

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
March 17, 2017

[LB149 LB524 LB621]

The Committee on Appropriations met at 1:30 p.m. on Friday, March 17, 2017, in Room 1003 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB524, LB621, and LB149. Senators present: John Stinner, Chairperson; Kate Bolz, Vice Chairperson; Rob Clements; Robert Hilkemann; John Kuehn; Mike McDonnell; Tony Vargas; Dan Watermeier; and Anna Wishart. Senators absent: None.

SENATOR STINNER: (Recorder malfunction) My name is John Stinner. I'm from Gering and I represent the 48th Legislative District. I also serve as Chair of this committee. Like to start off by having members do self-introductions, starting with Senator Clements.

SENATOR CLEMENTS: Hello, I'm Rob Clements from Elmwood. I represent District 2, Cass County and Sarpy County.

SENATOR McDONNELL: Mike McDonnell, LD5, south Omaha.

SENATOR KUEHN: John Kuehn, District 38, south-central Nebraska.

SENATOR HILKEMANN: Robert Hilkemann, District 4, west Omaha.

SENATOR STINNER: John Stinner, District 48, all of Scotts Bluff County.

SENATOR BOLZ: Senator Kate Bolz. I represent District 29 in south-central Lincoln.

SENATOR WISHART: Senator Anna Wishart. I represent District 27 in west Lincoln.

SENATOR VARGAS: Senator Tony Vargas. I represent District 7 in downtown and south Omaha.

SENATOR WATERMEIER: Dan Watermeier from Syracuse.

SENATOR STINNER: Assisting the committee today is Jenni Svehla, our committee clerk. On the cabinet to your left you will find green testifier sheets. If you are planning to testify today, please fill out a green sign-in sheet and hand it to the page when you come up to testify. If you will not be testifying at the microphone but want to go on record as having a position on a bill being heard today, there's white sign-in sheets on the cabinets where you may leave your name

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
March 17, 2017

and other pertinent information. These sign-in sheets will become exhibits in the permanent record at the end of today's hearings. To better facilitate today's proceedings, I ask that you abide by the following procedures. Please silence or turn off your cell phones. Order of testimony will be introducer, proponents, opponents, neutral, closing. When we hear testimony regarding agencies we will first hear from the representative of the agency. Then we'll hear testimony from anybody who wishes to speak on the agency's budget request. When you come up to testify, we ask that you spell your first name and last name for the record before you testify. Be concise. It is my request that you limit your testimony to five minutes. Written materials may be distributed to the committee members as exhibits only while testimony is being offered. Hand them to the page for distribution to the committee and staff when you come up to testify. We need 12 copies. If you have written testimony but do not have 12 copies, please raise your hand now so the page can make copies for you. And with that, we will begin today's hearing with LB524. Senator Walz. [LB524]

SENATOR WALZ: Thank you, Chairman Stinner and the members of the Appropriations Committee. My name is Lynne Walz, L-y-n-n-e W-a-l-z, and I proudly represent District 15. I have brought forward LB524 as a measure to help our state, especially rural Nebraska, stay competitive and foster growth in rapidly changing technology and economy. This year I brought forward three bills that would help expand broadband in rural parts of our state through the Nebraska Universal Service Fund and the Nebraska Internet Enhancement Fund, which I will refer to as NIEF. Good Internet access is no longer a luxury but a necessity for most people. It is critically important to expand high-speed Internet throughout all parts of the state. Greater Nebraska's population is declining and a major factor is the lack of high-speed Internet. Expanding services will promote economic development, increase educational opportunities, healthcare access, increase public safety, and improve quality of life to encourage young Nebraskans to make rural Nebraska home. LB524 would appropriate \$100,000 from the General Fund to the Nebraska Internet Enhancement Fund for fiscal year 2017-2018, and \$100,000 for fiscal year 2018-2019. NIEF is under the scope of the Public Service Commissioner. The PSC can award grants on the money that exists in the fund. When the Legislature passed NIEF in the early 2000s, they appropriated \$250,000 the first year and \$100,000 the following year. The rest of the money was supposed to come from dark fiber leases, which never caught on. To this day, the PSC has only awarded \$660,000 through NIEF. I think this is something that deserves much more than \$100,000, but given the financial situation our state faces I felt that that was the appropriate amount to begin with...to begin our conversation with and get us moving in the right direction. I encourage you to advance LB524 and I would be happy to answer any questions that you may have. [LB524]

SENATOR STINNER: Thank you. Any questions? Senator Hilkemann. [LB524]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
March 17, 2017

SENATOR HILKEMANN: Senator, I missed. You said that they appropriated \$250,000 and then \$100,000, and then you said... [LB524]

SENATOR WALZ: The rest of... [LB524]

SENATOR HILKEMANN: ...they thought it was going to be financed by what? I missed what you said. [LB524]

SENATOR WALZ: The rest of the money was supposed to come from dark fiber leases, which never amounted to much... [LB524]

SENATOR HILKEMANN: Okay. [LB524]

SENATOR WALZ: ...and never really caught on. [LB524]

SENATOR HILKEMANN: Do we know why it didn't catch on? [LB524]

SENATOR WALZ: No. [LB524]

SENATOR HILKEMANN: Maybe that will be coming in further testimony? [LB524]

SENATOR WALZ: That's going to be coming, hopefully. (Laugh) [LB524]

SENATOR HILKEMANN: Okay. Okay. Okay. [LB524]

SENATOR STINNER: Additional questions? Senator Clements. [LB524]

SENATOR CLEMENTS: Would this be in addition to any other appropriation, or is there just...is there no appropriation besides this? [LB524]

SENATOR WALZ: And I think Johnathan is going to talk on that as well. He just brought me some information that I hadn't seen before, so I think he's going to talk about that. [LB524]

SENATOR CLEMENTS: Oh, fine. Thank you. [LB524]

SENATOR STINNER: Additional questions? Seeing none, thank you. [LB524]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
March 17, 2017

SENATOR WALZ: Thank you. And happy St. Patrick's Day. [LB524]

SENATOR STINNER: Any additional proponents? [LB524]

JOHNATHAN HLADIK: Good afternoon. [LB524]

SENATOR STINNER: Afternoon. [LB524]

JOHNATHAN HLADIK: (Exhibit 1) Chairman Stinner and members of the committee, my name is Johnathan Hladik, that's J-o-h-n-a-t-h-a-n H-l-a-d-i-k, and I'm the policy director, Center for Rural Affairs, and I'm here to testify in support of LB524. We know here in 2017 for communities of all sizes the Internet has become a necessity. It's how people find employment and handle their finances and attend college or work, in a lot of cases also receive medical care. Due to slow speeds and limited availability, not everyone is able to use this tool to its full potential, and rural areas in particular are at a disadvantage. The Nebraska Internet Enhancement Fund, NIEF, is a public-private partnership that was created and is well positioned, we think, to address this challenge. A few words about the status of broadband in rural areas. In 2014, 87 percent of Omaha residents subscribed to Internet at home, and this increased to 90 percent in Lincoln in 2014. This number falls to between 72 and 77 percent throughout the rest of Nebraska. Not all Internet access is created equal, however. Those in rural areas with a subscription typically have one provider to choose from and in many cases this provider offers only mobile access or DSL. The Federal Communications Commission estimates that only 31.6 percent of people living in rural Nebraska have access to speeds that qualify as broadband, and this is the graphic you'll see. Yellow, any area with a yellow spot, is an area that has what the FCC considers the minimum speed for broadband; pale green means it's a little bit faster; and dark green means it's still faster yet. You can see within rural Nebraska and the rest of the state it's quite gray, and that means there's no broadband there. Speed, however, is only one element. Rural residents also face poor quality and reliability. The Nebraska Rural Poll backs this up. It shows that consumer satisfaction in nonmetro areas has decreased since 2014. Satisfaction with speed was 60 percent in 2014 and 57 percent in 2016; with price, it decreased 8 percent over that time; and with reliability, it decreased 8 percent over that time. Overall satisfaction decreased about 6 percent over those two years. So moving to NIEF, the Nebraska Internet Enhancement Fund, as Senator Walz did a great job of explaining, this fund was created in 2001 specifically to address this challenge. The intent was to provide financial assistance for infrastructure projects that bring broadband service to underserved areas of the state. Within the NIEF, the highest priority is given to applicants based on high-cost factors that includes population scarcity and location remoteness. So, essentially, the more rural you are the higher priority you are under NIEF. Priority is also given to communities lacking advanced telecommunications or Internet availability beyond your basic dial-up or satellite services. So that's that gap of 69 percent that

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
March 17, 2017

we talked about. Any county or municipality may apply. Funding for this program, however, has been constrained. As Senator Walz mentioned, the Legislature dedicated \$250,000 in 2001 and then another \$100,000 in 2003. The Legislature, however, chose not to request additional transfers from the General Fund to the NIEF. The rest of that money was made up from dark fiber leases, and this was fiber that was installed and is there but hasn't been activated. It's fiberoptic cables that are in the ground and ready for a provider to come and to use that. But because not a lot of providers have come to use it, there isn't a lot of lease money coming from that and that money is not increasing either. We're not in a position to expect more money from dark fiber leases. And later today I'm sure people...oh, excuse me, representatives of the PSC would be better qualified to explain that a little bit more. Since that time it was created, funds have only been awarded to 13 projects in 18 counties. The most recent was 2012. And over the lifetime of this program only \$660,000 has been distributed. So under LB524 we are requesting \$50,000 in 2018 and 2019, \$100,000 total over the biennium, and that's because most grants under NIEF total \$50,000 or less. So, in our opinion, combined with the \$50,000 cash fund transfer--and this gets to your question, sir--combined with the \$50,000 cash fund transfer proposed in the executive budget recommendation and retained in this committee's preliminary report, which we were very pleased to see, the appropriation requested in LB524 would enable the commission to fund about four projects over that two-year period. Considering all the options available, we feel that this private-public partnership is our best option for expanding broadband access and opportunity in those communities that are currently lacking. And I'm happy to answer any other questions or if I didn't touch on those sufficiently, address those again too. [LB524]

SENATOR STINNER: Thank you. Questions? Senator Hilkemann. [LB524]

SENATOR HILKEMANN: So how much money is it going to take? [LB524]

JOHNATHAN HLADIK: It depends if it's spent well. I think that we did a lot of work between this and LB523, a lot of work with the Public Service Commission to get a really good grasp on what's needed, and what we're running into is a situation where the need for NIEF funds is very great, through the roof, very significant, and what we're looking at when we take that money is finding a community, giving them around \$50,000 to create a partnership with the provider and to come in and to get that network to where it can serve the community, to broaden it, to expand the impact. When you look at that, we're looking at 68 percent of the state having no broadband. If we're looking at providers, we're able to extend it to one community and because of that one community it's a lot more cost-effective to extend it to the next community because they had help getting there. And so in our minds this is something that's going to grow. It's a snowball. Once you get this moving, it's going to continue. And every single time that you provide the funding and support of that public-private partnership to connect to a town, it's going to be easier to get the next one and it's going to be more productive for that town to create sort of economic development that's going to support that. And what we see in rural Nebraska is that it hits the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
March 17, 2017

surrounding county as well, it hits the surrounding communities as well. So, in our mind, it's about bringing them up to what we're doing in the twenty-first century, giving them that chance, and trusting that from there private companies can take it and really make it something positive. [LB524]

SENATOR HILKEMANN: But you said, I think that you said that you wanted to offer \$50,000 to a company. Now is that going to...would that be connecting two or three communities or is that per community? [LB524]

JOHNATHAN HLADIK: That's a great question. So what we've seen before is we've seen some counties apply. [LB524]

SENATOR HILKEMANN: Okay. [LB524]

JOHNATHAN HLADIK: We've seen some municipalities apply. And we've seen some kind of economic development corporations apply. And what they do is they...let's just use company A. So company A, we would like to get rural broadband access here. And company A says, we'd like to give it to you but, unfortunately, we can't. It just isn't cost-effective enough for us to expand our network out to your community. And so they say, okay, we'll apply for a NIEF grant. The NIEF grant will give us up to \$50,000, basically, to make it more cost-effective for you to get the network out there. So if there is this gap between what company A is willing to pay when they run the numbers and they see how much they're going to make from the subscribers and how much it will cost for them to bring it out there, that \$50,000 is there to kind of close that gap a little bit, to make it a little more cost-effective. And so that's what we're looking at. That's one of the reasons why we think that this will have that effect, the snowball effect, in that once you get it there, let's say it costs \$100,000 to get over there but only, you know, \$50,000 more to get over here, you just knock that down piece by piece. You take those steps, you take those steps, and you continue doing that. And I think that's what we really want to see. I touched on it a little bit ago. When we were talking with the PSC about this bill, they really--and I hope some of them would speak to this later today--they really reiterated that, yes, NIEF is an important program and, yes, NIEF fills a big need. But when we look at the Universal Service Funds, those are constrained a little bit. They can't go in the community. They can just go outside of it. And so there's the situation where there may be some possibility to fund this through the USF but right now there's definitely not and you wait for contribution reform to get it there. So in the two years that we're looking at right now, it's about getting some of that moving, getting some of that network access in place. And then if we can get contribution reform or if we can find a better source of funding in 2020 when we're having this conversation again, that's going to be a big positive for us. And I think those members of rural Nebraska will really appreciate that. [LB524]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
March 17, 2017

SENATOR HILKEMANN: Because right now the way this is set up, sounds to me like at best we'd get two counties. [LB524]

JOHNATHAN HLADIK: I don't know if I would agree with that. If we're looking at four projects, you're looking at four municipalities or four counties or four economic development corporations. So I think that's where the four kicks in. And again, that's paltry but times are tough in rural Nebraska, right? We know the ag economy is down. We know that the best source of employment in rural areas is going to be microenterprises. In our rural counties, 70 percent of the job creation that's taking place is a small business or microenterprise. And now a lot of those businesses need to be tapped into the Internet, need to be tapped into the twenty-first century economy in order to succeed. And so if we can do what we can to give more of them a chance, I think that's going to speak a lot to our bottom line and really show we're here to support their economic development initiatives. [LB524]

SENATOR HILKEMANN: Okay. Thank you. [LB524]

JOHNATHAN HLADIK: Yeah. [LB524]

SENATOR STINNER: Any additional questions? Senator Wishart. [LB524]

SENATOR WISHART: Can you tell me, what is the difference between DSL and broadband? [LB524]

JOHNATHAN HLADIK: A lot of it just has to do with speed. [LB524]

SENATOR WISHART: Okay. [LB524]

JOHNATHAN HLADIK: There isn't that much of a difference, for the most part. Broadband is just hitting that minimum 25 speed, and DSL isn't bringing that speed to those communities. I don't know enough about the technology to tell you why, from an engineering standpoint, that is. But when the FCC looks at it, they're looking for that speed. So almost no matter how you get Internet, if it's reliable and if it's at that minimum speed and the average is of the minimum speed then it's going to qualify as broadband. [LB524]

SENATOR WISHART: So currently right now there is a large portion of the state that has access to broadband, a smaller portion that has access to DSL. And then there are some portions of the state that have no access to any Internet? [LB524]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
March 17, 2017

JOHNATHAN HLADIK: That's close. There's a big portion of the state that doesn't have any access and a big portion of the state where the only access is mobile. So when we're looking at that high number, sometimes mobile, just what you have on your phone in that hot spot, that's what's counting in some of these measurements. And so we're adding either nothing or it's mobile access or sometimes you'll hear of HughesNet or WildBlue. I know some of our rural senators in here are probably familiar with that very unreliable Internet. And then we have DSL and, you know, short of broadband, DSL is kind of the best we have. [LB524]

SENATOR WISHART: Okay. [LB524]

SENATOR STINNER: Any additional questions? [LB524]

SENATOR WISHART: Yeah, I have one, one more question. I had read I think probably last year that there are some states, like I think it was Montana, where because remote working, being able to work remotely, is growing because of technological advancements, some states, in rural areas, are seeing population increases because people who want to live in rural areas but want to have...be able to keep their job are able to do so. Is that something you're looking at, at all, with the center? [LB524]

JOHNATHAN HLADIK: That's a very good point, Senator. I think that's very true and it's important to point out that for the most part those are going to be really high-quality jobs. Whether you're contracting or whether you're...you have a working relationship with another firm and you're able to continue that remotely, you're bringing a lot of money in your community when you do that because you spend your salary in your community, you pay the taxes in your community. And so when we're looking at creating jobs, sometimes we just want a job and we don't care about how good it is. In these cases, we want a job that's high quality. And I think we can bring both types of jobs here because of that. [LB524]

SENATOR WISHART: And then the last question is I had a chance to go out and visit Roric Paulman's farm on a Farm Bureau trip where we saw a lot of technological innovations that are going on in the agriculture industry. And my question would be farmers who want to be able to implement some of the advancements that are even being created out of UNL, students and professors, are some farmers having trouble accessing those technologies because of limited Internet access? [LB524]

JOHNATHAN HLADIK: They are. And I actually have a couple points for that. So the Nebraska Rural Poll touched on this as well and it shows that in rural communities agriculture benefits from access to broadband. The study demonstrated that over 60 percent of livestock producers use the Internet for commodity prices and market information, government regulatory agency

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
March 17, 2017

reporting, and auctions; and 60 percent of grain producers use it for commodity prices, information on crop management, and government or regulatory agency reporting. So it's just to have a workable business. Now in the case of Mr. Paulman, who is very savvy technologically, he's able to do important things like reduce the amount of water he uses on his farm, to better monitor how much he's putting on as far as nitrates or as far as chemicals to make sure it's as precise as possible. And that's where agriculture is going. And it's hard to be part of that if you're in rural Nebraska and you don't have access to this really basic network that allows you the tools that are making agriculture much more productive than the rest of the United States. It's a point that I think shouldn't be overlooked. [LB524]

SENATOR WISHART: Okay. Thank you. [LB524]

SENATOR STINNER: Any additional questions? I do. I'm trying to reconcile. I pulled up the Internet Enhancement Fund and in 2012-13 we actually had \$100,000 that was spent in aid. Then the next year it was \$24,667. The next year it was zero, and the next year zero actually spent on grants. And I thought I heard you say that the demand for this was extraordinary or, how ever you put it, was big. [LB524]

JOHNATHAN HLADIK: Yeah, that's what we... [LB524]

SENATOR STINNER: And nobody appears to be applying for grants because the fund balance has gone from \$122,000 now up to \$2...well, projected to be \$296. Up to today, there's about \$190,000-\$200,000 in the cash fund balance. We've appropriated, 2016-17, we've appropriated \$50,000, and \$50,000 is the request for '16-17. So what I'm telling you is nobody is using this... [LB524]

JOHNATHAN HLADIK: Yeah, and... [LB524]

SENATOR STINNER: ...and we have cash balances to probably get this done. [LB524]

JOHNATHAN HLADIK: Glad you brought that up. We talked to the PSC about that as well and about whether there's going to be a need for this because we noticed that the last project that was granted was in fact in 2012, probably after that appropriation you noted. From their standpoint, a lot of this had to do with the fact that communities don't know a lot about that, so there's more that we need to do as far as outreach. Part of it had to do, to a lesser extent, that there's a 25 percent match requirement. So for a community to apply for this, they need to match 25 percent of the funds independent of what that private utility is going to be able to do. And so that was one part of LB523 that we wanted to address, is take away that match requirement to make sure

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
March 17, 2017

that that wasn't something that was actually going to prohibit communities from using this. The need is there. There's no question that the need is there. And I think it's upon us and the Public Service Commission and certainly you as leaders to make sure that we have robust funding there for when a community is ready and a community has the information they need to take that step, we're able to give them what they need. The \$50,000 cutoff was something that had historically been true of the grants that they gave out and there is language that allows for that to be increased. And so if we're looking at \$50,000 just not being enough, I think with a robust fund that's something that we're going to be able to address as well. [LB524]

SENATOR STINNER: So were there turndowns from communities that applied for the grants, or was there no applications? I mean we've got zero and zero the last couple years. [LB524]

JOHNATHAN HLADIK: And I don't know the answer to that. I think that when we...so we know that if you look at the PSC budget request, they had planned to basically provide grants in 2016 and 2017 with the amount of money that was appropriated to them, and they said that by March of 2017 they would know who those communities are and they would have...release that funding. That was just in their agency request. And whether they've achieved that I'm not sure. I hope that we can talk to them later today and find that answer out. For the most part, though, I think it's a matter of communities not being able to have that match and not being able to find a way to go forward with that amount of money. [LB524]

SENATOR STINNER: Okay. Thank you. [LB524]

JOHNATHAN HLADIK: Yeah. Thank you. [LB524]

SENATOR STINNER: Any additional questions? Seeing none, thank you. Any additional proponents? Proponents? Any opponents? Seeing none, anybody in the neutral capacity? [LB524]

TIM SCHRAM: Good afternoon, Chairman Stinner, members of the committee. I had not planned to testify on this today but hearing some of the discussion I felt compelled to do so. The NIEF Advisory Board did meet recently and...oh, Tim Schram, T-i-m S-c-h-r-a-m, chairman of the Nebraska Public Service Commission. Apologize for that. The NIEF committee did meet recently and awarded a grant or recommended a grant approval to Box Butte County. Another issue with the NIEF grant is the 25 percent cost match. It has to be a government entity that partners on this. So they have to find a local government entity to partner on that and those are some of the criteria for that grant. So the dark lease fiber money varies from one year to the next. There may be public utilities out there that have dark fiber. They lease it. Sometimes they light it up and then it comes off the revenue stream for it. So it's a varying fund but we appreciate the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
March 17, 2017

opportunity to work with Senator Walz and the Legislature. And positive news is that there's a lot going on at the federal front. FCC CAF-II money, which is Connect America Fund which is money that will go to the price cap carriers in Nebraska, and the price cap carriers in Nebraska are CenturyLink, Windstream, and Frontier. So there is a...and there's six...those carriers have six years to complete their projects to meet the FCC's eligibility requirement. [LB524]

SENATOR STINNER: Any questions? Senator Bolz. [LB524]

SENATOR BOLZ: I realize this might be a bigger question than (inaudible) the committee discussion this afternoon, but there have been previous conversations. I think Senator Dubas did a statewide tour, about the Universal Service Fund and whether or not the next generation of the Universal Service Fund is necessary. And I just wondered if you had a comment about where you see the Universal Service Fund going and whether or not Internet access is a part of that. [LB524]

TIM SCHRAM: Yes. The commission is very interested in deploying quality broadband throughout Nebraska. From a federal standpoint, we're somewhat preempted on Internet but the NUSF, our 92 docket, which are grant programs that we have administered through the 92 docket, and it's subject to check but I believe approximately \$8 million last year was awarded in grants to any areas in Nebraska that met the qualification. We do have models for high-cost areas that they have to meet eligibility requirements on that. But we also have a docket that we're continuing to work on. That's NUSF 100 that looks at the contribution reform. Obviously,...and this isn't uncommon just to the state of Nebraska. Nationally, those Universal Service Funds, the funding sources of them continue to decline. Some of that is largely due to people, consumers cutting the cord and just going to wireless service or bundled. Sometimes in some states it's the bundling of services that reduces that. But the commission is very well aware of that and we anticipate to spend a great deal of effort and time this year working on that docket. [LB524]

SENATOR BOLZ: Thank you. [LB524]

SENATOR STINNER: So if I go back over the last two years or maybe three years, how many applications for grants have you had? [LB524]

TIM SCHRAM: For NIEF or for... [LB524]

SENATOR STINNER: For NIEF. [LB524]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
March 17, 2017

TIM SCHRAM: For NIEF. Well, some...two to three at a time. And we do, we reach out, I believe, to NACO and League of Municipalities and through various...and inform local governments that this money is available if they have a communications carrier that is willing to work with them on the projects. [LB524]

SENATOR STINNER: But nothing has been awarded over the last couple years. [LB524]

TIM SCHRAM: That's correct. And a lot of it depends on how much money we have in the fund at the time. And so... [LB524]

SENATOR STINNER: You have plenty of money in the fund, sir. [LB524]

TIM SCHRAM: Okay. [LB524]

SENATOR STINNER: It's almost \$200,000. [LB524]

TIM SCHRAM: Okay. [LB524]

SENATOR STINNER: Thank you. Senator Clements. [LB524]

SENATOR CLEMENTS: Chairman Schram, I was wondering, at a place like Box Butte County, how is the Internet service provided to the rural people in the county? [LB524]

TIM SCHRAM: The project we had was fiber to the home. And we're technology neutral. I mean there's wireless projects, too. Under the NUSF 92, I believe there's been 145 towers constructed. And so does that answer your question? [LB524]

SENATOR CLEMENTS: That particular one was fiber to each home? [LB524]

TIM SCHRAM: Yes. [LB524]

SENATOR CLEMENTS: Out in the rural and not just in the village then? [LB524]

TIM SCHRAM: Correct. [LB524]

SENATOR CLEMENTS: All right. Thank you. [LB524]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
March 17, 2017

TIM SCHRAM: And if you'd like to see that application, we can certainly send it to the committee. [LB524]

SENATOR CLEMENTS: No, that's fine. [LB524]

SENATOR STINNER: Any additional questions? Seeing none, thank you. [LB524]

TIM SCHRAM: Thank you. [LB524]

SENATOR STINNER: Anybody else in the neutral capacity? Seeing none, Senator, would you like to close? [LB524]

SENATOR WALZ: Absolutely. Thank you. The last question that you asked him, and I'm not sure I even have the answer regarding the two or three grants that were not awarded, our LB523 eliminates that matching fund requirement that communities have to come up with. And I don't know if that was the reason that maybe there were no funds awarded, but I just wanted to bring that up again. In closing, I just want you to urge...I want to urge you to advance LB524. If we want to improve our state's financial situation, we need to find a way to broaden our tax base and bring economic development to our state. In addition to that, I don't know if you have had any concerns regarding budget cuts for education or healthcare, but this is a way I think it's important that we expand broadband to be able to provide educational opportunities to our students in rural areas in addition to healthcare services. I think it's an important step in the right direction. So I thank you for your time. [LB524]

SENATOR STINNER: (Exhibit 2) Thank you. Any questions? Thank you. We do have a letter of support from the Nebraska Telecommunications Association. And that concludes our hearing on LB524. We'll now open LB621. Senator Wayne. [LB524 LB621]

SENATOR WAYNE: Good afternoon, Chairman Stinner and Appropriations Committee. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and I represent north Omaha and northeast Douglas County. This bill is a simple bill where I still am asking for money in front of this committee, but it comes down to the PSC is required by law to have state track inspectors. I'm sure this, as some of you remember, this has been talked about many times over the last six years regarding state track inspectors, because in 2011 funding was taken from PSC as it relates to state track inspectors. The commission has been unable to fill that position because of the lack of funding for the last five years. And as you know, we have a lot of track in the state of Nebraska and there have also been in the last five years numerous track incidents and train derailments. We also have a lot of hazardous materials being carried across these tracks, and so I feel its appropriate that the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
March 17, 2017

state be able to have...inspect tracks on their own. Considering Nebraska's dense railway traffic and the high numbers of derailments, it is time, I think, for us to refund...or not refund but fund these positions and make sure that our trains that travel across our tracks are safe and we have the ability to conduct our own investigations. And with that, I'll answer any questions. [LB621]

SENATOR STINNER: Thank you. Any questions? Seeing none, thank you. Any additional proponents? Afternoon. [LB621]

TIM SCHRAM: (Exhibit 1) Good afternoon, Chairman Stinner and members of the Appropriations Committee. For the record, I am Commissioner Tim Schram, spelled T-i-m S-c-h-r-a-m, chairman of the Nebraska Public Service Commission, representing the 3rd District. I am here today to testify in support of LB621. This bill would enable the commission to reinstate the track inspector for the Railroad Division of the Transportation Department in order to comply with state statute 75-401, which requires the commission to enforce the standards of railroad safety. This position has not been funded since 2011. Per reports obtained from the FRA, Nebraska has experienced 364 train derailments since that time. If funded, this position would be responsible for inspections of all rail carriers in Nebraska, ensuring that track standards are being maintained. The purpose for inspections is to mitigate railroad-related accidents and to promote a safe environment for railroad employees and the general public of the state. The inspector would carry out the Federal Railroad Administration, FRA, standards in conjunction with federal inspectors. The commission, along with 30 other states, works in partnership with the FRA under the joint federal-state railroad program to conduct railroad safety inspections. A rail safety inspector would give the state expertise to directly address rail safety issues with railroad operating and maintenance personnel, ensuring that unsafe track does not compromise safety. It would also provide a means to address legitimate citizens' complaints about railroad operations. In Nebraska, the rail tonnage transported along tracks ranks third in the nation, posing a risk to the public safety in the event of train derailments. The track inspection program would fill a valuable role in monitoring the level of rail traffic that exists and the safety of tracks used by railroads. The previous state track program was responsible for inspecting approximately 5,000 miles of track per year, including switches and record inspections. Without this position, we cannot perform the duties and responsibilities of the program; track, switches, and records will not be inspected; and the potential for dangerous situations will go unaddressed. The failure to inspect tracks and switches can result in derailments of trains that can present a large and present danger to the citizens of the state of Nebraska and subject the state to litigation. Derailments of trains carrying hazardous materials could occur with more frequency without the track inspector performing its statutory duties. In addition, the commission will not be in compliance with state statute 75-401. I do need to inform the committee that one track inspector position was already included in our biennial budget request last September and it isn't our intention to add another position with this bill. LB621 provides for General Funds of \$180,000 per year to hire track inspectors. However, after conferring with Senator Wayne's office, we

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
March 17, 2017

would recommend lowering the dollar amount to \$116,824 in fiscal year 2017 and 2018, and \$98,759 in fiscal year 2018-19. These lesser amounts are consistent with our estimated cost for one track inspector. Thank you for your consideration and I would be happy to answer any questions you may have. [LB621]

SENATOR STINNER: Senator Kuehn. [LB621]

SENATOR KUEHN: Thank you, Mr. Chairman. A couple questions with regard to the number of 364 derailments since 2011. Is that inconsistent from the history prior to 2011 when the track inspector was funded? [LB621]

TIM SCHRAM: Senator, to be honest, I don't have an answer to that question. That's just numbers we got from the FRA. [LB621]

SENATOR KUEHN: So we don't know if... [LB621]

TIM SCHRAM: Yeah, it was... [LB621]

SENATOR KUEHN: ...it went up, down, stayed the same. [LB621]

TIM SCHRAM: ...I can't tell you with certainty. [LB621]

SENATOR KUEHN: Okay. And talk to us. Obviously, there's a federal program. There are federal track inspectors. Talk to us about currently what the role of the federal track inspectors is and how this is different from those federal inspectors. [LB621]

TIM SCHRAM: The federal inspectors are present in every state in the Union. And then they partner the 30 states that I meant, 30 states that I mentioned, they provide training to the state inspectors, and the state inspectors support the federal efforts in that inspection effort. [LB621]

SENATOR KUEHN: And then does industry do any inspection of the track as well or do they cooperate with the federal inspectors or how do those partnerships work? [LB621]

TIM SCHRAM: Railroads do have their own inspectors also, yes. [LB621]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
March 17, 2017

SENATOR KUEHN: Okay. So what kind of frequency now are...is that infrastructure, the switches and others that you referenced, how often would they be being inspected by the federal and industry inspectors now? [LB621]

TIM SCHRAM: I believe that would be a question for the railroads. As far as FRA, I don't have those numbers in front of me... [LB621]

SENATOR KUEHN: So... [LB621]

TIM SCHRAM: ...of the frequency of their inspections. [LB621]

SENATOR KUEHN: So it's not a question that they're not being inspected. It's just they're not being inspected by a state-paid inspector. [LB621]

TIM SCHRAM: You are correct. [LB621]

SENATOR KUEHN: Okay. Thank you. [LB621]

SENATOR STINNER: Thank you. Additional questions? Seeing none, thank you. Are there any additional proponents? Seeing none, are there any opponents? Seeing none, is there anybody in the neutral capacity? Seeing none, would you like to close, Senator? [LB621]

SENATOR WAYNE: Yes. As it relates to Senator Kuehn's question, the railroads are constantly reviewing, however, sometimes they're not adequate. And what's more important is...and I can go into more detail as I used to work for a railroad and oversaw the group who maintained the tracks, so this is actually very...something that I'm familiar with. But the reality is, especially in Nebraska, it's just like concrete when we deal with railroads. We have cold winters and we have hot summers and there's a lot of track buckling. And the fact of the matter is we can never maintain or inspect enough track throughout Nebraska to make sure that buckling doesn't occur. And so, although there are 300-plus derailments, not all those derailments are considered significant derailments or that you will see on the news. But any type of movement on a track where a train necessarily does not hit the ground--we call it wheels hit the ground--there still is problems. But the fact of the matter is there are other states, particularly 30 of them, who have partnered with the FRA to make sure that we can inspect the tracks in a more efficient manner. And the fact that we have North Platte, which is the largest yard in the world, and we are Nebraska, with over 2,000 feet (sic--miles) of track, we should have our own inspectors. And this was something that was from the beginning of our constitution and our first amendments that our first statutory...or statute that was passed. We as a body, this body, has always felt that the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
March 17, 2017

state should be able to make sure that we maintain track, one, because it's important to our local economies, but two, it's also important to our citizens that we have good tracks here. [LB621]

SENATOR STINNER: (Exhibits 2 and 3) Okay. Questions? If not, thank you. Thank you for your testimony. We do have two letters of support. One is from SMART Transportation Division, a union representing workers in Nebraska; and we also have another one from the Nebraska State Legislative Board, Brotherhood of Locomotive Engineers and Trainmen. And that concludes our testimony and hearing on LB621. We will now open Agency 7, Governor agency. Good afternoon. [LB621]

(AGENCY BUDGET HEARINGS)

SENATOR STINNER: That concludes our hearing on Agency 03, Legislative Council. We will now move to LB149. Good afternoon, Senator Bolz and fellow members of Appropriations Committee. For the record, my name is John, J-o-h-n, Stinner, S-t-i-n-n-e-r, and I represent District 48, which is comprised of Scotts Bluff County. LB149 is a shell bill which was introduced this year as part of the committee's contingency plan for ongoing budget situations in Nebraska. As we develop the committee's budget recommendation which we will...be presented to the legislative body, there may be additional deficits or changes to existing deficits as enacted early this session under LB22. As you all are aware, these potential changes will become part of the committee's budget recommendations and is due to be submitted to the floor no later than the seventieth day of the session, which falls on April 24. Since the Governor did not submit any additional deficit bills this year, LB149 will likely be needed as part of the committee's final budget recommendations as we continue to make adjustments. The bill, in its current form, reduces the current fiscal year budget for the Fiscal Office by \$1. As we move forward with our recommendation, the contents of this bill will change. Thank you for your hard work. And I will take any questions. [AGENCY 03 LB149]

SENATOR BOLZ: Are there questions for Chairman Stinner? I'll just ask one for the record, that typically in a budget package we would have a bill such as this. And so your intention in bringing this was to make sure that we had a vehicle, if there were things that came up after LB22, to address any deficit budget issues that would typically have come up as a part of the budget package. Is that right? [LB149]

SENATOR STINNER: That is correct, yes. [LB149]

SENATOR BOLZ: Very good. Thank you, Senator. [LB149]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
March 17, 2017

SENATOR STINNER: Thank you. [LB149]

SENATOR BOLZ: Do I have any proponents for LB149? [LB149]

SENATOR WATERMEIER: Vice Chairman Bolz, Appropriations Committee, for the record, my name is Dan Watermeier, W-a-t-e-r-m-e-i-e-r, Legislative District 1 in southeast Nebraska at Syracuse. And for the record, I want to come forward and ask for a \$1.2 million reappropriation request for the current fiscal year we're in right now, because this bill would only pertain to that, so that I'm on the record requesting that. So it matches up to the sheet that I handed around for the agency request. And so I would answer any questions additional to that. [LB149]

SENATOR BOLZ: Any questions for Senator Watermeier? Thank you. Do I have any further proponents? Any...oh, come on up. [LB149]

PATRICK O'DONNELL: Excuse me. I'm sorry. (Laughter) [LB149]

SENATOR BOLZ: Come on up, Patrick. Hi. [LB149]

PATRICK O'DONNELL: Senator, I hope you don't mind. [LB149]

SENATOR WATERMEIER: No, I'm glad you did. [LB149]

PATRICK O'DONNELL: I wanted you know one other thing. The \$200,000 that Senator Watermeier talked about with phones, that's critically important now because we're moving about 60 people out of this building this fall, okay? And to get them hooked up to a phone, either we're going to have to run hard copper wire that's going to cost you probably at least that much money, or we have to get these new devices that will allow us to do things less expensively. So that's an incentive, I would think, for you to think about as you ponder this \$200,000 piece of that \$1.2 million. Okay? [LB149]

SENATOR BOLZ: Sorry, Patrick. Since we technically have a new bill and you're technically newly testifying,... [LB149]

PATRICK O'DONNELL: Oh, I'm sorry, Senator. [LB149]

SENATOR BOLZ: ...could you just spell your name (inaudible). [LB149]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
March 17, 2017

PATRICK O'DONNELL: Absolutely. Forgive me. Patrick O'Donnell, P-a-t-r-i-c-k O-'-D-o-n-n-e-l-l, Clerk of the Legislature. [LB149]

SENATOR BOLZ: Thank you. And thanks for the reminder that we'll have some of those transitions happening. Any further proponents? Do I have any opponents? Anyone in the neutral capacity? Senator Stinner, would you like to close? Hey, I think we are done not only with today's hearings but with all of the hearings for this legislative year. Thanks, everybody. [LB149]