here in your written testimony. I'll read it aloud: to ensure that all federal, state and local government funding for broadband infrastructure and services in Nebraska be leveraged strategically to ensure that all Nebraskans have access to affordable, reliable, accessible broadband services before January 1 of 2028. We believe a single, centralized Nebraska Broadband Office will be better positioned to coordinate broadband infrastructure, oversee federal grant funding, and advocate on broadband issues at the federal level. We often get asked, why does AARP care about broadband issues? Good question. According to AARP Nebraska's 2022 Vital Voices survey of Nebraskans age 45-plus, 84 percent of Nebraskans said staying in their homes as they age is extremely or very important to them. When they-- when we say staying in their homes, we mean staying typically in their home communities, where their neighbors and friends and relatives are often located. To do that, to help people stay in place and age in place, we know that they need access to reliable and affordable broadband and to have the digital literacy skills necessary to use it. These skills enable proficient use of telemedicine; they fight social isolation through digital connection with family and friends; they allow access to online shopping and services; and they create remote work opportunities. AARP Nebraska supported the state's application for federal Digital Equity Planning Grant funding, and we have been pleased to work with the Nebraska Information Technology Commission to hold a series of listening sessions around Nebraska to talk about

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digital equi-- equity and inclusion of older adults as part of the planning grant process. We believe a Nebraska Broadband Office, as envisioned in this bill, would not only play a key role in administering a nearly \$600,000-- the nearly \$600,000 the state has received through the Digital Equity Act to develop the Nebraska Digital Equity Plan and in administering the additional federal dollars that will be available to implement the plan. The office will be critical in directing the nearly \$5 million the state receives through the Broadband Equity Access and Deployment, or BEAD, program to be used to identify unserved and underserved locations for capacity building of the State broadband Office, to create a framework through which grants are distributed to subgrantees based on the structure in place for the Nebraska Broadband Bridge Program.

**GEIST:** If you would wrap up your comments, please.

**DANNY DeLONG:** I will. For these reasons, AARP Nebraska supports LB683 and we thank the Transportation and Telecommunications Committee for introducing and supporting the bill, and we will appreciate the committee advancing it to General File. Thank you. I'm happy to answer any questions.

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

**DANNY DeLONG:** Thank you.

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

**LASH CHAFFIN:** Good morning, Sen-- Senator Geist, members of the Telecommunications and Transportation Committee. This morning I'd like to offer up the League of Nebraska Municipalities' support for LB63-- or LB683. My name is Lash, L-a-s-h, Chaffin, C-h-a-f-f-i-n. And for my members, the void right now is getting started. People understand that they don't have broadband. Now they're told-- they-- they might be told they have broadband, but they-- they get they don't have it. And right now nobody knows where to go. Sometimes they go to the League; sometimes they go to a local company 25 miles away that they know is providing it; sometimes they contact the Public Service Commission. My guess is they contact your offices on a pretty regular basis. Recently, they've taken to contacting Emily Haxby from Gage County, where they're just desperate to find somebody to talk to. And-- and what excites me about what's going on right now is that the-- the Budget Office staff has been in communication with us. They're already working with the Department of Transportation in developing technical

assistance to get past step one, and-- and that's very, very exciting, you know, for rural League members at this point and it's something that-- that I think they're-- they're going to put a lot of innovation in. They understand that if we consolidate it, if we work on it, if we work on it together, if we collaborate, we can get the word out, we can-- we can steer people to the right places, and we're very, very excited about that. And, you know, obviously, I can't speak for the Department of Transportation, but in the past, can the Department of Transportation pull off funding? Yes, they could-- they could pull off funding with-- with local leaders. I would submit that the-- when this committee worked on it, the-- the federal fund's local government exchange program might be the most complex funding program in the history of the state of Nebraska, and that was hatched in this little-- this little room directly north of the director's office. There's a ten-person conference room, and that's-- that idea was hatched by their staff. They put all hands on deck to make sure that that-- that could be done. There were-- there were hundreds of hours of communication and there were four or five meetings where city and county officials were all sent to Scottsbluff, Norfolk, Lincoln. I think there might have been another one, and literally the Department of Roads had dozens of staff members there-- at the time, Department of Roads-- signing documents. They had-- they had legal expertise; they had technical expertise; they had engineering expertise. They-- they-- they put an all-out effort into making sure that program worked. And then-- then another program that comes to mind is there was a time in the pre-2010 period that-- that city governments receiving federal funding couldn't get their projects through federal scrutiny on the environmental component. And I think the Department of Roads recognized that this was a problem and knew that that-- this could be tens, if not hundreds of millions of dollars, that we were just going to drop the ball on. Again, they-- they put all hands on deck. They hired environmental consultants. They hired biologists. They had a couple of days where they brought everybody into their-- every city, every county into their conference room there with a little stage. I don't know what they call that room, but-- and they-- you could go to every biologist and you could work on-- work on your environmental component that you could not get through the Federal Highway Administration scrutiny at the time. So they're not beyond-- I can't speak to how they intend to handle broadband. That's Director Kramer's job and-- and not the-- not our job. But I-- I do know there are examples in the past where they've-- they've bent over backwards to make sure a program with a short, difficult, expensive time frame could be-- could be managed. So that said, we are most certainly in support of consolidating this. And for what it's worth, the Department

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of Roads has-- has been great to work with over-- over time. You know, some days there's obviously frustrations, but, you know, every village board member, the first job they need to have is get the-- get the district engineer's phone number on their speed dial. So we certainly have communications with the Department of Transportation on a regular basis. Thank you. I will certainly answer any questions.

**GEIST:** Yes, Any questions from the committee? I don't see any.

**LASH CHAFFIN:** Thank you.

**GEIST:** Thank you for your testimony. Any other proponents? Good morning.

**BRUCE RIEKER:** Good morning. It's a pleasure to be here. Chairwoman Geist, members of the committee, my name is Bruce Rieker; it's B-r-u-c-e R-i-e-k-e-r, and I'm the senior director of state legislative affairs for Nebraska Farm Bureau. In addition to representing the Farm Bureau today, I'm here on behalf of seven other ag organizations: the State Dairy Association, Nebraska Cattlemen, Nebraska Corn Growers, Nebraska Pork Producers, Soybean Association, Wheat Growers and Renewable Fuels Nebraska, all of which are in support of LB683. This is my first time before this committee this year, and so I-- I just want to pause for a little bit and tell you why we believe those eight groups are significant to this discussion. Nebraska has 45,000-- approximately 45,000 farmers and ranchers that make up about somewhere between 25 and 33 percent of the state's economy when you add in the ag-- the food production complex. And we are also probably the most expensive to connect, but, I submit to you, and we can do some economic analysis on this if you would like, but we may be one of your highest rates of return or return on investment of getting broadband to the farmers and ranchers that are the hardest to reach; the reason being is that they're multimillion-dollar operations running multimillion-dollar machinery. Time is money. Senator Brandt, we've been down this path with right to repair. If you have a \$1,000,000 machine sitting still and you don't have the connectivity to keep them running, weather-related incidents and things like that all impact what we do. We do have-- I have an anecdotal story of one farmer that, I mean, they made a \$60,000 investment to get 100 up and 100 down and it improved their speed-- their speed of downloading all of the data that goes into agricultural production, whether it's production or the harvesting side of it, from three days to eight minutes. So I know we're here to talk about the broadband coordinator position or the office and it being at the Department of Transportation. We support this because we need to have a deliberate,

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intentional, focused approach to providing broadband where it needs to go, not just the lowest hanging fruit, where the-- where it's the easiest profit per customer or things like that, but we need to have a place that is not distracted by other obligations. I don't mean that against the Public Service Commission. They have a lot of responsibilities and I learn from them practically every week what more they have to do. But we need to have a group of people that are focused on this every day to make sure that we are making the smartest, most strategic investments possible. So I will also, as I'm wrapping up my comments, submit to you that we think that this is just a launching pad of where we need to go with e-connectivity, things like that. For those of you who don't know, the agricultural complex has been declared by the FBI and the Department of Homeland Security as one of the most vulnerable complexes or industries out there for the last two years when it comes to cybersecurity issues. I know we're not here to talk about that today, but I would challenge this committee, and also those of us in production agriculture, to figure out where we need to go to-- go to in the future to help one of our state's largest industries. So with that, I appreciate the opportunity to be here and I'll try and answer any questions you have.

**GEIST:** Thank you. Thank you for your testimony. Senator Brandt.

**BRANDT:** Thank you, Chairwoman Geist. Thank you, Mr. Rieker, for your testimony. We've worked together on a lot of things in agriculture. I wholeheartedly agree on the IOT, Internet of Things. In agriculture, where you may only have one individual every five miles, you've got a lot of pivots and tractors and dairies and feedlots and things that use that. But I guess my question to you is, and like I said, I missed the-- the introduction on this, is we're going to add ten positions, whether they're at the PSC or at NDOT, and those positions are going to do the same thing, whether they're at the PSC or the NDOT. And I guess what I've read and heard a little bit is we're-- we're kind of fighting over who gets to say where the fed funds go. Does it really make any difference at the end of the day, on all this money, whether it goes through these ten added positions, whether-- whether NDOT is the main driver on that or the PSC is?

**BRUCE RIEKER:** Yes, it does make a difference.

**BRANDT:** How so?

**BRUCE RIEKER:** It depends on who is at the helm and who they hire and how they run that within the-- I don't want to say the confines, but wherever they're located. You know, I will say that when we saw that

this was proposed by the Governor and where it needed to be housed, the-- the first thing that I thought was, that's a nice place to put it, that's the appropriate place to put it. The jurisdiction of the committee in the Legislature is Transportation and Telecommunications. Vicki, I've only been around her one day, but I'm incredibly impressed with her, the Director of the Department of Transportation. But all the things that we do, and as I-- as I encourage you to look at a much bigger picture than just where this is housed, but the future of our agricultural industry, it's all about transportation, distribution, warehousing and logistics of inputs, outputs in our industry, but in most of the world now, we need to have not only ten but some of the highest qualified people doing that without being distracted by other things. Now, they could be distracted by other things at the Department of Transportation. I get that too. But it seems to me that there's been so many tug-of-wars in this arena so far that maybe some of the turf battles go away with a new home for this. I don't know whether that's right or wrong. That's just an impression that we have. But in the long run, this is-- this is a very important issue on a much grander scale and I think it's critical that we give them the resources to do it and where they need to do it. So I know there's lots of qualified people at the Public Service Commission. Not one thing I have said here is against any of them. That's not--

**BRANDT:** And I guess that's my main concern, is, does it turn into a turf war? And you know our office has work for five years, as I know Senator Bostelman and several others on the floor, on nothing but broadband, and-- and I think we are in agreement. We want to make sure this works for all the people in Nebraska. And I guess, do you feel anything needs to be changed on this bill or it is the right bill for what we're trying to do to make sure there are no turf wars and everybody's going to work together?

**BRUCE RIEKER:** Well, a bill doesn't guarantee that there aren't any turf wars, and I've had a lot of conversations in a lot of other diff-- with other different-- or with other issues, especially how we fund education. This isn't your jurisdiction. But I-- I start with Governor Pillen and I-- I will speak his praises because I think he has brought a new collaborative temperament and approach to leadership that I'm incredibly impressed with. I've known him for a long time, but I didn't know him that well and he's doing a great job, and I think that that will find its way into the agencies, into a lot of the-- the political disputes that we've had in the past, that it will lower the intensity of that because of his leadership skills. We all have to work together and we have to trust each other and we have to believe that they're doing it for the, you know, the right reasons.

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I-- I truly hope that they hire the right people with the right demeanor to get that done. If people want to make it political, I don't know how to stop them and protect their turf battles. I-- I haven't given you a clear answer.

**BRANDT:** No, that's fine, so--

**BRUCE RIEKER:** But--

**BRANDT:** I think I get the gist of where you're going, so thank you.

**BRUCE RIEKER:** Yeah.

**BRANDT:** Yeah.

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

**BRUCE RIEKER:** You're welcome. Thank you for having me here.

**GEIST:** Any other proponents? Are there any opponents to LB683? Are there any who speak to-- wish to speak in a neutral capacity? Good morning.

**DAN WATERMEIER:** Good morning, Chair. Sitting back there too long. Should have stood up, seventh-inning stretch already. Good morning, Chair Geist and members of the Transportation and Telecommunications Committee. My name is Dan Watermeier, spelled W-a-t-e-r-m-e-i-e-r. I represent the Nebraska Public Service Commission's 1st District and I'm here to testify in a neutral capacity on LB683. This bill relates to the creation of a Nebraska Broadband Office, which would oversee the coordination of broadband programs in Nebraska and conduct outreach relating to broadband development in Nebraska. As you know, the PSC's responsibilities overlap substantially with those outlined in this bill. In 2021, passage of LB338 and LB388, which established broadband speed-testing requirements and tasked the commission with developing the Broadband Bridge Program, we believe both were prudent and timely steps to lay the foundation for administering federal broadband money in Nebraska. The commission administers those programs and believes that they are important for much-needed broadband deployment in Nebraska. We believe the institutional knowledge built during the administration of the bill program-- bridge program, as well as the Nebraska Universal Service Fund, will lead to positive outcomes for Nebraska citizens who lack broadband service today. The commission strives for transparency and accountability in its administration of NUSF, the bridge funding, and now the capital funds.

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The commission publishes applications, supporting documentation, challenges, scoring information for grant-funded programs on its website. The commission includes stakeholder input in our decision-making process to the maximum extent possible and responds promptly to questions and/or concerns and complaints. These commission policies allow us to improve our processes quickly and deploy broadband networks as efficiently as possible while protecting the public investment. Since the issuance of the BEAD NOFO, or the notice of funding, the Commission has been hard at work to maximize the impact of these federal dollars in Nebraska. Under the director of Governor Ricketts, that BEAD funding would be administered by the commission. As-- as an attachment to this testimony, I am providing some documents showing the work the commission is doing in preparing for the BEAD award, as well as the work that must be completed in the very near future. The BEAD program includes a number of deadlines and requirements that must be met. They have to be met so that Nebraska can receive the maximum federal support. Our staff is diligently working through these requirements and is on track to meet upcoming deadlines. In just six days, next week, the commission will submit its initial report to the NTIA. Soon we'll be-- we will be submitting a five-year action plan and the initial proposal. If these deadlines are not met, Nebraska will be leaving money on the table. There is no ability for the state to request an extension of time for these deadlines. In order to receive BEAD funding, Nebraska must comply with a number of practical and technical requirements. One of those requirements is equal engagement with stakeholders across the state, including collaboration with local, regional and tribal entities, as well as outreach to unrepresented communities. The commission has worked hard over the past months to pursue this engagement and continues that work today. In fact, our new outreach coordinator came on board yesterday and will be-- immediately begin work with stakeholders and communities across Nebraska, and input from all these groups will be of utmost importance as we formulate a plan to reach all unserved locations throughout Nebraska. I also want to ensure the committee is aware of another potential administrative challenge regarding BEAD. According to the documentation filed with the NTIA, the commission is the administering entity for the BEAD program. While this bill, as introduced, doesn't seek to modify any of the administration and/or funding from the BEAD program, we understand that there may be amendments offered which make those chance-- changes. Any transitions, the responsibility is likely to require NTIA approval, and the timeline for their approval is unknown. While BEAD funding will present a once-in-a-lifetime opportunity to deploy broadband infrastructure throughout Nebraska, we need to keep in mind

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there are already grant-funded and Universal Service-supported broadband networks in various stages of maturity which will require oversight; and additionally, all these networks need to be sustained in the long term. LB683 also moves the administration of Nebraska's Broadband Map to the new Broadband Office. Pursuant to last year's LB1144, the Commission has been working on engaging a vendor to create a broadband map for Nebraska. Once the map is in place, the commission expects that all will-- that it will be a reference point for commission programs beyond the administration of federal grant dollars. To that end, I would re-- recommend that any contract entered into for mapping in Nebraska allow the commission to fully review and input new data. Finally, I want to mention the work at the Contact Nebraska-- Connect Nebraska Working Group over the past several months. We appreciate the collaboration and support offered to us by other agencies and stakeholders, including the Governor's Office, the broadband coordinator, the OCIO, the Department of Economic Development, public power districts, NACO, the NTIA, and the League of Municipalities. We feel this collaboration has been to the benefit of Nebraska and we would encourage any future conversations to have that as well. That is my testimony and I'd be glad to try to answer some questions.

**GEIST:** Great. Thank you for your testimony.

**DAN WATERMEIER:** Yeah, Chair.

**GEIST:** Are there any questions? Yes, Senator Fredrickson.

**FREDRICKSON:** Thank you, Chair Geist. And thank you, Commissioner Watermeier, for being here and speaking.

**DAN WATERMEIER:** Certainly, Senator.

**FREDRICKSON:** So you-- you kind of highlighted a little bit of this in your testimony. But one question I had is to see if you might be able to elaborate a little bit more on the PSC's abilities to-- to handle this, and specifically what I mean is, you know, kind of managing federal funds, for example, the ability to scale, because that's going to be a huge component of this as well, and then any of the kind of like mapping, auditing as well.

**DAN WATERMEIER:** And let me put that in context a little bit to the questions that came up earlier about employment, what we have for an agency. We have 50 in our agency total. Nine of those are involved-- involved in the telecommunications side of that. Right now we

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administer about \$50 million of NUSF dollars every year. We also administer \$40 million in the capital fund-- excuse me, not the capital-- Bridge Act every year with-- with that, as well, with those people, we are doing that. What we envision doing, because of the bid-- BEAD program and because the BEAD is such a different animal, that we're going to hire, as Vicki-- Director Kramer mentioned, we're going to hire around nine extra people. We've already hired three of those today. We expect the PSC to expand to be able to take on this extra workload a little bit on the BEAD program, and then in five or six years we're going to retract. That's what our goal is, to not overbuild anything that we-- for employees that we can. So I don't know if that answers your question or not, but right now we handle between, you know, roughly \$80-100 million a year; to add another-- another \$100- 300 million from the BEAD fund is probably going to take more people. And the thing that this committee needs to keep in mind is the BEAD fund is very specific to unserved. In the plan, you have to tell exactly how you're going to get to the unserved. You can't just plow right through a bunch of underserved and put-- put all your want where you need it. It has to have a plan as to how you're going to serve the unserved. You may serve some of the underserved to get to those, but it's very, very specific.

**FREDRICKSON:** All right. Got it. So the plan is, and in terms of scaling, you have the ability to do that, you think, and then expand and, you said, retract afterwards.

**DAN WATERMEIER:** Yeah, we-- we think it's important to be able to expand to to recognize the need for the BEAD program and how unique it is, but then also to retract because a lot of these people will be contracted individuals--

**FREDRICKSON:** Sure.

**DAN WATERMEIER:** --and we think that's going to be the best use of public dollars.

**FREDRICKSON:** Thank you.

**DAN WATERMEIER:** Yep.

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

**BOSTELMAN:** Thank you, Chairwoman Geist. Thank you, Commissioner, for being here. What is your-- you have a mapping company you're going to sign a contract with, even though you know that there's a change coming up. Why or what is-- what's that company going to provide?

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**DAN WATERMEIER:** That-- the change you're talking about, initially-- actually, when I was in Senator Fischer's office years ago, they talked about spending \$50 million to improve the 477. We're to that point today, where they've got an improved 47-- 477. Nobody really likes it. But the change in I am-- I'm sorry, go ahead.

**BOSTELMAN:** All right.

**DAN WATERMEIER:** But the change that I envision happening is the contract that we're going to sign-- we're in the process of signing it today-- it was going to be about \$1,000,000 contract. The NTIA threw out some things and changes, and it suggested that we maybe provided some of those numbers to the map as a holistic to the-- to all the states. So we're going to sign around a \$300,000 contract in order to make sure we get started with the mapping, the mapping issue today,

**BOSTELMAN:** So you're going to rely upon the providers to provide the information, rather than actual where it's at, location, and how does that help us in identifying unserved locations? Because we've already identified by others that you haven't-- that they haven't identified those unserved locations, so now we're going to be relying on the same data from the same places to get the same results.

**DAN WATERMEIER:** Well, I wouldn't say it's the same data. I mean, the idea that it's improving every day and every year is there. Even I would look back at the last legislative bills that even came through this committee, and some of them through you, Senator. In 2019, Senator Brandt offered that, and it was indefinitely postponed, you know, a description of mapping. In 2020, LB996, by Senator Brandt, talked about a data ba-- excuse me, a broadband data improvement program, which eventually morphed into what we call the BDC today. We're doing that even though the bill didn't pass. In 2021, LB498, DeBoer had a bill that would-- Senator DeBoer-- would outline mapping broadband. It had no mention of detail, but we are focused on those very things. I think the map is improving. If you go back to what the agency-- our-- my agency has done, we had the first-- we had the first pilot program in 2012 to actually stretch, bend the rules about taking dollars for telephone and getting them into the broadband world.

**BOSTELMAN:** But I'm going to come back to the question. My question is, because you're using an NTIA system that relies on the provider to provide you the data, and what we found on 477, everything we've had up to this day and why I've had mapping bills put in place that try to get passed through this body, is that we have to have, rather than relying on those who say they will-- because, I'm telling you, the map

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that shows for me right now, shows I get 250, 250 up and down. No, that's never going to happen, and that's the same information that's going to be relied upon now for this new map. And my concern is, unless we go out to address level, what's actually being provided, we're going to miss a whole bunch of people, and I think others have already identified that. So now we're going to contract with someone who's going to provide similar information and we're going to miss a whole bunch of people, and I guess that's-- that's-- that's-- that's my-- that's my question. That's my-- that's my struggle with the new contract because, yeah, we may get a little bit better, but we're going to miss a whole lot of unserved areas that's out there, especially in my district and others. I just have a real problem with that, I guess. So I guess the question is, is how do you improve? How is it that your contracts-- actually, the new contractors, going to improve on address level what's actually being provided at address level rather than what the provider says that they're providing?

**DAN WATERMEIER:** That's a difficult question, and I'm not po-- I'm really not qualified to answer the details in the weeds on that. I'm not. But I can just tell you that it's an evolving process. The minute that we sign the map, it's old because we're burying pro-- fiber every day across the state. You're right. And it's a frustrating process. And the map in itself is so difficult. It is a political football in many ways. You think about the map as this desk. Above the map, you have locations and everybody would-- is mad at the fact that their-- their spot maybe showing that it has coverage and it doesn't. Underneath the map are the providers, all those individuals, all the stakeholders that have buried fiber or even on existing copper and improving it, they're worried in the fact that it's not accurate, that says, hey, we are covering that, but the map shows it's not. It is a fight to get to that middle ground. It's a total fight, and I get it, Senator. It's our-- it's-- it's frustrating for me as well. It is.

**BOSTELMAN:** When we-- last comment, I guess, or question I have. When this committee set up the Broadband Office, we struggled with where to put it: PSC DED, OCIO, and it ended up being split up between a lot of different areas. You're a regulatory body. PSC is a regulatory body. And I understand you've been doing work, but to me, policywise, it seems like that that's probably not the place it should end up and that it should end up in-- in a-- and this-- and this-- and it's in-- it's a broadband-- coordinating broadband office under DOT. I just-- you know, having a regulator responsibility for running-- doing these, I guess that's-- that's a question whether that's the right place to have that.

**DAN WATERMEIER:** Can I give you my opinion?

**BOSTELMAN:** Sure.

**DAN WATERMEIER:** And how it's morphed over the years, I think I was just leaving the Legislature when the idea came and we'd had the bill to put it in the OCIO's Office, and I really struggled with that at the time. I didn't feel like it ought to be there because I knew what the PSC was doing at that time and a lot of the conversation was there. But now I can recognize the fact that the Governor needs to have a cabinet-level person that's underneath his thumb, his or her thumb, and they need to be able to talk to that Governor. They need to be able to discuss what the Governor's vision is of broadband in the state. So I think it's fine-- well, I originally thought it'd be fine in the OCIO's Office, but it's fine to put it in the DOT. And actually I reached out to Governor Pillen in November and him and I and Joe and Dave all talked together about what this is and how we could do this together, because we're here to be a partner in what the Legislature needs. We're all expected by our constituents to stretch, to bend, to do the best we can with what we have to get fiber out there, to-- well, not fiber, excuse me-- to get broadband out there, so. And I do think now that it's a good idea to have a Governor have a cabinet-level person, and that's what I spoke with Governor Pillen about. I wouldn't get too worried about the weeds, about how it's going to be administered. Yeah, there's been a lot of talk about staff and moving that around. But the first thing we need to hear is what is the vision? But just know that Ne-- the PSC stands here ready and willing to get broadband out to the state of Nebraska for workforce, for housing. We need to have people that can have a second job from home that can get the 100 bytes-- you know, hopefully 100 down-- upload speeds to be able to satisfy this workforce. We need broadband in the country for education. K-12 to post education. We need it for telehealth. And in my world of agriculture, we need it as well. I also serve on an FCC connectivity group called the FCC Precision Ag Connectivity group, and we meet monthly. And in the room and in the Zoom meetings there is Elon Musk group sitting right here. There's Microsoft on the other side of the corner. There's all these stakeholders. There's WISP providers, Internet providers, and all this conversation and everybody's in a political fight. And I think it came up earlier about, should we have this territorial contest? No, we should not have a territorial fight on whether it's at the PSC or the DOT as long as we're all engaged. But we do need to have territorial fights about how the investment is made, and I personally believe that the investment has to be made privately. All these entities will have a role in it, and I believe there's a role in it for public power to

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be involved in the very high-cost areas. But we have to have a fight and that's where we get good products, is when it's a-- it's a capital-intensive environment like this, we'll have that conversation. Now if that makes sense at all, but in my world that I see, especially through the FCC program, I can just understand what goes on at the federal level so much better after watching how that works.

**BOSTELMAN:** I appreciate that. That's been my fight for six years. I just feel like we're just still-- still fighting, pushing on that same wall I pushed on for six years and we're not getting very far, so appreciate it.

**DAN WATERMEIER:** You know, and many times, I think the other members of that committee, they-- they really would just as soon not have me show up because I'm asking way too many questions and I'm really the bad guy in the room when I start talking about that.

**BOSTELMAN:** Thank you.

**GEIST:** I have a question for you on the process of BEAD versus the processes of your other-- the bridge and the capital projects. Is that-- is the-- you said the BEAD process is very specific. Is it-- is it, though, in process, different from your other two processes that you use?

**DAN WATERMEIER:** Not greatly, other than the fact that the keys that the gov-- federal government has given us have been-- we've been approved by the NTIA to have this funding. It's very detailed work. The accountability-- the transparency and the accountability of these funds are at another level, and that's why we felt like we had to hire the number of people that we did. I really didn't want to see my agency grow from 9 to 18, but we need to in order to manage those funds in the short term. Some of those people have other roles that will be played between the capital projects and the BEAD money, but it's not a whole lot different, other than the fact, what I mentioned earlier, is that the BEAD is very specific to the underserved. I mean, if you try, attempt to serve an underserved, and we've done that with the Bridge Act because the Governor was very wise to allow those rules to where we-- we can spend money or award grants to the underserved. But the BEAD program can do that, but you've got to have a very good plan that's got to be very well spelled out how exactly you're gonna do that, and that's not going to be easy in Nebraska. That's why I say, as well, it's going to be all hands on deck. I mean, it could be the satellite providers, it could be the Internet, the wireless providers, it could be the WISP. Everybody's got to be ready. And that's why

having a broadband coordinator is-- I have come to agree that that's a good idea for the Governor to have that under his thumb and not in my office.

**GEIST:** Yeah, but you see that coordinating very closely with your office, I assume?

**DAN WATERMEIER:** Yeah. We'll see how that-- how that works out.

**GEIST:** OK.

**DAN WATERMEIER:** Yeah. I mean, it's going to be difficult, I'll-- I'll tell you. But what I told the Governor in November was we are here to support what his vision of the state is. And this really shouldn't be any different for any of us in this room, and we can't be territorial in the building in that regard, but it is going to be a stretch to see how this gets administered as quickly as we can. We hired a person yesterday that came on board. We've got a deadline Monday that we have to meet. This August deadline for the initial planning is huge.

**GEIST:** And--

**DAN WATERMEIER:** It's absolutely huge. I wish I could give you a metric as to how far down the road we are, whether-- if it's one to ten, if we're at four or five or six, and we're somewhere in a third of the range.

**GEIST:** OK.

**DAN WATERMEIER:** But it's-- it's all in the cloud yet, I would say. It's hard to pin it down and-- but we're-- we're ready to turn that over in August because that August deadline is a big deal.

**GEIST:** And specifically, that's your five-year plan?

**DAN WATERMEIER:** Yes.

**GEIST:** OK.

**DAN WATERMEIER:** Yes.

**GEIST:** OK. Any other questions? Yes, Senator Cavanaugh.

**M. CAVANAUGH:** Thank you. Thank you, Commissioner Watermeier. Nice to see you. I have to admit, I'm getting a little bit of whiplash from your testimony here. So you're neutral, but your written testimony seems to lean a little bit in opposition, then you answered Senator

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Bostelman's questions that you support making this a cabinet-level position, which would be in support of the bill.

**DAN WATERMEIER:** Um-hum.

**M. CAVANAUGH:** And so--

**DAN WATERMEIER:** That's why I went over on time.

**M. CAVANAUGH:** OK. So is the cabinet-level position your personal position, or is that the position of the PSC?

**DAN WATERMEIER:** It's the position of the PSC that we remain neutral on this bill, but I would tell you that originally, when it went to the OCIO Office, I was OK with that.

**M. CAVANAUGH:** But so--

**DAN WATERMEIER:** And I think it's OK that it goes to the DOT, just--

**M. CAVANAUGH:** I'm just trying to get clarification, but it going to the DOT is your personal position, not the PSC's position.

**DAN WATERMEIER:** No, that would be the PSC's position. We--

**M. CAVANAUGH:** That--

**DAN WATERMEIER:** --voted to be neutral on this bill, which--

**M. CAVANAUGH:** OK, voted to be neu-- but you're saying you're OK with it go-- that's different than being neutral. That's being in support.

**DAN WATERMEIER:** No, I-- I-- I really-- just as long as the Governor has a cabinet-level person, he can name where it needs to be.

**M. CAVANAUGH:** OK. OK. So the timeline, this, obviously, if we were to Exec on this ten minutes from now and kick it out and go to floor debate, etcetera, etcetera, you know the timeline on these things. We would never-- we would not even be able to pass this before February 13, so obviously that portion of it would stay; the February 13 upcoming deadline would remain under your purview. Is it disruptive or easy-peasy transition, for the June 30 and beyond deadlines, if we were to enact this legislation?

**DAN WATERMEIER:** I can't answer that, I really don't know to what degree we start turning things over. It's going to be difficult, but we'll-- we'll do what it needs to be done.

**M. CAVANAUGH:** Is there anything that-- would it-- if we were to enact this legislation with an enactment date after August, would that make it an easier transition if this portion of it worked-- if you were to work in-- in tandem with the department and that on the-- the strategic plan, but then not turn it over until after that August date, would that be easier? You don't have to answer that now--

**DAN WATERMEIER:** Well--

**M. CAVANAUGH:** --but I think that's something that we would need to know before [INAUDIBLE]

**DAN WATERMEIER:** Let me-- let me answer it like this, is the fact that it would probably make it easier, just on black and white, dotting the I's, crossing the T's. But my responsibility to reach out to the broadband coordinator, to the Governor's Office and to you would not change. We're still going to do the same thing. The BEAD plan has gotta happen and initial planning has to happen. So whether we turn it over now and it's actually signed differently, I really don't see that as the argument. We've gotta get the job done, one way or another.

**M. CAVANAUGH:** Have there been conversations between the PSC and the Department of Transportation over how this would look, the transitioning from one to the other?

**DAN WATERMEIER:** Not-- no, not really. We've talked about what we have, what they have. It's been in a public setting with other-- other members.

**M. CAVANAUGH:** OK. Thank you.

**GEIST:** Yes, Senator DeBoer.

**DeBOER:** Thank you. Sorry, I kind of-- I was introducing a bill in another committee and I sort of missed some of this, so I might ask for repetitive something. I apologize to the committee. Give me a nod and I'll shut up. So how has-- so far, we have this coordinator under the Department of Information and Technology, is that right?

**DAN WATERMEIER:** No, that-- actually the coordinator today was just in the budget office and directed by-- or ordered by Governor Ricketts to work with-- as a broadband coordinator. Governor Pillen, with his executive order, created the position, and I think it's actually moved into the DOT today. So Patrick's job is actually in the DOT today.

**DeBOER:** OK, so the original office was in Budget, now it's in NDOT.

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**DAN WATERMEIER:** That's my understanding, yes.

**DeBOER:** OK. Have you worked with this office in the past? Has the-- yeah, on the Broadband Bridge Program, you've worked with it when it was in the Budget Office?

**DAN WATERMEIER:** Actually, just since the BEAD funding, our conversation started in probably June or July when the Governor was starting to talk and ask about what this is going to look like. We had a press conference. Governor Ricketts and I had a press conference in August, I believe, when he did two things. He had to write a letter first and say, yes, Nebraska wants to apply for BEAD funding. Second letter came in later August, I believe it was, when he named the PSC as the administrating office for the BEAD funds, so we had that. Shortly before that, we actually started having conversations with the Governor's Office, meaning Patrick Redmond, in-- in regards to how we're going do this. The stakeholder group has grown. It's been good. We've had, I'd say, good involvement by all stakeholders. I hope we haven't missed any stakeholders. That was a little concern, is that we couldn't really offer that meeting. I told Patrick that one day: If we offer that meeting, we absolutely have to have every single person in the room invited. And I-- I worry sometimes that we may have missed some stakeholders, so I would say that that conversation was started in earnest in July.

**DeBOER:** OK. And you may have answered this question already. If we do not pass this bill, would you-- would the Public Service Commission be a-- able to scale up to-- to distribute the BEAD money through basically the same mechanism as the Broadband Bridge?

**DAN WATERMEIER:** Yes, I answered to Sen-- Senator Fredrickson's question earlier about the same thing. We have nine employees now. we envision adding about eight or nine more. That's to flex while we influx with the BEAD funds and that'll hopefully rent back down in five or six years with-- down the same program we have. It's not that much different, the administrating, but the mission of the BEAD funds are that much different in the fact that it's very strict in having to go to the unserved. You can't just plow through a bunch of underserved places and get it paid for to get to the unserved unless it's in the plan, and it's going to be a challenge to get that ready.

**DeBOER:** OK, and then-- but the-- the unserved/underserved are things that you've already dealt with. You've already dealt with different speed-- changing speeds as we in the Legislature changed the speeds, I

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don't know, last year or two years ago. You would know more than me. I can't remember when that was. I feel like maybe it was 2020.

**DAN WATERMEIER:** We've actually changed speeds four times since I've been around.

**DeBOER:** OK.

**DAN WATERMEIER:** 2012, it started off with 4/1. After that, it went to an 8/1 or 8/2, and then to 12/1 or 2 or 3, and then now it's at 25/3. So that started in 2012 with our first pilot program that we had to actually support broadband development in the state. So we've had-- operated in-- in a moving target, but that's what the public demands.

**DeBOER:** Right. And the-- the Public Service Commission has at all times sort of been the main, I don't know, agency through which we-- you're a commission, but commission through which we have distributed those funds through for broadband deployment in Nebraska. Is that right?

**DAN WATERMEIER:** Yes, except for the CARES Act--

**DeBOER:** Except the CARES Act.

**DAN WATERMEIER:** --which happened a year ago. That was through the DED, a separate program. I really can't get into details of what that is. Now we have ARPA funds, that actually opened up the door. Every county had the opportunity to divert the first \$10 million away from their funds to broadband. That's the example that was given in Gage County.

**DeBOER:** OK. I think that's all the questions I have for you.

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

**BRANDT:** Thank you, Chairwoman Geist. Thank you, Director Watermeier, for-- for appearing today. This map that you handed out, is-- these are just the PSC projects, correct?

**DAN WATERMEIER:** You-- correct. Yeah, we wouldn't have record of the-- what was spent in the CARES, at my understanding. That's correct.

**BRANDT:** And these are ongoing, a lot of these projects?

**DAN WATERMEIER:** Yes.

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**BRANDT:** They're-- they're getting knifed into the ground even as we speak, right?

**DAN WATERMEIER:** Yeah. In the lower left hand corner, if you look to-- I mean, it's-- it's a little hard to describe. Like everything in this telecom world, it's very specific. You can see what '21 and '22 did with the bridge act, what we've been doing with ongoing high-cost support for the Nebraska Universal Service Fund, where those locations are.

**BRANDT:** And then the bottom one says fiber to premise. Is that a different program or these are completed projects in the program?

**DAN WATERMEIER:** That's if it was pro-- it could be that we've supported an issue that wasn't fiber, but this would be specific to fiber.

**BRANDT:** OK. And I applaud you for testifying in the neutral capacity. It is a refreshing change to have an administration that doesn't come up in the-- in the negative capacity on a lot of stuff. I serve on several committees where that was not good. And so thank you for that. I guess the question I've got is, listening to your testimony, if you could make any changes on the bill, what would it be?

**DAN WATERMEIER:** Senator, that's-- I think that's in the works yet. I wanted to be here today in a neutral capacity just to bring you up to speed about what we've done, what we're doing today, and clearly what we have, what we're very worried about doing in the next six to eight months. I don't know of a change that would be necessary other than we just all need to come together and have the right goal.

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

**GEIST:** Thank you. Senator DeBoer.

**DeBOER:** Yes. I'm sorry. I thought of the one more topic that I wanted to discuss, which was mapping. So if the fabric mapping responsibilities are moved over, away from the PSC, will this inhibit your ability to distribute Broadband Bridge Act money, and will that have any effect on the USF funds and how you sort of work with those, some of those territorial disputes? I can't remember what we call it where somebody [INAUDIBLE]

**DAN WATERMEIER:** Boundary changes.

**DeBOER:** Boundary changes?

**DAN WATERMEIER:** Yes.

**DeBOER:** All of those things?

**DAN WATERMEIER:** We-- it-- it did come up in conversation in the last couple of weeks about the work that the boundary changes have done. Senator Fischer introduced that bill eight years ago and we are really now just getting it up to speed in our-- and the public's becoming aware of it that they can request the boundary change. It's been a great thing. It hasn't moved a mountain as far as a number of changes, but it's got the public engaged now that they know they can make these requests. To answer your question, I-- I don't think it's going to defer or deflect what we would do, whether the map was under the control of the DOT or not, as long as we had access to the map. Keep in mind, the map is old today. It's printed and we're burying fiber every day and there's lot of stuff going on in the state, so it has to be accurate, has to be updated. And as long as that's done and we have access to it, you know, we can use it.

**DeBOER:** OK.

**GEIST:** Any other questions? I don't see any.

**DAN WATERMEIER:** All right. Thank you, Senator.

**GEIST:** Thank you for your testimony. Any other neutral testimony? Good morning.

**ANDREW VINTON:** Good morning. Chair Geist, Vice Chair Moser, members of the committee, for the record, my name is Andrew Vinton; that's spelled A-n-d-r-e-w V-i-n-t-o-n. I'm the in-house legal counsel and lobbyist for ALLO Communications, testifying today on LB683 in the neutral capacity. ALLO was founded by Brad Moline in Imperial, Nebraska, in 2003, and today is the largest telecommunications provider that's majority owned and managed in Nebraska. For 20 years, ALLO has been building ubiquitous, citywide, fiber-to-the-premise networks in communities throughout the state and has invested nearly \$600 million of private capital bringing broadband to Nebraskans. Once ALLO's in-progress builds are completed, more than 60 percent of Nebraskans who live outside of the city of Omaha will have access to alone symmetrical gigabit or multi-gig service. Our efforts have resulted in the city of Lincoln being ranked in the top 3 of the 100 largest American cities in upload speeds, download speeds-- [RECORDER MALFUNCTION] We take immense pride in providing all ALLO customers with world-class service. ALLO strongly supports the concept of

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establishing a state broadband office. State broadband offices have proved to be valuable tools in other states where we do business. These type of entities are well-suited to coordinate with communities, identify areas of need, and recruit qualified providers to submit broadband grant applications. Each state has chosen a unique manner in locating its broadband office. In some states, the broadband office is directly aligned with the governor's office, whereas in other states the broadband office is located within a separate state agency. In many states, the broadband office has been operating for a number of years and has managed multiple rounds of state and federal grants. Our primary concern with the proposed Nebraska Broadband Office, which would be housed in the Nebraska Department of Transportation, is that it may have difficulty ramping up its staffing and expertise in time to distribute incoming federal broadband funds. We believe the current Nebraska Broadband Bridge Program has worked well and that the Public Service Commission has done a good job of evaluating grant applications and awarding grant funding, funding to meritorious projects. We would advise the new broadband office to lean heavily on the expertise, experience and industry knowledge of the PSC commissioners and staff and to coordinate closely with the PSC in all its efforts. Due to the constrained time frame of developing a state action plan and to distribute federal broadband funds, the Broadband Office may be best suited to operate as a community outreach, policy creation, and advocacy body, while the PSC, who are the subject matter experts, remain the ultimate distributor of grant funding. At this point in time, this would be ALLO's recommendation. However, regardless of which agency is ultimately chosen to make grant funding decisions, ALLO intends to participate in upcoming broadband grant programs and regards them as a valuable opportunity to bridge the digital divide in rural Nebraska. We will simply advocate for efficiency, consistency, transparency, and accountability. With that, I'd be happy to answer any questions you may have.

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

**ANDREW VINTON:** Thank you.

**GEIST:** Good morning.

**TIP O'NEILL:** Morning. Chairperson Geist, members of the committee, my name is Tip O'Neill. It's spelled T-i-p O-'-N-e-i-l-l. I'm president of Nebraska Telecommunications Association. The NTA is a trade association that represents the majority of companies that provide landline voice and broadband telecommunication services to Nebraskans

across the state. The companies have made substantial investments in Nebraska and serve significant numbers of customers while employing many of our citizens. We are testifying in a neutral capacity on LB683. As we testified at the LR401 hearing before the T&T Committee in December, we view the next five years as a great opportunity to bridge the real digital divide that exists in Nebraska. At that hearing, we supported adding additional resources to the state Broadband Office to take advantage of this generational opportunity. We want to give thanks for the work that interim broadband director Patrick Redmond has done in breaking-- in bringing stakeholders together for face-to-face meetings as the state moves forward with its broadband strategy. Those efforts have made a positive impact on the way Nebraskans, with sometimes divergent viewpoints, will work together in implementing a long-term broadband plan. We believe the state Broadband Office can have a major positive impact on state broadband policy through outreach efforts, strategic planning, agency coordination, advocacy, and public information activities. Our concern with LB683 has to do with uncertainty on how the process for grant-- provision of grant funding will work. First, we support the process the PSC has used in successfully administering the Nebraska Broadband Bridge Act. We believe it is a significant improvement from the process used in the distribution of CARES Act dollars for broadband. The process for distribution of ARPA capital projects funds began in January. A new distribution process for BEAD and perhaps the second year of the Capital Projects Fund will create uncertainty for broadband providers with a history of successful deployment. Second, we want to ensure that a new process will not slow down Nebraska's ability to deploy broadband in a timely fashion. The state has not yet hired a full-time director of broadband. If functions are transferred from the PSC to the Broadband Office, we believe delays will be inevitable. Finally, we are concerned about transferring state mapping authority from the PSC to the Broadband Office and Brian Thompson from Consolidated Companies will discuss the issue after my testimony. He's much more of an expert on that issue than I am. We have not had sufficient time to review the Governor's amendment that was proposed this morning, and I may provide additional comments to the committee later. Thank you for your consideration of this proposed legislation and I'd be happy to answer any questions.

**GEIST:** Are there any questions from the committee? Yes, Senator DeBoer.

**DeBOER:** Mine is just a comment that this is a backwards running of all of the committee counsels that we've had in T&T since I got here. Now,

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I'm just trying to-- just wanted to point out that we've had all of them now.

**TIP O'NEILL:** Well, it's always a pleasure to deal with those committee counsels of the past and present who are smarter than I am so I appreciate that.

**GEIST:** Any other questions?

**M. CAVANAUGH:** I had a similar comment actually.

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

**TIP O'NEILL:** Thank you, appreciate it.

**GEIST:** Any other neutral testimony? Good morning.

**BRIAN THOMPSON:** Good morning. Hi. My name is Brian Thompson. I am the vice president of external relations for Consolidated Companies, and that's spelled B-r-i-a-n T-h-o-m-p-s-o-n. I, too, had many concerns that Tip has already laid out. And because of the mapping questions, I thought I ought to kind of dig in a little bit on mapping and go over some of that with folks. I would say that we've been a part of several of the Broadband Bridge processes so far and we have worked very hard on making that work. And the first round we got seven grants and the second round we were awarded two more. We've currently over the last three years built nearly \$18 million worth of fiber to the home projects for farms, businesses, homes in town, whatever was in the project. And in 2022 alone, we cut over 1,667 locations to fiber in rural central Nebraska. The mapping information that you're seeing today in the fabric map dates clear back to June of last year. And so there were numerous customers cut over past that time. We currently have three Bridge projects in progress and three other rural projects that were not a Bridge grant project that total over \$3.5 million. And so we are every day building more and more and hooking up more customers. To talk a little bit about the fabric map and give you-- to try and break the-- the-- all the acronyms, BDC stands for broadband data collection, which is when they request all ISPs, provide their data to the FCC and NTIA for the map. In the first round of this mapping process, 8,531 federal ID records were imported by Consolidated for locations out in our service territory. We changed the GIS or geographical information or addresses on over 3,000 of those 8,500 records, and we identified 2,781 locations that were invalid of those 8,500. We requested 1,009 or 1,095 new federal ID

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numbers that were not identified in the original map. So they were locations that weren't even there. We requested a new ID number for those locations. That's an 81 percent error rate in our service territory. We serve one eighth of the state's landmass. So, you know, it's kind of a big process when you look at it that way. The FCC accepted only 4,333 of our challenges that we had issued around locations, and another 1,043 of our challenges were overtaken by new FCC data. And what does that mean? They were kicked out. They were kicked out because what happens with the FCC's mapping process, the fabric map, is that there are algorithms and artificial intelligence that go out and rake off addresses and information out of public databases for every different state. When that happens, they find discrepancies with addresses and GIS information and county assessor information and that type of thing. Therefore, those discrepancies will kick out a location that's, you know, it's a house on-- on 33rd Street, and it definitely has service from a provider. But because it has a problem between its 911 address and its county assessor address, it'll be kicked out. We have an entire town, Arthur, Nebraska, that's been kicked out. So we have a lot of different processes that need to be worked on in this mapping situation. We are already in the second round of redoing our BDC data and updating it and it has to be submitted by March 1. And we have spent thousands of man-hours working on this process. So with that, I'll close my comments and answer any questions anyone might have.

**GEIST:** Are there questions? Yes, Senator Bostelman.

**BOSTELMAN:** Thank you, Chairman Geist, and Mr. Thompson, for being here. I guess what you say is right to my point is that the maps are inaccurate. The maps they're going to contract with to do are going to be inaccurate. And we need to have actual address level mapping done. And unless we do that, we're going to leave potentially hundreds of millions of dollars on the table because we don't have a map and we don't have a way and the PSC has not challenged the map. So we've got a-- we're going to have another --another 477 dilemma where we're going to have a map that's going to leave a bunch of people out because we've already identified that by other means that those-- that those locations are being left out. So I'm not sure. I think you're speaking more to, maybe I'm missing it, but I think you're speaking more to my concerns with-- with perhaps the-- the mapping that they're going to-- that they are now contracting with that's going to be more of the same.

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**BRIAN THOMPSON:** What I can tell you is that the PSC has done challenges to the areas that they've identified that aren't showing up on the map. But--

**BOSTELMAN:** And their challenge is by 911. And FCC says you can't use that as challenge anymore. So now we're back to we need address level, we need locations, and we're not going to do that.

**BRIAN THOMPSON:** Which I think the Legislature could do something about. And that would be if the Legislature would require the situs address for the county and the 911 address to be the same as well as the U.S. Postal address, then we wouldn't have this problem. But--

**BOSTELMAN:** OK, go ahead.

**BRIAN THOMPSON:** And the-- the long and the short of it is this is address level stuff at the fabric. We go straight to the house, we do a GIS location at the house, and we use the service address and it has an FCC's federal ID number assigned to that house.

**BOSTELMAN:** I can tell you for mine, no, that didn't happen. So how many of my houses are out there? And I think we've already shown there's thousands, maybe tens of thousands of these so.

**BRIAN THOMPSON:** Well--

**BOSTELMAN:** That's my concern. My concern is, is we're going to have a map that's going to continue to miss a number of locations because maybe not everyone is doing what you're doing [INAUDIBLE].

**BRIAN THOMPSON:** Well, I would say that every state has kind of the same problem to some extent. And secondly, no, I don't know that everybody has done as deep dive as we have. But to me, it's really important to get that information right because at an address level, we're going to have to challenge people who may try to get a grant for our area that we've already built.

**BOSTELMAN:** And I appreciate that. And I mean, it's-- we've had a 477 out there for years and it's never and, you know, it's been inaccurate. So I'm-- if we use the same process, not everyone may do what you're doing, you know, grant that. So I appreciate that. I'm just concerned that we're going to be leaving a lot of people, unserved areas left off and potentially hundreds of millions of dollars because of that. So thank you. I appreciate it.

**BRIAN THOMPSON:** Sure.

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**GEIST:** Are there any other questions? I have one that I'd like you to clarify. In-- in your opinion, in moving the maps from the PSC to the coordinator, does that break continuity of what you've done?

**BRIAN THOMPSON:** Well, the moving I mean, the fabric map is the fabric map. That's how we'll get the money from the federal government.

**GEIST:** OK.

**BRIAN THOMPSON:** The, you know, if you move the responsibility of kind of housing Nebraska's fabric map over to the Department of Transportation, I-- I'm not really sure that that unless you require counties to do what they need to do to provide data that can be utilized out of the software that the FCC uses, I'm not sure it will change much. And we as a provider just have to keep uploading new data all the time and hoping it doesn't get rejected.

**GEIST:** But that's really-- doesn't matter whether it's under the PSC as a coordinator, correct?

**BRIAN THOMPSON:** Probably not as long as we have access or as long as the Public Service Commission has access to the map as well as the coordinator and it's, you know, very real-time so that if there are challenge issues around Broadband Bridge or some of the things that they're doing with USF or any of those type of things, they just have to have access to that information so that-- that challenges can be managed from grant processes. The other part of that is we-- within the BEAD process, I think that challenges will be kind of more significant because we might be talking about bigger dollars. We might also I don't want the process to be a, I mean, if it's a one-person decision--

**GEIST:** Um-hum.

**BRIAN THOMPSON:** At BEAD with the broadband coordinator, that's a little bit concerning. I'm worried about lawsuits and things like that if it's just one person making that decision.

**GEIST:** OK. Thank you. Any other questions?

**BRIAN THOMPSON:** If I could make one last comment, I handed out a-- there was a handout that had the little--

**GEIST:** This one?

**BRIAN THOMPSON:** Yeah.

**GEIST:** Thank you, yes.

**BRIAN THOMPSON:** Senator DeKay had brought up a question before about the meters and public power and so forth. And I think that the meter data is-- is pretty good information to have out there. But one of the situations that occurs with the meter data is that if you look at that map right there, that's a good indication of my family's ranch yard. And what happens is we have one meter in the middle of the ranch yard and all three of our ranch houses are on that meter. Well, those ranch houses are 500 yards, 300 yards, and 150 yards from the meter. The GPS location of the meter is the only GPS that's delivered to the map. We deliver a GPS for the actual house itself to the map for each of our locations. There's another issue with the map, and that is it has a hard time handling more than one house on a parcel. Well, here we go. When you have three houses that in the farmyard or ranch yard, it only counts one. So to try and give you a little more understanding that the-- the meters on the side of the house in town are probably OK. But in that ag area, they become very convoluted in what is going on with the GIS data.

**GEIST:** Thank you. I don't see any additional questions. Thank you for your explanation.

**BRIAN THOMPSON:** OK.

**GEIST:** Any other neutral testimony?

**CULLEN ROBBINS:** Thank you and good morning. Barely, but still, still morning. Good morning, Chair Geist and members of the committee. My name is Cullen Robbins. C-u-l-l-e-n R-o-b-b-i-n-s. I'm the director of the Telecom and NUSF department with the Public Service Commission. I will be brief, but I wanted to provide a couple of clarifying points and, you know, address. I know there's been a lot of discussion about mapping, so I thought it'd be helpful to provide some more context on-- on some of that. First of all, I wanted to address some of Senator Bostelman's concerns on the contract and how we're planning to move forward with that map. The map that we plan to produce will have location specific information so that essentially address level information. Part of the-- part of the benefit of having this-- having our-- our own state contract is that it would allow meaningful public input into determining where unserved and underserved locations are. The FCC process does allow for public input. And I think that's one thing that's been extremely beneficial over previous versions of the map where there is-- there are challenge processes in place. And I want to emphasize there are more than one challenge process that--

that is relevant to that process. One is the fabric location challenge that I think you and Mr. Thompson were discussing earlier. And at least for the-- for the purposes of BEAD, I would just offer that I don't think states were really offered a meaningful opportunity to participate in that process. And then the second challenge process in place is-- is a availability challenge. So it's just essentially looking at who's reporting service there, and-- and both the state and individuals have the opportunity to submit challenges to that information. So I certainly hope, Senator, you have submitted a challenge for your location, because I know in discussions with you, you're-- you're not served. So couple-- so just a couple points on that. Location specific data is extremely helpful. One of the other pieces of what we expect to get from the state broadband map is modeling information. That's a crucial piece of what we-- what we need as we develop the five-year plan for-- for BEAD. You have to kind of-- part of-- part of the planning process is determining where-- what the costs are to get to the unserved locations that you identify. And that's an extremely important piece of that. Just a couple other brief statements. I wanted to talk briefly about staffing. I wanted to mention that of the permanent staff that we've hired so far for BEAD, some of those individuals are split amongst BEAD and capital projects, so they're not all fully funded through BEAD. And accountingwise, we-- we do have staff within the commission that handles those duties and is able to do that moving forward so just a couple things on staffing. And with that, I'll just stop and I'm happy to answer questions that you might have.

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

**CULLEN ROBBINS:** Thank you.

**MOSER:** Anybody else to test-- testify in the neutral capacity? Anybody else in the neutral? And do we have some letters? OK. So we've got three letters in support and we have-- and make sure I'm on the right bill. And no opposition and no neutral letters. OK. Are you going to close? OK. I believe Senator Geist is going to open on the next bill momentarily. So maybe we'll just stand down for a couple minutes till she gets back. Thank you. Senator Geist will have the floor.

**GEIST:** Thank you, Vice Chairman Moser, and good-- good-- I believe it's afternoon. No, it's still morning. Members of the Transportation Telecommunications Committee, for the record, my name is Suzanne Geist, S-u-z-a-n-n-e G-e-i-s-t, and I represent District 25, which is the southeast corner of Lincoln and Lancaster County. I introduced

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LB412 to create grants for broadband-- bra-- broadband deployment from the ARPA Capital Funds Project [SIC] in Nebraska's 3rd Congressional District, to be deployed in an entire exchange area that includes a city of the second class or a village. I want to provide a little background on why I introduced this bill. The section I am changing was included in LB1024 that was passed by the Legislature last year. The American Rescue Plan Act was passed by Congress in 2021. More than \$6 billion were allocated to Nebraska, with about \$3.3 billion to individuals, \$773 million to K-12 and higher education, \$287 million to cities, \$375 million to counties, \$1 billion to the State of Nebraska, and an additional \$125 million to the state for capital projects. The Legislature included \$35 million from the ARPA Capital Projects Fund in LB1024, in addition to other regular ARPA funding appropriations for multi-purpose community facilities in the 2nd Congressional District. Forty million was appropriated for projects in the 1st and 3rd Congressional Districts. Governor Ricketts file-- filed the Nebraska plan for utilization of ARPA Capital Projects Funds with the U.S. Department of Treasury after the passage of LB10-- excuse me, LB1024. His plan called for the use of those funds in Districts 1 and 3 for broadband deployment. The portion of the plan for utilizations of funds for broadband, which are presumptively eligible projects based on Treasury guidance, has been approved by the Treasury. LB1024 treated projects differently in Districts 1 and 3. Any areas within District 1 are eligible for projects, including projects not within a municipality. In District 3, projects are eligible only if they are located within second-class cities and villages. LB412 would allow capital project grants to provide high-speed broadband services in rural areas not within municipalities, which are often unserved or underserved locations, as long as they are within the exchange area that includes a city of the second class or village. By making this change, I believe this will assist broadband companies to provide high-speed services in the areas that may need them the most. Thank you for your time and attention, and I'd be happy to answer any questions.

**MOSER:** OK, are there questions? Senator DeBoer.

**DeBOER:** Is this allowed within ARPA then? We can make this change and it doesn't in any way upset our ability to get ARPA funds?

**GEIST:** That is my understanding.

**DeBOER:** Perfect. Thank you.

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**MOSER:** Other questions? Wow, must have been pretty easy to understand. OK. Is there anyone here to speak in support of this bill? How many people will testify? Oh, boy. OK, thank you.

**TIP O'NEILL:** Mr. Vice Chair--

**MOSER:** One-- one moment.

**TIP O'NEILL:** Oh, excuse me.

**MOSER:** Just a little procedural note: We have a number of testifiers, and it's already noon, and we have to come back at 1:30 to reconvene. So we're going to go with three minute testimonies--

**TIP O'NEILL:** Sure.

**MOSER:** --just to kind of recognize everybody's time. Thank you.

**TIP O'NEILL:** Sure.

**MOSER:** Please-- please go ahead.

**TIP O'NEILL:** Sure. Vice Chair Moser, members of the committee, my name is Tip O'Neill, T-i-p O-'-N-e-i-l-l, and I'm the president of the Nebraska Telecommunications Association. The NTA supports LB412 as introduced. I have an amendment to the bill that I-- is being passed out now that I believe would clarify the issue further. As Senator Geist testified in her opening, the provision limiting broadband projects from ARPA Capital Projects Funds in the 3rd Congressional District is problematic. It is our belief that the language relating to districts-- Congressional Districts 1 and 3 should be the same. That is what our proposed amendment does. We believe unserved and underserved areas in the state should be eligible for funding, whether they are located within municipal boundaries or outside those areas. Our amendment makes the language the same for more-- the more rural congressional districts in Nebraska. We believe that is appropriate. Cities of the second class and villages would continue to be eligible for funding in the 3rd Congressional District, but so would other cities and rural exchanges. I ask you to advance LB412 with the amendment. I'd be happy to answer any questions you might have.

**MOSER:** OK. Are there questions for the testifier from the committee? Yes, Senator Bostelman.

**BOSTELMAN:** Thank you, Vice Chair Moser. Why would we want to strike out the second class and villages? Why would we want to strike that language out?

**TIP O'NEILL:** Be-- because it would-- it would make all-- all cities-- second-class cities and villages--

**BOSTELMAN:** I understand that, but the-- but the whole point of this is the unserved, and wouldn't-- if it's a city of a municipal class, I would think they would [INAUDIBLE]

**TIP O'NEILL:** If they were unserved, they would still be eligible.

**BOSTELMAN:** But I guess the thing is, is the whole point of-- of the bill was to get it to those smallest communities out there, because those are the ones that are going to need the funding the most, because those are the ones that don't have the most business class, so why would we-- why would we intentionally remove those and-- and include more broad area to where people will go to the larger cities versus the small towns and villages?

**TIP O'NEILL:** Again, it's-- it's our belief that there are unserved and underserved areas throughout the entire 3rd Congressional District. We don't believe that the ARPA Capital Projects Funds should be limited only to provision of broadband in those second-class cities and villages.

**BOSTELMAN:** Sure. So then those won't get served, those won't get built out, but all the larger cities will, towns and cities will, unless we do this.

**TIP O'NEILL:** All the larger cities, you're-- you're talk-- you're talking first-class cities are-- I don't know of any first class city that is not built out over 100 by 20 in-- in the 3rd Congressional District. Now, you might have more data than I do, but I-- I-- I would guess, if you looked at Scottsbluff, North Platte, Kearney, Grand Island, Norfolk, all of those cities have-- have competitive broadband providers there who provide at least 100 by 20.

**BOSTELMAN:** Yeah, my concern is, is we're gonna-- by striking that, is those who need it the most, most remote and have the least business class, are gonna-- business model for funding it won't-- will be left out and we'll just do the bigger towns, so that-- that's just my concern.

**TIP O'NEILL:** OK, well--

**BOSTELMAN:** Thank you.

**MOSER:** OK. Other questions? Senator Brandt.

**BRANDT:** Thank you, Vice Chair Moser. Thank you, Mr. O'Neill, for your testimony. I'll echo what Senator Bostelman said. The 3rd District is a different animal from the 1st and-- and if you listen to the floor debate, Senator Wayne is always up and saying north Omaha has unserved and underserved areas. I imagine some of our first-class cities, maybe like Columbus, maybe not, there's always going to be sections that are unserved or underserved. The intent is to get this to the villages and just the second-class cities, and so I guess I would-- I would echo what he said and like to see that stay the same.

**TIP O'NEILL:** So would you-- would you-- would you-- then my question would be, would it be logical then to put that language in for the 1st Congressional District also?

**BRANDT:** Far as I'm concerned, it would be. I mean, that-- we could have that discussion, I guess, off the mic.

**TIP O'NEILL:** OK.

**MOSER:** OK. Other questions for Mr. O'Neill? Thank you very much for your testimony.

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

**MOSER:** Next supporter.

**BRIAN THOMPSON:** I got the message on short, so I'll go short. My name is Brian Thompson. I'm the vice president of external relations for Consolidated Companies. That spelled B-r-i-a-n T-h-o-m-p-s-o-n, and today I'm appearing for you in support of LB412. And basically I'm just going to give you the examples of what's going on out in the field. I'm building in areas that are villages, mostly in the 3rd District. There are-- most of the villages that we serve have not done much to update their village legal limits or boundaries over the last 30 years or more. And we also have unincorporated villages that are as big as our incorporated in villages. We can't use this money in unincorporated villages anywhere. We can only use the money inside of the perfect legal limit of the current village, even if that excludes two or three streets' worth of houses that they've not updated their village boundary with; or if there are gas stations or truck stops or anything right out of the edge of town that are all part of a community but outside of the perfect legal limit of the village, then

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we can't use the money there either. So the way that the rules read, the-- you cannot extend past the-- the village limit with ARPA Fund Capital Projects dollars. That's the biggest problem for me in the 3rd District with this money, so, you know, I have a project that I've gotta build all at the same time. I'm not gonna build a town, you know, part of it here and part of it there. I want to build the whole town at the same time while I have the contractors in there, or my construction team, and only half of the town or two thirds of the town is able to be built with the project, so I have to separate the rest of the project out and make it a-- another separate project unavailable for those funds.

**MOSER:** OK. Other questions? Senator Brandt.

**BRANDT:** Thank you. Vice Chair Moser. So you-- before you go in there, you know what you're going to do. You've got a plan. You've got a map. You know that that truck stop isn't inside the city limits. Isn't it possible to reduce the ARPA funds? Or you can use the ARPA funds and then come in to the Broadband Bridge Act or this other pool of money and say, hey, we're here at this time and we need 10 percent of this project funded with another-- another pool of money. That's not a possibility?

**BRIAN THOMPSON:** You-- you-- at this time, you can't really blend the two grant processes because the grant processes run at sev-- at separate times. So could we break off half of the town and leave it for another grant and then hope that we get another grant six months down the road or something along that line? Possibly. But one of the problems when you design a fiber network like that, you leave the central office where the fiber originates, and then you serve everybody on both sides of the street as you head out of town. That same piece of fiber is going to go all the way out of town to that truck stop and as it goes further out, it will get smaller because you have the main, you know, the main group of customers in town and then it-- then the network gets smaller. That's just how that design works. But you want to have a specific pair of fibers for each one of those serviceable locations, plus additional fibers so that you can serve locations that are built later.

**BRANDT:** But-- but there's nothing preventing you as a company from making a business decision that there's enough viable service out here that we can hook everybody up without the subsidy.

**BRIAN THOMPSON:** That's true. In-- in the case of most of these grant processes, there's fairly specific amount of overhead to do a grant of

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any kind. And if you're going to do a grant project, you want to make it be as big as you can for a very good-sized project and cover a worthwhile group of folks when you are bringing contractors to town or construction teams. So, yes, we could make a business decision if there's enough out there. I mean, it's not-- when you have, you know, two gas stations outside of the town of Thedford and you only touch two other customers in between those two gas stations and it's five miles of fiber--

**BRANDT:** Yeah.

**BRIAN THOMPSON:** --but could that be in a project? Yeah.

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

**MOSER:** OK. Other questions? Senator Bostelman.

**BOSTELMAN:** Sorry, Vice Chair. So in the bill on page-- or line 11, it says-- line 10-11 says: awarded grants under subdivision (1)(c) of section-- to any portion of any local exchange or area containing a city of a second class or village. So if it says any portion of a local exchange, how does that change what we're talking about?

**BRIAN THOMPSON:** Well, so it allows you to be inside and outside of the city limits--

**BOSTELMAN:** OK.

**BRIAN THOMPSON:** --is basically what that's saying.

**BOSTELMAN:** OK. So and you're saying you can't go outside of the city limits.

**BRIAN THOMPSON:** Not now, with the current language, in the 3rd District, and my entire service area is in the 3rd District.

**BOSTELMAN:** Is that our language or is that federal language?

**BRIAN THOMPSON:** That was in LB1024.

**BOSTELMAN:** OK. So we just need to change LB724.

**MOSER:** Yeah-- well, 10-- LB1024, that language that was-- that was proposed, and this was the proposed solution to it.

**BOSTELMAN:** OK, so if we change it, then you can?

**BRIAN THOMPSON:** Yes.

**BOSTELMAN:** So then you can build out that whole exchange if you wanted to?

**BRIAN THOMPSON:** Yes.

**BOSTELMAN:** So then, I mean, I'm-- I'm-- I'm a little lost here. So you said you can't build an unincorporated town or-- or a certain city because you only can-- village because you only build half. Whose rules are those?

**BRIAN THOMPSON:** That's in LB1024 today.

**BOSTELMAN:** So--

**BRIAN THOMPSON:** And when LB1024 was taken to the Public Service Commission to have the rules and process put together for the capital projects grant process, because it says that there is-- you could only be within a village or a city of the second class, then that means you cannot extend past the village or-- or second-class city's boundary.

**BOSTELMAN:** Right, correct, so this fixes that, so now you are able to.

**BRIAN THOMPSON:** Correct--

**BOSTELMAN:** OK.

**BRIAN THOMPSON:** --if we-- if we do this, yes.

**BOSTELMAN:** OK. Thank you.

**BRIAN THOMPSON:** Yep.

**MOSER:** So what they're complaining about is what the bill is intended to solve.

**BRIAN THOMPSON:** Yeah. I mean--

**MOSER:** They're both--

**BRIAN THOMPSON:** --this bill fixes the problem, yes.

**MOSER:** Yes. OK.

**BRIAN THOMPSON:** Yes.

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**MOSER:** I was-- I was having a little trouble. It seemed like it was my wife and I arguing. We're-- we're not-- we're not listening to each other sometimes. OK, thank you for your testimony.

**BRIAN THOMPSON:** Yeah.

**MOSER:** Oh, did you have a question, Senator?

**FREDRICKSON:** Oh, I-- I was just dramatically laughing with my hands and [INAUDIBLE]

**MOSER:** Oh. Thank you very much. Further support testimony? We have two letters of proponents and no opposition and no neutral letters.

**BRENT SMOYER:** All right, well--

**MOSER:** So, please.

**BRENT SMOYER:** Good afternoon, Vice Chair Moser, members of the committee. I will keep this short and sweet given the fact that it is lunchtime. My name is Brent Smoyer, B-r-e-n-t S-m-o-y-e-r, here on behalf of the Nebraska Rural Broadband Alliance, a group of rural telecoms stretching from border to border across the state, many of them in the 3rd District. I won't rehash anything that's been said previously. I think we agree with-- with what my predecessors have stated in terms of the importance of this bill and how it remedies what was essentially a, I guess, for lack of a better term, just a minor mistake made-- well, a fairly major mistake, but minor language mistake in LB1024. In fact, as I recall, Senator Bostelman was part of the legislative history, speaking with former Chair Friesen on the floor about how this bill would potentially have--or how this bill would be needed based on the current language of LB1024, so we do appreciate that being laid out. Appreciate this being brought forward by Chairwoman Geist and I would simply ask that as we move forward on this, and clearly there may be a little polish necessary in the language, that we move as quickly as possible. The ARPA grants are getting ready to be tranced out at various times here, I think possibly as early as the end of this month, and so the sooner this bill can be enacted, the sooner this bill could be signed by the Governor, the sooner we can make sure those funds are equitably distributed into the rural areas and made best possible use for these projects. With that, I'll happily take any questions.

**MOSER:** OK. Questions from committee? Seeing none, thank you for your testimony.

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**BRENT SMOYER:** Thank you.

**MOSER:** More supporters? If you plan to testify, please come up in the front row and get queued up and ready to go. Thank you and welcome.

**DAYTON MURTY:** Thank you. I guess it's good afternoon now, Chairman-- Vice Chairman Moser and members of the committee. My name is Dayton Murty, spelled D-a-y-t-o-n M-u-r-t-y, and I'm testi-- testifying today in support of LB412 on behalf of Charter Communications. Charter is a leading broadband connectivity company and cable operator providing superior high-speed Internet, voice, video and mobile services under the brand name Spectrum to more than 32 million customers across 41 states. In Nebraska, we serve over 178,000 customers in 90 communities, and in 2021 we paid over \$20 million in taxes and fees, and we invested over \$36 million of private capital to expand our network to reach an additional 8,000 homes and small businesses. With the influx of federal funds for broadband expansion through ARPA, CPF and BEAD, Nebraska has a once-in-a-lifetime opportunity to ensure that every resident of the state has access to reliable, high-speed, affordable broadband Internet and the vocational, educational and telehealth opportunities that provides. As you know, rural areas of the state, where a greater amount of investment in broadband infrastructure is required to reach each potential customer, are saddled with the greatest need for public subsidy in order to be served. Because of the way the law is currently written, Capital Projects Fund round one, however, excluded those unincorporated areas of the state with the greatest need by limiting grant applications in Nebraska's 3rd Congressional District to the boundaries of-- of second-class cities and villages. LB412 will open up those areas of the state for future CPF grant rounds and enable broadband providers like Charter to submit grant applications to build out broadband infrastructure to those with the greatest need. For this reason, Charter Communications supports the passage of LB4-- LB412. Thank you and I would be happy to answer your questions that you have.

**MOSER:** Questions for the testifier? OK, seeing none, thank you very much. More support testimony?

**JAMES DUKESHERER:** Good afternoon, Vice Chair Moser. Members of the Transportation and Telecommunications Committee, my name is James Dukesherer, J-a-m-e-s D-u-k-e-s-h-e-r-e-r. I'm the director of government relations for the Nebraska Rural Electric Association. We're here in support of LB412. We'd like to convey our support to the committee and the Legislature for working to expand broadband access across rural Nebraska. The NREA represents 34 rural public power

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districts and electric cooperatives throughout the state. More than 1,000 dedicated employees of our system serve 240,000 meters across 90,000 miles of line. As we all know, and as has been stated, in 2022, LB1024 provided \$40 million of federal Coronavirus Capital Projects Funds to the 3rd Congressional District of Nebraska. Unlike other funds that have been received and administered through the state's Broadband Bridge Act, these funds do not require any match from the broadband provider. Unfortunately, LB1024 included a limitation that restricted the funds to be used in only cities of the second class and villages. LB412 relaxes this restriction and includes funding for any portion of a local exchange that includes a city of the second class or village. As Nebraska begins to see millions of dollars come to our state for broadband deploy-- deployment, NREA's greatest concern is that, once these funds are all spent, rural Nebraska will be left without broadband. True rural development outside city limits in high-cost, unserved locations should be the primary target of these funds. If broadband service is brought to rural municipalities without a plan to reach beyond city limits, rural development may never be realized. LB412 moves us all in the right direction. I want to thank community, for their time and their sincere efforts to move rural broadband across Nebraska. Thank you.

**MOSER:** Questions from the Committee? Seeing none, thank you very much. Further supporters?

**DAN WATERMEIER:** Good afternoon, Vice Chair Moser, Transportation Committee. My name is Dan Watermeier, spelled W-a-t-e-r-m-e-i-e-r. I'm here to testify in support of LB412. Since LB1024 was passed last year, the commission has heard from many broadband service providers that they're concerned about the restriction of grant funding in the 3rd Congressional District. As a statute is currently written-- written Capital Projects Funds can only be awarded for broadband development in cities of the second class and villages. The restriction prevents the commission from awarding funds in the most rural parts of the western Nebraska, where broadband is desperately needed. LB412 remedies this issue by allowing the commission to award funds on a county-by-county or an exchange basis. We think this is an improvement to the statute as currently written and would encourage the timely passage of LB412 so that the commission can expand the territory eligible for Capital Project Funds awards. We do ask the committee to consider the potential im-- implement-- implementation dates that should this bill pass, since there is a grant cycle under where-- under way right now and the commission expects to make awards for this cycle the end of June of 2023. That ends my testimony.

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**MOSER:** OK. Questions for Mr. Watermeier? Seeing none--

**DAN WATERMEIER:** Thank you.

**MOSER:** --thank you. Are there are further people testifying in support? Further testifiers in support? OK, are there negative testifiers in opposition to this bill? Seeing none. How about neutral? Is there testimony in the neutral?

**LASH CHAFFIN:** Good afternoon. My name is Lash, L-a-s-h, Chaffin, C-h-a-f-f-i-n, representing the League of Nebraska Municipalities. I'm going to be very quick, but I do have a couple additional pieces of information that may be useful to the committee. First, we can't testify in favor of this because it's really bad job security to say, oh, take away a fund that's dedicated to second-class cities and villages. But that said, we understand the policy behind this bill. And-- and I will say, the League did not ask to have these funds dedicated to cities of the second class and villages and-- and for-- at least as near as I can tell, as far back as April, we were telling our members the intent of this fund is-- here's how we worded it, and this may not be exactly correct, but we worded it as: The intent of this fund was to go to anywhere in the 3rd District that was unserved or underserved that wasn't in a city of the first class, so, and those-- that-- that was based on conversations with Senator Friesen at the time. So that said, we did not ask for this money to be isolated, and we understand the big picture. And our committees to talk about this, one of their examples they use all the time is, it's important to get broadband to-- in addition to having it in the village, it's just as important, and maybe more important in some ways, to have it out at the Morton Building that's housing the \$400,000 combine. That's-- that's equally important to Nebraska. We need to have broadband everywhere. So that said, as in a neutral capacity, if you quickly move this-- this major forward, we will not stand in your way.

**MOSER:** OK. Questions from the committee?

**LASH CHAFFIN:** Thank you.

**MOSER:** Seeing none, thank you very much, Mr. Chaffin. Anybody else to speak in neutral? Seeing none, and Senator Geist waives her closing. That will conclude our hearing. We'll be back at 1:30. Thank you.

[RECESS]

**GEIST:** We're going to go ahead and get started. Thank you for coming to attention. Good afternoon and welcome to the Transportation and

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Telecommunications Committee. My name is Senator Suzanne Geist. I represent the 25th Legislative District, which is south Lincoln and southeast Lancaster County, and I serve as Chair of Transportation and Telecommunications. We'll start off having members of the committee and committee staff do self-introductions, starting on my right with Senator Fredrickson.

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

**MOSER:** Mike Moser. I represent Platte County and most of Stanton County.

**GEIST:** Go ahead [INAUDIBLE]

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

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

**DeKAY:** Barry DeKay, District 40, Holt, Knox Antelope, northern part of Pierce, Cedar County, and most of Dixon County.

**DeBOER:** And I'm Wendy DeBoer. I represent District 10 in northwest Omaha.

**GEIST:** Also assisting us is the committee counsel Mike Hybl and the committee clerk-- I'll get it right this time-- Caroline Nebel. And our pages are Delanie and Logan. Delanie is studying political science at UNL and Logan, international business at UNL. On a table near the entrance of the room, you will find blue testifier sheets. If you're planning to testify today, please fill out-- one out and hand it to the pages when you come up. This will help us keep an accurate record of the hearing. If you do not wish to testify but would like to record your presence at the hearing, please fill out the gold sheet on the table near the entrance. Also, I would note the Legislature's policy that all letters for the record must be received by the committee by noon the day prior to the hearing. Any handouts submitted by testifiers will also be included as part of the record as exhibits. We would ask, if you have any handouts, if you would please bring ten copies; and if you need additional copies, the pages would be happy to help you. Understand that senators may come and go during our hearing. This is common and required as they may be presenting bills in other committees. Today testimony for each bill will begin with the introducer's opening statement. After the opening statement, we will

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hear from any supporter of the bill, then from those in opposition, and then-- then those that wish to testify in the neutral capacity. The introducer of the bill will then be given the opportunity to make closing statements if they wish to do so. We ask that you begin your testimony by giving us your first and last name, and please spell them for the record. We'll be using a five-minute light system. When you begin your testimony, the light on the table will turn green; the yellow light is your one-minute warning; and then the red light comes-- when it comes on, we ask you to wrap up your final thoughts. I'd like to remind everyone, including senators, to please turn off or silence your cell phones. And with that, we will get-- begin today's hearing, actually appointment hearing, with Russell Keshebaum [PHONETICALLY].

**RUSSELL KREACHBAUM JR.:** Kreachbaum.

**GEIST:** I'm sorry. Kreachbaum.

**RUSSELL KREACHBAUM JR.:** [INAUDIBLE]

**GEIST:** Well, you can come forward, please.

**RUSSELL KREACHBAUM JR.:** Sit?

**GEIST:** Yes, please. And if you don't mind, just introduce yourself and spell your name for the record, and just give us a little bit of information about you.

**RUSSELL KREACHBAUM JR.:** My name is Russell Kreachbaum, R-u-s-s-e-l-l; Kreachbaum is K-r-e-a-c-h-b-a-u-m; it's "Jr.". I reside in Merrick County, Central City, Nebraska. I am here for the appointment. I've been married 31 years, three children, eight grandkids, six boys, two girls. I've been-- this is my ninth year as the county supervisor for Merrick County, and I retired off the railroad with 32 years in May of last year. Other than that, I sit on the volunteer fire department in Central City. And that's basically my life, I guess. Any questions?

**GEIST:** Are there any questions from the committee? Yes. Senator DeBoer.

**DeBOER:** Thank you. What interested you in this position?

**RUSSELL KREACHBAUM JR.:** Well, as you know, Merrick County in 2019 had substantial-- some road damage, you know, with the flood and everything.

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**DeBOER:** Yeah.

**RUSSELL KREACHBAUM JR.:** And we've been dealing with it ever since and I thought, well, what better place to start anyways, I guess, to get more knowledge of the roads, the systems, funding, and trying to make everything a little bit better for the county as far as the roads situation. And I thought, well, what better place to start, I guess.

**DeBOER:** And the term would only be until the end of this year. Is that right?

**RUSSELL KREACHBAUM JR.:** Yes, I believe that I was just filling a position that was-- had become vacant.

**DeBOER:** OK. All right, thank you.

**GEIST:** Any other questions? Yes, Senator Brandt.

**BRANDT:** Thank you, Chairwoman Geist. Two questions.

**RUSSELL KREACHBAUM JR.:** OK.

**BRANDT:** I'm fairly well versed in Nebraska, but it says you're a graduate of Melbeta.

**RUSSELL KREACHBAUM JR.:** Melbeta, Nebraska, yep.

**BRANDT:** Where is that?

**RUSSELL KREACHBAUM JR.:** That is, if you go-- you know where Minatare is at?

**BRANDT:** Yes,

**RUSSELL KREACHBAUM JR.:** it's just straight south across the river.

**BRANDT:** OK.

**RUSSELL KREACHBAUM JR.:** There was 18 kids in my senior class.

**BRANDT:** So you were in a big class. OK.

**RUSSELL KREACHBAUM JR.:** That's where it's at, just outside of-- be west--

**GEIST:** OK

**RUSSELL KREACHBAUM JR.:** --east of Gering nine miles.

**BRANDT:** OK. And then my second question is, what exactly does the Board of Public Roads Classifications and Standards do?

**RUSSELL KREACHBAUM JR.:** Well, I'm still learning that because we've only had several meetings and I-- you know, until this, I wasn't allowed to vote on anything. But if there's anything as far as upgrades, classifications to the Department of Roads, bridges, it has to go through the Classification Board to be approved or denied. A lot of the stuff is brought by the Nebraska Department of Transportation as far as improvements, changes, so

**BRANDT:** Can you give me an example of what you would classify or reclassify?

**RUSSELL KREACHBAUM JR.:** Well, if I remember off the top of my head, the last one that I sat in at the meeting was we had a bridge that was having some changes and they wanted to extend the right-of-ways to the entrance to the bridge and look at any adjustments without having to reclassify it, is what it was, but up in the northern part of the state, so.

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

**RUSSELL KREACHBAUM JR.:** Yep. Thank you.

**GEIST:** Yes. Senator DeKay.

**DeKAY:** Thanks, Chairman Geist. How versed are you with working with FEMA? You know, you went through the floods in '19. Are you-- have you been involved with FEMA in applying for the grants?

**RUSSELL KREACHBAUM JR.:** Yes, I have. I actually sit on the council or the board with Nance County and Boone County with our emergency manager. And we-- she took care of all the paperwork, naturally, you know, our emergency manager. But, yeah, it was-- it was hand in hand with the other two counties because Boone County didn't really have too much damage, but Nance County had quite a bit because of the Loup River. And, yeah, so we-- she did all-- like I said, Jenna did all our paperwork for us, but she's-- it was always-- it was always a group.

**DeKAY:** So you worked in conjunction when FEMA inspectors come out and looked at bridges, roads and culverts and stuff like that in your--

**RUSSELL KREACHBAUM JR.:** Well, Jenna did.

**DeKAY:** Jenna?

**RUSSELL KREACHBAUM JR.:** Yeah, but we was always updated every time that they came out, what the status was and the funding and how much damage and all the particulars of it, yes.

**DeKAY:** All right. Thank you.

**GEIST:** Mr. Kreachbaum, how frequently does the board meet?

**RUSSELL KREACHBAUM JR.:** Which board?

**GEIST:** The board of public roads that-- that you're sitting on. How frequently do they meet?

**RUSSELL KREACHBAUM JR.:** Depends on what's on the agenda but it's usually the third Friday of-- of every month.

**GEIST:** Oh, so you meet pretty regularly?

**RUSSELL KREACHBAUM JR.:** Yes, I've met-- I think we've had two, maybe three meetings.

**GEIST:** OK.

**RUSSELL KREACHBAUM JR.:** I started coming to the meetings in November of last year.

**GEIST:** OK. Are there any other questions for Mr. Kreachbaum? Thank you. Thank you for being willing to do this. And I will see if we have any people that are agreeing with your appointment who are behind you.

**RUSSELL KREACHBAUM JR.:** OK. Thank you.

**GEIST:** Thank you. Any proponents of this appointment? I do have a letter of support that came in for Mr. Kreachbaum's appointment. Are there any opponents to this appointment? Are there any in the neutral capacity? I don't see any. That will close the hearing for Mr. Russell Kreachbaum. I said it correctly this time?

**RUSSELL KREACHBAUM JR.:** Yes.

**GEIST:** Good. Go ahead. Thank you.

**RUSSELL KREACHBAUM JR.:** Thank you.

**GEIST:** Now we will go to LB119. Good afternoon.

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**BOSTELMAN:** Good afternoon, Chairwoman Geist, members Transportation Communication Committee. My name is Bruce Bostelman, spelled B-r-u-c-e B-o-s-t-e-l-m-a-n, and I represent Legislative District 23. I'm here to introduce LB119. LB119 is a shell bill, or a placeholder bill. It does nothing substant-- substantive and it is meant to be a placeholder in case an issue arises later in the session for which we need a vehicle to address something under the jurisdiction of the Transportation and Telecommunications Committee. Thank you.

**GEIST:** Thank you. Are there any questions for the senator? Do you anticipate something coming for this?

**BOSTELMAN:** No.

**GEIST:** OK, good. All right. Are there any proponents for LB119? Any opponents for LB119? Any who wish to testify in the neutral capacity? Senator Bostelman, would you-- would-- he will waive closing. And that will move us to LB359. OK, we'll wait just a moment. We're going to wait just a moment until the senator arrives. She's on her way. Welcome. Welcome.

**HUGHES:** Thank you. Sorry. We didn't realize that first one was just like so short, so here we go.

**GEIST:** We're here to surprise.

**HUGHES:** OK. Good afternoon. Chairman Geist and members of the Transportation and Telecommunications Committee. My name is Senator Jana Hughes, J-a-n-a H-u-g-h-e-s, of Legislative District 24, and I am here to introduce LB359. LB359 is a very simple bill. While the term "simple" is thrown around a lot in here in the Legislature, LB359 is that. Currently under the Nebraska Broadband Bridge Act, the Nebraska Public Service Commission, PSC, is statutorily limited to awarding grants under this program on or before July 1. This requirement has led to the practice of a single grant application period opening over the month of June, regardless of when during the calendar year the funds might become available. LB359 would strike that provision and allow the PSC to open grant application periods at any time during the fiscal year, provided that they provide proper notice of deadlines. This change came at the request of the Nebraska broadband providers in reaction to more recent federal programs like the Broadband Equity Access and Deployment, BEAD, Program, and allocations from the American Rescue Plan Act, ARPA-- we like our acronyms here-- both of which are currently set to be distributed here in Nebraska under the Broadband Bridge Act framework. The Federal Government is still

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issuing rules and regulations regarding these funds and how they'll be allocated. The end result is that federal funds administered in Nebraska through the Broadband Bridge Act arrive at different times throughout the year. Some of the first dollars in Nebraska we'll see from these programs are expected this month, while others might not be available till November or later. Allowing the PSC to open grant application periods throughout the year positions our state to more quickly distribute these broadband funds as they become available. They ensure that the PSC can award grants more quickly and efficiently. Grant recipients can plan and implement broadband projects with greater speed and surety that the funding will be there to complete them. We can avoid any potential federal clawback of funds due to delayed distributions, and broadband expansion in Nebraska can continue at the best pace possible to ensure that the unserved and underserved citizens can see their Internet access brought up to what is expected in the year of 2023. LB359 is a simple tweak to improve the PSC's operation flexibility, to providers getting access to broadband funds more quickly, to complete projects, and for Nebraskans who deserve increased access to reliable broadband connections across the state. I am happy to take questions and I know there are others testifying after me who can provide even greater insight into the Bridge Act grant process and how this bill would help. I appreciate the committee's time and would encourage the advancement of LB359.

**GEIST:** Are there any questions on the committee? I don't see any. Do you plan to stick around for closing?

**HUGHES:** Yes, I will.

**GEIST:** OK. Thank you. Are there any proponents of LB359? Any proponents?

**DAN WATERMEIER:** Some-- I thought somebody else would stand up to go first. Good afternoon, Chair Geist and members of the Transportation and Telecommunications Committee. My name is Dan Watermeier, spelled W-a-t-e-r-m-e-i-e-r. I'm here to testify in support of LB359. Currently, the Nebraska Broadband Bridge Act requires that applicants for grant funding submit their grant applications on or before July 1 of each fiscal year. This bill would change the provision to allow the commission to set its own guide-- deadlines for each application cycle and provide notice of those deadlines on the commission website. We think this change would be in a positive one for the program and for the Nebraska broadband providers. Applications for broadband grant fundings are lengthy and require a significant workload, both from providers before they are submitted and from commission staff as

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reviewing them. As you know, the commission also administers other broadband-related programs, including Capital Projects Funds, the BEAD, reverse auction program, administrator of the NUSF. Giving the commission flexibility in the annual deadline for applications to be submitted would allow us to better balance competing demands and more effectively coordinate broadband employment opportunities. For this reason, this commission supports this bill.

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

**DAN WATERMEIER:** Yes.

**GEIST:** So when you anticipate announcing, should this pass, announcing a new deadline, how much notice do you have to give companies ahead of time?

**DAN WATERMEIER:** I think it's probably 30 days, but what we're worried about is staggering the different things we're doing. We'd stagger the bridge applications with reverse auction discussions, with NUSF discussions, and obviously now with capital projects, so it just allows us a little more flexibility.

**GEIST:** I see.

**DAN WATERMEIER:** Yeah.

**GEIST:** So rather that you wouldn't anticipate Bridge Act, Broadband Bridge, at the beginning of the year and again in November, you--

**DAN WATERMEIER:** It could be that way.

**GEIST:** OK.

**DAN WATERMEIER:** It-- it could very well be if we didn't have applications. We have the flexibility to do that.

**GEIST:** Uh-huh.

**DAN WATERMEIER:** But we want to have the overlapping issues settled. We don't want to have two applications going on at the same time.

**GEIST:** At the same-- understood.

**DAN WATERMEIER:** Yeah.

**GEIST:** OK. But it's about 30 days, like--

**DAN WATERMEIER:** I think. I'm-- I--

**GEIST:** --heads up?

**DAN WATERMEIER:** I have staff here--

**GEIST:** OK.

**DAN WATERMEIER:** --if we needed to answer that specific--

**GEIST:** OK.

**DAN WATERMEIER:** --or I'll just follow up with a letter to you.

**GEIST:** That's fine.

**DAN WATERMEIER:** OK.

**GEIST:** OK. Thank you.

**DAN WATERMEIER:** All right. Thank you.

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

**DAN WATERMEIER:** All right. Thank you.

**GEIST:** Any other proponents?

**BRENT SMOYER:** Good afternoon.

**GEIST:** Good afternoon.

**BRENT SMOYER:** How are you doing, Madam Chair?

**GEIST:** Doing well.

**BRENT SMOYER:** Members of the committee, my name is Brent Smoyer, B-r-e-n-t S-m-o-y-e-r, and I'm here representing the Nebraska Rural Broadband Alliance. I don't know with this bill that there's much more to be said beyond Senator Hughes's opening and the comments from Commissioner Watermeier. It really is a simple change and it really is the flexibility that PSC is going to need to operate as quickly and efficiently as possible for my members to be able to get projects up and running as soon as humanly possible. I think this morning was a great testament in LB683 to how important-- bless you-- broadband is to the state-- bless you-- broadband is to the state of Nebraska and-- and how we need to make sure that we are meeting those standards,

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those 21st, 22nd century standards in the state. And so by getting this money tranced out as quickly as possible, both hopefully from the feds and into the PSC and from the PSC to our membership, we can do that more quickly, more efficiently and, again, serve Nebraskans to the best of our abilities. With that, happily take any questions.

**GEIST:** Any questions from the committee? I don't see any. Thank you.

**BRENT SMOYER:** Thank you very much.

**GEIST:** Any other proponents?

**TONYA MAYER:** Good afternoon.

**GEIST:** Hello.

**TONYA MAYER:** Chairman Geist and members of the Transportation and Telecommunications Committee, my name is Tonya Mayer, spelled T-o-n-y-a M-a-y-e-r. I'm the general manager of Mobius Communications and Hemingford Cooperative Telephone Company. We are rural Nebraska telecommunications companies providing high-speed Internet and other state-of-the-art telecommunications services to Hemingford, Berea, Marsland, River Road, Whitney, Crawford and Highway 87 in Box Butte County. I'm here today to testify in support of LB359. I appreciate Senator Hughes bringing this legislation and how, if passed, it will provide an opportunity for broadband funds to be distributed with greater speed and efficiency as they become available. As a board member of NTCA, which is the rural broadband association representing the central region, as well as a recipient of Nebraska Broadband Bridge Act funds, I can state firsthand that no matter the state or jurisdiction, when it comes to ensuring fast, reliable broadband ser-- access to unserved and underserved rural areas, speed of deployment matters. Unfortunately, planning, deployment, and establishment of new projects hinders heavily on the availability of funds. LB359 ensures that rather than waiting until a fixed point in the fiscal year, broadband grant cycles can be opened throughout the year and based on when the funding is made available by the state or federal government. This is especially noticeable in light of the federal ARPA funds, which will be distributed by the federal government at various times this year and likely into the next. Granting the PSC flexibility to distribute ARPA or any other such future programs is a commonsense solution that helps us better serve Nebraskans. The sooner the PSC can award and distribute those funds, the sooner we can begin work on projects vital to those we serve and hope to serve, and ultimately working with broadband providers across the state in ensuring no

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Nebraskan lacks broadband access to their home or business. I thank you for your time today and I urge you to advance LB359. I'm happy to take any questions.

**GEIST:** Are there any questions on the committee? I don't see any. Thank you for driving a long way.

**TONYA MAYER:** Yes.

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

**TIP O'NEILL:** Senator Geist, members of the committee, my name is Tip O'Neill. I'm the president of the Nebraska Telecommunications Association. We support this bill. I'd be happy to answer any questions you may have.

**GEIST:** Are there any questions? I don't see any. Thank you.

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

**GEIST:** Any other proponents? Are there any opponents to LB359? Any who wish to speak in the neutral capacity? Senator Hughes, you are welcome to close.

**HUGHES:** Chairman Geist, members of the committee, thanks for the opportunity to introduce LB359 before the Transportation and Telecommunications Committee. LB359 is one simple step of many more involved steps to increase access to faster, more reliable broadband service here in Nebraska.

**GEIST:** Thank you. Are there any questions for Senator Hughes? I don't see any.

**HUGHES:** OK, thanks, you guys.

**GEIST:** This will close the hearing for LB359. Let's see if-- we do not have any letters to read into the record either. We'll now go to LB722. Good afternoon.

**BOSTELMAN:** Afternoon, Chairwoman Geist and members of Transportation and Telecommunications Committee. My name is Bruce Bostelman, spelled B-r-u-c-e B-o-s-t-e-l-m-a-n, and I represent Legislative District 23. I'm here today to introduce LB722, which addresses a critical set of broadband issues. We need to address those issues to prepare the way for larger federal funding, such as BEAD funding. These issues are how we avoid subsidized overbuilding and how we prepare to sustain the

network. Both the Legislature and Public Service Commission recognize the importance of avoiding what we commonly call overbuilding. We have tried to avoid subsidizing new infrastructure where existing infrastructure is capable of delivering broadband services. There is no public policy reason to duplicate broadband infrastructure in areas that cannot sustain competition due to sparse population density. That was our intent last year in LB1024, which we're clearing up in LB412, thanks to Senator Geist. The Legislature has guarded against overbuilding by requiring that bridge funding be used in unserved and underserved areas. The Public Service Commission has meticulously worked to avoid overbuilding through the first two bridge cycles by essentially drilling down to location by location level. This work has been tedious and time consuming, especially given inaccurate mapping and speed data. This bill addresses the issue of overbuilding simply by making it clear that the commission has the authority to consider and decide issues critical to the smooth transition of customers in larger geographic areas. With a significant amount of funding that will be coming to the state, we cannot afford to take the time to dissect Nebraska on a case-by-case basis. We have to act efficiently and LB722 is critical to swift buildout. We need to tackle large areas of Nebraska that unjustifiably remain unserved and underserved. Previous session, Senator Friesen understood the importance of large-scale transition even before the bulk of federal funding made it imperative. He frequently spoke about the need to consider a transition of entire exchanges or even larger areas. To accomplish larger scale transition without overbuilding and prepare to sustain the network over time, we have to make sure our regulators are equipped with sufficient authority to resolve issues at the nuts-and-bolts level. We're talking about avoiding overbuild and sustainability at the policy level. The commission has to figure out how to get that done at the practical level. The issues the commission will need to consider, I believe, are commonly agreed. LB722 simply sets those issues on the table and makes clear that the commission has authority to consider them, as large areas of Nebraska change hands from carriers with other priorities to carriers willing to make long-term obligations to serve customers in the area. Others will follow me to provide testimony about the finer details and background of LB722. Now I want to lay out the basics of the bill. The bill clarifies the commission has authority to address the following issues that will be critical to fast, large-scale deployment of a sustainable network without overbuilding. LB722 will ensure that we are not subsidiz-- subsidizing two providers in rural areas. For rural areas, ILECs receive Nebraska Universal Service Fund, NUSF support. They receive it to build infrastructure and they continue to receive it to

cover the cost of operating and maintaining the network once it's built. They receive support to sustain their networks, even if they are not broadband capable, in many cases, when it's only 25/3 capability. Many of you know this is a pet peeve of mine, but it's not the focus of LB722. Right now ILECs continue to receive NUSF support for areas where a competitive provider received grant funding to serve again. We cannot afford to subsidize two companies, especially in the areas where it is impossible for one company to make a business case. LB722 would allow the PSC to either terminate NUSF support to the ILEC or redirect the support to a competitive provider if the com-- if the competitive provider accepts the redirect, redirected NUSF support for the area. Then the law employs-- imposes on that provider a duty to serve all rural customers in the area. This duty is commonly referred to the carrier of last resort, or COLR, obligation. My bill does not mandate COLR obligation, does not mandate COLR ob-- obligation. Rather, very simply, LB70-- LB722 authorizes the commission to oversee the transition of both NUSF support and the corresponding COLR duty if the competitive provider accepts the support. I'll give you an example. A competitive broadband provider was given a bridge grant in 2022 to serve rural customers in Fillmore County. It is completing the work of deploying a fiber network to serve those customers, but the ILEC historically responsible for the serving rural-- serving rural Fillmore County is still receiving NUSF support to operate and maintain this network in that area. You have two subsidized carriers competing in the same area. That has to change. Universal Service support should go to the provider that has a clear duty to serve customers in that area. LB722 puts that issue squarely on the table. The Public Service Commission needs to address the question or we will not be able to continue to operate and maintain the state-of-the-art network we will be deploying to serve rural customers. Another issue the commission needs clear authority to address is somewhat related to overbuilding. To accomplish quick large-scale deployment, we have to recognize that some ILECs do have some broadband-capable infrastructure with certain parts of the COLR exchanges. There are existing laws on our books that provide the blueprint for addressing this fact. Those laws call upon the commission to make sure that the ILEC is made whole for the un-depreciated value of the assets, the infrastructure they effi-- they effectively are forced to stay-- to strand. We should not be abandoning the infrastructure. Rather, it should be used by the competitive provider whenever possible to serve customers. For that to happen, the ILEC needs to be made whole. The commission has overseen this very process on a much smaller scale and LB70-- LB722 makes clear that the commission has the authority to do the same on a larger scale. Finally, the most-- and most importantly,

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the commission must make sure the transition from one provider to another is a smooth transition to customers. Transition is not simple-- is not a simple matter of flipping on a switch. What we want to happen-- while we want it to happen rapidly, it will not happen overnight. All the issues I've discussed must be considered and addressed. The commission needs to have a clear authority to oversee transition from beginning to end. LB72 makes-- LB722 makes that clear. In closing, I would say that the authority LB722 clearly provides, the commission is going to have to work smartly, quickly and collaboratively-- collaboratively with everyone, with the Broadband Office, with ILECs, with competitive providers, with customers. We have to work together-- together or we won't get a sustainable broadband network built in isolation. I urge you to quickly advance LB722 and would be glad to answer any questions. And there will be those behind me that'll have more technical information to answer.

**GEIST:** Senator DeBoer.

**DeBOER:** Thank you. I just wanted to ask you how you saw this working with the Broadband Office bill. Let's say we passed that bill that we heard this morning about the Broadband Office. How-- I mean, obviously the PSC will retain continuing support-- I think will retain continuing support. So how would this all fit together?

**BOSTELMAN:** Doesn't change that, and I believe the PSC will be able to address that as well. I don't think it changed that because they still have the NUSF support and that, so it's for them--

**DeBOER:** So they'll do all the continuing support, so it won't affect it.

**BOSTELMAN:** Right, it-- they'll-- that's their responsibility.

**DAN WATERMEIER:** But what about overbuilding? Do you think that's a thing that could come up?

**BOSTELMAN:** As-- as far as?

**DeBOER:** It's OK. I'll ask later.

**BOSTELMAN:** OK.

**GEIST:** I do have a question for you, but that--

**BOSTELMAN:** Sure.

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**GEIST:** --I'm sure you'll be-- almost sure you'll be able to answer. But it doesn't matter. I can ask someone behind you if you can't.

**BOSTELMAN:** Sure.

**GEIST:** And it's probably a "duh" question, but I'd just like to know. OK, you said in your testimony that the ILEC would be made whole?

**BOSTELMAN:** Um-hum.

**GEIST:** Is that negotiated by the-- the competitive company coming in who would pay for the assets that exist?

**BOSTELMAN:** Correct.

**GEIST:** Is that how that works?

**BOSTELMAN:** Correct.

**GEIST:** OK. See? There. Yes, Senator Brandt.

**BRANDT:** Thank you, Chairman Geist. Thank you, Senator Bostelman, for bringing this bill. Kind of along the same lines as a point of clarification, so you have an existing carrier of last resort that serves my-- my village. Somebody else comes in that that is the latest and greatest, and they have a grant. The only-- and PSC, the-- so is this telling us that the-- the PSC could force the carrier of last resort to sell to the other one--

**BOSTELMAN:** Not--

**BRANDT:** --or-- or the new entity has to just give money to the carrier of last resort and stays in business?

**BOSTELMAN:** I think, and they can correct me if I'm wrong with this, we're talking about two different things.

**BRANDT:** OK.

**BOSTELMAN:** First thing is, is if you have an existing provider, someone gets grants and builds into that area, it provides for them to buy if you-- not buy, but pay for that infrastructure that already exists, so that that carrier that exists, that provider that's existing, doesn't have a financial loss.

**BRANDT:** But is that-- is that--

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**BOSTELMAN:** And the other part of that is then they have the opportunity if-- if they are willing to take the COLR, then they can do that. Now, not all companies-- say, if it's a cable company, they don't have that responsibility, so it wouldn't apply to them.

**BRANDT:** But does the existing company have an obligation to sell out to the new company?

**BOSTELMAN:** They don't have an obligation to. I think it's what's worked out between the two companies. This has been done before. Stanton, if you remember, Stanton there was a-- I think it was a boundary thing where there was a number of houses in a subdivision or something that was there that was owned by one company. Another company was building out. They basically bought them out, if you will.

**BRANDT:** OK.

**BOSTELMAN:** That's-- that's the best way to put it [INAUDIBLE]

**BRANDT:** All right. So you aren't running two competing systems.

**BOSTELMAN:** Right.

**BRANDT:** One or the other will be the survivor.

**BOSTELMAN:** Right.

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

**GEIST:** Yes, Senator DeKay.

**DeKAY:** Thank you, Senator. Geist. Thank you, Senator Bostelman. If-- when it comes to overbuilding, do-- are there any parameters that a company has to meet before they can come in, overbuild on another company or have legitimate reason to have to meet approval from a comm-- from the commission or not?

**BOSTELMAN:** Well, first, there's no overbuilding.

**DeKAY:** OK.

**BOSTELMAN:** The point of it is we don't overbuild. So there-- that's the whole point of our legislation we've done is--

**DeKAY:** Well, if [INAUDIBLE]

**BOSTELMAN:** --if that funding [INAUDIBLE]

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**DeKAY:** I just want to know if there-- you know, in the state that it is now, if overbuilding-- what-- what are the parameters that have to be met before-- you know, in telecommunications, I've seen it where they've come in and overbuilt different systems, so I was just wondering--

**BOSTELMAN:** So if a-- so if-- if there's a provider who's got copper and they don't-- they don't provide broadband, then someone comes in and wants to provide broadband, say put fiber in. They can come in and make sure that they don't, you know, pay-- the in-- the infrastructure that's there, that they're not losing out those funds, if you will. But that would be a case where they'd come in and they-- and they'd, I guess, make compensation for that, that the company that's leaving would be-- would be made whole-- made whole, if you will, in a sense, for that--

**DeKAY:** OK, that's what I--

**BOSTELMAN:** --for that type of structure.

**DeKAY:** --was wanting to know. Thank you.

**GEIST:** I have one more.

**BOSTELMAN:** Sure.

**GEIST:** In the-- in the situation that you proposed, where the ILEC could release its COLR, what if it doesn't?

**BOSTELMAN:** Then it's--

**GEIST:** Then it just-- we have two

**BOSTELMAN:** It just--

**GEIST:** --systems where-- that receive NUSF and grant or does the NUSF--

**BOSTELMAN:** So I would let the person behind me--

**GEIST:** Behind you?

**BOSTELMAN:** --answer that.

**GEIST:** OK, I will. All right. Thank you. Is there a proponent who would like to testify for this bill? Proponent.

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**TONYA MAYER:** Get tired of seeing me today. Chairwoman Geist, members of the Transportation and Telecommunications Committee, my name is Tonya Mayer, T-o-n-y-a M-a-y-e-r. Thank you for the opportunity to testify in support of LB722. Senator Bostelman, thank you for introducing this legislation. I drove in last night from Hemingford specifically to testify in support of your bill. I appear today wearing three hats. I'm the general manager of two telephone and broadband providers. One is the Hemingford Co-Operative Telephone Company. The Hemingford Co-Operative Telephone Company is an incumbent local exchange carrier, or ILEC. You've heard those terms used a few times today and you'll hear them again. They are important and I'll talk about them now. As an ILEC receiving Universal Service funding, Hemingford Co-Op had a duty to serve every-- serve every customer in its ILEC territory. You've heard about that too. It's called the carrier of last Resort, or COLR, obligation. It has cost Hemingford a lot of money to do this and we would not have done it without Universal Service funding. And by 2014, Hemingford had completed fiber deployment to every customer in the entirety of our entire exchange. If you've not been to the northwest Panhandle, you may not fully fathom how sparsely populated it is. Some of our customers are extremely remote. Hemingford serves customers that are more than 50 miles from our central office in town, and that means we have fiber loops or lines that are longer than 50 miles. The current cost for deploying a mile of fiber is north of \$30,000. It is very expensive to serve rural areas. Fortunately, this-- it was less expensive when we built, but it was still very expensive and it remains expensive to operate and to maintain our network in such rural and remote areas. Without Universal support, we could not have built our ILEC network and we cannot afford to sustain it. We are proud to continue to operate our network and have no plans of stopping. Universal Service is important to the sustainability of our network as it was to its construction. I'm also the general manager of Mobius Communications. Mobius is a competitive provider, offering both telecommunications and broadband services. We have built infrastructure in the territories of other ILECs in the Nebraska Panhandle. Mobius has deployed fiber infrastructure in competitive territory, utilizing funding from a variety of sources, including our own capital, NUSF grants, bridge grants, ARPA grants and grants from other resources. In areas of Box Butte, Dawes and Sioux Counties, Mobius has constructed over 400 miles of fiber infrastructure and today is serving more than 600 broadband customers and 350 telephone customers. Mobius is not receiving any NUSF support to defray the substantial ongoing costs of maintaining and operating that fiber infrastructure in competitive territory. Rather, the ILEC with a history-- historical duty to serve that

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territory continues to receive an allocation of ongoing NUSF support for the territory. As Senator Bostelman said, this kind of duplicate subsidization is not pragmatic and will not result in a sustainability-- sustainable network over time. If the commission were to redirect that ongoing support to Mobius, we would consider it our duty to serve all of the customers, our friends and our neighbors, in the competitive area that we now serve, whether the commission ordered it or not. We would expect the commission to require such obligation as a condition of support. Further, if Mobius receives NUSF support to defray the high cost of it sustaining our competitive network, then we would better be able to expand fiber to reach more customers that currently lack adequate service. And although I do not speak today on behalf of the NTCA, the National Rural Broadband Association, I am privileged to serve on the NTCA board. That responsibility gives me first-row insight into thoughtful leadership at the highest levels. My observations as an NTCA board member are certainly reflected in the comments I have made today, and the final official hat that I wear is on behalf of the group of like-minded, Nebraska-based broadband providers, all of whom have taken their COLR obligation seriously. The organization is the Nebraska Rural Broadband Alliance. My comments reflect the NRBA's position and our attorney, Sarah Meier, will testify later. If you have questions about our interpretation of Senator Bostelman's bill, I would defer them to her. Otherwise, I would be happy to take questions.

**GEIST:** Are there any questions on the committee? Are you the one who is behind Senator Bostelman that I'm supposed to re--to redirect my question to, or would that be to Sarah?

**TONYA MAYER:** Sarah.

**GEIST:** OK. Thank you. Yes, Senator Bo-- Brandt.

**BRANDT:** Thank you, Chairwoman Geist. Thank you for your testimony. In your testimony, you said Mobius is not receiving any NUSF support to defray your costs. When you-- when Mobius put in their fiber network then, you did that without any outside support?

**TONYA MAYER:** Just grants or other grant dollars--

**BRANDT:** But you did receive some grants--

**TONYA MAYER:** Some grants.

**BRANDT:** --to defray the cost then.

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**TONYA MAYER:** Um-hum, but we don't receive any NUSF for ongoing operation or expense.

**BRANDT:** But the incumbent carrier would receive that?

**TONYA MAYER:** Yes.

**BRANDT:** OK. Thank you for that clarification.

**GEIST:** Are there any other questions? I don't see any. Thank you.

**TONYA MAYER:** Thank you.

**GEIST:** The next proponent. Good afternoon.

**SARAH MEIER:** Good afternoon, Chairwoman Geist and members of the committee. My name is Sarah Meier, S-a-r-a-h M-e-i-e-r, and I'm an attorney at Rembolt Ludtke law firm, here to testify in support of LB722 on behalf of the Nebraska Rural Broadband Alliance, the NRBA. The NRBA consists of both competitive broadband providers and incumbent telecommunications providers or carriers, which we call ILECs. All of the ILECs are proud to say that they have deployed fiber throughout their territories, and I have been asked to provide testimony here today in my capacity as the NRBA's legal counsel on broadband matters involving state and federal regulation and funding. As has been highlighted many times today, Nebraska is set to receive a once-in-a-generation infusion of federal funds for the deployment of broadband infrastructure through ARPA, the Capital Projects Fund, and the BEAD program, to the tune of several hundred million dollars. We are now faced with a limited timeframe in which to rapidly scale up our broadband network. Providers are and will be competing for these funds to build out un- and underserved areas of the state at an unprecedented rate, which will only increase the regulatory challenge we are experiencing with the transition of service to these areas from ILECs to competitive broadband ser-- providers. The NRBA agrees with Senator Bostelman. As Nebraska expends a tremendous amount of federal funding to deploy broadband infrastructure across large rural areas, it is crucial that the deployment strategy and implementation is cost effective and done in a way to avoid overbuilding and also ensures that we are capable of and prepared to sustain this vastly increased network over time. LB722 accomplishes these objectives by clarifying the Public Service Commission's authority over two important issues that are critical to the smooth transition of customers in these large rural areas. First, the bill would ensure that the PSC is actively considering the question of what should happen to NUSF support in

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areas that have been transitioned from an ILEC to a competitive broadband provider by virtue of programs such as Bridge, ARPA and BEAD. If a competitive broadband provider takes on service to customers in high-cost areas outside of cities and villages and elects to accept the allocated NUSF support to help defray those ongoing costs of operating and maintaining the infrastructure to serve such areas, then the PSC needs to be prepared to promptly and adeptly determine the appropriate allocation of NUSF support that is necessary to sustain services in these areas. Second, LB20-- LB722 would ensure that the PSC is similarly positioned to transfer the historical duties associated with acceptance of NUSF support, namely the duty of the ILEC to serve all customers in the area as the carrier of last resort, what you've heard referred to as the COLR obligations. And finally, as Senator Bostelman said, with large-scale deployment, it will be impossible to avoid construction where existing ILECs already have some broadband-capable infrastructure. These particular assets, what we might call stranded assets, should be transferred to the competitive provider to serve customers in the transition area. But the ILEC should receive compensation for what is essentially a taking of their property. LB722 allows the PSC to ensure that the ILEC is financially made whole for the undepreciated value of any surrendered investment. For-- for reference, LB722 borrows this language from that which is in existing law, that already allows the commission to alter exchange boundaries, and that is referenced in Section 86-136. A smooth transition in these large rural areas will be critical for ensuring the impending large-scale broadband deployment is done cleanly and efficiently. The PSC's regulatory role in ensuring a smooth transition is mission critical to this upcoming broadband deployment, and LB722 provides the needed clarity for the PSC to carry out this role efficiently and effectively. For these reasons, the NRBA respectfully urges the committee to advance LB722. I'm happy to answer any questions you might have. Thank you.

**GEIST:** Any questions from the committee? So I'll ask you my question. So if the ILEC chooses not to release its obligation, then does the NUSF continue to that ILEC and the grant to the competitive--

**SARAH MEIER:** Sorry, say that again. So if the ILEC chooses not to accept--

**GEIST:** Well, the-- it was-- it was posed that the-- if this competit-- the competitor comes in with a grant and-- and builds up to where ILEC is serving, then the ILEC can-- or the PSC can opt to have the ILEC release its-- or the ILEC can release its COLR responsibility. But what if it opts not to? Would the funding continue as it is to--

**SARAH MEIER:** Yeah.

**GEIST:** --as it would be if--

**SARAH MEIER:** I see what you're saying. So I think that's-- let me clarify. The COLR obligations are tied to receipt of the NUSF support.

**GEIST:** Right.

**SARAH MEIER:** And so the carrier, the competitive carrier, would have to accept the NUSF support in order to be saddled with the new-- or with the COLR obligations.

**GEIST:** Um-hum. But does that involve the-- the ILEC saying, OK, we will release this or--

**SARAH MEIER:** So for the ILEC to be released of its COLR obligations, we would also see their NUSF support be taken away as well.

**GEIST:** OK.

**SARAH MEIER:** And so this is all part of what would be a negotiation between the two carriers and the PSC.

**GEIST:** OK.

**SARAH MEIER:** And this bill specifically provides the PSC-- or clarifies that they have the authority to kind of oversee this negotiation, which is kind of essentially a-- a buyout, if you will--

**GEIST:** OK.

**SARAH MEIER:** --in layman's terms.

**GEIST:** So everyone knows, how-- who-- who pays into the NUSF and for what services? Just so that our whole committee is sure that they understand how that works.

**SARAH MEIER:** Yeah, that's a good question. So the NUSF is funded by a fee on-- on each customer's bill, and that goes into a general pot which then services the maintenance of NUSF. And that ongoing high cost support is allocated through a model, and that is distributed then to the carrier based on their exchange.

**GEIST:** And is that-- it-- it used to be exclusively on voice service, correct?

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**SARAH MEIER:** Um-hum.

**GEIST:** And now it's a part of broadband, as well, or is it just still voice service?

**SARAH MEIER:** I-- I'd have to get back to you on that one. I don't--

**MOSER:** Cell phone?

**SARAH MEIER:** I don't think it's just voice anymore.

**GEIST:** OK.

**SARAH MEIER:** But I-- I'd have to clarify that for you.

**GEIST:** OK. I'm just curious if-- if all the parties involved are paying into the NUSF to begin with. OK.

**SARAH MEIER:** Um-hum, yeah, let me get back to you on that one.

**GEIST:** OK. All right.

**SARAH MEIER:** Thank you.

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

**MOSER:** A follow-up question to Senator Geist's question: Are cell customers contributing into the Universal Service Fund?

**SARAH MEIER:** Cell phone service?

**MOSER:** Yeah.

**SARAH MEIER:** Believe so. I'll have to get back to you on that one too. Let me-- let me get back to both of you with--

**MOSER:** And--

**SARAH MEIER:** --who is paying into that fund.

**MOSER:** OK.

**SARAH MEIER:** And I believe--

**MOSER:** What about-- I think they are.

**SARAH MEIER:** I think they are. I believe they are too.

**MOSER:** Yeah.

**SARAH MEIER:** I didn't bring that with me.

**MOSER:** What's an example of-- why would the existing phone company want to give up territory?

**SARAH MEIER:** Maybe they have a very--

**MOSER:** What would this--

**SARAH MEIER:** Yep.

**MOSER:** --bill solve? What-- give us an example of what problem it would solve.

**SARAH MEIER:** Yeah, you bet. So there-- it would be a situation where the-- the telecommunications provide-- provider has maybe other priorities for their service model or they want to expand into other areas. So I know the Stanton example was mentioned earlier. It was Stanton and Lumen were negotiating kind of a transition of this service where Lumen really just kind of wanted to exit that area and I believe [INAUDIBLE]

**MOSER:** One- one phone company didn't want to continue doing--

**SARAH MEIER:** They were-- I believe, and I'm not as familiar with the particulars of this transaction to that level, but I know that they had other priorities they were looking to-- to advance. And so Stanton came in and they-- they were-- they essentially took over those-- those additional 40 customers of Lumen's, and so it was just the transition of services. Does that--

**MOSER:** But it couldn't be taken away from a company against their will.

**SARAH MEIER:** No. Oh, no, no, no, no.

**MOSER:** They have to trade territories or want to exit the territory.

**SARAH MEIER:** Yeah, this was a negotiation between the two companies and they came to an agreement on the price of the infrastructure, on the un-depreciated value of it, and they-- they transitioned the customer service mutually.

**MOSER:** Thank you.

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**GEIST:** Yes, Senator DeBoer.

**DeBOER:** Thank you. So let me see if I have, big picture, the idea, and this is going back to 101 because I'm not sure I got it. So currently in all the high-cost areas, we have the incumbents and they have sort of every area of high-co-- inch of high-cost area in Nebraska has incumbents. And those folks get NUSF support to-- originally it was provide the voice services before broadband existed. Is that-- am I right so far?

**SARAH MEIER:** Um-hum.

**DeBOER:** OK. And so then when broadband became a thing, they wanted to include that somehow. And so what ends up happening is we have continuing support to the local incumbents who provide voice service, and also broadband service now, in those high cost areas. Am I off base yet?

**SARAH MEIER:** No.

**DeBOER:** OK. So then-- now there's the competitive folks who come in and they can just provide whatever services they want and it's all happy and whatever, but they don't have to be the carrier of last resort so that they don't have to provide those voice services in the area. The-- the carrier of last resort is about voice service. Is that right?

**SARAH MEIER:** Um-hum.

**DeBOER:** OK. So this is about transferring the responsibility for those voice services from a local incumbent to a competitive person, a competitive company, if they make the agreement with the incumbent to do so, because maybe they're transferring this one area out, because they don't want to provide it?

**SARAH MEIER:** It's also about the transfer of the NUSF support dollars for--

**DeBOER:** Right, that's--

**SARAH MEIER:** Yeah, um-hum.

**DeBOER:** --both--

**SARAH MEIER:** Yeah.

**DeBOER:** --both those things, because I understand those two go together.

**SARAH MEIER:** Yeah.

**DeBOER:** So it's the-- the voice is the responsibility and the NUSF is the perk for the responsibility.

**SARAH MEIER:** Yeah, the carrot and the stick, if you will.

**DeBOER:** Yeah. OK. So this-- how is-- how is what we have here in LB722 new?

**SARAH MEIER:** It's actually not really new. It just really clarifies the PSC's authority to oversee these negotiations and to ensure that when these companies are handling a transition of service, that they're done to, you know, to ensure a continuity of service for the customer, that we have kind of proper determinations of NUSF allocation support or NUSF support allocations going correctly to the right companies. It just gives the PSC a little bit more grit in their authority to kind of manage these transactions.

**DeBOER:** Because--

**SARAH MEIER:** It's not-- it's not entirely-- it's not really a new concept. It just-- it really clarifies the regulatory challenge that we're-- we're seeing on the ground and-- and-- and it provides some certainty where the PSC's boundaries are and being able to manage those.

**DeBOER:** So what is the-- what is the problem that-- you're saying it provides some certainty and some grit. What is the problem that's come up? Where-- where have we run into trouble with this?

**SARAH MEIER:** I-- I would leave that a little bit more to our providers to kind of explain--

**DeBOER:** OK.

**SARAH MEIER:** --where some of that trouble is. But I-- I think the uncertainty is where we are having-- or the real issue is where we're not getting the NUSF support. We're getting-- we're trying to get these bound-- or not boundaries changed. We're trying to get these customers switched over when we have the competitive providers come in and they have the broadband infrastructure and they need the

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maintenance support. But then the trouble is when we're just-- we're not really. The NUSF isn't really following.

**DeBOER:** And--

**SARAH MEIER:** And so we need to make sure that that's-- that that's tracking, that the COLR that we have, that the ILEC can actually get released from their COLR obligations and they can just-- they don't have to-- they don't have to maintain that obligation anymore and they don't-- for customers they don't really-- you know, it's not in their best interest to serve anymore. And so we can kind of just transition that, that release, for them, as well--

**DeBOER:** It makes sense to me.

**SARAH MEIER:** --smoothly.

**DeBOER:** It makes sense to me that if you if someone who's competitive has come in, put in fiber, that maintaining the-- the copper line doesn't-- you know, I can see why a company would say, we don't want to maintain this copper line, you guys have fiber, and go. But a larger question I have is how the NUSF is tied to voice service and providing carrier of last resort for voi-- voice service, and yet now we're talking about broadband obligations, and I can see by your smile that you see that there's--

**SARAH MEIER:** That's a good question, yeah. That's--

**DeBOER:** --a concern here.

**SARAH MEIER:** That's a very good question. I think-- I think I'd be happy to maybe dive deeper into that and get-- you more information and more background on kind of the historical transition there with NUSF. So I can-- I-- I'd be happy to answer that more deeply.

**DeBOER:** So are these-- are these new projects that we're building out with fiber that are primarily broadband, but I suppose you can always do voice over fiber as well, are these-- these new programs going to be supported, you know, in their upkeep with NUSF funds?

**SARAH MEIER:** Not unless they-- right now, no. I-- lot-- let me back up.

**DeBOER:** Only if they had the COLA-- COLR.

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**SARAH MEIER:** Not all competitive-- not all competitive providers who are coming in are receiving the NUSF support. They are getting the grant money. This is-- this is what we're explaining with the double-- the double subsidization here. They're receiving the grant money to build out broadband, build out fiber in these locations, but they're not receiving the funding to maintain that infrastructure over the long term. You have these other telecommunications providers who are providing voice service, maybe on old copper lines. Some of them are broadband capable, some are not, and they-- they are receiving this maintenance support, but not-- they were eventually subsidizing two networks, the back end of one and then the front end of another, and that's not sustainable when normally there's not a business case to be made for even one company or one provider to be serving these locations. So we're kind of we're-- half-subsidizing the current monopoly and the incoming competitor, and it's just not sustainable from a government funding perspective.

**DeBOER:** Thank you.

**GEIST:** Any other questions? Yes, Senator Brandt.

**BRANDT:** Thank you, Chairwoman Geist. Thank you for your testimony. In a lot of our small communities, the carrier of last resort has really faded away. I mean, this is a 100-year-old law where at a time it made sense. They do-- I don't know what percent they have left of their original customers in a community. In a sense, isn't this a golden parachute for them? It's a chance to cut and run because they have an old copper system here and now this state-of-the-art system has built into town with-- with whatever marketing thing. You know, the free market kind of dictates where customer's going to go and-- and, you know, like either have this copper system here or I can hook up to this brand-new fiber system over here as a customer. Most customers are probably going to go this way, so, I mean, I don't know what assets we're stranding if the assets are functionally obsolete.

**SARAH MEIER:** Some of them are broadband capable, so--

**BRANDT:** OK.

**SARAH MEIER:** --and those are the ones that are un-depreciated. For their un-depreciated value, the ILEC should be made whole for.

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

**GEIST:** Any other questions from the committee? I don't see any. Thank you.

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**SARAH MEIER:** And I-- I will follow up with-- with all of you.

**GEIST:** Thank you. Next proponent. Good afternoon. You're just going to enlighten us, aren't you?

**DAN WATERMEIER:** Absolutely. [INAUDIBLE] today. Good afternoon again, Chairwoman Geist. Members of the Transportation Committee, and Telecom, my name is Dan Watermeier, spelled W-a-t-e-r-m-e-i-e-r. I'm here today in support of LB722. The large amounts of federal funding coming to Nebraska for the construction of broadband infrastructure will lead to a great deal of change within our state. While this progress is undeniably necessary, it is also important to make sure that the citizens of our state don't get lost in the shuffle. This bill helps to ensure the transitions of consumers between companies is smooth, that carrier-of-last-resort obligations, which we call COLR, and NUSF support continue without interruption, and that existing infrastructure does not go to waste. We think oversight of these topics will be extremely important in the coming years. And that ends my testimony there, so I will answer any questions and I'll-- got a few of them in my mind here, probably came from different questions around the room here, so I could start off with a comment or I could allow the question to be repeated.

**GEIST:** Why don't you go ahead and start with a comment.

**DAN WATERMEIER:** The comment is that \$1.75 on every landline and cell phone line goes into the NUSF. In big-picture terms, NUSF is tied to the COLR obligation. And what happened here a year or so ago is an amazing work of capitalism in the finest. Up in northeast Nebraska, an incumbent had been providing service for years and years. A competitive provider wanted to come into that area and had it to start-- and it was already in the area, but had started to creep into the areas in which this incumbent had been providing. They, on their own, came to a negotiated agreement in which they would be allowed to sell their assets, which we call the stranded assets, the price cap was-- I was offered an amount-- or they negotiated an amount to buy out their obligation. But the COLR always still laid there in effect because the COLR goes along with the NUSF. The competitive person, the competitive carrier, had a grant, probably had a grant to build in that area, but didn't have the obligation to take over the COLR until the incumbent released it and there was a negotiated agreement. What the bill does, and Senator Bostelman described it very well, is that it puts us into a position not to dictate the conversation, but to negotiate it and to actually moderate it, mediate it, however you want to say. We're involved in watching how it goes. We really don't want

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to get involved in allowing and valuing things, but we do this in the-- in a rate case, for instance. We're used to looking at values and things. We can look at the value of a plant, whether a copper plant or if it's actually got value or it may have a-- a broadband service to it, so we can look at that and give that a value and help oversight that to some degree. That's where this bill goes, and I appreciate Senator Bostelman bringing it to us. There's still some questions maybe about how it might be in the weeds on the technicalities of it, and I think we'll just share that amongst Senator Bostelman and I and we can get to the bottom of that as well.

**GEIST:** So you don't currently as the PSC have the authority to mediate this negotiation?

**DAN WATERMEIER:** Well, we oversaw it in the fact that we knew it was coming. We had a chance-- there were several-- you heard me say earlier that we-- Senator Fischer had boundary changes that were applied in Nebraska and allowed a person to say, you know what, I'm not getting covered by my incumbent, I want to ask the PSC for a boundary change, which allows us to redraw the boundaries, but there still has to be this obligation of carrier of last resort. So this is going to allow us to see it, watch it, and to oversight it. It-- it's really quite interesting how it goes and it's-- once again, the telecom industry is so unique, it's just difficult to describe even the-- all those behind the scenes.

**GEIST:** Yes, Senator Moser.

**MOSER:** Are you familiar with the Power Review Board?

**DAN WATERMEIER:** Yes, I am.

**MOSER:** And when utilities trade territories based on annexations or new creations, the Power Review Board kind of overlooks those transactions to make sure that the one utility compensates the other one correctly for the territory they trade. So this might be a little bit like that?

**DAN WATERMEIER:** It may very well be. I'm not sure exactly. I know they don't overlap territories in the public power world, so it could very well act like that to some degree.

**MOSER:** Well, if you--

**DAN WATERMEIER:** But they may have more authority than what we're getting in this bill.

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**MOSER:** If-- if one power company has the rural and the other one has the city, and then an area is annexed, all of a sudden it was rural and served by the rural district, now it's going to be served by the power district that serves the city. And so they'd sell that territory to the-- the city-run utility, so-- well, maybe it's a bad example because it didn't get us anywhere, but--

**DAN WATERMEIER:** No, I think it's probably-- it's fair to-- be maybe a very good example. They may have a higher level of authority than what we have. I mean, the bottom line to this conversation is that it's a good conversation to be having. I mean, some of the price gaps, old plant, old copper wires laying around, and they're not anxious to get rid of it because the NUSF has supported that to some degree. And we have stretched our rules as hard and as far as we can to make sure we don't do that, but we are obligated by statute. So this encourages the conversation that's going to be better for the consumer, better for any constituent that's in-- that's in these areas.

**MOSER:** Some local copper carrier may be willing to forgo their NUSF fund just to get rid of the territory to somebody else.

**DAN WATERMEIER:** That's very likely, yes.

**MOSER:** And then the new company has to assume that responsibility if they're going to take that NUSF funding?

**DAN WATERMEIER:** Yeah, that's the way I would describe it accurately. They would-- instead of being the competitive carrier, now they are going to be the incumbent with the obligation of the COLR, and they'll be in that obligated spot, which turns the key on for the NUSF support.

**MOSER:** Yeah, I think I'm beginning to get it. Thank you.

**DAN WATERMEIER:** I-- I failed. I failed this fall. I wanted to have an NUSF 101 with you guys as soon as we knew who the committee was, and we just couldn't put it together. This was a conversation that could go on yet this-- this session yet, and we'd be glad to do that. We need to reach out and pull a time together so we can have these conversations. So I might just also interject, Senator Brandt made a point about a golden opportunity to get out. That's what we want to encourage. I mean, if the price gap is declining and has decided internally they're not going to support that any more than what they've got out there for the copper plant, we don't want to be inhibiting that conversation. Let's encourage it. Let's get it going

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because if we have a carrier that's willing to take a broad-- bridge band act-- excuse me, a Bridge Act grant or anything else coming down the pipe, we want to encourage that conversation.

**GEIST:** Yes, Senator DeBoer.

**DeBOER:** Thank you, Senator Geist. Are these typically replacing the copper, I mean, is what happens is when the new folks come in, they have fiber there, right?

**DAN WATERMEIER:** Yeah.

**DeBOER:** So we're basically just updating when the new company comes in they've got fiber. We're not-- we're kind of just saying, all right, the-- the copper is-- we're going to let it go.

**DAN WATERMEIER:** They could-- they could do that. But as long as they have the COLR obligation, they have to maintain it. And that's what we do, is we oversee that and make sure.

**DeBOER:** They have to maintain the copper or can--

**DAN WATERMEIER:** They will-- they have to maintain the phone line in order to be able to receive the NUSF because it's about phone lines. It's--

**DeBOER:** Right, so the-- my question, I guess, is, and this is a technology piece, is, do they not just say we're going to provide digital phone to those folks?

**DAN WATERMEIER:** That's an option that the new ILEC would have at their choice. They could run it through their ISP and their new fiber. And then that's where we get involved also with making sure they're providing 911.

**DeBOER:** Right.

**DAN WATERMEIER:** All those different pieces of the puzzle come together at that point in time, so, yes, more than likely, they would bring in the new phone line. The new COLR obligation would come over the fiber.

**DeBOER:** it would translate-- transition over to the fiber.

**DAN WATERMEIER:** It would be seamless. It would just go, yeah.

**DeBOER:** OK. So about the phone, but we're really providing broadband, how-- how does that work? I mean, this is a voice line, but really now

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we're trying to upkeep a broadband line. Is there a way to transition this so that-- I mean, we're-- we're charging money on landlines and cell phones, so it seems to be about voice lines. Obviously, the carrier of last resort piece is about voice. You don't have to-- you're not required to provide broadband.

**DAN WATERMEIER:** Right.

**DeBOER:** So it still stays with the voice, and yet we're using it to supplement and upkeep, basically, broadband facilities.

**DAN WATERMEIER:** You've hit on the issue about preemption, which talks about state lines and how we are regulated at the federal level. And so you hit on that point. It's difficult. And still telecommunications as defined still didn't have the broadband in there. So we're-- we're stretching our interpretation, we're stretching our use of the NUSF as hard and as much as we possibly can because we feel like we are responding to the needs-- what needs to happen in the state.

**DeBOER:** OK. Thank you.

**GEIST:** Senator Brandt.

**BRANDT:** Thank you, Chairwoman Geist. Does COLR have a market value today?

**DAN WATERMEIER:** That's a good question. That would probably come up. It would be more like if the COLR actually had fiber or some updated copper, updated equipment. But if it was just the old strand and maybe the land-- you know, not maintained very well at all, why would it?

**BRANDT:** If--

**DAN WATERMEIER:** Every one of those would be judged accordingly.

**BRANDT:** If-- if I were a new carrier, why wouldn't I trench one mile of fiber through the town, the village, because we all know in the rural areas the COLR goes five, six, ten miles out of town on those old copper wires that go to those few farms or-- or farmsteads out there. I don't want that because that fiber costs \$30,000-plus to bury it in the ground and you might have to go two miles before you pick up one customer, and yet I go one mile through the village and I pick up 400, 500, 600 customers. You mean, I would-- I-- I-- am I reading this wrong?

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**DAN WATERMEIER:** No, you are reading it correctly. That's where the economic model of every situation is very, very different. That competitive ILEC is going to have to look at that, count up the cost of what it's going to take to reach that very far end, and knowing that they're going to probably buy in all these other locations that are-- be easy to get. That's a decision they'll have to make. We can't-- "we" meaning the PSC, would not be able to mandate you need to buy this to get-- to get the COLR obligation funds.

**BRANDT:** OK.

**DAN WATERMEIER:** But you've hit on it. It's-- you're exactly right.

**BRANDT:** Yeah, back to what Senator DeBoer was hitting on before. If I'm the-- let's say I-- I'm the new operator and I decide to take on the COLR of the exchange and we're all fiber now, we're-- we're a fiber exchange with voice because we're not copper, do you still have power of regulation over a-- is it over the COLR or over the exchange because it is a COLR?

**DAN WATERMEIER:** It's over the COLR obligation.

**BRANDT:** OK.

**DAN WATERMEIER:** So what you're getting at, let me make sure I heard you correctly. I'll just rephrase it if you want to. But before I get too far there, it's not like an incumbent can just decide he's going to take over the COLR obligation. That's where the negotiation has to happen between those parties.

**BRANDT:** Right, yep.

**DAN WATERMEIER:** Usually happens in the fact that an incumbent is going to get a grant. They're going to be close to the area, but they're not going to quite overbuild everything that the carrier of ob-- obligation is there already. Before that happens, they-- they'll get this figured out and we'll decide the value, OK, what's left there in some of the copper plant. Some of it may be improved to where it carries a good amount of broadband and has a lot of value to it. So this, the idea is it's not up to the carrier-- the competitive carrier. It's going to be up to an agreement between the competitive and the incumbent.

**BRANDT:** All right. Thank--

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**DAN WATERMEIER:** That's the key. I mean, I think that's the role it needs to be. And we don't want to have government in there telling them, you guys gotta consolidate. It needs to be just like this and this is going to prelude, and this is why it's helpful. I think it's healthy for the industry and it's healthy for the consumer as well.

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

**GEIST:** Senator Moser.

**MOSER:** So does the whole amount of the monthly fee per line go to the incumbent phone company?

**DAN WATERMEIER:** It's a complicated model, I will tell you. We generate-- we-- the state generates around \$52 million a year. We split that up between price caps, rate of returns. Each one of those groups have a model in which it's divvied out back to them. We also cut off a small amount of that money and we build and support and encourage cell phone development. So that's the area I'm talking about how we stretch the rules to some degree, because we know cell phones provide broadband. And we pull out a little bit of money every year out of that account, and we have started to support and encourage cell phone use.

**MOSER:** So if a phone company has 500 customers in a town and you say it's \$1.75 per line--

**DAN WATERMEIER:** Yes.

**MOSER:** So that's \$10,000, \$10,500 a year, so they have to decide whether they want to take-- and they don't get all of that.

**DAN WATERMEIER:** They don't get it all, no, no.

**MOSER:** What would they get, \$8,000?

**DAN WATERMEIER:** Oh, Senator, it's-- no, I couldn't give you an example of the dollars. There's a model based on, and you heard us talk about ACAM, which is a federal model, it's a-- it-- we-- it's broadband 101 that I said I failed on.

**MOSER:** All right.

**DAN WATERMEIER:** I wanted to come in here and explain that to you.

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**MOSEER:** All right. Let me ask you a different question. So whatever the local carrier is getting per-- per year to serve those customers, they have to look at whether they want to continue to operate those services and get that Universal Service Fund money--

**DAN WATERMEIER:** There's a choice of--

**MOSEER:** --or whether they want to sell it to somebody else and get out from underneath it.

**DAN WATERMEIER:** Exactly. As Senator Brandt had mentioned, this might be the golden opportunity for them to get out. They don't have a chance to get out of there unless somebody buys it from them.

**MOSEER:** Well, there--

**DAN WATERMEIER:** They can't just renege it.

**MOSEER:** --there might be value to the physical parts like Senator Grant-- General Grant-- Senator Brandt was--

**DAN WATERMEIER:** General.

**MOSEER:** --was talking about. But there might be value in the amount of Universal Service Fund money you get for what territory you're covering, so maybe you're making money on that. So the customers might be worth something as well as the physical plant--

**DAN WATERMEIER:** Exactly.

**MOSEER:** --but probably not.

**DAN WATERMEIER:** But this conversation is healthy. I mean, I'm just telling you, it's not like consolidating by force. It's coming together in economics and it's working. It's going to work. I just can sense it's work-- we've come off center and it's moving. We have a good example to go by of northeast Nebraska, and it's working.

**MOSEER:** Thank you.

**GEIST:** Yes, Senator DeBoer.

**DeBOER:** One more quick question: Is-- do we have to pass LB722 in order for you to have jurisdiction to supervise these transitions, like, can you do it in the meantime before we-- we would pass it?

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**DAN WATERMEIER:** We have done it already. We monitor it. We watched it. We had an open docket. We tried to close it at least five or six times while they were still nego-- negotiating it. I don't think we inhibited it at all in the conversation. It just takes that long. So I would say we've done it, but this is going to make it more--

**MOSER:** Official.

**DAN WATERMEIER:** It's going to make it more concrete. It puts everybody on notice that we can do it. All the carriers, incumbents and competitors, they all now-- they know that we can do it, that we're going to try to give them an out on these areas that are not being served.

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

**GEIST:** Any other questions? Thank you for your testimony,

**DAN WATERMEIER:** "Admiral" Geist, thank you for having me.

**GEIST:** OK. [LAUGH]

**DAN WATERMEIER:** All right, thank you.

**GEIST:** Are there any other proponents? Good afternoon.

**KEVIN CHOQUETTE:** Good afternoon. Chairwoman Geist and members of the Transportation and Telecommunications Committee. My name is Kevin Choquette, K-e-v-i-n C-h-o-q-u-e-t-t-e. I live and farm in Franklin County in south-central Nebraska. I don't do as much with the day-to-day farm operations these days. More of my time is spent on electrical work, mainly for agriculture producers, but for other businesses and some homes as well. I'm a customer and member of Glenwood Telephone Membership Cooperative, which offers fiber-based telecommunications and broadband services to all of its locations within its service territory or exchange. I've also served on Glenwood's board of directors for the past 25 years. I'm currently chairman of Glenwood's board. Glenwood serves customers throughout south-central Nebraska and the counties of Adams, Clay, Fillmore, Franklin, Kearney, Phelps, Thayer, and Webster. We also provide services in rural Keith County, north of Lake McConaughy. Here's what I have to say about LB722. As a long-time member of Glenwood's board, I understand the difficulty and high cost of serving sparsely populated areas. Glenwood has received government support to provide telephone and broadband services to customers in rural areas, and we put that support in the ground in the form of fiber. We completed

fiber deployment to all of our location in Glenwood, south-central Nebraska exchanges a long time ago, and in 2014 Glenwood acquired a large exchange in Keith County area north of McConaughy. Within three years, we had completed fiber deployment not only to all of our-- the nice lake shore properties, but also to the cattle ranchers scattered throughout the southern reaches of the Sandhills. There are not many, very many of them, and they are miles apart. They are very expensive to connect by fiber and to serve. We at Glenwood understand the importance of Universal Service support. Without it, we could not have built fiber infrastructure, including the expensive electronic components in the rural areas we serve. We could not afford to operate and maintain our network without Universal Service support. In the past two years, Glenwood has received a number of grants under the Broad-- Broadband Bridge program. I would like to thank all of you, the senators who were part of establishing that program. It has not been without wrinkles, but it is working. I agree with Senator Bostelman, who said the challenge process used to avoid overbuilding is slowing down deployment. We cannot afford to build Nebraska one location at a time. That is one critical purpose of LB722. The other critical purpose of LB722 I will shed more light on is the need to make sure we can continue to operate and maintain the network we are building. Once we build this network, we must obtain it in rural areas. Our company as an incumbent exchange carrier, or ILEC, would not be able to continue to maintain and operate our network without Universal Service support. We could not fulfill or-- our obligations as a carrier of last resort. I may not-- I may not be a tech technical expert on broadband, but I can tell you that it is very expensive to operate and maintain broadband networks in rural areas. The importance of the Universal Service Fund support cannot be overstated. As territories change hands, we need to make sure that Universal Service support is made available to the competitive provider so that it can afford to continue to operate and maintain the network. As Glenwood pursues broadband projects made possible by the Bridge, ARPA and BEAD, we're doing so as a competitive broadband provider. We continue to operate as an ILEC in our historical exchanges, exchange carry--carriers. But as Glenwood ventures out to help under-- unserved and underserved customers outside of our old exchanges, we need to do so as a competitive provider. In our rural Franklin County project, for example, Glenwood received bridge grant funding to competitively build in exchange areas in which another ILEC was historically responsible. In order for Glenwood to continue to serve the rural Franklin County area, once we completed our fiber build, we need NUS [SIC] support to help with the significant ongoing cost of operating and maintaining that fiber network. The current ILEC will no longer

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need Universal Service support for that area. Glenwood is willing to take on that ILEC's carrier-of-last-resort obligations. Doing so is a responsible tradeoff for accepting the public funding necessary to sustain the network. The way I look at it is this. It would be hard to look my Franklin County neighbors in the eye and tell them that Glenwood is not offering them service, even though we're getting public assistance to do so. I would not do that. If Glenwood is getting public funding to serve, we will serve. This concludes my testimony. Thank you, Senator Bostelman, for introducing LB 722. I urge you, Committee, Senator Geist, to advance it.

**GEIST:** Thank you for your testimony.

**KEVIN CHOQUETTE:** Thank you.

**GEIST:** Are there any questions from the committee? I do not see any. Thank you.

**KEVIN CHOQUETTE:** Thank you.

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

**ANDREW VINTON:** Good afternoon. Chair Geist, members of the committee, for the record, my name is Andrew Vinton; that's spelled A-n-d-r-e-w V-i-n-t-o-n. I'm the in-house legal counsel and lobbyist for ALLO communications. I'll spare you the company introduction I gave this morning and simply state that ALLO supports the concepts outlined in LB722. Recent and upcoming broadband grant programs solely fund the construction of fiber broadband networks. They do not address the issue of how to operate and maintain these networks over the long term. ALLO firmly believes that once public grant funds are used to build ubiquitous fiber networks in a high-cost area, Nebraska Universal Service Fund support for that area should be shifted to the new competitive provider. Likewise, if the new provider elects to receive NUSF support for the area, it should also take over carrier-of-last-resort obligations for the area in which it received the funding and commits to provide ubiquitous service. This will ensure that ongoing high-cost support is used to fund the best available networks while allowing the incumbent to retire its existing obsolete network plant, should it so choose. To ensure continuity and quality of service, this process will require significant organization, coordination, and cooperation between the incumbent provider, the new competitive provider, and the PSC. This concept will require thoughtful consideration and likely additional action from both the Legislature and the Public Service Commission before it is

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ready to implement, and I'm glad to see this conversation is taking place. It is important piece to the puzzle, deploying and maintaining high-quality fiber broadband service to all Nebraskans. And I should add that ALLO is purely a competitive provider, purely a CLEC, but with the advent of-- of new rural grant programs, should we receive a grant to build a rural high-cost area that is unserved or underserved, we would be open to seeking NUSF support and accepting COLR obligations for that area. And with that, I'll do my best to answer any questions you may have.

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

**ANDREW VINTON:** Thank you.

**GEIST:** Good afternoon.

**LASH CHAFFIN:** Good afternoon. My name is Lash, L-a-s-h, Chaffin, C-h-a-f-f-i-n. I represent the League of Nebraska Municipalities, and I would like to support the concepts outlined in this bill. If I learned anything this morning, it was that the next three or four years are going to be crazy in Nebraska, with all the funding coming forward and all the customer expectations, and anything-- anything the legislature can do to bring clarity and perhaps speed to the process of trading customers, exchanging customers, and particularly if it's-- if it's a process that's-- that's willfully done by both parties, I think that's going to help. That-- that-- that's a step that can help the-- help the process move along. I didn't really even realize the process existed until I had a long conversation with Public Service Commissioner Tim Schram about this very-- very subject. And then-- then based on that conversation, I-- I-- I've asked a few questions as well and-- and it's-- it-- I-- I guess it's probably obvious to everybody except me that there will be lots of customer swaps in the next few years as technology-- and even between now and two years from now, technology may change. This is-- the world is speeding by very, very quickly, so-- but I'll certainly answer any questions.

**GEIST:** Thank you. Thank you for your testimony. Any questions? I do not see any. Thank you. Good afternoon.

**CANDACE MEREDITH:** Good afternoon. My name is Candace Meredith, C-a-n-d-a-c-e M-e-r-e-d-i-t-h, and I am the deputy director of the Nebraska Association of County Officials, otherwise known as NACO, and I am here today as a proponent of LB722. Again, as Lash mentioned, and with the large amounts of federal broadband program monies coming in,

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the transition of providers in these large rural areas will be increasing. Therefore, we do support LB7-- LB722 to provide the PSC-- PSC with the authority to assist with an efficient transition of affordable service to our rural customers, which does include the Nebraska Universal Ser-- Service Fund support, which is an important piece of the ongoing operation and maintenance of the network in our rural areas. And I'd be happy to answer any questions that you may have.

**GEIST:** Yes, thank you for your testimony. I don't see any questions.

**CANDACE MEREDITH:** Thank you.

**GEIST:** Thank you.

**JOHN HANSEN:** Chair--

**GEIST:** Afternoon.

**JOHN HANSEN:** Chairwoman Geist, members of the Transportation Telecommunications Committee, for the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I'm the president of Nebraska Farmers Union. I thank Senator Bostelman for bringing this bill forward. For those of us who have been working on this issue long since before Shep's mother was a pup, there's just an incredible amount of-- of incongruity in rural Nebraska. We have-- you've-- you've heard from several of the cooperatives here today that invested a long time ago, with a minimum of help, buried dark fiber, and so we have-- we have areas in rural Nebraska that have had better service longer than we've had in Lincoln. Well, great for them, but then we've also had ar-- areas that were just obvious that we thought, you know, would be getting good service, who didn't. And so you have-- you have folks, all of whom have been getting financial support, some of whom have been providing really good services, some of who-- who haven't. So from our perspective, we think that the Public Service Commission is the appropriate entity to help supervise a lot of conversations that, in our view, needs to be held. And there need-- we-- there needs to be a lot of conversations between folks and folks need to either, you know, fish or cut bait. And so for too long, we have had entities sit on areas that were just, you know, tomorrow, tomorrow, tomorrow, and tomorrow never came. But so we've been long on promises, short on-- on delivery. And so we think that the public interest will be better served if the Public Service Commission clearly has the responsibility to be able to oversee these conversations. And so we thank Senator Bostelman for bringing forward, we think, a very constructive

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clarification that we think will serve rural areas well. And with that, I'll be glad to answer any questions, although I have to tell you, I've heard an awful lot of really, really quality testimony in this hearing room today.

**GEIST:** Thank you. Thank you for your testimony. Yes. Here comes a quality question--

**DeKAY:** Thank you, Senator Geist.

**GEIST:** --from Senator DeKay.

**DeKAY:** Mr. Hansen, you just alluded to that we need to have conversations between folks. Whose all the folks? Who's the entities involved and that you think should be involved in those conversations?

**JOHN HANSEN:** Well, we-- we have some service areas that-- that in-- in our view, companies have been sitting on. They've been-- they haven't really followed through. They haven't really developed. And so you have some-- some new folks. It's an exciting time because we're finally getting the-- the attention and the money now that we see where we've got-- you know, we've had folks who have wanted to provide services who haven't had the opportunity to do so in the past. And so the issue of territories needs to be between, in our view, companies, but also stakeholders within those areas. And so, you know, there's-- the-- the folks who in one part of the service area being well served, you know, have one story to tell. But the folks who are further, in my case, 12 miles from town, folks like-- like our farm, we have a very different story to tell. And so you need to get the stakeholders that are actually impacted in the area, do the mapping, get the data, find out what's actually going on, find out who's-- in a more detailed way, who's actually being served and who's not. And I think it's better to have more stakeholders in the room. But at the end of the day, I want the folks who are getting served as part of that conversation.

**DeKAY:** So you're-- you're saying the end-use customer, the telecommunications company, and probably the fiber suppliers all need to be at the table together going forward?

**LASH CHAFFIN:** I think so, and I think the Public Service Commission could play a constructive role. And at the end of the day, they have the technical expertise and the regulatory expertise to hopefully help make sure that the public interest is being served.

**DeKAY:** Thank you.

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**GEIST:** Thank you. Any other questions? Appreciate your testimony.

**JOHN HANSEN:** Thank you.

**GEIST:** Thank you. Any other proponents? Proponents? Are there any opponents? Good afternoon.

**DAYTON MURTY:** Good afternoon, Chairman Geist and members of the Transportation and Telecommunications Committee. My name is Dayton Murty, spelled D-a-y-t-o-n M-u-r-t-y, and I'm testifying today in opposition to LB722 on behalf of Charter Communications. Charter is a leading broadband connectivity company and cable operator providing superior high-speed Internet, voice, video, and mobile services under the brand name Spectrum to more than 32 million customers across 41 states. In Nebraska, we serve over 178,000 customers in 90 communities, and in 2021 we paid over \$20 million in taxes and fees and we invested over \$36 million in private capital to expand our network to reach an additional 8,000 homes and small businesses. In its current form, LB722 would impose the carrier-of-last-resort obligations that incumbent telephone companies accept in exchange for high-cost Universal Service Fund support on all applicants for broadband funding under broadband infrastructure grant programs. By requiring a transfer of carrier-of-last-resort obligations to broadband grant applicants who are not USF participants and cannot fit into that regulatory structure, it would be disqualifying certain broadband service providers from these grant programs before applications are even submitted. Every broadband service provider should be allowed to submit an application to Nebraska's broadband infrastructure grant programs and have the Public Service Commission or future State Broadband Office evaluate and score their application to serve unserved and underserved Nebraskans on a level playing field. This bill would undermine the state's broadband expansion goals, making it more costly and delaying the deployment of broadband to everyone in the state by cutting out every potential applicant for broadband grant funds except for incumbent telephone providers. With all this said, it is my understanding from private conversations and from testimony today that this was not the intention of the bill, and we are happy to work with the sponsor and interested parties to find an appropriate policy solution for carrier-of-last-resort transfers between various Universal Service Fund-participating companies without impacting broadband grant applicants who do not participate in the Universal Service Fund. Charter would urge your vote against advancing LB722 in its current form. Thank you for your time and I would be happy to answer any questions that you might have.

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

**DeBOER:** Thank you. So you're concerned that-- my understanding of the bill is that no one's required to take USF and carrier-of-last-resort obligations, the--

**DAYTON MURTY:** That's what's been stated today, but the bill reads, "the Public Service Commission shall have the authority to make the following determinations before any award, grant, or redirection of such funds is made," and goes on to speak of transferring the ob-- the carrier-of-last-resort obligation. So if it's not--

**DeBOER:** You just want to clarify-- you just want to clarify that it's-- that this is not a required obligation change, but could happen.

**DAYTON MURTY:** Exactly.

**DeBOER:** OK. Thank you. That's all I needed to know.

**GEIST:** Thank you. Any other questions? I don't see any. Thank you for your testimony.

**DAYTON MURTY:** Thank you.

**GEIST:** Afternoon.

**JOHN WYVILL:** Good afternoon, Senator. Members of the committee. My name is John Wyvill, W-y-v-i-l-l. I'm with Cox Communications and I am the governmental affairs manager. And I am aware of the lateness of the hour, so I will be brief. We are in opposition of the bill in present form. We have reached out to the proponent lobbyist, as well as gave the legislative aide for the sponsor a heads up that we had some concerns, and we are hoping to draft some language that is acceptable to the proponents so that we can tender it to sponsor of the legislation. Our primary concern is it inadvertently provides carrier-of-last-resort responsibilities to cable companies with this bill. And I'll open it up for any questions you may have.

**GEIST:** Are there any questions? Yes, Senator DeBoer.

**DeBOER:** So as long as that's clarified--

**JOHN WYVILL:** Yeah.

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**DeBOER:** --that it's not inadvertently providing this to anybody who doesn't want to take them on, you're OK?

**JOHN WYVILL:** Yeah. We're just seeking clarification.

**DeBOER:** OK. Thank you.

**GEIST:** Thank you. No additional questions? Thank you.

**JOHN WYVILL:** Thank you.

**GEIST:** Any other opponents? Any opponents? Are there any who wish to testify in the neutral capacity? Good afternoon.

**TIP O'NEILL:** Chairperson Geist, members of the committee, my name is Tip O'Neill; that's spelled T-i-p O-'-N-e-i-l-l, and I'm president of the Nebraska Telecommunications Association. We're a trade association who represents a lot of companies that provide landline, voice, and broadband telecommunication services in Nebraska. The NTA is providing neutral testimony on LB722. There is much in the bill that we support. For example, when an exchange gets overbuilt by another voice provider using state or federal broadband deployment funds that would make it economically unfeasible for the-- for the incumbent carrier to continue to provide the service. We believe that the transfer of carrier-of-last-resort obligation should accrue to the new provider if it can be negotiated. We are-- as-- as companies within the NTA working toward consensus relating to how some of the defined terms work, the smooth transition. undepreciated investment, some of those sort of things that are also in the bill, we're-- we're continuing to work on those issues and we look forward to working with Senator Bostelman as we move forward to-- to get something that we think works for Nebraska. So I'd be happy to answer any questions.

**GEIST:** Any questions from the committee? I don't see any. Thank you.

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

**GEIST:** Any other neutral testimony? Good afternoon.

**TAYLOR TEEPPELL:** Good afternoon. My name is Taylor, T-a-y-l-o-r, Teepell, T-e-e-p-e-l-l. I'm with Lumen Technologies. I'm the director of government affairs. Lumen has been serving the residents of Nebraska for over 120 years under the brands of Northwestern Bell, United Telephone Company of the West, USTelecom, Qwest, CenturyLink, and now Lumen. During that time, we have seen each of the neighboring states of Nebraska, in an effort to increase their competitive nature,

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create a path for the carrier-of-last-resort relief. In doing so, they created a more competitive and fair regulatory environment for all providers. We believe, with the competitive state program, with the influx of new providers and technologies, that Nebraska is more than ready to make the change to incorporate carrier-of-last-resort relief into the regulatory environment of the state. LB722 creates a much-needed conversation in the state of Nebraska, and we welcome any conversations around carrier-of-last-resort relief. We appreciate any time states take an effort to bring in line with the competitive nature of the '96 Federal Telecommunications Act and with the FCC 214 process that exists right now for carrier-of-last-resort relief. That being said, although we support the nature of the bill, we do have concerns with some of the terms in this legislation. We have some language that we look to address with the author. We look forward to working with the committee to make sure that the final product is fair and competitive for all providers. With that, I'm happy to take any questions.

**GEIST:** Are there any questions from the committee? Yes, Senator Fredrickson.

**FREDRICKSON:** Thank you, Chair Geist. So to clarify, when you say clarify some of the language, would your concerns be addressed similar to the last previous two opponents?

**TAYLOR TEEPPELL:** Yeah, absolutely. There-- there's a couple of issues. The-- the smooth transition is a phrase that's used in there. That's arbitrary. We're not sure exactly what that would entail. The undepreciated assets is a bit of a concern. The reality is, over that 120 years, we have invested billions of dollars in the state of Nebraska. Those are assets that we still use. We have customers. We don't abandon customers. And the fact that those equipment would be transferred to another provider without being compensated is-- is concerting, to say the least.

**FREDRICKSON:** Sure. Thank you.

**TAYLOR TEEPPELL:** Absolutely.

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

**TAYLOR TEEPPELL:** Thank you so much.

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**GEIST:** Um-hum. Any other neutral testimony? Senator Bostelman, you are welcome to close. And as you close, there is one letter of opposition and that's it. Thank you.

**BOSTELMAN:** Thank you, Chairwoman Geist. I'd like to thank all testifiers who come in today. Some of them traveled some distance to be here, so I really want to thank them again. It helps the committee process a lot when you travel in. We knew about the COLR question from the opposition, so that was something we know about already and that was, as I introduced the bill, as the intent of the bill, why I stressed that that was not something that we expected this bill to do, to transfer the COLR, and force them to do that. So we'll continue to work on language for that. The other comments at the end, we'll find out what those are. We've reached out before. They didn't respond. So we'll find out what those comments might be, what that is. This is about unserved and un-- underserved areas, old equipment, old infrastructure being replaced with new, and then making sure that we're able to properly provide funding so they can continue to provide those services in those areas we have. We've got a big job to do, kind of, you know, looking ahead of us, and this is just one of those things that I think is important for us to provide some clear information for the Public Service Commission as we move forward. With that, thank you for your time.

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

**MOSER:** I don't know if this is in your realm of knowledge or not, but have there been cases where the local phone company goes broke and nobody is available to serve those customers? What happens in that case?

**BOSTELMAN:** I don't know.

**MOSER:** That sounds like an honest answer.

**BOSTELMAN:** Sorry.

**GEIST:** Any additional questions? Thank you, Senator.

**BOSTELMAN:** Thank you.

**GEIST:** That will end the hearing for LB722. We're going to take three minutes so the committee can stand up and stretch, and then we'll do LB155. Senator DeBoer, you may open on LB155.

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**DeBOER:** Thank you, Chair Geist, Good mor-- or afternoon, and also to fellow members of the Transportation and Telecommunications Committee. My name is Wendy DeBoer, W-e-n-d-y D-e-B-o-e-r, and I represent northwest Omaha in the 10th Legislative District. I'm here today to introduce LB155. LB155 is a simple clarification to the small cell-- Small Wireless Facilities Deployment Act. The statement of intent summarizes the bill well. The intent of LB155 is to clarify that the prohibition on the imposition of a tax fee or rate on a communication service provider authorized to operate in the right-of-way found in the Small Wireless Facilities Deployment Act applies only to the Small Wireless-- Wireless Facilities Deployment Act. In other words, small cell means small cell and nothing else. The Small Wireless Facility Deployment Act was passed in 2019 as LB184 and was the product of over seven years of negotiations and work. The Small Wireless Facilities Deployment Act gives wireless providers the right to co-locate small wireless facilities within the-- within the right-of-way as long as they do not create obstructions or hinder public safety. As part of LB184, we prohibited local jurisdictions from imposing or collecting a tax fee or rate on installations of these small wireless facilities, or small cells. It was understood by all parties that this prohibition on fees applied only to small cell devices and other such devices governed by the Small Wireless Facilities Deployment Act. However, it came to my attention that certain jurisdictions have interpreted the prohibition on fees found in the Small Wireless Facilities Deployment Act to apply to any fees on any communications service providers co-locating in the right-of-way. This was never the intent of LB184. As such, at the request of the city of Omaha, I introduced LB155 to clarify the posi-- prohibition found in Nebraska Revised Statute 86-1241, section (2), which is that it applies only to situations governed by the Small Wireless Facilities Deployment Act. Small cell equals only small cell, and we're just clarifying what's already in the law, which is that this only applies to the small cells. OK. I'm happy to answer any questions, which the committee may have, and I urge you to advance LB155 to General File.

**GEIST:** Thank you, Senator DeBoer. I have to speak for myself. Some of us have PTSD from this original legislation.

**DeBOER:** I may also.

**GEIST:** Senator DeBoer. I mean, I'm sorry, Senator Moser. I am just not on today, so.

**MOSER:** All the questions come--

**GEIST:** Yes.

**MOSER:** --from this end or here [INAUDIBLE] we're--

**GEIST:** Sorry about that.

**MOSER:** --in this together. So currently some telecom or broadband companies are not wanting to pay tax because they think that small cell companies don't and they shouldn't either? Is that kind of--

**DeBOER:** I think it's mostly jurisdictionally based. Some people would just like some clarification on what the legislation all controlled, and we're just providing that clarification for them in accordance with the agreement that we had back in 2019 when we passed the Small Cell Wireless.

**MOSER:** Yeah.

**DeBOER:** Nobody's actually wanting to change anything. They just want to clarify what we said before, so we're clarifying.

**MOSER:** And small cells are of a particular generation of-- of cell phones? Are those--

**DeBOER:** I don't know how to answer that question.

**MOSER:** --4G, 5G?

**DeBOER:** You know what, I'll let someone else with more technical expertise answer that question.

**MOSER:** OK.

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

**BERNARD in den BOSCH:** Good afternoon. Chairwoman Geist and members of the Transportation Telecommunications Committee, my name is Bernard in den Bosch; first name, B-e-r-n-a-r-d; last name, in den Bosch, three words, first word is lowercase i-n, second word is lowercase d-e-n, and third word is capital B-o-s-c-h. I may have spelled it a few times in my life, and I'm here to testify in favor of-- and I'm employed by the city of Omaha as a deputy city attorney, and I'm here to testify in favor of LB155 and, to some extent, probably the reason why we're here. The purpose of LB155-- I think it's fairly simple-- is to clarify the intention of the Small Wireless Facilities Development

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Act, which I understood was a-- a very thorough discussion that occurred a number of years ago, I think 86-1241, subsection (2), which is the section that has the addition to it, was inserted to make clear-- clear that no fees, in addition to those contemplated by the act that was adopted by the Legislature, could be paid for small wireless providers, and that legislative history, frankly, confirms that that was the case. Unfortunately, I think, as you read the language, and me as a lawyer reading the language recently, and I will tell you in a few minutes why this kind of came up, the language doesn't-- it doesn't appear to be so limiting to small wireless facil-- facilities. It appears to include all communication providers, which is a broader definition and includes, in-- in particular for the area we're interested, people who put in fiber within our-- our right-of-way. The purpose of this particular change just makes it clear that this particular limitation on fees was for things relative to the Small Wireless Facilities De-- Deployment Act, which was the purpose of the particular act. Why are we here? The city was contacted by Google Fiber and Ubiquiti, Google Fiber providing their own broadband to citizens. Ubiquiti is a company that puts in fiber and then sells it to other people to be able to do it, to install fiber for broadband and Voice over Internet Protocol-- I know what the initials mean, I can't claim that I know how it actually functions-- and they wanted to use city right-of-way. As we were going through the negotiations, and-- and, you know, we-- people who want to use city right-of-way, we are-- are permitted to do it as long as they do so within the parameters, right depth, so that they're not interfering with other things, whatever else. As we were going through the discussions with them-- and they frankly offered to-- to pay a fee, 2 percent of gross income, which is something that they do across the country, do in jurisdictions all around, but as we were looking at this particular thing, there was a concern that this particular language, because it referenced communications services providers, which included, at least as I looked at the federal and state law, included Google and what they were providing, that this acted as a prohibition against doing so. I'm aware, and I know-- Mr. Chaffin will testify after me, talk more about it specifically-- there are a number of political subdivisions in the state that have-- that charge fees for the use of their right-of-way for fiber. At least how I read the act would be inconsistent with what the law currently permits, and that's one of the things that we-- we hope to rectify. So this was not a case of anybody bringing it to our attention because they didn't want to pay a fee. Quite frankly, they indicated a willingness to do so. It was us looking at the law, saying we're concerned about being able to charge it. I contacted attorneys from several other cities and

sub-- political subdivisions in Omaha or around Omaha, Bellevue, Papillion, Lincoln. We talked through it and discussed my interpretation of the act, and they-- they read it and found they had similar concerns after reading the act. I did talk to one of the attorneys for the Public Service Commission to see. And I-- I can't give an official position, but I wanted to get some input as to whether or not I was all wet in my reading of-- of the act and they-- they understood and at least indicated that they-- they had some similar concerns. So we believe that this language will clarify what that is. It will allow-- if we want to regulate the fiber and broadband, we can certainly do that through another vehicle. But the purpose here was to deal with the Small Cell Wireless Deployment Act, the unintended consequences of this paragraph, and we believe this removes that unintended consequence, and so we'd ask you to approve it. I'm happy to answer any questions, obviously.

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

**BERNARD in den BOSCH:** Yes, sir.

**GEIST:** --Frederickson.

**FREDRICKSON:** Thank you, Chair Geist. I-- I don't yet have PTSD secondary to small cell, but I'm not going to rule that out as a possibility. Thank you for being here to testify today. So I just want to clarify. So what I'm understanding from what you're saying, I just want to make sure I'm understanding this correctly. So the-- would this cleanup enable the city of Omaha to capture fees from Google, should that be something that they would want to do?

**BERNARD in den BOSCH:** It would. We-- in our agreement with Google, actually, it lays out what the fee would be.

**FREDRICKSON:** OK.

**BERNARD in den BOSCH:** But it indicates that we wouldn't be able to charge a fee until such time as there was a change in the law that permitted it.

**FREDRICKSON:** Sure. OK.

**BERNARD in den BOSCH:** With six months' notice, then we're able to collect that fee. They obviously haven't built any structure yet. They're just starting the planning process.

**FREDRICKSON:** OK. And should this not pass, this bill, is there any plan to sort of address the competitive landscape in the city?

**BERNARD in den BOSCH:** Well, if this bill doesn't pass, we're in a position where we've indicated to Google, frankly, we've enter-- indicated to Ubiquiti, we've enter-- we've had some conversations with Cox. The rules that we provide for using our right-of-way are going to the sa-- be the same irrespective of the entity that wants to do it. I think we have an obligation to do that as a public entity.

**FREDRICKSON:** Sure.

**BERNARD in den BOSCH:** What it means is we wouldn't have the ability to charge a fee for use of that right-of-way for them or for anybody else. We already have some things that-- that we don't charge political subdivisions for use of our right-of-way already through the state law and code. But so it wouldn't necessarily change it, but it would-- it would effectively mean that we could not go forward with that. That's the net effect.

**FREDRICKSON:** Sure.

**BERNARD in den BOSCH:** And I think more-- not just with us. I think there's a number of governmental entities, municipalities and counties throughout the state that-- that are currently receiving a fee that there's some question as to whether or not they would have the ability to do so.

**FREDRICKSON:** OK. Thank you.

**GEIST:** Do you have a question?

**MOSER:** Well, I don't know if the question of small self-definition is in your--

**GEIST:** Just second. Just for the transcriber, this is Senator Moser speaking, so go ahead.

**MOSER:** Oh, sorry about that.

**GEIST:** That's all right.

**MOSER:** But these are the typically 5G, small, low-power transmitters that are spread out over a wide area?

**BERNARD in den BOSCH:** Well, that's certainly what the small wireless facilities are, as I understand them, and I'm not an expert. But what we're talking about as far as in our right-of-way, we're talking about the laying of fiber, which is not within the definition in-- in the statute that's controlled by the Small Wireless Facilities Deployment Act.

**MOSER:** OK.

**BERNARD in den BOSCH:** So this should not have any effect on the-- the-- the small towers that were being put in, I think primarily to facilitate 5G, because of the need to have more towers, more densely populated, in order to have that service. But I-- I-- I know a little bit because I have teenage boys who help me keep a little bit current on technology, but I-- I-- I'm by no means an expert, so.

**MOSER:** OK. Thank you.

**GEIST:** Any other questions from the committee? I don't see any. Thank you.

**BERNARD in den BOSCH:** Thank you. Appreciate your time.

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

**LASH CHAFFIN:** Good afternoon. Good afternoon, Senator Geist. Members of the committee. My name is Lash L-a-s-h, Chaffin, C-h-a-f-f-i-n. I am a staff member at the League of Nebraska Municipalities, and I would like to offer up the League's support for LB155. I don't want to spoil the ending for Senator Fredrickson and Senator DeKay, but the League opposed the small cell bill and-- is that an understatement? I-- I don't know, but-- and it's-- determining intent is sometimes tough. But when-- when the city of Omaha talked to our staff about the possible need for this bill, I did a couple of things. I-- first, I-- I talked to-- I called up a gentleman named David Young, who at the time worked for the city of Lincoln and was the chief negotiator on the municipal side for the one cell bill. And I said, did you intend this to apply to fiber? And he goes, oh, no, of course not, that was-- this was for the facilities, the-- the network of small cell facilities, fiber is a different thing. And then I went on, and as probably several-- several of the senators at this table do, we had a big-- we had a big file of stuff on-- on the small cell bill. And I started going through our-- our promotional material, much of which I hope you recycled at some point, but-- because we-- we killed a lot of trees on that bill, we give you a lot of information-- and

consistently our promotional material opposing the small cell bill referred to fiber separately. And-- and it was a common-- one of our arguments on a regular basis was that fiber is the preferred technology that the cities want, not-- not the small cell technology. So we clearly were distinguishing the two technologies at the time. Now I don't know that we thought about it in context of what's going on today, but clearly, in our mind, they-- those were separate and distinct technology tracks going on. And then I looked at some letters too. Actually, I pulled the file for-- for the-- the senator from Beatrice at the time and the-- the cities as they wrote-- as they wrote him letters, they all ref-- several of them referred to fiber in a different way that they-- than they referred to small cells. So I think at the time-- it's-- it's very difficult to-- to rewrite intent or guess what people were thinking at the time. I mean, there is some legislative history that clearly talks about small cells. And I think what we were thinking is, is in writing through our promotional materials, admittedly for different reasons, but I think it-- it says where our head was at the time. The-- and I-- I will say define-- I also did a few other things. I start-- I looked at a few right-of-way agreements from various cities. Inserting technology definitions into easement language is very difficult. First, writing down the te-- the definition of any technology doesn't work very well. I mean, if we were to go to a college kid, a 30-something at the coffee shop, my wife and my dad, and ask them what dark fiber meant, you'd get four completely different answers, and probably all of them correct. Well, maybe my dad, maybe not, but everybody else would be-- would be correct. And I think it's very difficult to insert these definitions into an agreement that compounded by the fact that every city acquires easements and right-of-way in a slightly different way. But these are essentially real estate contracts in-- in a very simplified form. And-- and like the city of Lincoln also owns the electric system; city of Grand Island owns the electric system. So when they acquire an easement, they acquire it in a much different way than Omaha might. So I can-- I can-- certainly can understand how there are different legal interpretations of how that section needs to be read. And-- and I think clarification of that section would be something that would be very helpful to-- to the city of Omaha and possibly other cities who may need to read it in a way that restricts their ability to work with fibering companies. So thank you.

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

**LASH CHAFFIN:** Thank you.

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**GEIST:** Any other proponents? Are there any opponents of LB155? Any who wish to testify in the neutral capacity? Senator DeBoer, you are welcome to close. And as you come to close, there are two letters of support for the record for LB155.

**DeBOER:** I just want to say this is just a clarification, just a clean up, just trying to make what was the legislative intent into the legislative language, and that's-- that's all it is. All right, that's it.

**GEIST:** Any questions for the senator? Seeing none, that will close the hearing on LB155 and hearings for the day. Thank you.