

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 9, 2021
Rough Draft

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FRIESEN: Everyone, welcome to this morning's public hearing of the Transportation and Telecommunications Committee. I'm Curt Friesen from Henderson, Chairperson of the committee. I represent District 34. A few procedural items. For the safety of our committee members, staff, pages, and the public, we ask those attending our hearing to abide by the following procedures. Due to social distancing requirements, seating in the hearing room is limited. We ask that you enter the hearing room when it is necessary for you to attend the bill hearing in progress. The bills will be taken up in the order posted outside the hearing room. The list will be updated after each hearing to identify which bill is currently being heard. The committee will pause between each bill to allow time for the public to move in and out of the hearing room. We request that you wear a face mask-- face covering while in the hearing room. Testifiers may remove their face covering during testimony to assist committee members and transcribing-- transcribers in clearly hearing and understanding the testimony. Pages will sanitize the front table and chairs between testifiers. Public hearings for which attendance reaches seating capacity or near capacity, the entrance door will be monitored by a sergeant at arms who will allow people to enter the hearing room based on seating availability. Persons waiting to enter the hearing room are asked to observe social distancing and wear a face covering while waiting in the hallway or outside the building. The Legislature does not have the ability, due to the HVAC project, of an overflow hearing room for hearings which attract several testifiers and observers. We ask that you please limit or eliminate handouts. Please silence all cell phones and electronic devices. We will be hearing bills in the order listed on the agenda. Those wishing to testify on a bill should move to the front of the room to be ready to testify. We have an ondeck chair in the front so the next testifier will be ready to go when their turn comes. If you will be testifying, legibly complete one of the green testifier sheets located on the table just inside the entrance, and give the completed testifier sheet to the page when you sit down to testify. Handouts are not required but, if you do have a handout, we need 12 copies. One of the pages can assist you with that. When you begin your testimony, it's very important that you clearly state and spell your first and last name slowly, for the record. If you happen to forget to do this, I will stop your testimony and ask you to do so. Please keep your testimony concise. Try not to repeat what has already been covered. We will use the light system in this committee,

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beginning with the green light. You'll have five minutes for your testimony. The yellow line indicates there's one minute left. When the red light comes on, it's time to wrap up. Those not wishing to testify may sign in on a pink sheet by the door to indicate your support or opposition to a bill. Committee staff is Andrew Vinton to my right, and committee clerk Sally Schultz. And the pages today are Turner and Lorenzo. Thank you very much for being here. One thing this afternoon, we will move LB656 to the top of the list, so note that on the agenda. With that, we'll start the introductions, to my right.

HUGHES: Dan Hughes, District 44: ten counties in southwest Nebraska,

BOSTELMAN: Bruce Bostelman, District 23: Saunders, Butler, and the majority of Colfax Counties.

ALBRECHT: Joni Albrecht, northeast Nebraska: Wayne, Thurston, and Dakota Counties.

GEIST: Suzanne Geist, District 25, which is the east side of Lincoln in Lancaster County.

DeBOER: I'm Wendy DeBoer. I represent District 10, which is Bennington and parts of northwest Omaha.

MOSER: Mike Moser, District 22: It includes Platte County and small parts of Stanton and Colfax Counties.

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

FRIESEN: OK. With that, we will open the hearing on LB460. Welcome, Senator Brandt.

BRANDT: Good morning, Chairman Friesen and members of the Transportation and Telecommunications Committee. I am Senator Tom Brandt, T-o-m B-r-a-n-d-t. I represent Legislative District 32, Fillmore, Thayer, Jefferson, Saline, and southwestern Lancaster County. Today I'm introducing LB600 [SIC]. COVID-19 has highlighted gaps in broadband coverage that need to be closed. The homework gap, telehealth, economic development opportunities, and precision farming are some of the areas looking for expanded broadband capabilities. LB460 will seek to repeal the dark fiber statutes and enable public power to be part of the solution to the expansion of high-speed

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broadband service to all Nebraskans. All options need to be on the table to ensure proper broadband deployment to Nebraskans that want it. Public power utilities have an extensive network of communications infrastructure, such as fiber optic cable that they use to operate their electric system. To be clear, public power utilities are not in the commercial broadband business, nor wish to get into this business. Dark fiber statutes were passed by the Legislature in 2001 to restrict public power districts from leasing communications infrastructure. In the ensuing years, rural broadband deployment continues to lag, but still remains a high priority need for Nebraskans that must be addressed. Under current law, public power utilities have concerns regarding the restrictions imposed on their ability to deploy and use broadband facilities. These issues include having the Public Service Commission set public power rates for broadband. Public power districts have an elected board of directors that set all of their rates and cannot allow another body to set their rates. Another concern is the requirement that half of all profits have to be sent to the Nebraska Universal Service Fund. This is not a new concept. The governors of Alabama and North Carolina signed new laws that lift major hurdles for utilities to provide high-speed connectivity to unserved and underserved communities in their states. Georgia, Indiana, Missouri, Tennessee, and Texas have recently passed laws that facilitate rural broadband, as well. Nebraska needs broadband deployment to all parts of the state, and we need it sooner rather than later. Although rural areas of Nebraska are underserved or unserved on broadband, parts of north and south Omaha are still underserved or not served at all. After 20 years of spotty deployment, every option must be considered. This bill was brought to us by OPPD, and you'll be hearing from their CFO about this bill, along with Mean [PHONETIC], NPPD, and others. And with that, I'm happy to answer any questions

FRIESEN: Thank you, Senator Brandt. Are there any questions from the committee? Senator Moser.

MOSER: I see that it adds "or license" to the abilities. How is a license different than a lease?

BRANDT: I think that's just-- and there will be some that testify after me that can probably answer that better than me. Because they want to lease these facilities, I think it's just another-- another legal term. But you can ask--

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MOSER: OK.

BRANDT: --some of the-- some of the testifiers after me.

MOSER: All right. Thank you.

FRIESEN: Thank you, Senator Moser. Any other questions from the committee? Senator Geist.

GEIST: When you talk about leasing their fiber, are they also talking about deploying services on a retail basis, like--?

BRANDT: No.

GEIST: OK.

BRANDT: N. This is-- this is simply to allow the public power districts to lease these to a telecom or an Internet provider. They would own the cable, at least that-- that-- that fiber to a retail provider.

GEIST: OK. Thank you.

FRIESEN: Thank you, Senator Geist. Senator Albrecht.

ALBRECHT: Thank you for bringing this. Just to clear the record, you started off and you said it was LB600.

BRANDT: I know. I-- and I--

ALBRECHT: And it is LB460. right?

BRANDT: It is LB460,--

ALBRECHT: Just for the record.

BRANDT: --because we're going to follow this with LB600.

ALBRECHT: OK. I just--

BRANDT: Yes. That-- that's--

ALBRECHT: --wanted to be sure that-- that we weren't--

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BRANDT: --that's-- yeah. That's my Freudian slip.

ALBRECHT: [INAUDIBLE]. OK.

BRANDT: Thank you.

ALBRECHT: That's all right.

FRIESEN: Thank you, Senator Albrecht. Any other questions from the committee? Yeah. You have language in here getting rid of the 50 percent of the profit. Yesterday we heard testimony from NPPD, at least, that said profits would be nonexistent. So if that's the case, 50 percent of zero would be zero. What-- why is there so much heartburn with 50 percent of the profit?

BRANDT: I think some of the other testifiers, when they come up, can explain that, because we carried this for OPPD. So maybe their profit structure is different than NPPD's. I don't-- I can't answer that question.

FRIESEN: OK. Thank you. Any other questions? Seeing none, thank you. Proponents for LB460? Welcome.

JAVIER FERNANDEZ: Well, thank you. Good morning. Good chilly morning. Senator Friesen, members of the Transportation and Telecommunications Committee, I'm here to testify in favor of LB460. My name is Javier Fernandez; that's J-a-v-i-e-r F-e-r-n-a-n-d-e-z. I am the vice president and chief financial officer of the Omaha Public Power District, and I am testifying on behalf of OPPD. Thank you for the opportunity to testify in front of the Transportation and Telecommunications Committee on this important legislation. I want to express OPPD's support of LB460, a bill to authorize leasing of dark fiber and eliminate certain powers of the Public Service Commission. I am also testifying in support of the-- on-- on behalf of the Nebraska Power Association. The NPA is a voluntary association representing all of Nebraska's approximately 165 customer-owned public power systems, including municipalities, public power districts, public power and irrigation districts, rural pub-- rural public power districts, and rural electric cooperatives engaged in the generation, transmission, or distribution of electricity within Nebraska. OPPD, a political subdivision of the state of Nebraska, is a publicly-owned electric utility engaged in the generation, transmission, and distribution of

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electricity. OPPD serves an estimated population of 855,000 people in a 13-county, 5,000-square-mile service area in southeast Nebraska. COVID-19 has highlighted the gaps in broadband coverage. The homework gap, remote work, telehealth, economic development opportunities, and precision farming are some of the areas looking for expanded broadband capabilities. All options need to be on the table to ensure proper broadband deployment to all Nebraskans that want it. Nebraska is blessed with an amazing agricultural potential. The opportunity to extract as much value from agricultural operations is a vision that broadband deployment could make a reality for precision agriculture. Time is of the essence. We must accelerate the pace of broadband deployment. This bill will seek to repeal the dark fiber statutes and enable public power to be part of the solution to expand high-speed broadband service to all Nebraskans. The PSC has had three dark fiber leases in the 20 years these statutes have been on the books, and only one is currently active. Further, the PSC is neutral on this bill. The dark fiber statutes are antiquated and need to be repealed. It is obvious that these are a hindrance to better deployed broadband. Public power utilities have an extensive network of communications infrastructure, such as fiber optic cable that they use to operate their electric system. OPPD has hundreds of fiber miles connecting over 100 facilities, ranging from the southernmost part of our territory, near the Kansas-Nebraska border, to as far north as Washington County. Towns like Humboldt, Tecumseh, Auburn, Arlington, Ashland, and Louisville could benefit from having public power help in deploying broadband-- OPPD's position to accelerate digital access, if given the chance. To be clear, public power utilities are not in the commercial broadband business, nor wish to get into this business. The dark fiber statutes were passed by the Legislature in 2001, to-- to restrict public power districts from leasing communications infrastructure. Yet broadband deployment continues to lag and remains a high priority for Nebraskans that must be addressed. One of the arguments we always hear is that letting public power help in deploying broadband will stifle private investment. After 20 years of private investment, I would think that more of the state would have adequate broadband by now, but obviously we do not. Another argument we hear is that public power will cross-subsidize our funds, using our electric funds to deploy broadband. As a public company in Nebraska-- public power company in Nebraska, if we were to use funds from our utility customers to fund broadband, we would be going against our state of stat-- against our state statute of allocating costs in a

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fair, reasonable, and nondiscriminatory way. To ensure we would not do these, we would keep the cost of electric service and the cost of broadband service segregated. Nebraska needs broadband deployment to all parts of the state, and we need it sooner rather than later. This is not just a rural problem either. Parts of North and South Omaha are still underserved or not served at all. After 20 years of spotty deployment, every option must be considered. Thank you for your consideration of my testimony, and I will answer any questions you may have.

FRIESEN: Thank you, Mr. Fernandez. Any questions from the committee? Senator Bostelman.

BOSTELMAN: Thank you, Chairman Friesen. Thank you, Mr. Fernandez, for being here today. Got a few questions for you. One concern-- obviously, any opportunities we have to encourage broadband deployment throughout the state is-- I'm very supportive of 'cause I feel it every day where I live, of the lack of that opportunity. But one thing with this, could you address-- or could you answer how we're going to make sure with this that we're not overbuilding? And why I say that is we have areas that are unserved and underserved. And how will this affect, perhaps, overbuilding in areas that are served, so that we're not actually reaching those we need to, as the unserved and underserved?

JAVIER FERNANDEZ: That's a fantastic question. Thank you, Senator Bostelman. We're really good at building stuff. We've been doing this for 75 years. We don't have an option of who we serve. We have to-- we must serve every resident in the state of Nebraska. We have facilities already serving all populations in the state. What we-- what this bill would propose is a much better use of the assets that are owned by the public. Our public customers own, already, these assets: its-- its conduit, its cables, its poles, its fiber connectivity that we already have in the ground. Some of it is underutilized today. When we go in and install a fiber network, 95 percent of the cost is labor. It's-- it's opening the trenches, putting in the conduit. Really, the-- the fiber itself, it's a marginal cost. Installing 12 strands or 144 strands, it's really not that-- it doesn't add that much to the cost. Therefore, when we go in, we-- we try to make sure that we put in as much capacity as we need at that time and also to plan for future expansion. Your point is well taken. Today we have overcapacity in-- in a lot of areas. We are anticipating growth in-- in the areas of the

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service territory that we serve. What we're trying to do with these is better utilize those assets. But undoubtedly, we will have overconstruction, in terms of additional fiber capacity at some point. And we expect that that will be used by our customer-owners and by Internet service providers.

BOSTELMAN: I understand what you're saying. Let me-- let me maybe rephrase my question in the sense of-- so there's areas-- let's take Omaha.

JAVIER FERNANDEZ: Um-hum.

BOSTELMAN: There's areas in Omaha that has gig service and there's areas in Omaha that has, maybe, 25/3, maybe not. Or there's areas outside and in the country where you-- where you serve that may have connectivity, then may not. But when you run that strand of fiber from, say, downtown Omaha to Falls City-- I'm not saying you do, but just-- and that may be outside of your area. But say it goes to any town. Pick a town-- go to Wayne. I believe Wayne is in OPPD.

JAVIER FERNANDEZ: Tecumseh.

BOSTELMAN: It goes to Wayne. But in between there, there's areas that have connectivity; then there's areas that don't. So have has there been thought as to how to, on the contract side or forming a sub-- I guess a department within OPPD that would look at that to ensure that you're only providing if you do provide access to that fiber to those areas that don't have connectivity or that are underserved. And I guess a lot of times, you know, these are good ideas. But how do we manage it? So I'm sure we'll hear from opposition. That might be part of their concern. But I'm kind of curious as of what the thought process for OPPD would be on that.

JAVIER FERNANDEZ: Thank you for the clarification. Existing Internet service providers already serve those areas that are economically viable to them, those areas that are dense, that have the ability where-- where private companies have the ability to extract a profit. I do not see a lot of opportunity for us to deploy any of our assets to serve those communities that are already served. Certainly we would be open to that. But I think this bill, the way-- the way it's written, it would allow us to-- to reach out to those areas that have been underserved, that haven't been economically attractive to-- to

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private companies. I think by the nature, having had 20 years of protection of this dark fiber statute, addresses a little bit of this concern where-- where those areas that are economically viable are already stretched. I don't see us really deploying any more assets into those areas because we wouldn't-- we probably wouldn't even see that-- that demand coming from Internet service providers. It is those underserved areas. You mentioned the 25/3. I live in Senator Geists's district. I have no Internet service. I have to-- I have a satellite dish installed on my-- on my roof to get spotty Internet. My-- my children know Internet is: Hey, have we run out of Internet? That's-- that's the Internet that they-- that they are used to in 2021. So it's to serve rural areas. It's to serve underserved areas that-- that I believe that partnership that OPPD and other public power districts could-- could really help deploy and accelerate that [INAUDIBLE].

BOSTELMAN: Sure. I guess the last, really, question is: Do you-- would you see as separate-- I call it department management function within that utility to provide that, because your board of directors may or may not be subject matters, may or may not know anything about that? So I'm just kind of curious as to what your thought, organizationally, that how you would handle it.

JAVIER FERNANDEZ: So great question. We-- we do have areas within OPPD that focus on that. And we-- we-- in fact, today we partner with telecommunications companies. We-- we partner with existing Internet service providers not to lease our fiber, but to allow them to use our poles, for example. We already have that-- that infrastructure in place. It would be adding another layer of functionality to those-- to-- to those departments. Further, our board of directors, they have-- they have made it very clear, especially recently in public meetings, that they are very interested in-- in the affordability and the well-being of our-- of our customer-owners. There's a direct correlation between poverty and-- and the systemic poverty and economic disparity that we have in-- in the region and the lack of--

BOSTELMAN: Broadband.

JAVIER FERNANDEZ: --the lack of public infrastructure. So I believe that is something that our board of directors is very, very well aligned with, with providing not only affordable electric bills, but providing them with the opportunity, providing those opportune-- families with the opportunity to get educated, to-- to have, to get

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that telecommunicate-- tele-education, telehealth, ability for moms to work from home, single dads to work from home. That is where-- where I believe our board of directors is also very aligned with, with really giving that opportunity to underserved customers.

BOSTELMAN: OK. Thank you.

FRIESEN: Thank you, Senator Bostelman. Senator Geist.

GEIST: Yes, thank you. I have to ask, are you just on the east side of Lincoln?

JAVIER FERNANDEZ: I am.

GEIST: OK.

JAVIER FERNANDEZ: I am.

GEIST: Yes, I know that dead spot.

JAVIER FERNANDEZ: Yeah, I live there.

FRIESEN: Thank you, Senator Geist. Senator Moser.

MOSER: So when this talks about leasing dark fiber, that's fiber that's already installed, and you're just having excess capacity that you would lease to others? Or would you have authorization, through this bill, to install new fiber to reach new areas?

JAVIER FERNANDEZ: Thank you for the question, Senator Moser. It's-- it's both. We currently have existing fiber that, to be, you know, honest, we-- we have excess capacity because we have built a segment, and Senator Bostelman [SIC], we've-- we've built for the future. So we already have excess capacity on fiber. Our normal operations require us to continue to deploy fiber, to connect our facilities, which are conse-- continuously expanding. So this-- this bill would also allow us to, as we expand our fiber and our telecommunications infrastructure, we could then bring in partners, and-- and for the same cost as I said. 95 percent of the cost is opening the trench and doing all the labor. Can we add more fibers? Can we add-- can we add more infrastructure to better serve our-- our customer owners? So it-- it would do both, existing and--

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MOSER: But just to connect your facilities or to go to Senator Bostelman's house-- just to pick on him-- but, you know, where he talks quite often about his satellite Internet?

JAVIER FERNANDEZ: It-- it will depend, and I think this is where the partnership with the Internet service providers will be fantastic. It really-- it-- it depends. In certain areas, in certain cases, it would make a lot of sense for us to-- to partner and-- and normally put the fiber into a certain central node-- it's called a station-- in the neighborhood, and maybe even going to the house or in other places where we can-- we can help a partner put the fiber into the node. And then the Internet-- Internet service provider could then pick it from there and then deliver that broadband service via wireless or whatever technology they-- they use to get it. Again, we are not claiming to be Internet service providers or-- or experts in telecommunications. It would be a partnership where they would decide how they want to partner with us. This bill would-- would allow us to-- to get on the team and have that conversation.

MOSER: OK. Thank you.

FRIESEN: Thank you, Senator Moser. Any other questions? Senator Hughes.

HUGHES: Yes. Thank you, Chairman Friesen. Thank you, Mr. Fernandez, for coming today. So in your position as the chief financial officer, I'm sure you've had some discussions in your organizations about leasing dark fiber. So if-- if you can share, is that seen as a profit center to maybe subsidize other divisions? Or how does-- how does the-- I'm assuming you have different divisions and-- do they all stand on their own and there's not a lot of cross-subsidization? Or how does-- how does it work within OPPD?

JAVIER FERNANDEZ: Excellent question. Thank you, Senator Hughes. As a public power district, we-- we don't have a profit. We are owned by the public. We are an at-cost utility. Our costs are-- are passed on to ratepayers. And-- and every year our board of-- board of directors has to figure out how much money we need to operate the utility. And that's-- that's really what we charge from customer owners. There are rate-making principles that we must abide by. And those have to do with cross-subsidization, not even with telecommunications or electricity, as--as the case is here, but even within-- within

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customers-- customer classes, we-- we-- we must abide by certain rules that-- that say we cannot cross-subsidize residential customers to commercial customers to industrial customers. We have to allocate costs specifically to those who cause the cost. We have a very robust process that-- that allows us to really allocate those costs to those who are causing the costs. I don't see this as-- to be-- being that different. This is really not a profit operation for us at all really. We-- we don't have anything to gain from a profit perspective. We see this as-- as an opportunity to serve the same family who sits at the kitchen table and writes a check to pay their electric bill, who are using, also, that Internet service. So when we pass those costs to-- to Internet service providers, we will do that at--at cost. But we believe that we can do that at a-- at a more efficient way with a lower cost of capital, with patient capital, that we can pass that on to the Internet service provider. It would be up to them and the Public Service Commission to continue to figure out what rates they charge the customers. That is not an area where we're going in with this bill. It's-- it's really just to pass those costs. From an accounting perspective, we would ensure-- we have to make sure that-- that no costs are subsidized-- cross subsidized from the-- in this case, from Internet service providers to the electric customers and even within the electric customers, residential, commercial, and industrial. We have good methodologies to separate thoset.

HUGHES: So how are you going to determine what the cost of that fiber is, should you be given the opportunity to lease it to a Internet provider?

JAVIER FERNANDEZ: There are different methodologies, and I-- I didn't get-- part of is-- is the cost of capital, the capital that we-- we have to put in-- labor, the actual fiber strand, the maintenance-- how much of that of that infrastructure is being used by the Internet service provider versus how much of it is used by the utility for electric purposes. We do this all the time. We do this type of-- of allocation. Again, when we do this for industrial, commercial, and residential customers, we have methodologies that allow us to separate and segregate those costs. We would-- we would do something very similar for this.

HUGHES: So currently you have excess capacity, and those costs are then lumped into-- who-- who's paying now, the total bill?

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JAVIER FERNANDEZ: That's a great-- that's--

HUGHES: And how would it be separated out?

JAVIER FERNANDEZ: Yeah, that's a great point. Today-- today we have-- we have overbuilt a few-- a few telecommunications lines because we're anticipating growth into the future. Typically-- and-- and what happens today is our electric customers are paying for-- for those-- for those assets. And in a lot of time-- a lot of ways, those assets are really not providing any value. They're-- they're laying there-- they're dormant until one point in the future we may be able to use it. What this would do is-- is allow for that same family, who is currently paying for that same piece of fiber, to continue to pay it, but instead of paying it through the electric bill, they would probably now pay it through the-- through the telecommunications bill or the Internet bill, but now they would get something in exchange instead of that asset laying there dormant.

HUGHES: OK. Thank you.

FRIESEN: Thank you, Senator Hughes. Senator Albrecht.

ALBRECHT: Thank you, Chairman Friesen, and thank you for being here today. And you did bring this bill to Senator Brandt. Right?

JAVIER FERNANDEZ: Correct.

ALBRECHT: So no pun intended, but when did the light bulb go off that the fiber was there. Why aren't we sharing it? I mean-- I mean, I-- I understand you have a board that has decided that this should work and-- but you use all of your own equipment. Right? And so if that provider comes to you and said, hey, we just-- how much of that fiber are they actually using that you already have laid in the ground?

JAVIER FERNANDEZ: None, none today. Today, all of our fiber is used internally for telecommunications with our own equipment. So in a way, the customers use it, but it's-- they don't use it for their Internet service.

ALBRECHT: But-- but the-- but the Internet provider will come on to some of your dark fiber, like-- like 10 percent of it, maybe, they would use, depending on the size of the area or-- but is it-- is it as simple as a flip of a switch to get that done or how? I mean, I-- I

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don't quite understand. If-- I always used to say this, if we all have phones in our homes, why can't we all have Internet? It just doesn't make any sense. But-- but sitting here for four years and now my fifth, and finally, you know, everybody decides to join in, I'm excited about the idea that it could happen. So-- but it's really if the-- if the fiber is already in the ground, we shouldn't have an issue when it's public. The people have already paid for it; it's ours. You know, that's the beauty of the state of Nebraska, that it should be moving along fairly quickly because of that. So-- so-- so tell me, real quickly, how-- I mean, and I'm sure it can't be said quickly-- but how does this happen? Do you just, I mean, hook in to what you already have and off to the races, where it's not that big of a deal? Or-- and then-- and then the funding of it, when you're going to take this 50 percent profits and just give it back to the Nebraska Universal Service Fund, who's giving it to the-- to the Universal Fund?

JAVIER FERNANDEZ: That is the current construct under the current lease structure, which, by the way, there's only one lease today open. So we-- we don't use that-- that framework--

ALBRECHT: The fund, no.

JAVIER FERNANDEZ: --at all,--

ALBRECHT: So-- so--

JAVIER FERNANDEZ: --because it's not--

ALBRECHT: So the city or village or someone else would be sending those funds to--

JAVIER FERNANDEZ: Whoever-- whoever would be leasing or--

ALBRECHT: So it could be--

JAVIER FERNANDEZ: be licensing.

ALBRECHT: So you're saying it could be the city or a village or just the providers themselves.

JAVIER FERNANDEZ: Correct-- or-- or OPPD. But in this case, if the bill is passed as-- as presented, we-- that wouldn't be an issue. We--

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we would then be able to just lease out that dark fiber and-- and really separate, based on how our customer-owners set those rates. Let me-- let me answer a little bit of the question you said earlier, that light bulb piece.

ALBRECHT: OK.

JAVIER FERNANDEZ: We've known this for a long time. We've had these discussions at OPPD for over 20 years. But back then, there was-- there was this impetus to-- to give telecommunications companies an opportunity to deploy, to have competition to really do what they do best. And they've done a really good job, but not quite complete. And I think that's where today we're seeing big gaps in our service territory. And unfortunately, those gaps are-- are places where we don't have a lot of density population or that population doesn't have the economic means to make it profitable or attractive to private companies.

ALBRECHT: Um-hum.

JAVIER FERNANDEZ: The light bulb-- I-- I wouldn't say it went off, but it really went-- if it was a dimmable light bulb, it went really bright when COVID hit, when all of a sudden now-- now the ability to-- to operate, to live your life inside your house, to-- to work from home, to have children learning from home, to have elderly parents. I have a 90-year-old great grandmother of my kids live-- lives with us. It is-- it is scary for us to take her in to the doctor, to see a doctor when we could just as easily have a telehealth. It's COVID, really, that-- that put a bright light on the need and the digital divide that we have today, between the haves and the have-nots, the "have-Internets" and the "don't-have-Internets."

ALBRECHT: I appreciate the answer. Thank you.

FRIESEN: Thank you, Senator Albrecht. Any other questions from the committee? So you've been thinking about this for 20 years. So during that time, could you have done a request for a proposal and partnered with a private company to install that fiber, and you could have used a couple of strands of it for your communications, and those private companies could have offered Internet service? Was that option available 20 years ago?

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JAVIER FERNANDEZ: I would say it was available, like, 20 years ago. Again, Internet service providers did a-- did a fantastic job at laying out their own fiber and really serving communities. We-- we have been using some of their telecommunications equipment to connect all of our equipment. A few years ago, I think that-- that the threat of cybersecurity and the importance of the electric grid continued to be elevated. And we made-- we made a conscious decision to move away from relying on landlines to connect our facilities, to us building our own and really strengthening the cybersecurity function of our-- of our-- of our operations. At that time, we could have partnered with them. We could have-- could have said: Hey, we're going to-- we're about to go out and deploy a lot of fiber in our-- in our service territory to connect our equipment. Do you want in? Do you want to come in and-- and just take advantage of that? Current law doesn't allow us to do that. And so we-- we couldn't necessarily go in together and do an RFP together. What this bill would allow us is exactly what-- what you suggest, Senator Friesen, which is: Let's get together, let's figure out how do we build these together. We-- the bill doesn't necessarily dictate how-- how we do this, if it's going to be through an RFP or a public bidding process. It's just: Hey, if you-- if you're an Internet service provider and you have an interest in serving Ashland, for example, when it-- we have all of equipment there, we have a lot of work already planned in the area, is there a way for us to better utilize our assets and not not-- not be duplicative and have redundant assets, where we can, as a benefit of a low-cost electric service utility, also benefiting your-- your telecommunications bill?

FRIESEN: So I-- I understand a little bit, but I guess if you could get us kind of the statutes that prevented you from doing that back in the day, I'd like to see those. But again, we have, you know, in-- in the opening here, it talks about our-- our dark fiber statutes are antiquated. We just redid them a couple of years ago or a year ago. And the 50 percent profit part is just if you serve a served area.

JAVIER FERNANDEZ: Um-hum.

FRIESEN: If you're going into an unserved area, that 50 percent profit requirement is not required. So if you truly are just trying to get out of the unserved area and provide Internet, that 50 percent is not required of you.

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JAVIER FERNANDEZ: You're right. And I-- I don't see the 50 percent as being the biggest issue here. The biggest issue for me and for-- for my colleagues is it's not being able to-- to use our dark fiber and deploy and-- and lease it out to[-- to telecommunications companies.

FRIESEN: So are there current statutes just in place that don't allow you to lease that dark fiber?

JAVIER FERNANDEZ: I believe they are.

FRIESEN: OK. If you could cite those or bring them to the committee, I would appreciate that,--

JAVIER FERNANDEZ: I can do that--

FRIESEN: --'cause I-- if you [INAUDIBLE]--

JAVIER FERNANDEZ: --at a little later date. I-- I don't have those in here, yeah.

FRIESEN: We have-- you know, you can bring them to us later. It doesn't have to be now.

JAVIER FERNANDEZ: Yes.

FRIESEN: I mean, I'm just curious because I-- I'm a little confused here because we've been working on this for quite a while, trying to open this up. And no one has even tried to use those statutes yet that we changed. And so really, there has been no attempt yet. So I'm concerned that you're already saying it's antiquated, and nobody has even come to the Public Service Commission with a-- with an option. So numerous times we've heard that the Public Service Commission is going to set rates. And I think our current statutes don't say anything about setting rates. They just have to be within this large window. And if they fit within the window, they're approved. So nobody is telling you what rates. Is that correct?

JAVIER FERNANDEZ: That is correct. Now for us, our rates are set by our-- by our board of directors, and we pass those-- whatever costs that we would incur, we would pass that on to the--

FRIESEN: Yeah. And then the--

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JAVIER FERNANDEZ: --service provider.

FRIESEN: -- on your fiber leases, I'm-- electric rates, PSC has nothing to do with you.

JAVIER FERNANDEZ: Not directly.

FRIESEN: Indirectly?

JAVIER FERNANDEZ: Well, the costs that we pass on to the telecommunication companies have to fit within that window of costs that the PSC allows.

FRIESEN: But if they fit in that window, there's not going to be anything with the PSC that they're going to tell you to do.

JAVIER FERNANDEZ: Correct.

FRIESEN: OK. So when you deploy fiber, do you pay sales tax on it?

JAVIER FERNANDEZ: Today we don't.

FRIESEN: Do you pay property tax on it?

JAVIER FERNANDEZ: Today we don't. We-- we pay-- our customer-owners do pay, I think-- pay sales tax on their electric bill, which includes all of the fiber.

FRIESEN: Right, I get that. I'm talking strictly about fiber.

JAVIER FERNANDEZ: Yeah, we-- we don't, because it's a public service today, and it's--

FRIESEN: OK.

JAVIER FERNANDEZ: --under the electric utility.

FRIESEN: OK. I think that's all the questions I have for now. Thank you. Any other questions from the committee? Seeing none, thank you for your testimony.

JAVIER FERNANDEZ: Thank you.

FRIESEN: Welcome.

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BARB FOWLER: Thank you. Thank you for allowing me to testify today on behalf of Polk County Rural Public Power District and the Nebraska Rural Electric Association. My name is Barb Fowler, B-a-r-b F-o-w-l-e-r, and I am the technical systems manager at Polk County RPPD in Stromsburg. We provide electric power to approximately 6,000 members, Nebraskans living in Polk and Merrick Counties. We do not want to become an Internet provider. What we do want is a dependable and robust high-speed communication network to our 10 substations. A private network, a private fiber network, is the optimal backbone to ensure we have the reliable data capacity and cybersecurity we need to meet the operational technology needs of today and tomorrow. But we need only a small fraction of the fiber pairs that come in even the smallest fiber bundle. What if we could leverage our customers' investment in that fiber infrastructure to help increase broadband availability back to those very same customers? In my testimony, you can see a map of our service area, showing a proposed 100-mile fiber network connecting each of our substations. The footprint of this fiber backbone would reach extensively across our district, enabling more cost-effective options for Internet providers to reach every home and farm by utilizing fiber already in place. LB460 would greatly improve our ability to accomplish this by updating and simplifying policy governing the sale or lease of dark fiber. Removing outdated, restrictive limitations and modernizing dark fiber development will facilitate the growth of rural broadband. Our electric rates are based on cost, not profit margins, and any sale or lease of our dark fiber would adhere to our cost-based methodology, unlike the market based rates that are currently required in statute. The absence of broadband denies Nebraskans living in rural communities access to the high-speed Internet benefits that most urban Nebraskans enjoy. If 2020 has taught us anything, it is that, regardless of where we live, we all need the high-speed connection to the Internet to work and to each other. We do not want to become a retail broadband provider, but our customers do look to us as solution makers. And what better solution than to leverage infrastructure they have already invested in? Innovation and collaboration will bring rural Nebraskans up to the same Internet speed with the rest of Nebraska in the country. Modernizing and simplifying dark fiber development with LB460 would serve as a catalyst towards affordably connecting Nebraskans in rural areas. Thank you again for this opportunity to share our story, and I appreciate your service.

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FRIESEN: Thank you, Ms. Fowler. Any questions from the committee? Seeing none, I do have a question. Is-- is anyone in this area served now with broadband?

BARB FOWLER: In our county itself, we do have some higher speeds in the towns of Stromsburg, but the rest of the surrounding areas, no. We have wireless providers who do register occasionally above the 25/3 threshold, but that tends to be at like 2:00 o'clock in the morning when, you know, there's not many people up doing homework or using the Internet.

FRIESEN: So have you-- have you reached out to any private companies and see if you can partnership with building this fiber [INAUDIBLE]?

BARB FOWLER: Yes, we actually have. We've reached-- we've reached out to some telcos in our area, and all of them have shown interest. And we've actually been in contact with one of them to where we even-- we're going to apply for some RUS grant funds. But because we do have the wireless provider that, like I said, occasionally shows 25/3, that kind of knocked us out of the-- the qualifications until the federal level is raised.

FRIESEN: So in the-- in the Governor's new proposal, he's saying it's going to be 100 by 20 that would be considered underserved. Would that--

BARB FOWLER: Then-- then we would qualify.

FRIESEN: Would that clear up your problem then?

BARB FOWLER: Absolutely. Yes, it would.

FRIESEN: So when you propose to do this, I mean, if under current statutes, if you're serving an unserved area, the 50 percent profit margin goes away. And so if you deployed this fiber in this loop, do you feel then that you could lease out that dark fiber?

BARB FOWLER: Absolutely. I mean, like I said, even if we install the smallest bundle, which is 48 pair, we only need two or three, four of those strands. We have a lot of capacity that would enable, you know, any Internet provider to come in and to provide high-speed.

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FRIESEN: So which-- which statutes keep you from doing that? What-- what prevents you from doing that currently?

BARB FOWLER: I would say currently, we just-- you know, we want to be able to-- we, like OPPD, charge all our rates based on cost, and we like to remain loyal to that. You know, we don't want to have to-- we're not in this to make a profit. We want to be able to cost-- to charge our costs.

FRIESEN: And so, again, I'll say, if there's no profits, then there's no payment to the NUSF fund.

BARB FOWLER: Right.

FRIESEN: The 50 percent goes away.

BARB FOWLER: Yep.

FRIESEN: OK. All right. Senator Bostelman.

BOSTELMAN: Thank you. Would it be fair to say that you're really trying to be a-- an anchor tenant to the area? In other words, providing the opportunity where there is none now, where there's been no provider willing to come in and invest into that area, you're willing to invest and be the anchor, to ensure that the fiber is there and to provide that opportunity for other providers, whoever the provider may be, to come in and provide a service.

BARB FOWLER: Absolutely. You know, if-- we need-- we need the communication to our substations. We have devices out in the field right now that-- and we have fought with-- with radio, radio technologies. I mean, with the-- with the increase of smart ag, that interferes with our substation communications. So we know that fiber is-- is what we need to our substations for-- for today's needs and tomorrow's needs. So if we're going to install that, you know, why can we not lease that to Internet providers who could get the Internet to our customers?

BOSTELMAN: OK. Thank you.

FRIESEN: Thank you, Senator Bostelman. Any other questions from the committee? Seeing none, thank you for your testimony.

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BARB FOWLER: Thank you.

PATRICK POPE: Good morning.

FRIESEN: Welcome, Mr. Pope.

PATRICK POPE: Greetings from a very frosty Columbus, Nebraska, where it was 18 below this morning on my way down. Chairman Friesen and members of the Transportation and Telecommunications Committee, my name is Patrick Pope, P-a-t-r-i-c-k P-o-p-e, and I am the special assistant to the vice president of corporate strategy and innovation at Nebraska Public Power District. Prior to this position, I was NPPD's president and chief executive officer for nine years. My focus is now solely on NPPD's interest in the promotion and facilitation of high-speed, reliable, and affordable broadband service in outstate Nebraska, and possible public-private partnerships furthering that goal. NPPD supports both LB460 and LB600. NPPD serves all, or part of, 86 counties in Nebraska in largely rural areas of the state. Access to broadband service in outstate Nebraska is critical for economic development, healthcare, education, and precision agriculture. Industrial development prospects now include access to high-speed broadband on their list of must-haves, when evaluating potential sites to build new facilities, and existing businesses can't grow without it. That's a clear threat to NPPD's core business of selling electricity and our customers' ability to enjoy the good life, which is why NPPD is so interested in helping to solve this issue. Despite years of significant subsidies at both the state and federal level, Nebraska's exclusive reliance on a private-sector investment strategy alone has clearly demonstrated an inability to close the digital gap. Rural areas typically lack sufficient return on investment for private capital, and those areas that may have some level of service are unable to attract competitive alternatives due to the same ROI challenge. I believe Nebraska needs to tap into the best of both the private and public worlds to solve our rural broadband problem. Both have capabilities and expertise that, when combined, can bring rural Nebraska the broadband network it desperately needs and deserves. Private entities bring their experience and knowledge of technology in actually running broadband businesses. Public entities have access to patient capital, low cost, and with longer time horizons that allow business cases to be feasible in situations where private capital won't tread; and they have a long history of building infrastructure. Public power, in particular, brings infrastructure such as fiber optic

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cable and towers, that are integral to their electric operations and can't be outsourced due to security, cost and reliability issues. LB460's simplification of the process for agencies and political subdivisions leasing or licensing its dark fiber and related infrastructure is long overdue. Barriers to potential public-private partnerships, such as leasing fiber optic cable should be eliminated, as should any mechanisms that require nonexistent profits from leasing these facilities to be contributed to any type of fund. Affordability of service is critical, and every penny of a broadband rate should go to supporting the infrastructure, speed, and reliability needs of customers. That said, the pendulum should not swing so far as to require electric consumers to subsidize private, for-profit telecommunication companies. Nebraska's electric industry is not tax supported. The only funds available are provided by electric ratepayers. Costs that are appropriately apportioned to telecom consumers should continue to be apportioned as such. LB600's expansion of powers for districts authorized by Chapter 70, to explicitly include the development of broadband facilities and infrastructure, is an excellent step towards facilitating public-private partnerships. Nebraska is a "Dillon's Rule" state in which a substate government may engage in an activity only if it is specifically sanctioned by the state government. Such authorization will add needed clarity. As previously noted, the all-private model has failed to solve this issue, and Nebraska's public entities lack a proven track record of actually running a successful broadband business. Public-private partnerships offer a realistic path for extending broadband over every acre of Nebraska, and should be encouraged. Thank you. I would be glad to answer any questions but, before I do so, I'd like to point out one of the other items in your packet is a white paper entitled "Public Infrastructure/Private Service: A Shared Risk Partnership Model for 21st Century Broadband Infrastructure." It was published by the Benton Institute for Broadband and Society. I apologize for giving you more to read. I'm sure you're really not looking for more stuff to read but, in all my years of reading and researching, this is probably the best white paper on public-private partnerships that I ever come across. And many of the things-- and in fact, there are Nebraska entities cited in the--

FRIESEN: Thank you, Mr. Pope.

PATRICK POPE: --examples.

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FRIESEN: Any questions from the committee? Senator Mosor.

MOSER: I have a couple of kind of technical questions, and I don't know if this is within your scope of knowledge, but that we-- I know you and I are both FCC licensees and[-- and in amateur radio. So we know a little more of the technical-- similar things, technically. So I was going to ask you a couple of technical questions. When we describe fiber optic hairs, it's not really necessary to have two fibers to communicate, or is it? Do they transmit on one and receive on one?

PATRICK POPE: You now have exceeded my knowledge. I will tell you that one of the big advancements in fiber optics over the years has not been any improvements in the-- in the glass fiber. Glass is glass. It's been the electronics--

MOSER: On each end?

PATRICK POPE: --on both ends of that fiber that they now use what they call multiplexing technologies, where they can actually send multiple signals, streams of conversation at the same time over that fiber. I do not-- I could not tell you absolutely whether that eliminates the need for a pair or not.

MOSER: It may be a holdover from the copper line days when you had twisted pairs. The twisted pair would have noise-canceling characteristics so that you didn't have as much hum on your line. OK, back to the more-on-topic questions. Do you feel like this is somewhat analogous to the days when public power was-- or REAs were originally formed 70 years ago, to serve people out in the country that weren't necessarily in the town where they could get service from the town light plant or whatever might generate electricity?

PATRICK POPE: I think there are some similarities. There's one main similarity, and that is the capital challenge to deploying those facilities. Back in the 1930s, it obviously was the poles and the wires to get electricity to those farmsteads. Today, it's getting that fiber out to those same areas. That does not mean, though, that we have to replicate the 1930s experience in and of being an all-public entity. I do truly believe that there is an opportunity here for a public-private partnership, again, to combine the best of both worlds

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to accomplish the same thing, which is service over every acre of Nebraska.

MOSEER: But the-- you're not anticipating that NPPD would actually be transmitting data for these other providers. They would have their own pair of cables?

PATRICK POPE: Yeah, most likely. You know, the-- the--

MOSEER: Technically, you could multiplex it all together.

PATRICK POPE: You could.

MOSEER: But security-wise--

PATRICK POPE: Yeah, we're really talking about leasing dark fiber here, where the other entity would be responsible for lighting the fiber. We would be basically providing the byway, the highway-- whatever you want to call it-- of those fibers that could be utilized, then, by those other providers.

MOSEER: You're going to run the four-lane expressway, and then let them connect to it.

PATRICK POPE: That's one possible business model, yes.

MOSEER: Thank you.

FRIESEN: Thank you, Senator Moser. Senator Geist.

GEIST: Thank you. Thank you for your testimony. Are you comfortable that, where you have dark fiber or are thinking of putting it, that it does not already exist in those places?

PATRICK POPE: So right now, what we have been doing, probably for the last year, NPPD and several other entities-- and I won't say it's just other public power districts because we actually have Platte County, Nebraska, supporting this effort-- have engaged the services of the National Rural Telecommunications Corporation, to provide us with some consulting services. And they have come in, they have taken all of the electric system data that we have and our mapping systems, they've dumped all of that data into their model, and they've come up with a hypothetical net-- broadband network design, both fiber and wireless.

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GEIST: Um-hum.

PATRICK POPE: They use all technologies that could be used to serve the area and interest-- of interest. The next step in our process, though, because we-- we definitely want to make sure that we're reaching out to the private sector to find out what facilities are already out there that could be used to-- as part of this network. We certainly don't want to duplicate facilities. We certainly want to reduce our capital expenditures to as low of levels as possible. This week, if I can get my administrative processes moving a little quicker, we are going to issue a request for information to the private sector. And that. RFI basically says: We're looking at this area, please tell us what facilities you've got in this area that could be used for this type of-- of an effort. And we hope-- not only does that get us some really good information, which, by the way, we're willing to protect the confidentiality-- confidentiality of with nondisclosure agreements, but we also hope that it begins to prime the pump of discussions for public-private partnerships. Now, when we talk about, you know, going into areas where maybe there is service and do you want to expend capital, I think, for the most part, that's going to be self-correcting because even the NRTC model that we're using right now, they have a financial model that assumes a take rate, which is: OK, how many potential customers in this area might take service? What are the other competitive options out there? They take all of that into an account. So I don't think you're going to see facilities that get built that don't have an immediate need, and-- and will begin to generate revenue and serve customers. I think there's going to be kind of a self-monitoring, self-correcting mechanism there.

GEIST: So you don't think you're going to build where-- with all of this information together, you don't think there's going to be colocated-- and I mean that by fiber, fiber, not--

PATRICK POPE: Let's look--

GEIST: --colocating on your--

PATRICK POPE: Let me take a hypothetical--

GEIST: OK.

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PATRICK POPE: --that maybe-- maybe addresses your question. A high-density area that already has very good service-- what's the business case going to be to build into that area? Well, I'm--

GEIST: Not much.

PATRICK POPE: True.

GEIST: But even rural. I mean, at some rural, you already have some fiber, but couldn't a private util-- or not a private utility, but a private business telecom already have fiber there, as well?

PATRICK POPE: They could have. And that's why this RFI is very important. We want to find out. If that's already there, let's not duplicate that.

GEIST: Yeah,

PATRICK POPE: Well, let's try to add that to this network, and let's see if we can't come together in a private partner-- private-public partnership to make the best use of all of those facilities. We have no desire, and it doesn't serve a public purpose, to duplicate those types of facilities.

GEIST: OK. Thank you.

PATRICK POPE: Um-hum.

FRIESEN: Thank you, Senator Geist. Senator Bostelman.

BOSTELMAN: Thank you, Chairman Friesen. What-- these work guarantees-- do we have that, if this bill would be passed, and if you can have the public-private partnerships, that we're going to have any better results of what we have now? Because who's going to decide whether it's 10/1, whether it's 25/3, whether it's a gig or not? How are we going to be-- I'll use it again-- we're guaranteed that we're actually going to make progress instead of just being, OK, we're going to do 25/3? And that's just not a starter, as far as I'm concerned.

PATRICK POPE: Yeah, guarantees are hard to come by in life; I understand that. All I can tell you right now is that we are certainly committed to seeing the-- the highest speed, the highest reliability, the lowest cost networks get built. Those are three driving reasons.

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And quite frankly, I use a saying that Wayne Gretzky used to talk about. Wayne Gretzky always says: I'm never going to skate to where the puck is; I'm going to skate to where the puck is going to be. And I think that same philosophy in building this network is very important. We want to see a network get built that is there when autonomous tractors start to be the norm. And autonomous farm implements, for example, are going to require a tremendous amount of broadband to be useful. We want to have the network that is going to be able to serve the telehealth, the education, all of those types of things. And quite frankly, we're talking about synchronous speeds of 100 by 100. And as we sit down with potential partners and talk about that, those are the types of things that we're going to expect. Can I give you a guarantee? I can't sit here and give you a guarantee right now, but I can guarantee you that those are our driving principles.

BOSTELMAN: 'Cause-- 'cause my concern is, is we have large census block by some companies now and they're not providing. Some of them is: Well, fixed wireless is the solution. Well, in my area, fixed wireless will not work; it won't. We have too many hills, too many trees.

PATRICK POPE: Yeah.

BOSTELMAN: Senator Albrecht may be in the same situation. So federally, you know, 25/3 is what they say is the standard. Well, that's not good either. So my concern is, is that sure, we could turn on the dark fiber, if you will. But that's-- you know, that's not going to really help us because we're still going to have those type of services provided, which really doesn't solve anything. And so I guess my concern is-- is-- is that somehow there are some safeguards put in that, if we do do this, that-- that we actually are going to make some differences,--

PATRICK POPE: Sure.

BOSTELMAN: --and we're not going to just placate to what's currently being done.

PATRICK POPE: I think-- I think your question, Senator, goes to the importance of doing the study work, the NRTC study. We need to know what we have, and we need to know what we don't have out there, and what is possible. It's very, very important to do the study work,

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whether it's the fiber or the wireless. And you're right. Right now, we are-- I was on a phone call the other day with the NRTC folks, and we were looking at the Plattsburgh area. Plattsburgh is a retail town that NPPD operates in, with a large area around it. And lo and behold, there's lots of trees and lots of hills in Plattsburgh, you know, and so that impacts the design of that preliminary network. But you've got to know what it looks like so that you can then begin to assign a cost to it. Do we have to run more fiber into locations? What does that cost us? But what capabilities does that require? I think those are all manageable design issues once we get our arms around-- around it. And if we-- if we hold fast to these three guiding principles, I think we will come up with a much better network than we've been able to field.

BOSTELMAN: I think that-- I think that's the challenge because I think, perhaps, being able to provide that to what people really need, and what's provided by some companies is a different-- two different things. They feel they can provide it, but we know they don't, they can't. So I think that's the challenge. But thank you.

FRIESEN: Thank you, Senator Bostelman. Senator DeBoer.

DeBOER: These public-private partnerships-- and I'll read your white paper; I am that nerdy,

PATRICK POPE: Thank you.

DeBOER: So these public private partnerships typically serve what I'll call the middle mile. Is that correct, that they help with sort of the long haul, but also that middle mile?

PATRICK POPE: Yeah.

DeBOER: What-- what use are they in the last mile?

PATRICK POPE: Well, that's--

DeBOER: That's the expensive mile.

PATRICK POPE: That's a very good question. And to be honest with you, as you read through that-- that white paper, you'll see them talk about part of the final negotiations. If we sit down with a provider and then talking about the shared risk, the shared cost, you know,

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there will be ways that are feasible for getting that middle-- that last mile, and there will be ways that won't be feasible. And who shares that? You know, you could take one end of the spectrum to say that, well, maybe the public not only provides the middle mile infrastructure, but the last mile infrastructure also, and the private provides the service over it. That's one possible model. But there is an infinite number of iterations in between, in that spectrum, to share that risk. That will be the real challenge of sitting down, having the parties sit down and be willing to share both the risks and the benefits of-- of this model.

DeBOER: So--

PATRICK POPE: I can't give you a real simple answer on that last mile.

DeBOER: But-- but I do want to follow up a little bit because the expensive part is the last mile.

PATRICK POPE: Um-hum.

DeBOER: So if what dark fiber can do for us is get the middle mile and the long haul-- well, the long haul we probably already have. The middle mile is-- you could probably make a business case for. It's that last mile that you can't make a business case for, and that's-- I mean, in some cases maybe.

PATRICK POPE: And-- and I-- I do have an-- an analogy to the electric system. If you go back to the 1930s, when my parents' farm got electrified, it got electrified not by a big, what we call a three-phase feeder that could power a lot of stuff. It got electrified by a stringy, single-phase line that got run out to them. And they were tickled pink. They ran some light bulbs, probably the cream separator, stuff like that. There is an analogy here to saying that, if I've got enough fiber in an area-- yes, if you've got trees and you've got hills, wireless can be a problem. But you can make wireless a lot better if you extend fiber farther out into that system. You might be able to-- to do that more. That might help people. And quite frankly, you can get some pretty good speeds over wireless. I'm-- I'm a wireless customer in my personal man cave. But then as demand grows-- you know, you bring it to them, demand's going to grow, just like it did on the farm. We found all sorts of ways to electrify. There probably comes a point where the data load has grown such, and

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the revenue coming in is such, that you can afford to replace that wireless link with fiber. So I don't think it's a--

DeBOER: Can I--

PATRICK POPE: --it's always one or the other, just to--

DeBOER: Can I unpack that, though?

PATRICK POPE: Huh?

DeBOER: If the-- the demand is growing because I now have autonomous farm vehicles-- Curt Friesen gets out in the morning and pushes a button, and his little drone tractors go do their thing, and so I have a high demand for the Internet, I-- I don't have, necessarily, a greater ability to pay for that high demand. Right? Because there's still going to be a pretty rural, pretty sparsely dense-- dense-- sparsely populated area. And so it's not like there's suddenly enough customers. I mean, if what we're going to do is we're going to transition there to some other product, that-- we're still going to have the same problem we have now with that last mile, which is that there's not enough people to spread it over to-- to pay for that. So--

PATRICK POPE: May-- maybe not, because right now a lot of our thinking really has revolved around-- and I don't mean this negatively-- but a lot of times it revolves around being able to let Ma and Pa, out on the farmstead, watch Netflix. And we know there are fewer and fewer Ma and PAs out on the farmsteads. Yeah, that-- that's-- that's data load, OK, but we've also got a tremendous amount of data coming-- that can be collected, coming down the pike. NPPD has a relationship with Paige Wireless, which has installed a LoRaWAN network pretty much over the entire state of Nebraska. And what LoRaWAN does, very economically, is to begin to pick up small bits of data. Perhaps Senator Friesen, instead of having 100 soil moisture testers on his farm and what he's paying for them now, in a LoRaWAN scenario, since the price point for collecting that data has come way down significantly, now maybe he has 1,000. Maybe a rancher has elected to-- to tag all of his or her cattle with LoRaWAN-enabled devices that not only tell him-- him or her-- the heart rate and all the other vitals that, where there are, you start picking up that the data-- I like to tell people that there truly is data oozing from Nebraska's ag land. It's up to us to collect it and turn it into information. And while the LoRaWAN's bits and

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pieces, that all-- if you aggregate that, that adds up to more capacity that has to be installed out there, regardless of how many Netflix shows Ma and Pa want to watch. That's where the puck is going to be, not where the puck is today.

DeBOER: I'm clearly not understanding something because I still think, though, there's still-- regardless of how many cows he has giving him data, he still only has one business to pay for all of that.

PATRICK POPE: Yeah. And any time he makes a capital expenditure, I'm hoping that he's looking at what is the return on that? How is that making me more efficient? How might that reduce my expenses--

DeBOER: Right.

PATRICK POPE: --in other areas to help pay for it?

DeBOER: And I get that. And so I see that there could be some ability to pay a little bit more for more data. But I don't think it will be proportionate--

PATRICK POPE: Hmm.

DeBOER: --just because of the number of people that are still-- I mean, if anything, it's going to make him more efficient so that he's going to have a bigger farm. I'm sorry to pick on you so much but, you know, if anything, it's going to make larger farms and-- and, you know, we've seen that that's what happens with efficiency.

PATRICK POPE: Sure.

DeBOER: The more efficient we get at-- at building, you know, these-- these businesses, the less dense it gets out there. So I guess my question for you, when we're talking about the very specific-- instead of just pontificating, which I'm known to do-- is that, if we're talking about we need to change up the model, the business model with which we deploy broadband in our state, to create these public-private partnerships more readily, we ought to be-- we ought to be thinking about whether or not they're actually useful in that most expensive, most difficult portion. Because if all this does is solve the-- the problem we don't have, which is middle mile-- I mean, arguably we don't have the middle-mile problem, we have a-- a last-mile problem. I

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just want to know more about whether it's going to help us with the mass-- last mile.

PATRICK POPE: I think the-- the question about what's the additional-- what's the additional data going to be and what's that going to cost, I think that's kind of along the lines of what you're thinking about. That is also one of the other things that NPPD committed to when we engaged NRTC to do this study where their model-- and they've-- they've done this modeling across the entire United States, probably hundreds of times in states where they had power cooperatives that weren't restricted and wanted to be in the broadband business. Their model, with the assumptions on take rates and the number of meters that are out there, that's all really well developed. But what that model did not have was what we call a use case for: Well, what kind of data is going to come in from these LoRaWAN networks? What kind of revenue could that generate? How is that going to impact the financial model? NPPD made a commitment to pay NRTC, and they're doing it right now. They are upgrading their model to take that into an account. And I-- I have put a halt to our activities until we've got that model upgraded-- and I expect that to happen within the next month or so-- because I want us to see the full picture of: What are the data needs out there? How is it going to impact the financial model? How is it-- is it or isn't it going to facilitate the deployment of more broadband infrastructure out into the rural area? So it's a great question. And we're--

DeBOER: I-- I suspect that many on this committee would be interested in what you find out there.

PATRICK POPE: Um-hum. Well, it's a-- it's a wonderful process, to be honest with you, because we-- we all talk about-- you know, we're all going to agree that we need more broadband in outstate Nebraska. No, I don't think anybody's going to argue about that. And we all have this sense that, you know, it's going to cost a lot of money. But there's not a one of us, to my knowledge, that will have the kind of detailed information that we're going to get in these broad areas. We're doing a study right now. I mentioned Platte County. Platte County pitched in to help pay for it, Loup Power District, based in Columbus, and NPPD. And the area that we're looking at probably is a six- or seven-county area-- north, including Columbus and north of Columbus. You know, that's not a bad dent in trying to bring more broadband to those areas. And I think we're going to have a pretty good idea. We've also

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got a study going on in south-central Nebraska with South Central Rural Public Power District, based out of Nelson. They want to do the same kind of study. I mentioned Plattsmouth, and we're also doing a study out in the Ogallala area because NPPD has a lot of rural territory out there. We're going to have some very good information.

DeBOER: OK. Well, thank you.

PATRICK POPE: Um-hum.

FRIESEN: Thank you, Senator DeBoer. Senator Moser.

MOSER: Yeah, LoRa-- LoRaWAN?

PATRICK POPE: LoRaWAN, long-range, wide-area network, L-o-R-a-W-A-N.

MOSER: Is it satellite based or cellular based?

PATRICK POPE: No, it's not. No, it's not. It is-- there will be-- right now, Paige has--

MOSER: Fiber based?

PATRICK POPE: Well, they have basically a LoRaWAN access point. Think of a Wi-Fi access point. I don't know if we have one in here. The range they get out of that access point, depending on the terrain, the trees, can be up to seven miles or so. It's low bandwidth. You're not going to watch Netflix over it, but it chirps and it will collect all sorts of-- whether it's moist-- moisture probe information, water level information like [INAUDIBLE]--

MOSER: It's like dual-tone, multi-frequency?

PATRICK POPE: Yes. And then, what do you do with that information once the access point has collected it? You got to bring it back to the cloud. That can be through fiber.

MOSER: Well, we're getting deeper into this thing.

PATRICK POPE: OK.

MOSER: I lost you, and I'm sure everybody else is--

PATRICK POPE: Well, I [INAUDIBLE].

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MOSER: --rolling their eyes. I can just read it.

PATRICK POPE: We'll have coffee.

MOSER: Yeah. But talking back to Senator DeBoer's question about the last mile. So let's say I'm out in western Nebraska. I was out there one time. I was delivering some service awards for one of the industries. They had a-- if you were there 25 years, you got a really nice gift. And-- and my retail store delivered some of those. But I had places where I had to open and close gates and drive through pastures to get where I'm going.

PATRICK POPE: Um-hum.

MOSER: So-- and luckily, I had somebody who knew where we were going or I'd have been lost. Well, of course, out there you can ask anybody, and they'll be honest and tell you where you are, and who you are, and where you're going. So-- but my point is, can those neighbors cooperate to knife in a fiber line to get three or four miles to the main road or whatever?

PATRICK POPE: Sure. Sure. I wouldn't have a problem with it. And I need to do a little digging into the statutes. But, you know, to me, that's--

MOSER: That would be a little bit like the-- the telephone company in my wife's family's area. When they first had phones, the farmers got together and paid for the lines and--

PATRICK POPE: And so--

MOSER: --operated the phone company.

PATRICK POPE: So the key to that, then, is that they get together, they decide that they're going to share that cost. And you know, what certainty do they have that there's somebody out on that road, wherever it is, that blacktop road that you finally get to that is willing to pick up that data and bring it back to the cloud? And that's where I think public-private partnerships could be of value.

MOSER: Yeah, they'd have to go far enough to find somebody that's interested in hooking them up, but --

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PATRICK POPE: That's right.

MOSER: --because I, you know--

PATRICK POPE: We have to be creative. We have to be-- you know, my-- my desire would be that, once we get these studies done and we've got the RFI issued- and I-- you know, I wish we could get past this COVID thing because I'd love to find the biggest table that I could find and bring all the people that have an interest in this around that table and say: Here's what we came up with in this in NRTC study. You know, pick it apart. What do you think? You know, how-- how would we realize this, if this is what we wanted to do? How would we pay for it? How would we get-- take care of that last mile? You know, there's lots of things to be worked out, but you've got to have a starting point.

MOSER: OK. Thank you very much. I appreciate that.

PATRICK POPE: Um-hum.

FRIESEN: Thank you, Senator Moser. Any other questions from the committee? I'll just throw something out there. You know, if we could really lower property taxes for everybody, they could afford to pay more for broadband. Right? [LAUGHTER]

PATRICK POPE: OK.

FRIESEN: Does that fit? Or we're really heading somewhere else; I'm sorry.

PATRICK POPE: I am an old farm boy. I'm good with lower property taxes.

FRIESEN: So let me ask you the question. So under current statutes, laws that are in place, what is preventing you from having a public-private partnership to achieve the goals that you just keep trying to talk about?

PATRICK POPE: Well, you and I had lunch at the Chances 'R' one time. And I told you: Senator, I didn't see anything in the current statutes that prohibited us from doing what I thought we ought to do.

FRIESEN: I remember that.

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PATRICK POPE: And-- and that is why we've continued to embark upon this study work and bringing folks together. Now, there's two issues. I still think, you know, and I guess we'll get into an accounting argument or discussion over the-- is there a profit or isn't there a profit?

FRIESEN: OK, and let me-- let's-- let's clarify that now. And so you've made a business model for putting out fiber to control your substations. OPPD said that's what they're doing. They made a business model--

PATRICK POPE: Yeah.

FRIESEN: to put fiber out.

PATRICK POPE: Yep.

FRIESEN: And now, there just happened to be 120 pair-- or strands that are laying there, doing nothing.

PATRICK POPE: Yeah.

FRIESEN: So the business model has already paid for the fiber. So--

PATRICK POPE: Well, the electric-- the electric customers are currently--

FRIESEN: Yeah.

PATRICK POPE: --paying for the fiber.

FRIESEN: And you've made a business model to put that there--

PATRICK POPE: Right.

FRIESEN: --without asking anybody to help. You did it.

PATRICK POPE: Yep.

FRIESEN: So if you would lease those fiber out now for a dollar a year, you'd be money ahead.

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PATRICK POPE: Actually, I would argue that, if you did a true cost of service study, then, on who's benefiting, the electric customers in that case would be subsidizing the--

FRIESEN: OK.

PATRICK POPE: --broadband customers.

FRIESEN: But you've made the business model to put it out there [INAUDIBLE].

PATRICK POPE: Well, only because our current electric customers are willing to pay for it.

FRIESEN: So again, the business model that you show, you can put out that fiber, and now you can lease it.

PATRICK POPE: Sure.

FRIESEN: And if you truly want to get into those areas that are not served, you can--

PATRICK POPE: That's a different question.

FRIESEN: You can get it done

PATRICK POPE: Now yeah, that's a different question. So let's-- let's say that we've got this nice map of this NRTC model, and I've got facilities in these areas and there are spare fibers there, perhaps that comports to what you're suggesting, and people can use that. Oh, but now, wait a minute over here. And we know there are a lot of customers over here and they don't-- there is no fiber over here at all. I think most folks, most publics are going to still ask the question: What's the business case for expending the patient capital to extend facilities over there? Can we partner with a private who's willing to lease those facilities from us to provide service? If we can make that work, then I think, OK.

FRIESEN: And I think the biggest problem is no one can make a business case to go that last mile. It's-- it's--

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PATRICK POPE: You know, nobody's been able to do it today. And again, I can't wait to see the model results. You know, I-- I want to see the model results, because--

FRIESEN: OK.

PATRICK POPE: --we definitely-- you know, if you're looking at a five- or seven-year window, from a private perspective, to get a return on their payback period, or if they've got a certain percentage hurdle rate, that's their business model; I respect that. That's a lot different than what we can do in the public realm.

FRIESEN: So if we would let them operate with no taxes, a model that you're operating under, would they get out into the rural areas quicker?

PATRICK POPE: I don't know.

FRIESEN: All right. Thank you, Mr. Pope. I think we better move along. Seeing no further questions, thank you for your testimony.

PATRICK POPE: Thank you very much.

FRIESEN: Other proponents? Welcome.

LASH CHAFFIN: Good morning, thank you. My name is Lash, L-a-s-h, Chaffin, C-h-a-f-f-i-n. I'm a staff member at the League of Nebraska Municipalities, and I'm here to testify in favor of LB460. And I just want to say a couple of things. It'd be the-- the prior test-- testifiers have hit a lot of what I wanted to say, but I want to emphasize a couple points. Fiber exists in cities and villages that's owned by the city or the village. It-- it's becoming very commonplace. You need the water tower to talk to city hall. You need the well field to talk to city hall. You need the lift station to talk to the wastewater plant. And the most secure, most inexpensive way often to do it is-- is fiber. And you know, and the first option, of course, would be to just use the private company. But if they don't have the secure fiber option, you put it in. And to be honest, I would guess there's a lot of city officials who don't even know they have the fiber in the ground. You know, if you need the-- it was put in-- it was put in by the wastewater engineers. It was put in by somebody else for purposes of communication. And it exists. It's in-- and increasingly it's to run to the electric substation. It's-- it is

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becoming the choice of communication for other municipal utilities. It's there. It's becoming-- it's starting to get built. And it's the same with conduit. There's-- cities have conduit everywhere. They drop in conduit just 'cause it's an easy thing to do. If you're-- if you-- if the water department is digging a hole, you know, it's not-- it's not a lot of expense to throw a piece of conduit in there, you know, and that happens every day because: Well, we might need it for something else; let's just-- let's put it in there. That-- that fiber is-- its mere existence is being underutilized. You know, it's-- it's doing one thing right now, and it's-- it's letting the-- the solar field talk to city hall and the electric substation. It's-- it's doing one thing and it's-- but it's doing it very well, and it's needed to be there. I-- I don't think it's a big leap to say let's let someone-- to the extent that it's, you know, security doesn't impede it-- let's let someone else use this. And-- and, you know, going to some of the other questions, I'm not sure why, but the current laws have been an impediment to using this fiber. And-- and we need to-- we need to utilize this. And-- and the reason-- I-- I absolutely loved Senator Friesen's question earlier of: Why have the changes from a couple of years ago not made a big difference in changing the standard of-- of underserved versus--? It's because this fiber wasn't put there for that reason. You know, an electric utility, they put the fiber there. Nobody said: Oh, let's get a map of the underserved area and try to put the fiber-- they put the fiber straight from the lift station to the wastewater plant. It was put there for a different reason. Nobody sat down and mapped it out and said: Oh, if we had curved it around a couple blocks, we could have hit a neighborhood that-- that really can't get the Internet. So, you know, so an electric utility puts it-- puts their fiber in there to go from substation to substation. And-- and what I would hope is, if--if LB460, or some of the other bills today, passes, it would allow someone to access that fiber, middle-mile style, and perhaps use-- then use their resources to go the last mile. The city fiber is going to be there, and we may as well start using it since it's there. And-- and again, now, in all fairness, 'cause I know you're going to ask me this in about a year if this is adopted, and OK, so the cities weren't planning for the Internet when they put in the fiber, they were planning for their own utility purposes. Now that said, if in fact, you know, bills like this pass, and really-- 'cause I-- I do think there would be some immediate impact by adopting a bill like this. Now would it be widespread across the state? Would it be uniform? No, it wouldn't, because the fiber

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that exists-- public fiber exists for a different reason at this point. Now, a couple of years down the road, if-- once there's some immediate impact and people start to explore potential leases with public fiber and start to expand on public fiber, now, I think that-- that is the moment the overall discussion of organizing it comes into play. But-- and I-- and I-- I didn't realize how extensive Mr. Pope had-- had thought about this. And he and I are going to have a lot of long discussions on overall planning of getting to that final mile. And I guess I have a lot of new respect for both Pat and you, Senator Moser. This radio thing is fascinating; I'm interested. But I guess-- I think this is a first step to get us to a place we can start doing the planning. You know, if it's a-- I don't know if Bennington or Arlington has fiber, but if they do, it wasn't put there to serve citizens the Internet. It was put there to make sure that, if there was flooding, they could have instant communications between the city computers. So-- but that said, the fiber is there, let's start to utilize it. And-- and if we start to utilize it, then let's start planning it out and figure out the best way to make sure that it maximizes its capacity across the-- across the state. That said, I would certainly answer any questions.

FRIESEN: Thank you for your testimony. Any questions from the committee? Seeing none, thank you for your testimony.

LASH CHAFFIN: Thank you.

FRIESEN: Any other proponents?

JOHN HANSEN: Mr. Chairman and members of the committee, for the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n--s-e-n. I am the president of Nebraska Farmers Union, our state's second oldest and second largest general farm organization. We are in support of LB460 because we think it more clearly creates more usable and user-friendly rules of the road so that we can, in fact, take advantage of the underused and unused infrastructure that public power has. And I think some of the discussion that we've had this morning says that it's a good thing that our public power partners, that we own and are part of our governmental apparatus that help serves urban and rural folks across our state, are not only willing to share their fiber, but they're also willing to share their expertise. And I think that this is a really good offer on their part, that we-- it's too good of an offer to not take advantage of. It's too good of an offer to not

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respond to. And if they're coming to this body and saying we need to make some changes to improve the rules of the road so we can do more of this, if they're willing, then I think that that's a good bargain, that is-- is too good to pass up. And you know, we've-- we've had, you know-- at what point are things reasons, and at what point are things excuses? And I have to tell you that I don't know of anybody that has been working more aggressively, longer, to try to get broadband to rural Nebraska than I am-- that I have. And I just want to tell you that, you know, I am a colossal failure, based on my track record. This is not-- this is one of those things that just doesn't get done. And so-- but we have been promised a lot of things over the last 20 years. And we've been promised, and promised, and promised. And we just don't get the delivery, you know. And so we realize that it's not simple. We know its cost --a lot of costs involved, and that it's very complicated. But we also know that, after COVID, that the need is there. It really-- that kind of took away the veil. We all got to see, oh, you know, what kind of capacity we actually have, we don't have, and who doesn't have it. And so we have been in support, generally, for a long time. And our policy reflects that, that we-- we like the idea of being able to partner with our public power suppliers, to be able to use their underused infrastructure, which we already own. It just seems like a commonsense thing. And you know, as I said yesterday, we-- the-- the frustration on the part of our folks is that the folks who were-- who were arguing against doing this a long time ago were the folks who were also arguing it was too expensive for them to do it and build it, but they wouldn't use that which was already there. So here is an opportunity today, in 2021, to take advantage of this new public awareness. But also it is a federal response. And as I've also said many times, is that my experience in the last 45 years, of either being a public official or the head of a farm organization, is that when you can get the local, the state, and the federal folks all pulling together, going the same direction, that's when the needle moves. That's when you actually get stuff done. That's when you get the most synergy, you get the most benefit. It's the benefit of the team effort. So if we can expand our-- our team more clearly to utilize our public power partners, that gives us a better team. And so with that, I would close my remarks and be glad to answer any questions, which, after the questions we've already heard this morning, I can't imagine that there's very many that I could answer, but I'd be glad to give it a go if I could.

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FRIESEN: Thanks for your testimony. Any questions from the committee? Seeing none, thank you--

JOHN HANSEN: Thank you.

FRIESEN: --for your testimony. And the other proponents? Seeing none, anyone wish to testify in opposition to LB460? Welcome, Mr. O'Neill.

TIP O'NEILL: Thank you, Senator Friesen. Members of the Transportation and Telecommunications Committee, my name is Tip O'Neill. That is spelled T-i-p O-'-N-e-i-l-l. I am president of the Nebraska Telecommunications Association. The NTA is a trade association that represents a majority of companies that provide landline, voice, and broadband telecommunications services. In Nebraska. The NTA opposes LB460. I personally know of the discussions that took place during the last session, relating to the findings and recommendations of the Rural Broadband Task Force, relating to public-private partnerships. One of the areas of discussion was related to dark fiber leases by public entities. The committee spent considerable time on that issue and, as a result of those discussions, the committee recommended, and the Legislature passed in LB992, changes to Section 86-577, the public entity dark fiber leasing statute. Those changes provided, again, they-- they changed those provisions to provide that only when fiber was leased in an area that was already served was the 50 percent profit clawback trigger. If the lease was for an entirely unserved location, no profits would be remitted to the Nebraska Universal Service Fund. The changes also created a safe harbor for dark fiber leases, using a competitive price comparison established by the Public Service Commission. The restrictions in 86-577 are there to ensure that the lease rates are not lower than market rates, and to ensure that cross subsidies are not taking place. We believe those are important considerations, and we believe the changes made last year, in LB992, while not universally supported in the telecommunications industry, was appropriate. We do not believe further changes are warranted at this time. Please oppose LB460. I'd be happy to answer any questions.

FRIESEN: Thank you. Senator Geist.

GEIST: Thank you for your testimony. And maybe you can just help me out with this. I understand where your members are coming from, because I understand that there is a concern that this leasing of dark

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fiber would allow the companies that partner with public power to undershoot their cost because they're not having to actually lay that infrastructure themselves. Is that-- is that understanding correct? Am I thinking correctly?

TIP O'NEILL: I'm-- I'm not-- I'm not sure that's-- that's the issue. I mean, what-- what I have found over the-- over the, you know, the three years that I worked for the committee, is that the real issue comes down to who owns the fiber.

GEIST: OK. So in a-- in a problem where it's-- there's a cut or something like that.

TIP O'NEILL: Well, it has more to do with who-- who is able to lease the excess pipe.

GEIST: OK.

TIP O'NEILL: So I mean, that a telecommunications company that's involved in middle-mile sorts of fiber operations would like to own that fiber and lease to the-- to the public entity, as opposed to--

GEIST: Public entity.

TIP O'NEILL: --having a public entity own the fiber, and lease to the company.

GEIST: OK.

TIP O'NEILL: Now--

GEIST: But for the customer--

TIP O'NEILL: Um-hum.

GEIST: --what this proposal does for the customer is about the same. They're either-- either paying for that fiber via their electric bill or paying for that fiber via their Internet service.

TIP O'NEILL: Right, right. I mean the--

GEIST: Correct? So is it "obnastic" [PHONETIC] to the customer?

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TIP O'NEILL: What--when-- when-- I would assume, when the-- when the public entity, you know, issued bonds to build this infrastructure project, they issued it based on the revenues that were going to be generated from customers in order to pay for those bonds. And-- and when they-- when they decided to do fiber between their premises and to the substations and that sort of stuff, they did it with-- with just the electricity-- electricity operation in mind.

GEIST: Um-hum.

TIP O'NEILL: And so they allocated all the cost of that operation. Now they have unused fiber. They have an opportunity to lease that unused fiber, theoretically in competition, possibly in competition with other entities that are also leasing dark fiber. And the question is whether that's fair competition.

GEIST: Um-hum. OK. All right.

FRIESEN: Thank you, Senator Geist. Senator Bostelman.

BOSTELMAN: Thank you. Thank you, Mr. O'Neill, for being here. So how many of your members have fiber in the ground that's available now in the unserved and underserved areas, underserved areas [INAUDIBLE]?

TIP O'NEILL: I-- I would have to get you that information. I don't know.

BOSTELMAN: So I guess the purpose or the-- I guess, not purpose-- the intent of this bill is to, for those areas where they're not able to do that because of cost, being the providers are not willing to do that now because of cost. And now the public entity actually happens to have fiber there where now the provider doesn't have to have the cost of installing it, isn't that a-- it's really not a competition with them. It's just-- provides them an opportunity to come into an area quicker and provide services [INAUDIBLE].

TIP O'NEILL: And there's nothing in current law that prohibits that.

BOSTELMAN: Well, but the problem is, is it takes an extensive amount of time for that to happen because it has to go through a PSC. And what we've heard before from the PSC is-- and others-- is this takes a year or two years to get this through. And this really provides an

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opportunity to-- to build a business model to make that happen
[INAUDIBLE].

TIP O'NEILL: I don't-- I don't-- I don't-- I don't agree with you that it would take years to make that happen. We-- we took some actions last year to make that process go quicker by-- by putting in the market rate-- the Safe Harbor provisions.

BOSTELMAN: But there's still the fact that it costs a lot of money in order to put the fiber in. And I don't-- what we've seen is, is we've got large providers in large areas that are just not willing to do that. And so does this not then provide smaller companies, perhaps-- maybe some of the smaller ones-- that opportunity where they wouldn't have it before?

TIP O'NEILL: You know, I-- I-- I don't know. I'm-- I'm trying to think of a situation where that-- where that would occur in the absence of some sort of a reverse auction or something like that. So--

BOSTELMAN: OK. Thank you.

FRIESEN: Thank you, Senator Bostelman. Any other questions from the committee? So a couple of years ago, we did pass-- I think it was LB992.

TIP O'NEILL: Yeah, that was last year. Yeah.

FRIESEN: Didn't that set a-- like a 90-day time period or a 60-day, where the PSC had to approve or--?

TIP O'NEILL: I believe-- I believe so, yeah.

FRIESEN: So is--

TIP O'NEILL: As far as the-- as far as that the-- the price of the lease is concerned.

FRIESEN: As far as their approval process.

TIP O'NEILL: Yes, yes.

FRIESEN: So really, the impediment now, and what we heard in the past, was it took too long, it was too complex. Nobody wanted to do it.

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TIP O'NEILL: Right.

FRIESEN: But we have really streamlined that process just recently.

TIP O'NEILL: Right.

FRIESEN: No one has tried it yet since we've--?

TIP O'NEILL: Not that I'm aware of, no.

FRIESEN: All right. Thank you for your testimony. Any other opponents?

JUSTIN BRADY: Chairman Friesen and members of the committee, my name is Justin Brady, J-u-s-t-i-n B-r-a-d-y. I appear before you today as the registered lobbyist for the Nebraska Internet and Television Association, opposed to LB460. Going to deviate from what I-- my remarks I was going to say, 'cause as Mr. O'Neill touched on a number of them. I'm just going to go through what I'd heard from the proponents, heard that they want the ability to be able to do these leases. And so I would say to the committee, they're already-- the ability to do these leases already exists in law. Next is-- OK, what fee they going to charge? You heard representatives from OPPD and NPPD say they, under their fiduciary duty, would have to charge, in essence, a market rate. Otherwise they'd be subsidizing from their electric ratepayers to the telecom ratepayers. We have a provision in law now that was passed that says if you do-- and that's in Safe Harbor, which is in essence a market rate area-- that's going to qualify. Then we heard, you know, well, what about this 50 percent profit? And I think, as Chairman Friesen pointed out, as-- as did the testifiers, there really isn't going to be a profit from that public sector side. Their goal is to make it cover their cost. And so that 50 percent wasn't an issue. What seems to be-- and then fourth item was the-- was time, which Mr. O'Neill had touched on, that last year that bill was passed to try to accelerate that time. I'll be honest, I expected to hear from the proponents that they tried it and it isn't working, which we didn't hear that today, because I don't know that anybody has actually gone and tried it yet. And the last thing would be, where can they use it? And I'd say Senator DeBoer, Senator Bostelman, others, current law says that they can use this process, and it's really trying to target to that last mile, to that where there is about 25/3 or less. By removing that provision, they then say they could do it anywhere they wanted to. They could do it right here

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at the Capitol, they could do it downtown. Like their answer was: Trust us; we just won't do it. I think from-- not only from the clients I represent, but also from a public policy standpoint, I have witnessed for years that drive to get money, resources, expedited process to those areas there is not service. And I-- to eliminate provisions like that, and with the idea of trust us, we just won't build there, I don't know that that's where you all have wanted to go or where you have at least indicated to me, to the public, and others where you see the resources and the time should be. So for those reasons, we oppose LB460, and I'll attempt to answer any questions.

FRIESEN: Thank you, Mr. Brady. Any questions? Senator Bostelman.

BOSTELMAN: So within the process now, if you go through the PSC, there's a lot of challenges that can be made to rates and contracts and that, so it can delay it out a significant amount of time if you want. Correct?

JUSTIN BRADY: I believe an incumbent carrier may do a challenge. Yes.

BOSTELMAN: So that can take time.

JUSTIN BRADY: It could take time, yes.

BOSTELMAN: That could extend it out quite a bit [INAUDIBLE].

JUSTIN BRADY: Yes, if someone actually filed one and asked if they could do it.

BOSTELMAN: And is there still a Safe Harbor opportunity within the bill, as it is?

JUSTIN BRADY: I don't-- I think they kind of go away from the whole-- they get to set their rates.

BOSTELMAN: And we can look at that [INAUDIBLE].

JUSTIN BRADY: Just-- just on page 13, Senator, lines 12-- or 2 through 6: Any agency or political subdivision of the state may lease or license its dark fiber and related structure, such terms as determined by the agency or political subdivision,--

BOSTELMAN: So if my--

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JUSTIN BRADY: --which I would say they-- sorry, go on.

BOSTELMAN: Go ahead, no.

JUSTIN BRADY: --which I would say they could do today. I mean, they can set the terms. They just have to go ask the PSC whether or not it's within this market rate. This seems to say they could just set their terms wherever, which could go to the dollar. I'm not saying anybody would do that, but I mean, it could do.

BOSTELMAN: So I guess your argument is, is that the public powers never come to you to ask to do this. I guess my challenge would be if-- who's gone to the public power and asked to get this done? Because if that's-- you know, we can-- we can argue one way or the other if-- if no one has gone to public power. 'Cause where I'm at-- and we've heard other testifiers-- and I guess there's no lack of people that are unserved, underserved in the state. The argument is, is it's not being done. No one is-- the providers now are coming out and reap-- and-- and providing, you know, us the-- the-- the broadband or the connectivity that we need. If-- if it's not being done, what's going to make you do it? Because right now there-- there's large providers out there that they just-- they-- it's like they don't care. So they don't want-- they're not-- they're not doing anything to provide for us. I've said before, I've got 15 homes right down the road from me. Connect all of them, I think that's a-- that's a doable thing. I think there's a business model. You could do that, but they refuse to do it. So as long as we're going to have this stalemate-- I'll call it-- of people not willing to provide in areas, and I-- I think they're really good small companies and others-- Nebraska companies and other companies that want to do it, but they just can't. And if this provides them that opportunity, I guess that's my-- that's my question, that's my challenge, is that we can-- we can argue one-- one side or the other, as of doing it. But providing that additional opportunity in a more streamlined fashion seems to be something that-- that we need to consider.

JUSTIN BRADY: Well, I understand, Senator. And I guess I would say, you know-- not to go through a long history lesson-- unfortunate, I think, having witnessed this for 20-plus years, sitting here, in back here, there was a great divide created about 15, 20 years ago, when I first started, between the power companies and the telecom companies. And I don't care whether it was telephone, cable, wireless. There was

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a wall built and, unfortunately, it's taken about 20 years. And I won't say to take that wall down, but at least to start chipping away at it so people can actually have a conversation. But I think you heard NPPD saying: Hey, we actually want to go out and do an RFI to find out what private-sector people are out there that we can partner with. Twenty years ago, they would have just said: No, we're going to do ours and you're going to do yours; and neither one's talking. And so, yes, it-- I agree that finding ways to facilitate that so it accelerates. You don't want to wait another 20 years. The citizens of Nebraska don't want to wait another 20 years for that to continue. And I would say that current law allows that leasing, if it were the right-- if that-- if those companies-- public, private-- determine that it's the right thing, I don't know that you have to change the law to make that facilitation happen.

BOSTELMAN: Yeah, OK. But I-- I'm still going to be a little bit on the-- on the-- on the side of-- well, the process we have now takes too long. There's too-- too much stuff to overcome to make that happen. Is there a way to streamline that process to-- to allow a quicker deployment? Because our-- our economy, our children, if you want to-- there are our health services. We can't wait anymore. We need to have the-- this connectivity, and-- or just need to find a way to make that happen. So--

JUSTIN BRADY: And I would submit-- I would absolutely say any time any process can always be looked at and made better.

BOSTELMAN: Thank you.

FRIESEN: Thank you, Senator Bostelman. Any other questions from the committee? Seeing none, thank you for your testimony. Any other opponents who wish to testify on LB460? Seeing none, anyone wish to testify in a neutral capacity? Seeing none, does Senator Brandt wish to close? We do have a letter of-- in-lieu-of-person letter of support from James Dukesherer, Nebraska Rural Electric; support from Doc Wininger, ALLO; opposition from John Idoux, CenturyLink. We have position letters of support from Norris Public Power, the city of Omaha; a letter of opposition from Nebraska Rural Broadband Alliance; and neutral from PSC Chairman Watermeier. Senator Brandt, do you wish to close?

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BRANDT: Thank you, Chairman Friesen. And we had some great questions and some great testimony. And I think the frustration of the people that we're trying to serve comes out every time I go to one of these hearings, and it can be boiled down very simply. It's been 20 years. Where's my Internet? So I don't care if it comes from public power. I don't care if it comes from a telecom. I am encouraged that maybe they will work together. But that's simply what this bill is about, is to remove some more barriers and encourage them to work together. And I think-- I think they can-- they can work it out using LB992, using this. I don't care. But you know, we've got-- we've got strands of dark fiber in the country today that could be lit up. Why aren't they? So with that, I would take any questions.

FRIESEN: Any questions from the committee? Seeing none,--

BRANDT: OK.

FRIESEN: --thank you, Senator Brandt.

BRANDT: So we're going to this one?

FRIESEN: Yep. Let people move out just a little bit, maybe, and--

BRANDT: OK.

FRIESEN: --with that, we'll close the hearing on LB460, and we will open the hearing on LB600. Welcome, Senator Brandt.

BRANDT: OK, we got the right-- right one this time. We got LB600. Good morning again, Chairman Friesen and members of the Transportation and Telecommunications Committee. I am Senator Tom Brandt, T-o-m B-r-a-n-d-t, I represent Legislative District 32: Fillmore, Thayer, Jefferson, Saline, and southwestern Lancaster County. Today I'm introducing LB600. Many rural Nebraskans are needing faster Internet speeds and greater bandwidth for everything from Zoom calls to telehealth, to precision farming, to schoolwork. Reliable broadband has become more important than ever. You have heard a lot about the deficiencies in Nebraska's rural broadband over yesterday and today. I believe we have found a novel solution to address this problem through the introduction of LB600, which will expand financial resources and tools for the development of broadband infrastructure and facilities in rural areas of Nebraska. LB600 would expand financial resources and tools for the development of broadband infrastructure and facilities

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in rural areas by allowing public power districts and electric cooperatives financing authority, and by repurposing the Municipal Infrastructure Redevelopment Act for financing broadband infrastructure and facilities to be built in rural communities. LB600 expands existing state law about broadband facilities and infrastructure so that it becomes a public purpose in the public policy of Nebraska, so that public power districts and electric cooperative corporations have the authority to promote economic development and job creation projects in their rural service areas, subject to operating limitations established in Section 86-595. The bill also repurposes legislation to permit cities of the first class, second class, and villages to access funds allocated by the Legislature. This may include CARES Act funds or other federal, state, or local funds, deposited into the Municipal Infrastructure Development Act Fund for the purpose of assisting the financing of broadband infrastructure and facilities to support economic development and job creation projects. This bill will also allow for the use and creation of revenue bonds, which do not rely on the credit of the municipality to facilitate the funding of the projects. Finally, LB600 incorporates definitions of broadband and advanced telecommunications services in existing law, as well as the enhanced broadband speed standards set forth in Senator Bostelman's LB398. The telecoms have worked hard for 20 years to address this issue, but there is still much work left to do in our rural areas. Nebraskans would like to see public power use-- use its immense resources to partner with the telecoms to solve this technology problem, to help bring our young people back to rural Nebraska, which will revitalize our rural communities. According to former and current members of the Federal Communications Commission, the new Biden administration FCC may redirect money away from rural broadband and, instead, look at directing money to underserved urban broadband. This underscores the need for Nebraska to look out for itself and not rely on federal funding necessarily coming our way. LB600 will address rural broadband on the state level by letting our public power utilities share their significant infrastructure and resources to help tackle the problem. We listened to many stakeholders when we put this bill together, in particular, representatives of Nebraska's telecoms. We amended the bill with AM148-- and is there a page here? AM148, which he is passing out now to the committee, this reinstates language, making the bill pursuant to the dark fiber statutes 86-574 to 86-578. With that, I would be happy to answer any questions.

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FRIESEN: Thank you, Senator Brandt. I'm just going to ask you one quick question, that maybe you can clarify.

BRANDT: Sure.

FRIESEN: Is there a definition of rural in your bill?

BRANDT: Uh, no.

FRIESEN: OK.

BRANDT: Not necessarily.

FRIESEN: OK. Any questions from the committee? I think that would be an important thing to define, because the broadband task force defines rural, defines it as outside of any city, village, or limit.

BRANDT: OK.

FRIESEN: So let's-- I think we need to use, I guess, standardized language when we're talking about where you're going to be operating.

BRANDT: We can do that. OK.

FRIESEN: Any other questions from the committee? Senator Hughes.

HUGHES: Yes. Thank you, Chairman Friesen. Senator Brandt, does this bonding authority-- are you anticipating that it would be outside their levy limit or within their levy limit?

BRANDT: It would be outside. This would be a revenue bond.

HUGHES: OK.

BRANDT: And revenue from the project would secure the bond.

HUGHES: OK. Thank you.

FRIESEN: Seeing no other questions, thank you, Senator Brandt. Proponents who wish to testify in favor of LB600? Welcome.

LASH CHAFFIN: Morning again, morning again. My name is Lash, L-a-s-h, Chaffin, C-h-a-f-f-i-n, and I'm here to testify in favor of LB600. I'd like to thank Senator Brandt for bringing this forward. And I know

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this is an enhancement of-- of tools in the toolbox. And if cities, villages, power districts are going to get involved in broadband services under any scenario, be it a LB460 scenario, the existing LB992 scenario, I think you're going to eventually be deluged with all kinds of complex technical questions like this. And-- and, you know, bond attorneys always-- they have to have surety on everything. And this is-- this is a very complex tool. And-- and hopefully, this could be another tool in the toolbox to work with private entities in cities and villages to hopefully move-- move some areas forward where it's just simply not happening right now, so-- certainly answer any questions.

FRIESEN: Thank you, Mr. Chaffin. Any questions from the committee? How many of your cities use like LB840 money? I know there are some municipalities that have worked with the providers to do some things, but--

LASH CHAFFIN: There are a couple who have tried, and there [INAUDIBLE]. LB840-- I can't remember. There's probably close to 100, at this point, that have LB840 programs in place. There's a couple of complications with that. The LB840 plan is-- the history is, if you don't know what an LB840 plan is, there was a series of court cases that said that cities can't spend money on economic development. The big one was Chase v. Douglas County. And they said you could spend kind of general money, but you can't go to a private business, because that's lending the credit of the state. So the league and others went to the people and had the Constitution amended to allow cities to spend money on specific private business economic development. But it has to be done through an LB840 plan. And the-- and an LB840 plan, the voter-- what it requires is the voters vote on a plan. If you're going to spend public dollars, it has to be spent in this way. Now interestingly, I think part-- one of the problems is, so but that's the only way you can spend it is on how your voters approved it. And I don't know that, in a lot of cases, the approved plans anticipated this sort of activity. Now-- now if they did, I think-- you're-- you're-- you're thinking right, Senator Friesen, 'cause that question-- that is exactly the question that needs to be asked. And it's going to have to be answered over and over and over the next few years. It's how do you get that revenue stream out there? And one of the obvious ways is to bond against incoming revenues to be used for LB840.

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FRIESEN: OK.

LASH CHAFFIN: Bingo. That-- that's exactly it. And now-- but since nobody anticipated it, I think we're-- we're going to find all kinds of problems as-- such as the ones anticipated and, hopefully, dealt with in LB600. I'm not a bond attorney and I don't to--

FRIESEN: OK.

LASH CHAFFIN: --don't even want to go there. But your-- your question is spot on, and the answer is yes.

FRIESEN: OK. Thank you. Seeing no other questions, thank you for your testimony.

LASH CHAFFIN: Thank you.

FRIESEN: Any other proponents, LB600?

JOHN HANSEN: Mr. Chairman, members of the committee, good morning again. For the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I am the president of Nebraska Farmers Union. I have no great technical expertise to share except, when we read this bill, we thought, if this is a way to expand financing, that that is worth looking at and is one more additional tool in the toolbox. It would be a good thing. And so in the interest of time, I will be glad to answer any questions or try to answer questions, if you have any, but end my testimony.

FRIESEN: Thank you, Mr. Hansen. Any questions from the committee? Seeing none, thank you for your testimony.

JOHN HANSEN: Thank you.

FRIESEN: Any other proponents of LB600? Seeing none, anyone wish to testify in opposition to LB600?

TIP O'NEILL: Chairman Friesen and members of the TNT Committee, my name is Tip O'Neill, spelled T-i-p O--'N-e-i-l-l. I am president of the Nebraska Telecommunications Association. We oppose LB600, as introduced. I will say that our board and legislative committee have not reviewed Senator Brandts' AM148 that was published in the Legislative Journal yesterday. And we will be doing so in the near

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future, and-- and making-- maybe a different message than we are-- we're opposed-- we are opposed to the green copy of the bill. With respect to the provisions in Sections 1 and 2 that are not part of the proposed amendment, and that relate solely to municipal bonds, we have policy questions. First, the new language in subsection (3) (h) of Section 18-2603 states infrastructure project means "broadband facilities and infrastructure to support economic development and job creation projects in rural areas." The term rural areas, as Senator Friesen indicated, is not a defined term. What exactly does it mean? These are projects to be owned and operated by a municipality, and so the-- the question of the issuance of bonds by a-- by a municipality for the benefit of some area that is not within the municipality is-- is, I think, an important policy question for you. Second, we note that the issuance of these bonds may be done by ordinance and do not require a vote of the citizens of the municipality. These are general obligation bonds as far as the municipal-- as far as MIRF is concerned, because, if revenues are not sufficient to pay for the bonds, the municipalities are authorized to dedicate a portion of its property tax authority to meet debt service obligations. With respect to the public power provisions, even with the changes provided in AM148, we would be providing authority for public power districts to issue bonds to "own, construct, operate or contract to operate, or lease broadband facilities and infrastructure to promote economic development and job creation projects in rural areas." We will be discussing what that language means, in the context of AM148, and we'll provide further information to the committee at a later time. Thank you for the opportunity to testify. I'd be happy to answer any questions you might have.

FRIESEN: Thank you, Mr. O'Neill. Seeing no questions from the committee, thank you for your testimony.

TIP O'NEILL: Thank you.

FRIESEN: Anyone else who wishes to testify in opposition to LB600? Seeing none, anyone wish to testify in a neutral capacity? Welcome, Mr. Pollock.

ANDY POLLOCK: Thank you, Chairman Friesen and members of the Transportation and Telecommunications Committee. I represent the Nebraska Rural Broadband Alliance that consists of seven telephone companies that do business across the state. All of them have the

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pride of using support that they've received in the past to build fiber throughout their respective territories, even to the most remote-- remote farms and ranches in those territories.

FRIESEN: Spell your name.

ANDY POLLOCK: I'm sorry, Senator. Andy Pollock, A-n-d-y, Pollock, P-o-l-l-o-c-k. We were originally going to oppose this bill. We stood opposed to the green copy of the bill, and I'll tell you why. But the amendment causes us to change our position to one of support. So I figured the best place to be would be testifying neutrally on this bill. The amendment strikes provisions that essentially would have accomplished the same purpose in LB460, the bill you heard earlier. It would strike all the restrictions on dark fiber leasing, which our group would oppose doing. And we submitted a letter of opposition to LB460 for that same reason, as Senator Brandt knows. The good thing about this bill, and the reason that I'm here in neutral capacity and voicing support for the remainder of the bill, is that it expands financing opportunities. One of the biggest challenges that we have for rural broadband deployment is lack of sufficient financial resources. There's federal money, there's state money. But frankly, that leaves a gap, as some people have estimated, of up to-- actually exceeding \$500 million. This bill won't solve that gap, but it helps chip away at it. It would allow private telephone companies like I-- like I represent, to partner with public utilities to help finance projects that are enormously expensive. With that, I would be glad to try to answer any questions.

FRIESEN: Thank you. Any questions from the committee? Senator Moser.

MOSER: I apologize, I didn't hear your whole testimony. But you represent a telecom company?

ANDY POLLOCK: Yeah, I represent seven telecom companies all across the state.

MOSER: OK.

ANDY POLLOCK: Right.

MOSER: Are they required to provide service to anybody in their area?

ANDY POLLOCK: They are.

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MOSER: And do they charge the same rate to everybody in their area?

ANDY POLLOCK: They are required to charge comparable rates throughout their area. I can tell you that their voice services are almost exactly the same. Each one of those telephone companies is largely regulated by the feds. Their broadband rates will differ. But state law, state law that this body passed in the late 90s--

MOSER: Well, I was-- yeah, I was talking about the telephone service.

ANDY POLLOCK: Yeah, the--

MOSER: And this is--

ANDY POLLOCK: --the phone service is going to be roughly

MOSER: --this is dinosaur-age kind of conversation, compared to what we're talking about here, but-- but so the-- it obviously costs them more money to go way out into the boonies somewhere to hook up a customer, because they have fewer customers per mile.

ANDY POLLOCK: Correct.

MOSER: And so they use the rates of all their customers to kind of subsidize that--

ANDY POLLOCK: Not anymore.

MOSER: --that customer [INAUDIBLE].

ANDY POLLOCK: No, that's the way it was pre-mid-'90s. In 1996, Congress passed a law that essentially told the states, told telephone companies to eliminate implicit subsidies that were being used. City rates were higher, business rates were higher. Those were artificially inflated to subsidize rural high cost service in the '90s. Congress passed a law to make those rates explicit. Nebraska passed the Nebraska Universal Service Fund, which followed suit and put in place a surcharge that was intended to provide money, funding for subsidizing high cost service in rural areas. And the direction from this body and the Public Service Commission was to eliminate the implicit subsidies and replace them with a specific surcharge that went to finance the Nebraska Universal Service Fund.

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MOSEER: OK. Thank you.

ANDY POLLOCK: You're welcome.

MOSEER: That's a little more than what I was looking for, but-- but I appreciate it.

ANDY POLLOCK: You can always tell me to stop.

MOSEER: I let you go.

ANDY POLLOCK: Thank you.

FRIESEN: Thank you, Senator Moser. Any other questions? Senator Albrecht.

ALBRECHT: Thank you, Chairman Friesen. And thanks for being here today in neutral. But did the phone companies that you represent-- are they all dark fiber, to get to them?

ANDY POLLOCK: They are. So dark fiber is used to describe fiber that's not being lit to provide services to the end user. They are providing retail services to their user, using fiber that they deploy. So it's lighted fiber; it's not dark fiber.

ALBRECHT: OK. And does it last a long time?

ANDY POLLOCK: Fiber is-- yeah, as long as it doesn't get chewed by a rodent. Eventually, it wears out. I don't know what the lifetime of it is. That's a good question.

ALBRECHT: So tell me why, then, are you in favor of-- are you in favor of this bill and the other one, the LB460? Because why?

ANDY POLLOCK: I'm not in favor of LB460,--

ALBRECHT: OK.

ANDY POLLOCK: --but we are in favor of this bill to help reach areas that currently are not served.

ALBRECHT: OK, [INAUDIBLE].

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ANDY POLLOCK: So the areas that my clients serve have the good fortune of having fiber throughout the territory to even the most remote farms and ranches. But there are other territories served by other telephone companies who don't have that benefit. This bill would allow for a financing option in those particular areas.

FRIESEN: Thank you, Senator Albrecht. Seeing no further questions, thank you for your testimony.

ANDY POLLOCK: Thank you.

FRIESEN: Anyone else wish to testify in a neutral capacity? Seeing none, Senator Brandt? He waives closing. And have in lieu of person: a letter of support from James-- James Dukesherer, Nebraska Rural Electric Association; a letter of support from John Skretta, Educational Service Unit; support from Dwight-- Doc Winingger, from ALLO; opposed from Sean Kelley, Nebraska Internet and Television Association. We have position letters: in support, the Nebraska Coop Council; in support, the League of Women Voters; and in opposition from the Platte Institute. With that, we'll close the hearing on LB600, and we'll open the hearing on LB498. Welcome, Senator DeBoer.

DeBOER: Good morning, Chair Friesen and members of the Transportation and Telecommunications Committee. My name is Wendy DeBoer, W-e-n-d-y D-e-B-o-e-r, and I represent District 10 in the Bennington and northwest Omaha area. I'm here today to introduce LB498, which would task the Public Service Commission with what I'm calling a granular, or highly accurate, broadband speed map of the services real subscribers in Nebraska are actually receiving. Today, into two days of hearings on expanding broadband, I don't need to repeat all of the reasons why we need to meet this moment and quickly deploy high-speed Internet capacity capability across our state. From telehealth, to online education, to quickly developing-- the quickly developing Internet of things, including apparently some drones that Friesen is going to use at his farm later, we can see how important having broadband infrastructure is going to be to keeping our communities throughout the state running. Broadband is simply quickly becoming a necessity. Now you might wonder why a senator from the Omaha metro-- metro area was interested in broadband. There are two reasons. First, there are parts of my district that are rural and do have less access. We also have heard testimony that there are parts of Omaha that are not served or are underserved. When I've looked into it, I should say,

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it seems like maybe they are served. But if we had accurate mapping, we, the policymakers, would know. The primary reason this metro-area senator, however, is concerned about making sure we have high-speed broadband throughout the state is that we're all in the same economy. Those of us in the metro area are helped when all parts of our state are thriving. I'd invite you all out to the western part of my district some time. That area is one of the fastest growing areas in our state. We build new schools every year, usually multiple new schools each year. We can hardly keep up with the growth. And as any business owner who's ever grown quickly knows, that can be difficult. Researchers tell me that Nebraska is not substantially changing in its population size. Our population is simply repositioning. This means that new infrastructure is being built in my district at the same time that other districts' infrastructure costs are now split between fewer taxpayers. Same with medical and schooling costs. Everyone's infrastructure costs are getting more expensive, and the entire system is getting less efficient. We owe it to taxpayers to keep our entire state's infrastructure as efficient as we can. Rural economic development doesn't just affect rural communities; it affects us all. One of the first things we need to do to build better broadband, though, is to know where we have it now and where we do not. When I began on this committee three years ago, I was absolutely shocked to hear that we did not have accurate maps of the broadband speeds available to use within our state. I learned that the maps we were working with were accurately old-- were accurate only down to the census block level. That is, if one household in a census block was served at a certain level, the entire census block was considered served at that level. This committee recognizes the flaws of that level of mapping, so I don't need to repeat them here. But when I asked why we didn't just map more accurately, the response was that the technical-- technology didn't exist to do so. So let me take a minute to explain the difficulties of mapping, for the record. Over the last few years, this committee has attempted to improve our maps by passing legislation to allow crowdsourcing to assist in our mapmaking. Crowdsourced maps are valuable. And yesterday there was some testimony that crowdsourcing might remain valuable even after we have better maps, perhaps because crowdsourced maps can provide up-to-the-minute information about individual subscriber sites. But crowdsourcing is also limited in its ability to generate-- generate accurate overall maps for policymakers and others, because it is entirely voluntary on the consumer side, and there is no guarantee of

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statistical significance of the data that is received in each community. In addition, some speed tests are simply more accurate than others. Tests performed by consumers are subject to the condition and quality of the consumer hardware they're using. I'm not saying that because I have the technical engineering skills to assess that myself, I must tell you. I'm saying that because that is what I've been told, over and over again, when I was trying to figure out how to make a better map. Then, in the summer after my first year on this committee, I learned that the FCC intended to work on its maps and make them more accurate. This was welcome news indeed, because the FCC maps are what we currently rely on here in Nebraska, and everyone recognized by that point the problems of census block level maps. We have not yet seen data or maps from the FCC mapping project, but I'm hopeful that, at some point, we will. But there might also be some drawbacks to the FCC maps. If they draw the maps with data that comes from subscriber tests, it's subject to the same difficulty of subscriber hardware that crowdsourcing suffers from. But at any rate, it doesn't come from neutral testing. For example, a test that a provider knows about could potentially be affected by them putting their best foot forward. FCC maps can only be good-- as good as the data, the method of collecting data that they are based on. The problem, then, is to find something neutral that can uniformly measure and take speeds from inside subscriber premises that is not subject to the variations in hardware within those premises. This summer, I learned that the technology now exists. Some researchers from right here in the University of Nebraska at Kearney had developed and begun pilot testing devices they call a QT device, which measures data from inside a subscriber's premises but on the provider side of the router. So it measures what comes all the way, not just the last mile, but the last inch into the premises, is neutral, and is not subject to the inaccuracies if the user's hardware is not up to date. I believe we will have some example of these devices in my office after the hearing, if you would like to come and see what they look like. The bottom line is, the technology exists. And I know that the two researchers who developed it at the University of Nebraska-Kearney are here today and will testify in the neutral capacity to answer questions about this type of technology and what it does. My less technical description is that we can now deploy a statistically significant number of these devices to take measurements. And that statistical significance is key. The state needs to make sure there are enough of these tests in the right places to make sure that we have an accurate map. These devices take 1,800

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measurements over the course of a week, at every hour of the day, to measure hour-by-hour speeds or average by-hour speeds. Basically, it sounds to me like the gold standard of speed testing. But again, there are others here who can answer your technical questions. To make a map using this technology, the researchers have told me that they would need to have about 10,000 Nebraska users participate in the program, where the devices were installed for a week. Then the device takes the measurements and immediately sends it back to a central hub. Then we would have the raw data, which we could put together and interpret to create an accurate, granular map of Nebraska's broadband access. And lest you think this is an expensive proposition, I would draw your attention to the fiscal note. \$99,000 seems like a bargain to get the data that we need. Now that, I will say, is raw, unassembled, uninterpreted data, I think, from my reading of the fiscal note, but that would be true of whatever testing mechanism we used. There would always be an additional cost to aggregating and creating maps. There was some testimony yesterday about an alternative source of data, and I will leave it to the researchers to further explain why their data and their method of gathering that data-- data is likely to be superior. But you can see that getting this gold standard really isn't that expensive. And when we're talking about \$25 million or \$40 million this year alone worth of broadband deployment in the state, the cost of not having accurate-- accurate maps for targeting our state dollars is clearly much higher. To be good stewards of those taxpayer dollars, I think we ought to use all the knowledge and ability our state has to properly target those dollars-- dollars, and housing the authority for taking data and maintaining maps in the PSC. Tasking the PSC with mapping makes more sense than relying on future promised FCC maps to update and map our broadband access in Nebraska. I'm confident our PSC is up to the task. The PSC can accommodate-- can coordinate all the various mapping efforts, from crowdsourcing to the FCC, to the-- these gold-standard data maps. As we outlay a large expenditure of taxpayer dollars, having the PSC participate in where those dollars are targeted is important. But in the long run, whether from a reverse auction program or monitoring NUSF funds, giving the PSC the ability to accurately monitor the progress of our broadband speeds in Nebraska is critical. In the end, LB498 is really simple. It says to the PSC, make a map of the broadband services actually received by Nebraska taxpayers, do it right away, and use the best neutral data available to do it.

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FRIESEN: Thank you, Senator DeBoer. Senator Geist.

GEIST: Yes, I have a few questions. This is very interesting. How long do you project that would take?

DeBOER: So I will let that answer come from the technical folks. But what they said to me was, if we did 1,000 devices, and if each device goes in a household for a week-- you know, you've got a ten-week absolute minimum, there's got to be some like moving-around time between those things-- so--

GEIST: So you mentioned 10,000 devices. So then, does it aggregate data because there's more than 10,000 users? Is that-- so how does--

DeBOER: Yeah.

GEIST: --that capture everything?

DeBOER: Yeah. So what it would do is, they would take what was statistically significant in an area,--

GEIST: OK.

DeBOER: --and they would measure that. Right? So 10,000-- not devices-- 1,000 devices, 10,000--

GEIST: Different placements.

DeBOER: --measurement instances, we'll say.

GEIST: OK.

DeBOER: Right? So they would-- they would deploy it to X household, Y household, and Z household, if that was going to get us enough statistical significance. That's something that the-- the folks who work with data more often can tell you, you know. This is how we know to be confident in that many. But what they told me was, based on their research, they think 10,000 instances of measurement-- you know, deployments of those devices-- would get us a map that would be granular enough to be able to really look at things. They said-- and I sort of found this interesting-- that they would probably need more in the rural areas than in the urban areas to be able to get to that.

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GEIST: Hmm, interesting. Thank you.

FRIESEN: Thank you, Senator Geist. Any other questions from the committee? Senator Bostelman.

BOSTELMAN: Thank you. Thanks for bringing the bill, Senator DeBoer. Do you see that the focus would be more on-- in the NUSF area, more so than the served areas and cities? Or is there a-- do you have a thought or plan as to how this would be deployed out and how the measurements would be taken?

DeBOER: I think we should do the whole state. I think we should go in the rural areas, the urban areas, the whole state, and just see where we're at.

BOSTELMAN: Yeah, because my question goes, is what-- you know, if we can identify-- as we know, the FCC on the 477 forms are not accurate at all. So it's really trying to identify. My thought is-- I guess the question is trying to identify, you know, the-- the accuracy of the 477 reporting. And perhaps from that, we can identify the areas that are being not adequately reported, so we can, perhaps, find the unserved, underserved areas, and-- and-- and get the-- get money to where it needs to be, if you will, or--

DeBOER: Yeah. I mean, that's ultimately the goal. I think we ought to have an accurate map of the whole state. But I think that the-- the biggest reason for getting that accurate map of the whole state is to say: OK, are there places that we don't know are underserved that are, in fact, underserved? And to get that information to us so that we can then target our-- our funds towards helping those areas out.

BOSTELMAN: And I appreciate that because, you know, the federal government's going to do something that is three years down the line and more consumer services is pretty important, I think. Thank you.

DeBOER: Yeah.

FRIESEN: Thank you, Senator Bostelman. Senator Moser.

MOSER: So do you foresee people volunteering to have this machine in their home?

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DeBOER: Yeah, that would be part of the process, is that there would be-- it would require users in Nebraska to participate in the-- in, you know, sort of the measurements.

MOSER: Well, to have an accurate reading would require more people. But are you going to require people to put the machine in their home?

DeBOER: No, they're not required, certainly not. No, there would have to be some sort of voluntary effort on the part of individual users. I imagine there's several people, sitting at that table right there with you, that might be willing to do it, might be willing to volunteer.

MOSER: Well, you'll have a couple of holes in the map where those are, yeah [LAUGHTER].

ALBRECHT: There already is.

FRIESEN: Thank you, Senator Moser. Seeing no other questions, thank you.

DeBOER: Thank you.

FRIESEN: Proponents who wish to testify in favor of LB498?

CHRIS DIBBERN: Good morning. Good morning, Chairman Friesen and members of the committee. My name is Chris Dibbern, and it's C-h-r-i-s D-i-b-b-e-r-n, and I'm the general counsel for a small joint action agency called NMPP Energy. We serve almost overnight almost 200 communities in four states. I'm also here on behalf of the Nebraska Power Association and, also, the League of Nebraska Municipalities. But we would like to convey our strong support for LB498 and the Legislature taking up all of this time. Your hearings have been fascinating, I'm sure, on many people who have listened to them over the Internet when it was available. But-- and-- and-- and taking up the expansion of broadband in Nebraska, the NPA is a voluntary association representing all Nebraska's 165 consumer-owned, public power systems, including municipalities, public power districts, public power and irrigation districts, rural public power districts, and rural electric cooperatives. They're engaged in either generation, transmission, or distribution in the state. And I have one quote for you today: If you cannot measure it, you can't improve it-- Peter Drucker. LB498 is asking for testing and mapping where broadband is needed in the state. We all know that connectivity means-- and people

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have put it much better than I have, but I think it means better jobs, better health, better schools, and a better life in Nebraska. We want to improve the connectivity of people in our state, and LB498 is designed to authorize the Public Service Commission to measure and help others eventually build out broadband where it's needed. But you can't measure it-- if you cannot measure it, you can't improve it. You've given us other tools. LB992 was a tool, but if you only have a hammer, everything looks like a nail. So this is another tool that I think you need to progress broadband. Yesterday I heard that \$20 million will not go as far as people think it will, even with matching funds. More is needed, everyone is deserving, prioritization is a challenge, and no lack of people underserved today. Those are all true. But you can't-- you can't help all of those things without this necessary tool, measuring where we need Internet. In my opinion-- and I'm-- I'm just a traveler and a lifelong Nebraskan, but we need it outside of Wood River and Cairo, my hometowns. We need it outside of Gering, and Valentine, and McCook, and in Omaha, and we need it in Oshkosh. All across the state, there are underserved and unserved areas. LB498 will tell you exactly where it's needed. And I heard the FCC is studying it. Well, that's kind of like the check is in the mail. When will it come? I don't know. Will it be right? I don't know. So-- but I do know that our communities-- in-- in Colorado, for example, Fort Morgan had a great pilot program with ALLO and is doing very good things about bringing broadband to small towns. Gillette, Wyoming-- pretty rural, larger community. We did a pilot project where we did fiber optics, rings around the town, and fiber to their homes. In Iowa, they-- there are many more projects on with-- with public power. So this is not new. But for Nebraska, this has just been a really-- we've not had enough tools, really gray area. So I think you're-- look, you've heard a lot of things in the last couple of days. I suggest that you really study them and put out the good things that you can-- you can do this year. Thank you. Any questions?

FRIESEN: Thank you, Ms. Dibbern. Any questions from the committee? Seeing none, thank you for your testimony.

JOHN HANSEN: Again, good morning, Mr. Chairman, members of the 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. When I began my farming career, I decided that a-- it was absolutely essential for me to have accurate information so that I could manage my farming business and all of the other businesses that I was in the process of

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developing and running. And the instructor that I had at Northeast Community College, because I was a part of that bookkeeping program, said: You can't manage what you can't measure, and you have to be able to get the data that you need to be able to make informed management decisions. So this bill falls under the category of improved measurement. We have supported major efforts in the past before this committee, which the committee has dealt with successfully, in terms of Senator Brandt's bill, to help better get a grip on which areas are served. So that has been an issue that we have raised for a long time, sort of the mismeasurement of areas that are served and which ones that aren't because of the[-- of the particulars of that process. I use my farm as an example, where over 24 miles between Newman Grove and Tilden-- my farm was 12 miles in between. Newman Grove and Tilden both have broadband service. They do, 3 miles out of town. That leaves 18 miles of: good luck, buddy. That was us, right in the middle-- still is. And so another complaint that we have heard for a long time from a lot of folks is: I'm supposed to be getting this, in terms of the speeds, but what I'm actually getting, we don't think is anywhere near that on a regular basis. And so having better, more detailed information, I think, helps us better identify underserved areas, which helps us, then, focus on where the money and the investment needs to go in order to be able to bring the bottom end up. But it also, I think, can be a very useful tool, in terms of us having the kind of data and information that we can use to be able to more aggressively go after additional funding, if funding is available through additional coronavirus relief programs or broadband support from the federal government. The better data that we have, the better case we can make for why it is that we're going to use that money more effectively. So for all of those reasons, we would support LB498. Thanks, Senator DeBoer, for bringing this bill forward. And with that, I'd end my testimony. I'd be glad to answer any questions, if I could.

FRIESEN: Thank you, Senator Hansen. Seeing no further questions, thank you for your testimony.

JOHN HANSEN: Thank you.

DAN WATERMEIER: You guys are getting fast at changing these seats out, back and forth. Good morning, Chairman Friesen 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 commission's 1st District and I'm current chairman of the Nebraska Public Service

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Commission. I'm here to testify in positive-- in support of LB498. I'm going to skip part of my testimony, 'cause I know you have another hearing that you need to use this room for. But some things need to get put on the record here. I also really want to thank Senator DeBoer. She reached out to our staff and did some work this summer. And I think she's gone-- she's on the right track. And so I just want to really appreciate her for working on this issue. Last year, the Legislature passed LB996, which enabled the commission to supplement the FCC's data collection and mapping effort. Recently, until-- on January 19, the FCC issued a decision taking another step towards implementing better data collection and mapping of broadband data. This is the new mechanism the FCC is developing to collect granular, precise broadband service available data-- data. Congress has now provided funding for this program, which was a big deal here. Just two weeks ago, they implemented about \$90 million to get this done. We supported LB996, and we support the present bill, which would give the commission more tools to supplement the data we are gathering. The commission contemplates using the data, collected through the required testing, to fill in the gaps. This information may enhance what we already collect, and can help us, then, determine where grant funding may or may not be needed. This will also give another way to validate whether the speed objectives that we have set for carriers in prior grant funding has, and continues to be, met as network congestion or other factors continue to evolve. This testing would be beneficial to the commission and the administration of the NUSF broadband grants, as we will have more ability to know what speeds are available to consumers at their location. In addition, while it's not clear when the next FCC broadband auction will occur, we hope the information collected will better inform the FCC as to the areas in need of universal support. Before I close, I want to just touch on the fiscal note. We were a little concerned about how to manage this. We did put one person in the note. I heard several of you talk about that, that it-- and I-- I think Senator DeBoer is correct in the-- in the statement of \$100,000 seems like a bargain to get this done, because, when I was in the Legislature, I know there were several attempts to do some crowdsourcing, and it just didn't work. It was frustrating. Everybody was frustrated. We think this is a better step. But we are going to have to wait on the FCC to implement this last funding mechanism, to get the providers to get the data that will help us in creating these reports. So it's going to be a mix of what we can do and, I think, what Senator DeBoer had mentioned with these other

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devices, which I'm glad to see that'll-- that'll be a part of the process. But that won't be a necessary part of our process. We're strictly going to be analyzing the data, the data in the maps. So I just wanted to touch on the fiscal note. I just want to thank the committee and the efforts you're making. You've had a big couple of days in broadband, and we're here to support you guys. But we are in strong support of this bill, and we thank Senator DeBoer.

FRIESEN: Thank you, Commissioner Watermeier. Any questions from the committee? One question I have is when you're-- when we're doing mapping, as far as availability of broadband, sometimes there's going to be wireless access, also. Are you able to measure that also?

DAN WATERMEIER: Well, we should be able to. I mean, but this is all going to come back to the data that we're going to get through the FCC's requiring now of the provider. So it'll be interesting to see how it works out. But I think we should be able to see that

FRIESEN: OK. All right. Seeing no further questions, thank you for your testimony.

DAN WATERMEIER: Thank you.

FRIESEN: Any other testifiers in support of LB498? Seeing none, anyone wish to testify in opposition to LB498?

TIP O'NEILL: Kind of feel like Dr. No today, but-- Chairman Fresen and members of the TNT Committee, my name is Tip O'Neill, spelled T-i-p O-'-N-e-i-l-l. I'm president of the Nebraska Telecommunications Association. I know how important and useful data is to policymakers. And while the NTA opposes the green copy version of LB498, I want to make sure that she knows that we're-- we will reach out to her and the committee members, and we'll work with you to find an outcome on LB498 that we hope is agreeable to all parties. With that said, following are the reasons why we can't support the bill right now. First, you know, we reviewed the recommendations from the Rural Broadband Task Force and introduced-- Senator Brandt introduced LB996, the crowdsourcing bill last year, which we passed. The bill also gave the PSC authority to participate in FCC efforts to improve data collection. This is important because, as the task force concluded in its recommendations, because states are limited in their authority to compel providers to submit broadband coverage data, federal data

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collection efforts should be leveraged, if feasible. Leveraging those efforts will also minimize state costs for data collection. Second, we believe right now that the FCC is serious about improving data collection. You know, Commissioner Rosenworcel is now the chairperson. She has been a consistent supporter of improved data collection. And as part of the stimulus package enacted in January, Congress authorized more than \$90 million, specifically for broadband mapping. And I happened to look at the results of the-- of the testing that was done by the company, I believe, that the FCC will hire to do its mapping program. It was a case, a test of areas in Tennessee, Alabama, and I think one other state. And it's-- it's-- it's impressive, in terms of some of the geospatial sort of things that they can do now, address level mapping, which is totally different from the 477 process. And as-- as you know, in any-- any mapping scenario, the snapshot of where you are right now isn't necessarily helpful unless you update that snapshot on a regular basis to see where progress or regress is being made. And so that's one of the concerns I have. This is-- this is a process that will have to be continuing. Third, FCC rules don't allow us to get everyone to participate. If you're AT&T or Verizon, some of the WISPs, and you're not involved in getting any NUSF, we can, as a state, require you to participate in this mapping process. So we believe that the best outcome of LB498 would not necessarily result in a comprehensive map. It would have-- it would have gaps because not all carriers would be reporting. Costs, obviously, is money that comes out of broadband deployment. And finally, there are some companies in my group that have concerns about revealing data that could be highly sensitive and helpful to the competitors. We'll be working with Senator DeBoer and you, in trying to find a solution to some of the issues that we have. And I'd be happy to answer any questions.

FRIESEN: Thank you, Mr. O'Neill. Any questions from the committee?
Senator Bostelman.

BOSTELMAN: Thank you, Chairman Friesen. Thank you, Mr. O'Neill. Again, is your middle name Grinch?

TIP O'NEILL: Little name what?

BOSTELMAN: Grinch.

TIP O'NEILL: No, no. It's-- it's-- it's not. I'm usually very happy.

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BOSTELMAN: I know you are.

TIP O'NEILL: Just-- today's just a bad day.

BOSTELMAN: I understand. I understand. I get it. I guess my question is, you know, the task force make recommendations; we make policy.

TIP O'NEILL: Um-hum.

BOSTELMAN: So our job is to make policy. We can take the recommendations as they are, as they are. I-- I guess it's kind of interesting to see where-- I would think that if I was a provider, that I would want to know where my market is. And I think this might actually give you that opportunity to see where your market is available. Would you agree or not?

TIP O'NEILL: It would certainly give-- it-- I would guess it would depend on the provider, because some providers might say: Yeah, that's where the markets are. And some providers might say: I'm giving away sensitive information to my competitors, who then can determine where their markets are.

BOSTELMAN: So is your concern, then, that the data that is collected is-- is kept in con-- I'll use "in confidence"-- or private by the PSC, in-- in determining, you know, where the unserved areas is-- is, if it goes towards grant funding?

TIP O'NEILL: Well, I think the bill requires that a map be published. So that would be--

BOSTELMAN: But isn't there a map published already?

TIP O'NEILL: Yeah, it's with 477 data, and it's got-- everybody-- everybody participates.

BOSTELMAN: So what--

TIP O'NEILL: All-- all of the-- all the com-- all the-- all the people involved in the business participate in that process.

BOSTELMAN: So who-- so name companies that wouldn't participate in--

TIP O'NEILL: In-- in this bill?

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BOSTELMAN: Yeah.

TIP O'NEILL: That couldn't be compelled to participate?

BOSTELMAN: Yes.

TIP O'NEILL: Well, the big wireless companies would be the-- the-- the-- the major ones. Any company that does not participate in NUSF could not be compelled. ALLO, for example, could not be compelled to participate.

BOSTELMAN: Because they're not an ETC?

TIP O'NEILL: No, they're an ETC, but they're not-- but they don't receive money from the NUSF.

BOSTELMAN: So are there larger providers, then, that we're having challenges with right now, that's not providing that would be ones that wouldn't want to participate?

TIP O'NEILL: I don't have that information yet.

BOSTELMAN: Thank you.

FRIESEN: Thank you, Senator Bostelman. Any other questions from the committee? Senator Cavanaugh.

M. CAVANAUGH: Thank you. Thank you, Mr. O'Neill, for being here. I am now curious what your middle name is. So I have a couple of questions. But the first is-- I mean, you talked about the FCC doing their mapping. When will their mapping be completed?

TIP O'NEILL: I-- I don't know what-- I haven't seen that they've published any deadlines at this point, so I do not know when that would be completed.

M. CAVANAUGH: So it could be years? Or--

TIP O'NEILL: I would guess it would be within the year, a year and a half. But that's-- that's always hopeful. Yeah.

M. CAVANAUGH: And are they going to be using statistically significant data pools for their mapping?

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TIP O'NEILL: Yes, they should be able to-- to-- at least-- at least their-- their-- the study that they performed on a contractual basis for those three states, they got the address level-- level data for every census block in the-- in the-- in the state, so--

M. CAVANAUGH: And they can compel the entities that--

TIP O'NEILL: Yes, the FCC has jurisdiction over the big wireless carriers, and all the WISPs, and those-- those companies, in addition to the traditional landline telephone companies.

M. CAVANAUGH: So I guess I don't see what the issue is, or I'm not understanding what the issue is in doing this first so that we have a jump start on what we would get from the FCC.

TIP O'NEILL: Well, we're going to be working with Senator DeBoer to try to find something that's agreeable so that it's not-- it's not the timing of the issue. It's-- it's whether we can get something that is-- is helpful to make sure the process is complete, you know.

M. CAVANAUGH: And-- and you mentioned that there could be highly sensitive data that would help a competitor?

TIP O'NEILL: Could be, yeah.

M. CAVANAUGH: So I don't think anyone would accuse me of being a capitalist, but isn't that kind of the free market to decide?

TIP O'NEILL: It-- it-- it would be if-- if the company that was providing data also had access to the competing companies data. But in this situation, the data collection is one-sided, I think, is what some of my companies are saying.

M. CAVANAUGH: So what we've been hearing, pretty much constantly in the last 24 hours, is this lack of connectivity in this state.

TIP O'NEILL: Um-hum.

M. CAVANAUGH: And this seems like a tool in our toolbox to address that concern.

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TIP O'NEILL: I have some companies who would say that spending money on a mapping process is taking money away from deploying broadband, because it's coming out of the Nebraska Universal Service Fund.

M. CAVANAUGH: That's how this is funded, through the Nebraska Universal Service Fund?

TIP O'NEILL: Yes, yes. If you look, the fiscal note would indicate the money is coming from the NUSF.

M. CAVANAUGH: But should we not be giving out money without knowing [INAUDIBLE]?

TIP O'NEILL: Well, yeah. I don't disagree with that at all,--

M. CAVANAUGH: So we should just--

TIP O'NEILL: --that we should-- we should know that--

M. CAVANAUGH: So we should put a freeze on using the NUSF funds until we have the mapping?

TIP O'NEILL: Well--

M. CAVANAUGH: 'Cause otherwise we're uninformed in our distribution of those funds.

TIP O'NEILL: Well, I would-- I would say that the-- the current data set has information to indicate where an entire census block, for example, is uncertain. So I--

M. CAVANAUGH: But it's incomplete.

TIP O'NEILL: It-- it-- it's not as good a data. It's not as-- it's not as good a data as we would like.

M. CAVANAUGH: So aren't we throwing good money after bad without having complete data?

TIP O'NEILL: We have-- I-- I think, we're-- we're spending money and deploying broadband in areas that currently have a need for advanced broadband services.

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M. CAVANAUGH: But we don't know if we're maximizing the use of those dollars.

TIP O'NEILL: Well, in any-- in any process, you're never going to be certain whether you're-- you're deploying the money in exactly the right spots, whether-- whether you have an approved mapping process, whether you have 1,000 customers.

M. CAVANAUGH: But we--

TIP O'NEILL: I mean, you're not getting-- you're not-- with this process, you're not getting addressed level-- specific level of information.

M. CAVANAUGH: But we--

TIP O'NEILL: You're doing-- you're doing sampling, aren't you?

M. CAVANAUGH: But we do know, with certainty, that there is more fidelity in other processes than what we current-- the information that we currently have?

TIP O'NEILL: I'm-- I'm--

M. CAVANAUGH: Sorry. There's more fidelity in future mapping than the FCC potentially will be doing than what we currently have. But we're still giving away money, based on the data that we currently have.

TIP O'NEILL: That is correct. We hope the mapping improves. Every policymaker should hope that the mapping process improves.

M. CAVANAUGH: So shouldn't we put a freeze on the use of the funds until the mapping is improved?

TIP O'NEILL: Well, I-- I wouldn't do that, because you're-- you're then delaying deployment of broadband.

M. CAVANAUGH: But we could also be delaying over-- overbuilding.

TIP O'NEILL: In the area-- I'm fairly certain we're not overbuilding in those areas that we're currently deploying NUSF. You-- you'd have to ask Commissioner Watermeier and the Public Service Commission, because they're making those decisions.

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M. CAVANAUGH: OK. Thank you.

FRIESEN: Thank you, Senator Cavanaugh. Seeing no further questions, thank you for your testimony.

TIP O'NEILL: Thank you.

FRIESEN: Anyone else wish to testify in opposition to LB498? Anyone wish to testify in a neutral capacity to LB498? I would please ask that you bring no props to the table, please. People can see that afterwards.

TIM OBERMIER: OK. I'm sorry?

FRIESEN: You're not allowed to bring any props to the table.

TIM OBERMIER: OK. Do I hand it to him?

FRIESEN: You can-- you can either have Senator DeBoer's office have them later, or you can have them available to us. But--

TIM OBERMIER: OK. I'll [INAUDIBLE].

FRIESEN: --we really can't pass it around.

TIM OBERMIER: That's all right.

ANGELA HOLLMAN: Can we pull up a chair so that [INAUDIBLE]?

FRIESEN: Do you want to testify separately or--

ANGELA HOLLMAN: Together.

_____ : [INAUDIBLE] a chair?

FRIESEN: Sure. Welcome.

TIM OBERMIER: Good morning. I'm Tim Obermier, T-i-m O-b-e-r-m-i-e-r, and I'm here with my colleague.

ANGELA HOLLMAN: Angela Hollman, A-n-g-e-l-a H-o-l-l-m-a-n-a-n.

TIM OBERMIER: And we're here today at the invitation of Senator DeBoer, to share with you the Rural Measures Project and the

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quantitative throughput device that we use to conduct accurate broadband mapping through scientific methodology in the state of Nebraska and, also now, the state of Indiana. We are both professors at the University of Nebraska-Kearney. We're testifying from a neutral position today. We're not representing the views or opinions of the University of Nebraska. We wish to remain neutral because of our desire to provide a system that will deliver statistically significant, unbiased data to help resolve Nebraska's rural-urban digital divide. We both live in rural areas. We understand the needs, trials, and tribulations of the rural communities' effort to obtain quality Internet access. The Rural Measures Project is the result of over a decade of research to better understand the issues of the rural-urban digital divide. The first research project focused on service provider reported Internet cost analysis comparisons among the classes of cities in Nebraska. Results from that research has been presented to this committee in prior years. This research led to the question of how to accurately measure the digital divide. The Rural Measures Project was created to accurately measure broadband quality and availability, so that the needs of precision agriculture, education, and overall community vitality can be met. In other words, Rural Measure seeks to visualize the rural-urban digital divide in Nebraska at an address level. This cannot be accomplished effectively through random, one-time, throughput speed checks. It must be based upon scientific data collection methods. Included with this testimony is a step-by-step tutorial, at the back of this handout, to explain further on the technical process. I'll turn it over to my colleague, Dr. Angela Hollman.

ANGELA HOLLMAN: So this QT that we have, this device, is installed at the customer premise, so that means we are collecting address-level mapping, and that's at the customer-consumer premise, residence or business. It's connected closest to the service provider, usually connected to the user's router, uses Ookla to run a data throughput test approximately every seven minutes for a period of seven days or one week, collects approximately 1,800 readings, which is a lot more than your one-time, one-off crowdsourcing readings. And by collecting that many readings, we have an advantage in that we can effectively determine the performance of specific Internet connection throughput for specific time periods of the day. During the testing process, the test participants can also view the results on our Web site, so we provide transparency about what we're collecting. A snippet of this

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graph is also included in the handout. And as part of the project, the user also responds to a social science metrics survey. This provides their specific Internet package to which they have subscribed, and questions associated with their levels of satisfaction and typical Internet usage patterns, which goes to quality of life. So these survey results are then matched to the data throughput results to enable further analysis for our research. This gives us a granularity that's unique from any other dataset that we have seen. Since we asked the customers' Internet speed package, we know what speed they should be obtaining and we also know what speed they are obtaining. So regarding privacy, our device does not collect any of the data about the user's Internet. Any of the data of their Web sites that they're visiting does not track their user interactions, and it does not apply personal passwords or login information. It only serves the purpose of collecting data throughput information, which otherwise we know as speed tests. It does collect download speed, upload speed, latency, and the service provider name, and the results collected are protected by our university Institutional Review Board agreement. And I have to say that, through our research board, we are also-- we're protecting the user data, \we're protecting it securely. We're bound to, so we do abide by a lot of user privacy agreements that others might not have to. Our rules of measures testing methodology follows a specific list of criteria to collect the data. In this past year, the FCC Precision Ag Task Force on Mapping and Analyzing Connectivity Working Group asked us to establish a set of essential criteria to accomplish what they call ground proofing and this process of examining and confirming Internet data throughput. So the criteria developed is presented in Table 2, and it's currently under peer review. I'm going to stop there--

FRIESEN: Thank you.

ANGELA HOLLMAN: --'cause my time is up.

FRIESEN: Are there any questions from the committee? Senator Hughes.

HUGHES: Thank you both for coming today. So what your device is measuring is what the customers are paying for, not what's actually available to them on the Internet? Is that-- am I under-- correctly understanding?

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ANGELA HOLLMAN: Well, what that-- I mean, what the customer is paying for is technically what is available to them at that point in time. We-- we do ask them on the survey what they can get, to try and get at this question of what is that true availability. So when we match their technical data to the survey, we know whether they're on a reported high-speed package that they can get or whether they're on one of the lower-tier packages.

HUGHES: So is there any way to measure what the provider can actually provide in a given location?

ANGELA HOLLMAN: No, and I-- I-- no, there's not.

HUGHES: OK. Thank you,

FRIESEN: Thank you, Senator Hughes. Any other questions? Senator Cavanaugh.

M. CAVANAUGH: Thank you. To the previous testimony, there was concern over sensitive data. And you were-- you mentioned about the privacy. Could you just speak to the concerns that we heard? Would those be addressed by those privacy stipulations? Or would it still be giving the data for certain providers to their competition that might not be giving their data?

ANGELA HOLLMAN: No. So since-- I mean, we're not-- we're asking users to participate, and we're asking volunteers to participate to get an even-- I'll call it an even sampling of results throughout a given region. And so we would not be exclusively going into one provider's region. We would be testing across all of them. And again, and that would be at the address level. So the sensitive data should not be an issue from the perspective of the competitor.

M. CAVANAUGH: So you're actually approaching it from a different avenue with it being individuals, not-- not the service providers that you are going through. And it-- like you would come ask me and I would have it at my home. So I don't need the approval of my provider, and you don't need the approval of my provider.

ANGELA HOLLMAN: Correct.

M. CAVANAUGH: And the provider doesn't have to be compelled or under the jurisdiction of the PSC or the FCC?

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ANGELA HOLLMAN: That's correct.

M. CAVANAUGH: OK. Thank you.

FRIESEN: Thank you, Senator Cavanaugh. Any other questions from the committee? Senator Bostelman.

BOSTELMAN: Thank you. How do you determine your sampling, who gets sampled?

ANGELA HOLLMAN: So we have a GIS researcher that is also working with us on the project to determine appropriate sampling size throughout a given region. Nebraska is unique in that it operates on these classes of cities. And there's five classes. There's not a current classification for underneath just rural households, so we're adding that to our-- our study. And so we use a stratified sampling method. It is a scientific process, so we know-- we know, when we head it through our analysis, what we're doing. I mean, that's the best layman answer that I can give. But we do have a specialist that helps so that we know when we've hit this confidence interval in a region, and we know that we have-- we're accurately presenting data that is representative of that region.

BOSTELMAN: OK. Thank you.

FRIESEN: Thank you, Senator Bostelman. Seeing no further questions, thank you for your testimony. Anyone else-- else wish to testify in a neutral capacity? Seeing none, Senator DeBoer?

DeBOER: Thank you, Senator Friesen. First, I'll say that I will work with the opposition to see what we can work out, in terms of figuring out if we can come together. I do want to address Senator Hughes' point, which I think is a good one, that what we're capable of mapping would be the amount of service that is provided to someone within their service agreement. So if they say that they're going to get 25/3 and that's what they're paying for, then we shouldn't expect that they would get 100 symmetrical. So that would be a concern that we would have to think about and might go into how we determined, you know, who within a region we would ask to participate to give us that data, so that we would ask someone who would have at the higher level so we can test to make sure that they did have that. So that's something that I

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think we'd have to be aware of. And I think that, you know, whoever was administering the project could do that.

FRIESEN: OK. Seeing no questions, thank you, Senator DeBoer. We have letters of support, the in-lieu-of-person testimony of Patrick Pope, Nebraska Public Power District; the support of Jason Hayes, NSEA. Opposition from John Idoux, CenturyLink. Position letters of support from: Norris Public Power; a letter of support from the League of Women Voters; support, the city of Omaha; support, the Center for Rural Affairs; support for AARP; and a letter of opposition from CTIA. With that, we'll close the hearing on LB498.

[BREAK]

FRIESEN: OK, welcome to everyone in this afternoon's hearing, Transportation and Telecommunications Committee. I'm Curt Friesen from Henderson, Chairperson of the committee, I represent District 34. For the safety of our committee members, staff, pages and the public, we ask those attending our hearings to abide by the following procedures. Due to social distancing requirements, seating in the hearing room is limited and we ask that you only enter the hearing room when it is necessary for you to attend the hearing in progress. The bill will be taken up in the order posted outside the hearing room. The list will be updated after each hearing to identify which bill is currently being heard. The committee will pause between each bill to allow time for public to move in and out of the hearing room. We request that you wear a face covering while in the hearing room. Testifiers may remove their face covering during testimony to assist committee members and transcribers in clearly hearing and understanding the testimony. Pages will sanitize the front table and chair between testifiers. We ask that you please limit or eliminate the handouts. Please silence all cell phones, other electronic devices. We'll be hearing the bills listed in the order of the agenda, except we have moved one up, and it is at the top of the list is Senator Wayne now. And so those wishing to testify on a bill should move to the front room and be ready to testify. We have an on-deck chair in front so the next testifier will be ready to go when their turn comes. If you will be testifying, legibly complete one of the green testifier sheets located on the table just inside the entrance. Give the completed testifier sheet to the page when you sit down to testify. Handouts are not required, but if you do have a handout, we need 12 copies. One of the pages could assist you with that. When you begin your testimony it is very

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important to clearly state and spell your first and last name slowly for the record. If you happen to forget to do this, I will stop your testimony and ask you to do so. We use the light system in this committee. Beginning with the green light, you'll have five minutes for your testimony. The yellow light indicates that one minute is left. When the red light comes on, your time to wrap up. Those not wishing to testify may sign in on a pink sheet by the door to indicate their support or opposition to a bill. And my legal couns-- staff, the committee legal counsel is Andrew Vinton, on my right. And the committee clerk is Sally Schultz, on my left. And the pages today are Payton and Samuel. Yes, thank you. With that, we will introduce-- start introductions from my right.

HUGHES: Dan Hughes, District 44: 10 counties in southwest Nebraska.

BOSTELMAN: Bruce Bostelman, District 23: Saunders, Butler and the majority of Colfax Counties.

ALBRECHT: Joni Albrecht, northeast Nebraska: Wayne, Thurston and Dakota Counties.

GEIST: Suzanne Geist, District 25, which is the east side of Lincoln and Lancaster County.

MOSER: Mike Moser, District 22: Platte County and little sec-- sections of Stanton County and Colfax County.

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

FRIESEN: We think Senator DeBoer will be joining us probably later sometime. With that, we will open the hearing on LB656. Welcome to TNT, Senator Wayne.

WAYNE: Good afternoon, Chairman Friesen and members of the Telecommunication and Transportation Committee. I only have one bill, I believe, before you, so I will make it the best bill you ever heard. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and I represent Legislative District 13, which is north Omaha and northeast Douglas County. Today I'm here to introduce LB656, which would strike unnecessary and arbitrary prohibition enshrined in our laws that need to be undone. I will add that on a side note, I originally drafted this bill to come to Urban Affairs. That's why it only applies to

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municipalities. But I am open and I would support counties being a part of this to offer broadband. I originally believe it should be in Urban Affairs, but after a wise counsel of Chairman Hughes and my ability to vote count, I decided not to challenge transferring it to Urban Affairs. With that, I looked back and researched Speaker Kermit Brashear, who passed this original prohibition. And at the time, during the dialogue on the floor, he referred to the Internet as not developed technology. And he said specifically: not a developed technology that has been fully proven. He was trying to make a point that his detractors who were against the part of the bill, thought this was a continued war on public power. Ironically, I've been accused of that quite a bit since I've been down here. In fact, my first bill was probably the longest letters of opposition ever. I think everybody but my mother sent one in in front of Chairman Hughes's Natural Resources. But he talked about overbuilding the network in which over 20 years would later-- would be welcome problem, as opposed to the sad state of coverage we have today, which we continue to spend a lot of tax dollars on. And his argument centered on pages and fax machines and public power, not actually the Internet. The conversation in our Legislature is one worth having and extremely dated, even for the time that we had when we talked about the changes in broadband. The proponent of this prohibition that was passed by Speaker Brashear were exactly who you would expect: Qwest, Cox, Nebraska Telecommunications Association, Alltel, the chamber, Diller Telephone and so on. But there was not one actual citizen. This is, however, something the people today are are pushing for, especially my community. We should not have special carveouts for corporations. We should not have blanket prohibitions because one company or a handful of companies prefer it that way. That is by definition, protectionism. This isn't-- this is the state enforcing private and for-profit monopolies. And if you look across the state, that's exactly what had happened. In the late 90s, "Big Telecom" ran across the entire United States trying to prohibit local governments from providing broadband services. Twenty-six states fell victim to this idea. That is changing. Even places like Texas are now forming committees to figure out how to develop local broadband because they view it as states have continue to change to view it as an infrastructure issue, not just a simple provider issue. Some states have gone back and loosened and repealed these, including Tennessee, Arkansas and Connecticut. Texas, Louisiana and North Carolina are commissioning task force to make similar changes in the next upcoming years. If a city-- city, village

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or town or county decide that they're tired of their local provider and their democratically elected city council mayor or county boards decide to implement local broadband, it should not be illegal to do so. The state should not get in the way. Instead of doing a top-down approach, and I read the article yesterday or this morning about an additional \$40 million that was in front of this committee, along with the \$29 million from the federal coronavirus relief, and then it said in the article that there was over \$370 million that we doled out over the last 10 years to special interest groups and particularly private companies to build rural broadband. It hasn't happened. In spite of the over the \$40 million investment, we still rank 45 in-- 45th in Internet broadband coverage. That has to be unacceptable. The lofty goals that they keep saying are not, are not coming true, and they definitely are not coming true. The reality is when you allow municipalities and counties to own their own broadband, it's promising. You have to look no further than what's happening across the state. Bristol, Tennessee, of 20,000-- 27,000 residents, Internet plans on the municipal provider network start at just \$16 per month. Morristown, Tennessee, 29,000 residents, multiple Tennessee residents local. And these are all-- and the reason I cite these towns are they are conservative towns that are taking action against corporations. And in fact, yesterday, Senator Bostelman was inferring on LB388 there is a regular disconnect between the Internet speeds promised by providers and the actual speeds delivered. The best example is in Tennessee, and it's Chattanooga. They provide the fastest Internet connection across the country and arguably around the world, with one, one gigabyte per second. It's 50 times faster than the average U.S. market and it's cheaper. Comcast tried, they sued multiple times, but the law is clear and federal regulatories couldn't stop it. And you wonder why-- what is better. It's no secret, public power and I do not always get along. But this body and this community across the state said we want public power, public power. In the midst of 1933, during a Depression, a flu outbreak in Nebraska, this body came together and authorized an enabling act public power because the farmer down the district, the small-time all the way down the line couldn't get adequate power. The fact of the matter is, in 1933, most power was used in Omaha and Lincoln for manufacturing, and we could have kept it that way. But we decided as a state we were going to be different. We decided as a state that we're no longer going to have shareholders and profits be over the public we oversee and we created public power. I've accepted that. My first year, I didn't. I don't always agree with

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it. I think we should do something about generation, generation, but that's a different issue. But overall, and I've always said from the pole to the line, I will take public power any day. And that's the issue we have with Internet. From the pole to the line to that small farmer, that small community who is looking to develop, we don't have adequate Internet services. We need to show cable providers that we no longer are accepting the talking points of expanding. We no longer should have tax breaks. Yes, telecommunication has separate tax incentives and tax breaks that no other industry has in the state of Nebraska. In a promise in the 80s that they would deliver on rural communications, came back in the 90s and promised to this body they would deliver on broadband. That has not happened. We are going to dump another \$40 million in, in addition to the universal service fund that we already provide. But yet broadband is not happening. And we do know from all the economic studies, infrastructure is the key to growing small businesses and is the key to growing small towns and small, small farmers. Internet system, interstate highway, to me, those are the same things that we need to look at together. Shareholder demands will never meet Nebraska's growing population's demands. It's time for us to take a hard look at it. And the one thing we learned this year during the pandemic, that black poor folk and rural poor folk have something very in common when it comes to infrastructure. It's called the digital divide. When I was growing up, the digital divide meant black and white because all they focused on was urban communities. But yet yesterday and this morning in the World-Herald article, that is the first time I've ever seen the digital divide talk about rural versus urban, because there are places in my district where they still don't have proper Internet service. That on online learning they have to go to their local McDonald's to make sure they can do homework. That's no different than somebody driving to Valentine to go to their local library to do their homework. They just have to drive two or three hours, we just have to drive 20 minutes. But the issue is the same. We need proper infrastructure, and this body has said public is the way to go since 1933. And to ignore that conversation is to ignore our duty, to ignore how this institution has operated for the last hundred years. So, again, why this bill is about municipalities that was clearly drafted for me-- go to Urban Affairs. But the broader issue is you have to look no further than Crete in 1888, who started their first electrical department, followed by another municipality. Then they started banding together through interlocal agreements to come up with Loup

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Power District. We are taking the same formula today. And this is that critical of an issue today to start with municipalities and counties and then let it grow naturally from the local level. To make-- we might have a public power district running it. That's how it started it for electricity, and there's many people on this body, on this committee who so heartily believe in public power that why not take the same approach for such a critical infrastructure that we need in Nebraska? And with that, I will answer any questions.

FRIESEN: Thank you, Senator Wayne. Senator Geist.

GEIST: Thank you for your testimony. And I'm curious, you touched on it just briefly, but would you tell the committee what it's like in your district? What is connectivity like in your district?

WAYNE: So it's interesting. I always say I have one of the most diverse districts because I have rural in the northern part of my district, which abuts to Senator Ben Hansen. And then I have two homeless shelters and, and completely urban. And there is a lack, there's a lack of fiber in the northern part of my district, and then there's a lack of accessibility based off of income in the southern part of my district. Now, with the 5G that is kind of going up in cell phones, it's eliminating some of those problems. But the cost of data for many of those providers is unattainable. And we still have the issue of cell phones not being able to get through some of the apartment buildings that we're-- like here. I mean, in my office, my LA can't get any messages until he leaves the office on his cell phone. So there's still that issue. So many of the issues, which is why OPS ended up buying iPads for all their students, along with a direct line to AT&T for connectivity to try to resolve some of those issues. So it's still an issue and, and my district is a little different because we do have complete dark areas in my district where we just don't have good fiber. We have, still use copper.

GEIST: Yeah. OK, thank you.

FRIESEN: Thank you, Senator Geist. Any other questions? Senator Moser.

MOSER: I would assume that a lot of communities aren't going to have the technical ability to operate a system or install a system. And so assuming that statement is correct, I'll let you talk about that. But does your bill allow cities to franchise just one provider to get

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better rates or to contract with the provider to provide access to all the residents of a city? Or does the city actually have to own it, operate it and, and do it all themselves?

WAYNE: So under current law, they can franchise through providers, not the city itself, but they will allow-- that's how Cox Cable first got into Omaha and they had to provide a public access channel, kind of in exchange and a couple of other things. This allows the city to own it. And here's what's interesting, Senator Moser, about the question. That was the same question asked in 1933 and again in 1937, was we operate government. We don't know how to run electricity. Ninety years later, I think we're doing OK in Nebraska as far as how we're doing it. The, the point of it is, is they may not currently know the expertise, but if the city council and their local governing body says that we need to move in a different direction, I'm pretty sure they can find out how to do that.

MOSER: But your bill doesn't preclude any combination of--

WAYNE: No.

MOSER: --public/private partnerships? Because there would be some advantage to the city saying, OK, our preferred provider is going to be, the ISP is going to be X, whoever they are, and then have some special rates or something that reflect the ability for them to, to be the preferred Internet provider.

WAYNE: Correct. No, it doesn't outlaw it. But what this bill will say is if Columbus decides that it's not getting the Internet that it needs as a city council, that they can build their own infrastructure and do it themselves.

MOSER: Without regard to whether somebody else is there?

WAYNE: Correct, without any regard to whether somebody else is there.

MOSER: Because I, I know I just got a call from a company that was planning to build out Columbus with fiber from home to businesses all throughout the community. So I guess there just wouldn't be the impetus there probably for the city to get involved, but--

WAYNE: And that's what they thought about electricity and public power. And then what happened from 1943 to 1960, a lot of the private

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companies ended up being bought out by MPPD, OPPD and other small companies who could, one, pay for them to buy them out; but two, provide a better service. And their local board, city council, and at that point, irrigation districts thought it was best for their, the public they served. Right now, we don't have that option. This bill just gives them the option. It doesn't say no, they have to. It just says if you want the option, and again, I would expand it to counties. If you want the option, you can have the option. It's not illegal to do so. Right now, it's a prohibition on it.

MOSER: There would be a prohibition currently for public power districts to provide Internet service in a community?

WAYNE: I believe that Senator Brandt's bill, and I think--

MOSER: In year bill, though--

WAYNE: Yes.

MOSER: --there's nothing to change that?

WAYNE: Mine, mine was written strictly to come to Urban Affairs. That's why it's just municipalities, because, because I know I can get this to the bill on the floor with Urban Affairs.

MOSER: You can count votes.

WAYNE: I can count votes, which is why I didn't transfer it, because I didn't have the votes. That day, I didn't have enough votes there.

MOSER: That's pretty pragmatic. Good job.

FRIESEN: Thank you, Senator Moser. Senator Cavanaugh.

M. CAVANAUGH: Thank you. So glad you can count votes. I, I just wanted to touch on something that you, you sort of started to talk about, but didn't mention, and I think it's a good history lesson. You mentioned that the communities in Tennessee that do this, and Tennessee is where we-- how we kind of got started with public power, with the Tennessee Valley Authority. And of course, the Nebraska advocate for that was our illustrious--

WAYNE: George Norris.

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M. CAVANAUGH: --architect of the Unicameral, George Norris.

WAYNE: Correct.

M. CAVANAUGH: And so I think that this is an interesting idea that you are pursuing. Do you think that there is an appetite in municipalities to, if this were enacted, to do something with this?

WAYNE: So the short answer is yes. And I think there's also an appetite in counties. But as Urban Affairs Chair, I have always tried to give municipalities, and when I could work in counties, the ability to have more tools in the toolbox. I think that's part of our job as legislators. And so this is one more tool in the toolbox that they, they can have. And that's kind of how I approached it.

M. CAVANAUGH: So the county that Senator Bostelman lives in, they could then get that last mile of connectivity to his house?

WAYNE: Absolutely. Absolutely. And, and I'll go out and I'll help him dig it.

FRIESEN: Thank you, Senator Cavanaugh.

WAYNE: Understand I know nothing about digging.

FRIESEN: Senator DeBoer.

DeBOER: Thank you, Senator Wayne. I have to say, you're a courageous man. I, I appreciate you bringing this bill. And I wanted to ask you, because I have to tell you, my brother Matt wrote a paper about this. He's gone back to business school and he's writing a paper about-- wrote a paper about public-owned utilities for broadband. And so every time I'm on a family Zoom, I get lobbied. So you might want to pay him a little something for helping out with the lobby on this. But one question I keep having for him is, first of all, where do you get the funds to create the backbone? So if, if I'm trying to do this, how do I get the funds to, to do it if I'm a municipality?

WAYNE: Well, that's the beauty of it. So years ago when we had a fi-- in Omaha, and I'm gonna reference Omaha, we had a firefighter pension issue and we created a restaurant sales tax. That firefighter pension issue has gone away and they bring in \$32 to \$40 million a year still

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the city council could designate in their budget. We're going to take that restaurant tax and designate it towards broadband buildout.

DeBOER: There's almost nothing less popular in my district than the restaurant tax, tax.

WAYNE: That was one hypothetical. [LAUGHTER]

DeBOER: How is your counting going?

WAYNE: Which is why I was going to Urban Affairs.

DeBOER: No, I mean--

WAYNE: No, no, I'm serious. But the point is is that--

DeBOER: It would have to be a tax from the municipality to--

WAYNE: Maybe not. Maybe, maybe if they're running over, over their budget, they can-- they don't have to have a tax. Maybe they keep their levy the same instead of giving a tax decrease. My point is, is I-- that's not the-- that is not the answer I need to solve today. The answer I need to solve today is will I give them the option to figure out that tool. That, that question is between the mayor, city manager, city council and village board about what to do locally, or their county board. That isn't-- this is an unfunded mandate. This is an option for them to do. And if that option is there, then they should be able to. Or if you pass a \$40 million grant program, they could apply for a grant.

DeBOER: OK, well, I'll have my brother call you in.

WAYNE: OK.

DeBOER: You guys can talk about it.

FRIESEN: Thank you, Senator DeBoer. Senator Hughes.

HUGHES: Yes, thank you, Chairman Friesen. Thank you, Senator Wayne, for coming today. So I just want to-- I want to get this very clear that you're advocating the business model of Nebraska public power for Internet service across the state.

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WAYNE: Kind of. Here's why I say kind of. I'm leaving it to local municipalities and counties, but you are, you are correct. Look, I, I think as Internet changes with time, so will, if this bill passed, the municipalities or governing structures. I think public power in 1933, which started out as irrigation districts for the Platte River and Loup, Loup River have changed over time. But yes, if this body, particularly this committee, believes that Internet is a critical infrastructure, then, yes, we should follow what we do for all of our infrastructures. And that's public.

HUGHES: Thank you. A simple yes or no would have been sufficient.

WAYNE: I had to qualify that, just in case people are reading this in my next hearing tomorrow.

FRIESEN: Thank you, Senator Hughes. Any other questions from the committee? Senator Cavanaugh.

M. CAVANAUGH: Thank you. So I wanted to point out, because there was the question about funding, that your bill has no fiscal note.

WAYNE: Correct.

M. CAVANAUGH: So, I mean, you already stated that, but I just wanted to restate that for the record. But if, if funding were needed and you mentioned the bill from yesterday, Chairman Friesen's bill yesterday, as written, I don't think that that bill would-- that municipalities would be allowed to [INAUDIBLE] that. So we would have to amend it. Is that your understanding?

WAYNE: That's my understanding. I have an amendment already drafted for the floor.

M. CAVANAUGH: Oh, great. OK, thank you.

FRIESEN: Thank you, Senator Cavanaugh. Senator Bostelman.

BOSTELMAN: Thank you. Thank you for bringing this bill, Senator Wayne. When can I expect my fiber to my house?

WAYNE: As soon as this passes with an emergency clause, we'll get right on that. No, but in all honesty, it would take time to develop.

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We know that. But, I mean, but I think it's a critical conversation we should have.

BOSTELMAN: I agree. No, I agree. In fact, I'm getting in conversation with Schuyler, community in Schuyler right now that's dealing with broadband issues within their community. And talking with the community development person, they're just kind of like, OK, what do we do? How do we work this? So this potentially could be an option that they would be able to bring to the city of Schuyler if, if, if their services right now aren't sufficient for what they need.

WAYNE: And again, when, when this originally happened in 1933 with electricity, again in '45, '46 and then came back in '67 with the Power Review Board, the whole thing was to provide an option. It wasn't until after about 30 to 35 years that this body truly said we're going to have all public power and we adopted the Public Review-- Power Review Board to pretty much manage state, right? But prior to that, it was up to the locals. And all that this body did say is to Schuyler, here goes as an option. You don't have to, but here goes an option. Right now, that option isn't even available.

BOSTELMAN: Thank you.

FRIESEN: Thank you, Senator Bostelman. Any other questions from the committee? So I got a couple of questions. So if, if, if a municipality, let's say Omaha, we pass this and Omaha builds its own network and decides to go broadband. So now you basically you could be a telephone provider, cable TV provider and a broadband provider, right?

WAYNE: Theoretically, yes.

FRIESEN: So when you put all those companies out of business, because you're going to have the cheapest system out there because you don't have to pay taxes or franchise fees, occupation taxes, where's all that money going to come from to operate the city.

WAYNE: Better services, better economic development. Let's take Schuyler, for example. What if they double the number of people who are employed there because their broadband is more efficient? That's where that money comes from. But, but the bigger issue is we're not getting it now.

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FRIESEN: Well, so are we overtaxing some of those entities so that they can't afford to--

WAYNE: Not telecom? By my calculation based off--

FRIESEN: Cable TV?

WAYNE: No, not neither one of them based off of my calculations on the tax incentives that they get. Of the tax incentives they get and the tax discounts on their labor and many other things that they get, we've supplemented them over a billion dollars in the last 10 years and rural Nebraska hasn't got anything from it. And this is the exact same argument, the exact same conversation we had around public power. So the question I have for anybody on this committee really is why is public power so good but we're afraid to do it for broadband? Because all of the same arguments you're about to give me are the exact same arguments we would have for public power. Putting corporations out of business.

FRIESEN: Just saying that the infrastructure is there. In a lot of cases, what happens to them?

FRIESEN: They could sell. If they don't, if they find it not feasible other than political pressure to deliver his, his, Senator Bostelman's broadband, they could sell. They could sell, which is what happened to public power. Many of these municipalities end up buying out the local private companies because it really wasn't feasible in their long-term interests. I don't know the future, but I do know that if we don't give the option, our cities are going to continue to struggle because the last 20 years hasn't changed for Senator Bostelman. And promising to give them another \$40 million, while I respect the bill and I probably will support it on the floor with my amendment, at the end of the day, it's not changed.

FRIESEN: I mean, when you look at the rural areas, the main reason they're, and that's same with public power, there was no economic case to go out there. And that's same as with public power back the day, correct?

WAYNE: Absolutely.

FRIESEN: And so, I mean, they started out small and now they've had to upgrade their lines. So now I'm demanding a lot more power.

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WAYNE: Absolutely. Yes.

FRIESEN: So it started small and we've worked our way up. And right now we all want fiber right now.

WAYNE: And, and Chairman Friesen, I think you're making my argument in the sense of could Grand Island grow today if it didn't have the ability to support its manufacturing companies? And the answer is no. If it wasn't for NPPD being able to provide wholesale power to them, to their local government, which then provides it out, most of the manufacturers in Grand Island wouldn't be there today. And I would submit to you that is where we are moving towards with broadband. If we can't figure out how to provide broadband, the same solution and the same stability and demand that these small towns and small communities need, then we're never going to get there.

FRIESEN: So would you say that the research and development that happened with broadband would have happened if, if municipalities and counties would have owned it and run it? I mean, obviously, there's new technology coming online all the time, and it's based off of using-- upgrading.

WAYNE: You're going to make me say something that I was-- going to go against tomorrow's bill. The fact of the matter is there are some bad things that happen when we delay because we're public power, right? There are some, there are some technologies and implementations that are, what I would say behind. But that also means that we don't have all the risk. So when we're doing wind now here in Nebraska, we're doing it in a way that makes sense for Nebraska and it's profitable to OPPD and NPPD. Had we just started like Iowa, we probably would have took some losses and our prior rates would have went up in a different way. But now that technology has moved forward across the country, Nebraska can implement it the right way. I feel that's no different than public power. I feel that's-- I mean, no different than Internet. As innovation keeps happening across the country, there's nothing stopping Omaha or Grand Island from implementing it. But I think we can watch the rest of the states make some minor mistakes and we can correct those things. And all we're doing right now today is just giving the option. If Omaha wants to go out and waste a billion dollars, then all those city council people should be voted out and not ever get reelected. I mean, that's, that's the fact of what we believe in when it comes to doing rural and giving them the power to

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do things. And we're saying as a local body, you should do those things and your local government will be held accountable by the local economy. I don't see any difference here.

FRIESEN: Thank you, Senator Wayne. Seeing no-- oh, Senator Moser.

MOSER: So some communities provide water, which you prefer that they don't charge sales tax on, and garbage and some places they provide electricity, they provide police and fire. So I guess it's not unheard of that they would get into the broadband business.

WAYNE: No, and what's critical about that, Senator Moser, and you raise a great point is those cities deem them as public necessities and part of their infrastructure. So Omaha says we are, we have to make sure trash is picked up in a timely fashion because we don't want to trash sitting out and things that happen. People provide electricity like South Sioux City, who went with somebody else besides NPPD because they thought they could get a better rate. So they said, we're going to provide rate to our local economy. We're going to break our contract with NPPD and go out on the market because we feel we can get a better rate. We are a state that gives local control, but yet when it comes to broadband, we've eliminated it. That doesn't make sense to me.

MOSER: Yeah, I think Chairman Friesen's comment about keeping up with technology might be valid if there are no other Internet companies in a town because the town provides it and then the town doesn't keep up with the technology as it evolves. It may turn out to be a hindrance rather than a help.

WAYNE: And quite honestly, that's how I feel about public power when it comes to generation. And I've raised that argument multiple times. But there are cities who decided not to go one way or another. Lincoln, for example, LES, they get their power from somewhere else. We give them that ability to do that for their constituents. But we don't do that with broadband.

MOSER: Yeah, I wouldn't worry about arguing the facts differently in two different cases. I think that's permissible so.

FRIESEN: Thank you, Senator Moser. Any other questions from the committee? Seeing none.

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WAYNE: Just real quick, for the record-- don't know why I say that, everything I say is on the record. It wasn't that I couldn't count votes here, it's just that I know my committee a little better. I know where they stood. So I will be asking for your support on this bill and talking to you individually to figure out how we can make it better. So with that, I appreciate it.

FRIESEN: Are you gonna stick around for closing?

WAYNE: Yeah, I'll be next door watching, so I don't catch any [INAUDIBLE].

FRIESEN: Proponents who wish to testify in favor of LB656.

LASH CHAFFIN: Good afternoon. My name is Lash, L-a-s-h, Chaffin, C-h-a-f-f-i-n, and I'm a staff member at the League of Nebraska Municipalities. I've also been asked today to speak on behalf of NMPP Energy. If you're looking for an out-of-the-box solution to, to, to getting broadband across state, this will do it. The it's-- this is interesting and would we-- when we first read this, we were surprised. To be honest, municipalities can provide Internet service in Kansas, South Dakota, Wyoming, similarly conservative states, and have done so for ever since it was the dial-up with the weird noise. You know, Nebraska is a bit of an outlier in this. I would not say cities do it en masse, but the authority is there and they do do it. Every, every time we get a new city administrator or a public works director or somebody who worked in Kansas, the first question they ask almost always is how do we set up our own Internet utility? They're like, well, you really can't do that. And, you know, I will say they often lose interest rather quickly, but it's in their mind and it's something that, that they view as part of their toolbox to move their city forward. And, and with respect to-- in South Dakota, they've been doing this since the very early days of the Internet. And with respect to your question, I can't remember who asked it, but with respect to what happens to the, when the technology changes, because, man, this technology changes fast, what, what happens is the-- OK, there were a group in the eastern South Dakota, and I've been fascinated with this, I followed it for years, who very early on provided Internet services through, through the municipality. Then as the technology changed, what happened is competition just came along and became a little cheaper than the municipality and they just faded away. They stopped providing the service there. The service was there for the

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municipality through other private companies. So they served that role until somebody filled the gap. And so I think just with attrition, you know, you know, I don't know that it's a lot different than other utilities. You know, anybody with a backhoe can find half a dozen things in the ground that no longer have any, any value. I mean, there's, there's dozens of old phone lines, you know, that it's abandoned technology. You know, if you live in an old house, you may have two or three sets of plumbing that you have no idea where they go. You know, they may, they may do nothing. I had a friend who had an old house that dated back to the 1880s, and whoever lived there prior to him, you know, it was a big mansion-type house, they had multiple sets of electric wires. You know, they had, you know, these things, you know, the world does move on. And, you know, it kind of that's what I think happened in the South Dakota, some of those cities that were providing Internet in South Dakota, you know, the world moved on from their dial-up Internet service that, that was there. Then I think there were some private/public partnerships in between. Some of the private companies used some of the city facilities, leased them. I mean, they, they just figured it out is what happened. Then, then with respect to how would you pay for this? I think if there was specific, and I'm just speculating, if there was specific statute-- statutory authority to do this, I think the bond companies would line up to give cities money to do it. Private investors who, who buy bonds love Nebraska cities and villages. They're fiscally conservative, there's no real history in Nebraska of corruption like there are in, you know, some other states. There's not a long history of bankruptcies outside of some SID-type things. They would throw money at Nebraska municipalities, and it would be cheap money. You know, Nebraska cities, you typically don't even have to get a bond rating to get premier, you know, interest rates just because Nebraska has such a good public reputation. So I, I don't know, this is an out-of-the-box solution. And also to, to Senator Bostelman, cities and villages do offer utility services outside of the municipalities. You know, it's not something they strive to do, but if the service, if the need is out there, they do it all the time. City of Sidney for a long time actually served water to two center pivots. I can't do the row crop math on that to make it work, but they did it for years. I don't think they do it anymore. But I mean, you know, electric utilities within the confines of the power review board, there are cities that serve rural customers. There are the every, you know, every class of city has the authority to set up water and sewer districts outside of their

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juris-- their jurisdiction. It just happens. And it's, it's not something they want to do, it just, if the need is out there, they just go do it. So I guess there may be opportunities to expand. I guess this is a, this is an out-of-the-box solution and it would probably move the ball forward. So I would certainly answer any questions.

FRIESEN: Thank you, Mr. Chaffin. Any questions from the committee? Senator DeBoer.

DeBOER: So I'm wondering if we did allow this to happen, would this sort of get rid of some of the need for some of the discussion about public partner-- public/private partnerships? Because if there is dark fiber, couldn't the, couldn't there be a public/public/private partnership to use some of that already laid dark fiber in the little town or whatever to continue to deploy around the town?

LASH CHAFFIN: That's, that's a super interesting question. And to be honest, I don't know that I've had a lot of dialogue with cities. I think they're probably independent of each other. My guess is, having been in Nebraska my entire life, the vast majority of the city officials in Nebraska would rather work with a private entity who's going to, you know, be involved in the city and do things like that. So I think the concept of private/public partnerships, the, the next two bills is extremely, extremely important. And I think those bills have a really keen understanding where I suspect a lot of public officials want to go. I, I don't know that by and large, a typical Nebraska city council wants to be in this business. But I will say they're getting desperate and they want, they want the world to change. They've assumed for a couple of decades now that this was going to move forward and it hasn't moved forward as quickly as they need. Also, I don't think the, the parameters of the city versus the outside of the city matter. I mean, I think city officials know that people from outside of town shop there and vice versa. They see the need for enhanced broadband everywhere. You know, they don't want it to end at the city limits. You know, they, they know the business may not settle within the-- they just don't understand they're part of a larger global community. Now, the issue of public/public is something that, you know what, it is probably a great tool too. And but they probably sort of exist in separate universes and kind of would probably work parallel. But, you know, Senator, that's a good question. I think we should probably continue to dialogue about that.

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I, I mean, the part of the problem is we haven't had a lot of dialogue about this issue because it's just been prohibited and nobody has really talked about it. So I-- credit to Senator Wayne for clearly opening an interesting and innovative dialogue up.

DeBOER: So what are the chances that we pass this bill that somebody, some little village somewhere says we're ready, we're going to do it?

LASH CHAFFIN: I, you know what, I bet there's a-- I don't, I don't-- no one has ever asked us, asked the league to help us do that. But I bet there's one out there.

DeBOER: OK.

LASH CHAFFIN: And my guess is it would probably be, you know, the way Nebraska works is they would probably get together with two or three other neighbors. You know, Nebraskans don't exist in isolation. We're friends, we work with each other. You know, we, we, we work with people outside of the city, we work with the people in the city. I just-- we just sort of make things work logically. I'll bet, I'll bet there's a village out there who would do it. You know, clearly there are in Kansas, there aren't a lot. And also what they-- apparently what happens in Kansas is if the village threatens to do it, suddenly they get much better service from the existing provider. And so, you know, there's, there's at least there's-- it can create leverage too.

DeBOER: A tool in the toolbox, huh?

LASH CHAFFIN: It's a tool in the toolbox.

DeBOER: OK. All right, thank you.

FRIESEN: Thank you, Senator DeBoer. Any other questions from the committee? Seeing none.

LASH CHAFFIN: Thank you.

FRIESEN: Thank you for your testimony. Any other proponents of LB656?

JON CANNON: Good afternoon, Chairman Friesen, distinguished members of the Transportation and Telecommunications Committee. My name is Jon Cannon, J-o-n C-a-n-n-o-n, I am the executive director of the Nebraska Association of County Officials, otherwise known as NACO, here to

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testify today in support of LB656. First and foremost, I would like to thank Senator Wayne for bringing this bill. We think it's an important first step in the dialogue as far as how we achieve the goal of rural broadband. I mean, that's something that we've talked about a lot. And we've, we've talked about it a lot. Counties, as you know, like local control. I have probably mentioned that a time or two in my career, and we're responsible for infrastructure. That's, you know, usually I come in and I talk about how we're responsible for roads and bridges and law enforcement, jails, the courts and elections. That's kind of the very basic infrastructure that we have in, in county government. And more and more with the connected world that we have and, and the increasingly digital world that we have, this is another basic infrastructure tool that we, that we use is broadband, our connectivity to the Internet. This moves us in that direction. You know, as Senator Wayne had, had mentioned in his opening, we certainly look forward to being included as part of this conversation. We'd be happy to move that conversation forward. One thing I'll say about counties is that the decision to do that would not be taken lightly. I think to address your point, Senator DeBoer, not every county is going to line up and say we have to do this. But there are a number of counties that I can hear from on a daily basis that say, you know, we have, we have a very real issue as far as getting rural broadband, you know, to our, to our constituents. You've got a number of counties out there that have unincorporated towns as their county seats. And so they feel it particularly acutely. And county, at that point, their decision making process is not driven by profit or loss, but really about what the needs of their constituents are. The local representatives that represent that community can make the determination as to whether or not this is the appropriate invest-- investment for us to make as a community. That's really all I have. Thanks again for listening to me. Thanks again to Senator Wayne. I'd be happy to take any questions you might have.

FRIESEN: Are there any questions from the committee? So we're located in a county that can't even keep its bridges open, one of its core functions, how could we trust the counties to maintain a Internet system?

JON CANNON: Well, Senator, what I would, what I would respectfully suggest is that in that sort of county, that's, that's one of those decisions that the county has to make as far as which bridges are we going to get to? As you know, we have an infrastructure problem when

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it comes to bridges. A lot of them are scour critical at this point. And the counties are doing everything they can in order to make sure that we're reopening bridges and refurbishing bridges as much as possible. There's plenty of legislation which has come before this committee which tries to get to the heart of that particular issue. And really what it comes down to is it's the decision that's made by our county boards as to what is an appropriate investment of our property tax dollars for our community? And generally speaking, I would, I would expect that nine times out of ten they're going to say we need to open up, you know, the bridge on 34 road rather than saying we need to, you know, have, have broadband. But by the same token, in those counties where it's not as critical an issue as far as the bridges are concerned, it certainly is nice for them to have that option. As has been said already, it's another tool in the toolbox.

FRIESEN: So sometimes they determine that a bridge isn't used by enough people so they don't fix a bridge. And so maybe there is just one person on the end of the Internet line that it's just one person, we don't need to continue. So thank you.

JON CANNON: Yes, sir.

FRIESEN: No more questions. Any other questions from the committee? Thank you.

JON CANNON: All right. Thank you.

FRIESEN: Any other proponents of LB656? Seeing none, anyone wish to testify in opposition?

TIP O'NEILL: Senator Friesen, members of the Transportation and Telecommunications Committee, I'm Tip O'Neill, that's T-i-p O-'-N-e-i-l-l. I'm the president of the Nebraska Telecommunications Association. We are a trade association that represents a majority of companies that provide landline voice and broadband telecommunications services to Nebraskans across the state. We oppose LB656. This bill would allow municipalities to offer broadband services on a wholesale or retail basis, which is currently prohibited by Nebraska law. The rationale for this prohibition is plain. Municipality, in our opinion, should not provide a service in competition with the service provider, which is a private, taxpaying company or companies. If you don't have taxpaying companies, you can't support the other activities of

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municipalities. And this is an area that we think we should be the ones who are providing the service. I'd be happy to answer any questions.

FRIESEN: Any questions from the committee? Senator Cavanaugh.

M. CAVANAUGH: Thank you. I think this is the shortest testimony you've ever given.

TIP O'NEILL: Is it a compliment?

M. CAVANAUGH: Well, if it were coming from Senator Hughes it would be a compliment. He likes the brevity. So, OK, so you oppose it because of the taxes?

TIP O'NEILL: That's one of the reasons. We-- I haven't, there is another member of the telecommunications association who will be following me that will probably provide a longer testimony.

M. CAVANAUGH: OK, so are we-- so is the NTA pro-taxing companies?

TIP O'NEILL: Not necessarily. But we pay them.

M. CAVANAUGH: Well, sure. You pay them.

TIP O'NEILL: Yeah.

M. CAVANAUGH: This would eliminate that tax, right?

TIP O'NEILL: Well, I suppose if a municipality was providing the service rather than a, rather than one of the members of the NTA, yeah, it would eliminate the tax collected by the, by the city and make it a tax exempt activity being provided by, by the city.

M. CAVANAUGH: Well, I appreciate the NTA looking out for taxpayers.

TIP O'NEILL: You're welcome. Thank you.

FRIESEN: Thank you, Senator Cavanaugh. Any other questions from the committee? Seeing none, thank you for your testimony.

TIP O'NEILL: Thank you, Senator.

FRIESEN: Welcome.

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JIM EDIGER: Good afternoon, Senator Friesen and members of the Transportation and Telecommunications Committee. My name is Jim Ediger, J-i-m E-d-i-g-e-r, and I am the general counsel at Hamilton Telecommunications in Aurora Nebraska, and Nebraska communications provider since 1901. I am testifying on behalf of the Nebraska Advocacy Group, a group of 11 Nebraska telecommunication companies providing customers with telephone and broadband service throughout the state. Thank you for the opportunity to explain our opposition to LB656. Our rural telecommunications carriers have long opposed public entry into broadband Internet service provision for many reasons. We oppose the cost shift from ratepayers to taxpayers. It doesn't cost less for a municipality to serve an area than for an existing carrier. And in fact, we strongly believe that our years of experience deploying and maintaining these networks, as well as providing the service, allow us to do it in a much more cost-effective basis than the inexperienced municipality. We oppose the waste created by allowing cities to duplicate existing services and compete with companies who are invested in the infrastructure connecting our communities. And we oppose the government creating competitors and subsidizing them to overbuild so-- already-served communities. The unlevel playing field created by such policy will chill both private investment and competition in the area served by a municipality. Further, it is unlikely that a municipality will serve as rural areas located outside of city limits. This bill creates an even more challenging economic model in those instances, as there will be two subsidized networks operating in that area, one in town and one outside of city limits. It is not realistic to think that Nebraska can subsidize two networks in rural areas in communities throughout Nebraska. LB656 is likely to have the effect of municipal Internet service providers cherry-picking the customers that are less expensive to serve by virtue of being in the more densely populated area and leaving the incumbent with the carrier [INAUDIBLE] obligation with an even higher cost per connection to absorb and therefore seeking higher subsidies. If the desire is to assess or tax Nebraskans and inject additional funding beyond what is going into telecommunications today, we have a system in place that can be utilized to do that. And that's the Nebraska Universal Service Fund. If there is a dissat-- if there is dissatisfaction with the amount of funding taking place through that Nebraska Universal Service Fund mechanism, let's figure out how to increase the size of the fund. If there is dissatisfaction with how the money is being distributed or for what investments it is being

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utilized, let's change the distribution method. Our companies have the expertise to deploy and maintain fiber networks and connect and serve customers. We have trained a skilled workforce. We employ Nebraskans that have the technical know-how to bridge the digital divide. Not only is this something that we are proud to do, to be good corporate citizens and community members, but we are also legally obligated by the Nebraska Public Service Commission and the Federal Communications Commission, and that regulation is complex. I question the ability of a municipality, especially an underserved municipality, to solve the problems of serving customers in a cost-effective manner. But fundamentally, I question the wisdom of duplicating efforts in this way as a potential to increase cost, deplete workforce resources and fracture the industry. Our companies have made substantial investment statewide into the hardest-to-serve communities in the most rural highest cost locations. Hamilton is in the middle of a fiber in the home project, whereby every location or exchange will have access to gigabyte speed broadband in the next few years. This includes every farm and ranch located outside the city limits. This task would have been much more difficult if public entry were allowed in Nebraska due to the unlevel playing field it creates. The current prohibition on cities entering into the business of Internet service provision was wisely designed to efficiently use limited resources to make sure public entities do not engage in pricing that undercuts an otherwise competitive-- competitively neutral playing field and to preclude cross-subsidization of cost by public entities. Not only does this save government from getting into the complications and costs of being in the telecommunication business, it also helps telecommunication carriers spread their network costs over a broader base, making it more affordable for all residents. It helps keep the cities focused on what they do best, and that's health, parks, libraries, public safety, education, which are all crucial for rural areas. For these reasons, we respectfully oppose LB656. I'm happy to take any questions.

FRIESEN: Thank you, Mr. Ediger. Any questions from the committee? Senator Bostelman.

BOSTELMAN: Thank you, Chairman Friesen. I appreciate your comments, I appreciate what Hamilton is doing in your service areas that you provide. But the majority of the state doesn't have the same opportunities, the same luxury of what you provide. Majority of the cities, villages and towns in my district have fiber to the town, but then the providers refuse to do anything past that. David City

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recently through the CARES Act funding had a project in place that they're working on that when the funds come available, they use those funds to build out to David City. Which is great, I'm glad they got it. But the fact of the matter is, is I've got a lot of other towns and cities in my district that don't and the providers refuse to build out. So I think there's a little bit of merit or maybe more so of what Senator Wayne is talking about is trying to push that envelope on, you know, we need to provide not only, you know, I'm not going to get coverage when Brainard doesn't get coverage, when Valparaiso doesn't get coverage. And there's a fiber link that goes right around this that's there, it exists, it goes into each of those towns. But the providers refuse to get, to provide the services. So I think part of the challenge is we've got good companies, a lot of good companies in the state that provide services. But then again, we've got some, some others that are just refusing to do. And I think this is a good conversation to have. But thanks for what your company does to provide to those areas, but a lot of the state, probably the majority of the state, don't have that same service provider.

FRIESEN: Thank you, Senator Bostelman. Any other questions? So if this, if we would pass this option, would you be looking to invest in other communities and put fiber in the ground?

JIM EDIGER: I think it's a possibility. I think that's a lot of what some of the other programs that are being created are looking at is how do we make the most effective use of state and federal dollars? And so the DED grant from last year allowed the nonincumbent provider to have funds and to overbuild other communities. And I think that is what you, what you guys are looking at in LB338 and the other broadband grant bills. And I think that's a more effective way of using state dollars.

FRIESEN: But if we pass this bill and suddenly a community can compete with you if they wanted to, are you still willing to invest in that community?

JIM EDIGER: No, no, absolutely not. I mean, the unlevel playing field created by public entry makes it very, very difficult, if not impossible, for any incumbent or any privately owned and operated company to compete just because of the difference in the tax. You know, we pay taxes, they don't. They have the ability to raise funds

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through taxes of their citizens. I mean, it's just very, very difficult to compete with public entities.

FRIESEN: We were told earlier the telecommunications companies receive a lot of tax breaks and stuff. Can you enlighten us a little bit on some of those?

JIM EDIGER: I do not know the tax breaks that Senator Wayne was referring to. I am also not our CFO and don't do our taxes. So I, I could look into it and get back to you on that. But I am not aware of any significant tax breaks that we have.

FRIESEN: Do you pay occupation taxes or franchise fees in any communities?

JIM EDIGER: Yes.

FRIESEN: Do you pay sales tax on fiber?

JIM EDIGER: Yes.

FRIESEN: You pay property tax on fiber?

JIM EDIGER: Yes.

FRIESEN: OK, thank you, Mr. Ediger. Any other questions? Senator Albrecht.

ALBRECHT: Thank you, Chairman Friesen. Thanks for being here. I've heard a lot about your company. And what was your philosophy when you started out that you, did you take care of the bigger businesses in town and then did the surrounding neighborhoods and then went out into the rural areas? Or how, how did you get done, what you got done and--

JIM EDIGER: Yeah, I think we've always looked at the bigger businesses as being kind of anchor tenants, where once you can get fiber to them, it makes it easier to get fiber to residents along the way. But really, we've had to plan long before I started at Hamilton, I've been in Hamilton for five years, but our plan was always for, you know, for Aurora and Hamilton County and the communities we serve to thrive we need to have top, top-notch broadband access and we understand the importance of that. And so it was always to treat our farmers and ranchers just like we do our folks in town. So whenever we had any

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plans to expand technology, it always included the entire county and not just folks in the city limits. And so over time, it doesn't happen overnight, but we had a three-mile plan where we continued to build fiber further out to rural areas outside of our city limits. And it just makes it easier to eventually get fiber all the way to the, to the home.

ALBRECHT: And did you ever feel it wasn't cost-effective to keep going out further and further to service these people?

JIM EDIGER: And that's really where, I guess it's hard to make the business case. Luckily, Hamilton County, which is primarily where we serve, is fairly dense rural. We have a lot of member companies that are part of this Nebraska advocacy, advocacy group that have a much more sparsely populated area than we do. So we could make the business case with the support we were receiving from NUSF and the FCC to make sure that we were reaching all those locations. And I agree that there is, it can be a tougher business case for more sparsely populated areas.

ALBRECHT: So do you have like any other competition, like are there WISPs that come in at all in your area?

JIM EDIGER: Yeah, so we have, we have never had a cable provider come in, but we have had a few WISP that come in, and there are a couple that are operating today.

ALBRECHT: Well, if you're ever looking for a spot, I can give you a hot spot up in northeast Nebraska.

FRIESEN: Thank you, Senator Albrecht.

ALBRECHT: Just a little commercial. Thank you.

FRIESEN: Any other questions from the committee? Seeing none, thank you for your testimony. Anyone else wish to testify in opposition to LB656? Seeing none, anyone wish to testify in a neutral capacity? Seeing none, we'll wait for Senator Wayne to come back. We have a in-lieu-of-person testimony, written testimony in opposition from John Idoux, CenturyLink; Sean Kelley, Nebraska Internet and Television Association. Position letters of support for League of Women Voters; and opposition from Nebraska Rural Broadband Alliance. Senator Wayne, do you wish to close?

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WAYNE: This is the first time ever that I, I left here to go to introduce on another bill and came back and still got that bill going. This has, it's been a good day. So I don't have copies, but I will provide a list of exemptions that telecommunication gets, from leases on power structures owned by a political subdivision to data service, prepaid calling, satellite program and telecommunication access charges, in addition to the tax breaks they get on labor. In trying to quantify that, that was over a billion dollars in the last 10 years. A couple of years ago, I introduced a bill on bonding for bridges before this committee. It sank like a weight, so that's why I'm avoiding the answer of how to fund this, because most municipalities across the country, as you heard, they do it off of bonding. And I know the appetite for our Governor and probably for this committee as it relates to bonding. If we can't bond bridges that we desperately need based off of every engineer estimate, me attaching that to this bill wasn't, wasn't likely. There was talk about cherry-picking. And I have to ask the committee is who's going to cherry-pick more or the best? The best cherry-picker is going to be those who are seeking shareholders and profit interests over people. And I just believe that when it comes to our local governments, whether it's county or cities, that the cherry-picking is going to stop because they have to answer to the, the villages they serve. There's a five-member board and there's only 300 people in that town, it's going to be hard to cherry-pick that town. There's only 100,000 people in that county, it's going to be hard to cherry-pick that county when Senator Bostelman shows up and says, I they don't have broad-- broadband. More importantly, maybe this is the hammer to get what you need done, Senator Bostelman. Maybe by saying if you guys don't get it together, this bill is passed and now local communities like Schuyler will get it done. What's not disputed here is we are the 45th out of 50 states in broadband connectivity. Some people have it worse than that, that's not disputed. And we've sank millions and millions of dollars into this industry. And what's our return on investment? You know, in many cultures call on the spirits of their ancestors to help provide them with guidance and strength and wisdom. And we often, as individuals in this day and age, resent that idea, right? We don't, we don't want to because we're individuals and we revere that individuality so much that we're like we can, we can figure out the answer. Because we view that maybe it's a sign of weakness. But maybe it's just we are today who we were. And as much as it pains me to say that public power model is the answer, I have to say that this body and Nebraska who showed up

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in my first year, all thousand of them with 4,000 letters against me, chose public power because electricity was that important. We are saying the same thing to this committee. We are begging this committee to say Wi-Fi and the ability to access broadband is that important. So maybe, as Senator Cavanaugh said, we-- maybe we need to call upon George Norris to provide us some guidance. That in 1887 came out with a model that worked, that between 1934 and 1946 municipalities bought up the private companies who put shareholders and profits over the people. Maybe that's what we have to do, and maybe we have to draw upon that strength of this body to give us the courage to say no to the industry. No to an industry that has failed us for the last 25 years. And if that means, Chairman Friesen, that private companies go by the wayside and they'll be hurt, then so be it. And with that, I will answer any questions.

FRIESEN: Thank you, Senator Wayne. Any questions from the committee?

WAYNE: So this means that doesn't, it doesn't qualify for consent calendar?

FRIESEN: I don't know.

WAYNE: OK, I was just checking.

FRIESEN: I'm trying to relate to some other industries that we might take over now.

WAYNE: Other industries, I would tell you, what industry do we feel--

FRIESEN: I mean, the question basically here is, do you feel the, I guess the Internet is to the point of sewer and water? Is it a--

WAYNE: Yes.

FRIESEN: Is that something that you have to have to survive or they've got progressive communities that have stepped up and found a way to get fiber either through their phone companies or wherever? They're more progressive, more pushing, and they've got fiber to the home and others are struggling? Is it because you didn't have leadership in the community asking for it? You know, the rural areas are different. I get that, because we're just-- there is no business case to go out there. But in any community, in the communities that have, in my area at least, that have pushed the idea, I mean, I've had fiber to the

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home at the farm for almost eight years now, I think. So is it, is it areas that are just not as progressive? They've not pushed their provider? Again, I'm asking the question because I have it.

WAYNE: I would submit to you that entire industry was started in Omaha, Nebraska, because of our government. Because of Offutt Air Force Base laid so much copper wire from Offutt Air Force Base around this country, that telemarketing was the home in Omaha, Nebraska, for two reasons. We didn't have an accent and everybody could understand us, but more importantly, we had the copper wire to start an industry. I believe that could happen today. If there was enough fiber in Sidney, Nebraska, I heard on a-- I had a bill in front of Natural Resources to move some things to Sidney, there's some empty buildings. If there was enough fiber and connectivity to have, to operate a call center and do it in an efficient way, which I think it could out there in that community, it would happen. But you couldn't have a 2,000 call center operating out of there with the phone lines that I currently believe, based off of the maps that I've seen, you have. But my point is, is that there was a whole service industry started in Omaha, Nebraska, because of our federal government who invested in the infrastructure, the infrastructure of copper wire. And I'm saying Nebraska has to invest in that same infrastructure for rural Nebraska before we can even see development. I mean, look, we've talked about economic development many times. It comes down to infrastructure. It comes down to interstate highways, which is why I'm supportive of four-lane highways throughout Nebraska. But the other infrastructure piece is broadband. And the fact of the matter that Schuyler is having problems, the fact of the matter that Ashland or Grand Island, anybody is having problems, we'll never be able to develop that. And so what I'm asking this committee to do is step back and say if this was electricity, because I believe it's just as important as electricity-- we couldn't go to schools if they didn't have electricity. Well, in this day and age, with the pandemic and things that are going on, we can't have online learning unless we have proper Wi-Fi. It is almost identical. You can't have manufacturing and development in Grand Island or Aurora if you don't have constant and consistent and needed electricity. You can't have that with broadband. And the technology that I see happening on the agriculture side, I learned more about agriculture during the first four years of hemp and the technology that's out there. But if, if they don't have the technology to connect and upload and do all the things, sometimes GPS is great until it's

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raining and maybe too cloudy. But if they don't have the fiber to get the things that are going on today-- even feedlots, I heard bills and about how they're from, from farm to fork and all the things that are-- that's all technology. If we don't have the bandwidth to do it, we're getting left behind. And we can keep asking and begging the private industry to do so, but at some point, we have to leverage what we already have, which is an example of public power. And you know it pains me to say that.

FRIESEN: I never thought I'd see the day.

WAYNE: That's why this is such a good bill.

FRIESEN: Senator Moser.

MOSER: If you want to get your bill passed, I wouldn't be singing the virtues of telemarketers. That's the one thing I get so many complaints about is, why don't we do something about telemarketers?

WAYNE: I won't mention it on the floor.

MOSER: Yeah. I think the-- I, I admire your willingness to, to take on any battle, however crazy it may be, or, or whatever the likelihood of its passage may be. But the last mile is going to be tough no matter what format you use, because it costs a lot to get that one person who's through two pastures connected to the Internet. And maybe we're going to have to have like a universal service fund for Internet and charge so much on every Internet point and use that fund to subsidize people who provide that last mile of, of service.

WAYNE: So to respond to that, I would say, would we trust our irrigation system for that last mile of water to private industry? And I think the answer is no, and we haven't. We've set up irrigation districts. We set up NRDs. We set up multiple government-run and operated ways to control what we deem is a public infrastructure issue. I don't believe the Internet is any different anymore.

MOSER: I think you're, I think the cities are still going to have the same, the same problem is that it's going to be a lot more reasonable to get the 80 percent of the people hooked up that are economically viable. And the other 20 percent, or maybe it's 90-10, I don't know. But I still think they're going to be problems with having universal service that everybody can get the Internet so.

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WAYNE: And I don't disagree, I'm just asking for the option to let your local communities have that option.

MOSER: Yeah, I understand what you're asking. I think it's remarkable that you're taking on that battle.

WAYNE: You can co-sponsor at any time.

FRIESEN: Thank you, Senator Moser.

MOSER: I forgot the bill number again, what was it?

FRIESEN: Seeing no other question, thank you, Senator Wayne.

WAYNE: I do enjoy this committee. I really appreciate it.

FRIESEN: We try to, you know, entertain you as best we can.

FRIESEN: OK.

FRIESEN: I like your thought-- I like your thought process.

WAYNE: Thank you.

FRIESEN: OK, with that, we'll close the hearing on LB656.

BOSTELMAN: I'm going to let Senator Wayne come in and do this for me.

FRIESEN: OK, next, we'll open the hearing on LB398 and welcome Senator Bostelman.

BOSTELMAN: Good afternoon, Chairman Friesen and members of the Transportation and Telecommunications Committee. My name is Bruce Bostelman, spell it 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 LB398, which would increase the minimum Internet speed standards from 25/3 to 100/100, 100/100 for the purposes of boundary changes of local exchange telecommunication carriers, dark fiber leasing and NUSF support. For the purposes of local exchanges, residents who are residing in a local exchange that fails to meet the 100/100 speed standard could petition for a boundary change in order to receive broadband service from another eligible telecommunications carrier who is providing faster services. LB398 also affects the leasing of dark fiber. A public entity that leases dark fiber would not be subject to

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remit the 50 percent of its profits to the NUSF in areas that do not meet the 100/100 minimum speed standards. Simply put, these areas subject to the 50 percent requirement would be fewer, which would hopefully incentivize increased dark fiber leasing. I've introduced this bill because over the past few years we have seen multiple federal and state initiatives to expand broadband services to underserved and unserved areas of Nebraska. These initiatives often required speeds of 25/3, however the companies chosen to build out broadband services have often failed to meet the 25/3 speeds required due to, due to them using fixed wireless installations. LB398 would raise the speed standards, which in turn would all but require ETCs to expand fiber throughout the state in order to meet the 100/100 speeds and provide rural Nebraskans with the one-- with high-speed Internet services they deserve. With that, I ask for your support of LB398 and its advancement to General File. I'll take any questions that you may have.

FRIESEN: Thank you, Senator Bostelman. Any questions from the committee? So if we change these standards, which is kind of what we're headed toward now. I mean, you're saying basically this is going to be fiber to the home or nothing.

BOSTELMAN: Pretty much so.

FRIESEN: Because nothing else can meet the 100 up.

BOSTELMAN: There are some arguments that there is some wireless services out there, but yeah, it's pretty much a fiber to the home.

FRIESEN: I've not heard of anybody with 100 up. But so at that point, basically mapping doesn't matter anymore because we just have to survey and ask if you have fiber to the home. And if you do, you're good. If not, you don't.

BOSTELMAN: Well, these are the, are challenges on boundaries specifically that would apply for NUSF funding for those specific areas. That's where this would apply.

FRIESEN: Right. When we've done some boundary changes, we've done quite a few of those--

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BOSTELMAN: But I think the mapping would still be extremely important because we've got to figure out where our unserved and underserved areas are in the state for other opportunities.

FRIESEN: OK. All right, thank you. Anyone wish to testify in favor of LB398? Welcome.

KYLE ARGANBRIGHT: Good afternoon. My name is Kyle Arganbright, A-r-g-a-n-b-r-i-g-h-t. Senators, I did not drive here from Valentine, where I'm a community banker, a brewer and mayor, to sit here and belittle you by telling you that we need broadband connecting all Nebraskans to the rest of the world. You know that. We have to do better, we have to move faster. I appear on behalf of the following groups, and I'll let you read the list. But since summer, I've been working in earnest with many of these groups to try to figure out how to overcome the obstacles to rural broadband deployment. We talked to Senator Bostelman about those obstacles and ideas we had about solutions. He decided to introduce LB398 as a way of overcoming two of those obstacles. Both obstacles relate to accountability. LB398 modernizes broadband speed standards that currently allow using public funds for obsolete technology. The federal government has an abysmal record of propping up obsolete technologies, often in areas where comparable technologies are already being used by unsubsidized competitors. Some have tried to game the state system in the same way. In recent years, government has been pouring the people's money into technologies that are already obsolete. I don't care what the technology is, so long as it's not outdated. Make sure the recipients of scarce government resources are serving the people. If you are giving the people's money to a regulated company, make sure it's providing reliable services. Make sure you were building a future-proof network. By establishing higher speed requirements, LB398 does that. As this committee heard a couple of years ago, ranchers in the Sandhills were going more than a month without basic telephone service. We have similar problems today. And senators, you know this is not just a rural issue. Banks in many rural areas of Nebraska don't have reliable broadband, which is becoming more important not only for commercial accounts, but personal banking as well. Other businesses face similar challenges. We need to make sure we're getting what we're paying for, senators, and give the PSC a few teeth when it comes to regulating companies that are getting government support. This is what this bill does. Please advance it. Thank you. And I'm happy to answer

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any questions, but will do so in a personal capacity, not on behalf of all those groups.

FRIESEN: Thank you for your testimony. Any questions from the committee? So are you-- have I heard that ALLO is going to overbuild Valentine now?

KYLE ARGANBRIGHT: They are and it's a creative public/private partnership that we achieved and we're going to achieve come hell or high water.

FRIESEN: But you found a way to make it work?

KYLE ARGANBRIGHT: We did.

FRIESEN: And recently the rural areas around there did receive a lot of NUSF funding to get fiber to the home in the rural areas in that exchange area?

KYLE ARGANBRIGHT: Correct. CenturyLink received about a \$15 million provision from the Public Service Commission to build that entire region. And that came off after several meetings with the Public Service Commissions of both South Dakota and Nebraska.

FRIESEN: But they couldn't, they couldn't use that process in the community itself.

KYLE ARGANBRIGHT: Correct. We did receive slightly increased speed in that community as a result of the upgrades to the rural areas because CenturyLink's equipment is in town. The inconvenient part of that is it increased speed available to potentially 40 down and 4 up, or so they advertised, and came right at the time of the CARES Act grants that precluded us from qualifying for, for the CARES Act money.

FRIESEN: So what happens when you've talked to CenturyLink about getting better service there before you reached the agreement with ALLO? What, what did they always tell you?

KYLE ARGANBRIGHT: It generally took meetings with the Public Service Commission to get CenturyLink's attention.

FRIESEN: So you've tried and--

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KYLE ARGANBRIGHT: Yep.

FRIESEN: What did they-- what were their excuses?

KYLE ARGANBRIGHT: Their excuses were that it was just too old of a technology. They were using party line technology on many of this, on the rural, the rural infrastructure. Otherwise, CenturyLink just, it was a town that they've served for a long time, but seemingly not paid a lot of attention to. Valentine is also just on the scale, I mean, we're 2,800 people. We're maybe barely big enough to attract attention of new investment from, from private companies.

FRIESEN: OK. I was just, I guess I'm curious as to why, you know, you were clamoring for it. You were asking for it. Obviously you'd been working on it a long time.

KYLE ARGANBRIGHT: Uh-huh.

FRIESEN: And why they didn't want to partner with you to get it done.

KYLE ARGANBRIGHT: Well--

FRIESEN: And that's where--

KYLE ARGANBRIGHT: We also didn't want to partner with them.

FRIESEN: OK, because their past record?

KYLE ARGANBRIGHT: Correct.

FRIESEN: OK. OK, seeing no other questions, thank you for testifying.

KYLE ARGANBRIGHT: Thank you.

FRIESEN: Welcome, Mr. Pollock.

ANDY POLLOCK: Good afternoon, Chairman Friesen, members of the Transportation Telecom Committee. My name is Andy Pollock, that's A-n-d-y, Pollock is P-o-l-l-o-c-k, and I am here on behalf of the Nebraska Rural Broadband Association. I'm the registered lobbyist, as I said this morning. It's a group of seven companies that have broadband to the home, fiber to the home throughout their rural territories, some very rural and, and remote. We were part of the group that discussed the concept behind this bill that Senator

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Bostelman introduced. And thank you, Senator Bostelman, for introducing it. Been talking to Kyle and others, including public power, about this concept from essentially August on and believe it accomplishes an important step forward in terms of ensuring accountability and good use of ratepayer money, especially insofar as the Nebraska Universal Service Fund is concerned. The Governor yesterday talked about ensuring that we have quality broadband. He talked about making sure that it can meet and address our future needs. In some areas of Nebraska, there is quality broadband. In other areas, there remain holes, holes to fill. This bill would simply increase the speed standard for three programs. I will just touch on those, but I think Senator Bostelman did a good job of describing those. The first has to do with boundary changes. That's an administrative process at the Public Service Commission that I've been through recently on behalf of a client, it allows an adjacent carrier to take over customers from another adjacent carrier. There was an action last year in front of the Public Service Commission that I assisted with in which Stanton Telephone petitioned with 30 customers to move its boundaries so that it would take those customers from CenturyLink. CenturyLink initially objected to that. We engaged in litigation-style discovery, we engaged in negotiations. I can tell you here today that I won't get into the nuts and bolts about the negotiations, but they were incredibly cooperative, incredibly productive. And I'll talk a little bit more about those in LB338. That's that program, and it allows an adjacent carrier to basically take over customers of another adjacent carrier, but only the adjacent carrier can take that over. The bill would also change broader NUSF funding to require 100/100 speeds. There is a reverse auction program, which I'll talk a bit on LB338 too that will soon be in place per rules and regs the commission is adopting because of LB994 that Senator Friesen introduced back in 2018. This would increase the standard as it applies to that. So basically this would say, much like the Governor's broadband bridge program, you're not going to get government money, you're not going to get ratepayer money unless you're building quality broadband, future-proof broadband. The final program where this would apply would be the dark fiber leasing statutes. As you heard me say this morning, our group is not supportive of removing all of the restrictions for dark fiber leasing. We think this is kind of a happy middle ground. The current standard is if you're 25/3 or above, then the public utility or public entity does not have to to remit 50 percent of its profits to the USF. We

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hear public power saying that that's a disincentive. We're not opposed to removing that disincentive, but this would increase the standard from 25/3 to 100-- 100/100, basically increasing the area of the state where that 50 percent disincentive, as public power would call it, would not apply. So we think this is a better, a little bit better solution to that, and we would strongly urge you to advance the bill. There is a piece of the bill also that would give the Public Service Commission, direct the Public Service Commission to establish some rules and regulations when it comes to overseeing support that it provides for broadband services. That's kind of missing in law right now. There's a little element of that LB994, but there's some been some issue at the Public Service Commission about whether it has oversight over broadband services. We're not asking that the Public Service Commission regulate broadband, except to the extent that it's been supported by state ratepayer money through the NUSF. With that, I'd conclude and be glad to try to answer questions.

FRIESEN: Thank you for your testimony. Senator DeBoer.

DeBOER: This is just a general question that I have about this 100/100 standard that we've been talking about for the last two days. I feel like you're someone who could answer that question. Would anything besides just pure fiber to the home ever qualify in that future-proof 100/100 symmetrical kind of category?

ANDY POLLOCK: I'm not a technical expert. I heard testimony from cable yesterday, not about particular speeds, but about scalability. I think everybody is trying to get there, Senator DeBoer. I think at this point the basic common understanding is that fiber is the way to get there.

DeBOER: So there would still be some need to, you know, sort of measure and figure out where we were. It wouldn't just be as far as, as you know, at least 100-- 100 up 100 down standard wouldn't say nothing works but broad-- but fiber. I mean--

ANDY POLLOCK: No, I think it's-- I think we need to be careful not to define it by technology. But I also would say we should be careful about how we are using ratepayer, taxpayer money. Should we be using it for. A highway that's paved or should we be using it for dirt roads? It probably depends on where you are. What I would tell you is those other technologies are a lot less expensive in the area that I

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live, similar to the area that Senator Bostelman lives, although it's not quite as hilly. We have fixed wireless towers all over the place and many of those were constructed by companies that did not take a cent of public money to build. So you can build infrastructure without having to go to the government trough. What's frustrating, if I can just take a quick leave aside, is that there's a company that asks for state universal service support to overbuild those private fixed wireless towers in that same area. In some cases, they were allowed. In some cases they were denied by the Public Service Commission. There's another company that just recently announced and bragged last week that it's receiving tens of millions of dollars under the RDOF program, the FCC program, to buy the fixed wireless towers that are providing me and my neighbors perfectly good service now. We're not being smart about how we're using government money, that's the main focus of Senator Bostelman's bill. But it's not intended to exclude other technologies.

DeBOER: OK, that's helpful. Thank you.

ANDY POLLOCK: Thank you.

FRIESEN: Thank you, Senator DeBoer. Any other questions? So those were, RDOF money is federal dollars, though, that's not controlled by Public Service Commission.

ANDY POLLOCK: That's correct, Senator Friesen, it's federal money. The only role the Public Service Commission has is to make sure, kind of a gatekeeper role. The recipients of that RDOF money will have to get approval by the Public Service Commission here and in any state that they got federal money to be an eligible telecommunications carrier. The PSC can tell them whether or not they can't have that ETC, not just for state purposes, but for federal purposes as well.

FRIESEN: So some of the discussion of the broadband task force early on was that, you know, we could either say, you know, you want 100/100 everywhere. And obviously the cost to provide that in all the rural areas is cost-prohibitive right now. And so that is why I think at first we were very careful to say that we were, you know, we didn't care what technology was used and we were, you know, somebody that has no Internet service is tickled with 25/3. But yet for us to subsidize 25/3 when we know we want to end up with 100/100, there is kind of this fine line to where if you can't do 100/100 for a long time with

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somebody, you know, that's where that middle ground, I think, was when the task force first started with its language.

ANDY POLLOCK: Right.

FRIESEN: Knowing that, you know, if you're going to say 100/100, otherwise you're not going to subsidize anything, there will be areas of the state that would not get any kind of technology for a long time.

ANDY POLLOCK: Senator--

FRIESEN: But struggle--

ANDY POLLOCK: --Universal Service Fund is never politically going to be enough to pay for everything. I think we really have to get creative about finding other sources of funding. You heard Senator Brandt's bill, LB600. We support it for that reason. Frankly, I think we should be looking to our friends in private industry to see if there's an ability to try to leverage money there. And I think one of the brilliant things about the Governor's bill, your bill, is that it requires a 50/50 match. I think more of that type of thinking needs to happen.

FRIESEN: OK. Senator Moser.

MOSER: So when I asked the question earlier about the Universal Service Fund supporting wireless, we're giving grants from the Universal Service Fund for wireless buildout?

ANDY POLLOCK: There have been some. The commission has announced some disfavor on that, but the rules still allow it. Where they denied it within the last 12 months were in areas that already had a fixed wireless tower that was providing broadband qualified services.

MOSER: But the Universal Service Fund is so much per wired line or-- and I guess it also charges on cell phones, doesn't it?

ANDY POLLOCK: It does apply to cell phones.

MOSER: But it doesn't charge to Internet service.

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ANDY POLLOCK: No, it does not. It charges for intrastate, in-state voice use, but it does not charge for data use and it doesn't charge for federal.

MOSER: So would it be possible to add a universal service fund component to Internet charges? Or is there a federal prohibition against that?

ANDY POLLOCK: There's federal preemption. There is a federal universal service fund too, that we pay into. I don't know the mechanics specifically of what portion of our cell bills pays into that, but we do contribute to that fund. But there is a preemption. There's a federal prohibition against collecting on broadband services.

MOSER: It just seems like the private Internet providers struggle to get those far flung customers signed up with the current system, you know? With-- even with the grants and all that, it looks like we're not providing service to those, to some of those people.

ANDY POLLOCK: There's been elements of choice within the telecom industry to choose to either serve customer-- use the Universal Service Fund to, to reach customers or not. The clients that I serve found a way to, to use subsidies they've received. And they've been generous subsidies, they couldn't have done it without those subsidies. There's no business case for serving rural areas. I represent a company called Hemingford Cooperative Telephone Company, it's out in the, out in the Panhandle, in Box Butte County. It's very sparsely populated. They received federal and state support over the years. They used that to put fiber in the ground from Hemingford to ranches that are 50 miles away from town. So companies in Nebraska figured out how to do it, just not everyone in Nebraska.

MOSER: So it's not a novel idea anyway, that I asked about, so that's--

ANDY POLLOCK: No, and I think there's some frustration that companies across Nebraska have been receiving support for both those programs for 20 years. And there's still substantial areas of the state that remain unserved.

MOSER: Yeah, thank you.

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FRIESEN: Thank you. Thank you, Senator Moser. Any other questions from the committee? So your companies, when you, when you have built out your fiber network, what's the take rate? What does everybody sign up 100 percent?

ANDY POLLOCK: Oh, that's a great question. I don't know a specific answer, Senator Friesen. I'd be glad to poll them and ask. I can tell you it's probably pretty doggone high. I think there are rural residents where their choice is either-- their choice, they don't have the dial-up anymore because they've got this fiber link. So their choice is going to be fixed wireless-- in Box Butte County, I doubt that there's much of that-- or satellite. If I have a choice between fiber and satellite, I think it's easy to know how I'm gonna [INAUDIBLE].

FRIESEN: There isn't a separate telephone system, in other words, either?

ANDY POLLOCK: They repl-- those same companies, great question. Those same companies replace their old copper network with the fiber network that's used for two purposes. One, to provide voice service and the other to provide information services.

FRIESEN: OK. Thank you.

ANDY POLLOCK: Thank you.

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

ANDY POLLOCK: Thank you.

DAN NERUD: Good afternoon, Chairman Friesen and members of Transportation and Telecommunications Committee. My name is Dan Nerud, it's spelled D-a-n N-e-r-u-d. I operate my family's farm with my son Travis near Dorchester. I currently serve as chairman of the Nebraska Corn Growers Association and I'm here today on-- additionally on behalf of the Nebraska Cattlemen, Nebraska Farm Bureau, Nebraska Pork Producers Association, Nebraska Soybean Association, Nebraska State Dairy Association and the Nebraska Wheat Growers Association. Collectively, we support LB398 and thank Senator Bostelman for introducing the bill. LB398 sets speeds of 100 megabytes download and 100 upload with the goal of accelerating broadband deployment across Nebraska. Broadband or e-connectivity for Nebraska is more important

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than ever, especially for rural Nebraska. For our members' farms and ranches, we need high-speed connectivity as we continue to adopt precision agriculture technology and innovations that utilize large maps and files. I have neighbors that have started rural businesses that require high-speed connectivity. My grandson needs the e-connectivity for his continued education. Simply put, e-connectivity is vitally important to expand rural vitality along with such opportunity as telehealth and government services. You all had a busy day yesterday on proposed broadband legislation and heard many testifiers supporting various means to expand e-connectivity access. You heard bills that would provide funding and programs for unserved and underserved areas of the state within both the Public Service Commission and the Department of Economic Development. In addition, were bills this morning on dark fiber leasing and utilization, broadband mapping and bonding for cities for expanding connectivity access. After this bill is LB338, a proposal on clarifying flexibility within the Public Service Commission on funds meant for rural broadband, which we also support. I mention all of these as we collectively believe it will be a bill that would incorporate many aspects of what you heard and will be hearing to continue the opportunity to put e-connectivity to every household across Nebraska. Last year, I testified before this committee on a proposal regarding broadband. I want to thank the committee and Legislature for ultimately passing the legislation as a step forward on broadband. We ask that you continue to take further steps utilizing a number of the proposals you heard yesterday and today and forward to the full body for passage. These steps are critical for capturing Nebraska's rural vitality and economic potential. Thank you again, and I will try to answer any questions.

FRIESEN: Thank you for your testimony. Any questions from the committee? Seeing none, thank you--

DAN NERUD: Thank you.

FRIESEN: --for your testimony.

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'm here to testify in favor of-- I [INAUDIBLE] the 300 bills are getting very confusing, LB338, LB398, LB388. This is-- I'm sure, I'm sure the staff is just befuddled, but it's LB398 and, and to be honest

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by what I'm saying will carry over into LB338 as well. Finally, it's taken a couple of days to get here, but I think we're, we're really getting to the point of we've got some really serious-- these two bills, I think will make a difference. And I think these bills have, have a bit of genius about them in that they reflect, I think, what Nebraska has become over the last two decades. There are winners and losers. Tell you what, you're in Hamilton, Hamilton's area, you're a winner. Tell you what, if you're in a Windstream area, you're not a winner right now. And, and I think, you know, that's in cities, you know, are frustrated and rural customers are frustrated in that they, they're trying. They're trying. They're, they're, they're running that local leadership flag up as hard as they can. But ultimately, if the corporate headquarters are in another country or in a, in a bankruptcy court right now, you're just not going to get too far. And what I think these bills do is they, they get to the, they get to-- they allow the PSC and, and companies to distinguish between the winners and the losers. If you're, if you're a Hamilton customer, you would be largely unaffected by these two bills. Tell you what, if you're, if you're in Brainard, Nebraska, you know what? This opens it up that if there's somebody who wants to pound on the door and do some overlay, this opens up that, opens up that opportunity, you know? And then if you're in an area where if we determine they're underserved, this even opens up this opportunity for dark fiber, public dark fiber lighting. You know, I guess this just puts the pressure on to make sure Nebraska continues to move forward. In the places where it's moving forward, it will continue to move forward. These are, these are, these, these bills are very, very intriguing. And I would strongly encourage the committee to, to move, move these bills forward. This, I think this will make a difference.

FRIESEN: Thank you for your testimony. Any questions? Seeing none, thank you.

LASH CHAFFIN: Thank you.

FRIESEN: Anybody, anybody else wish to testify on LB398 in support? Seeing none, anyone who wish to testify in opposition? Seeing none, anyone wish to testify in a neutral capacity? Seeing none, Senator Bostelman, you can close on LB398. We do have letters of support or in lieu of personal testimony is James Dukesherer, Nebraska Rural Electric Association; support, Trent Fellers of Windstream; support from Dwight 'Doc' Winingger from ALLO; support from Seth Voyles, Omaha

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Public Power. Opposition from Sean Kelley, Nebraska Internet and Television Association. Position letters. Support, League of Women Voters in Nebraska; support from Nebraska Coop Council. Opposition from the Nebraska Advocacy Group. And Neutral from Nebraska PSC, Dan Watermeier.

BOSTELMAN: Thank you, Chairman Friesen. I'd like to thank Dan and Kyle both for coming in today, travelling across the state for Kyle, I believe it was, trip in to come and testify today. Keep in mind what this opportunity provides a win-win in a sense. So if you have a provider in an area that has a boundary challenge and they're not, they don't want to go ahead and provide that service and you have another company there that wants to provide that service, it's not a, it's not a club. It gives them an opportunity to work together to talk about it, it's not a negative. It's actually a positive thing that can happen for communities. It gives them the opportunity to work together to, to meet the needs of the community of that area that that is a challenge in that boundary. So it's again, it's not a-- a lot of times you'll hear me talk pretty heavy on providers. This really doesn't do that. This really gives them the opportunity to work together to meet the needs of the people in that area and have those two providers come together to that agreement. I'll answer any other questions you might have.

FRIESEN: Senator DeBoer.

DeBOER: I maybe should have asked someone else this, but I think you probably know the answer. Since, since we sat in the Warner Chamber and passed the boundary challenge bill out, have there been many uses of that boundary change process?

BOSTELMAN: I'm sorry, say that again?

DeBOER: Have there been many uses of that boundary change process?

BOSTELMAN: I would have to defer that to--

DeBOER: OK.

BOSTELMAN: Maybe Andy can answer that. We can answer that afterwards. We'll get back with you on that.

DeBOER: OK, thanks.

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BOSTELMAN: There have been. I mean, he mentioned the Stanton area in specific, I think it was, that specifically that did happen there. There was a, there was, I think 30 homes outside of on a boundary that wanted to be included. And the provider that was currently providing was not interested in doing those services to them. And they had a provider that would and they worked it out, and it was a very, it was-- like I say, again, it's like a win-win situation for them. So they were able to provide the services they needed at the speeds they wanted.

DeBOER: And wasn't that one of your bills, the boundary change bill, or was that somebody else's?

BOSTELMAN: No.

FRIESEN: Transportation bill.

BOSTELMAN: It was a Transportation bill.

DeBOER: OK. All right, thanks.

FRIESEN: You know, I think Hamilton used that extensively over the years. I'm sure there's others have used it too.

BOSTELMAN: Sure.

FRIESEN: Seeing no other questions, thank you, Senator Bostelman. And we will close the hearing on LB398. And then we will open the hearing on LB338.

BOSTELMAN: Good afternoon, Chairman Friesen, members of the Transportation and Telecommunications Committee. My name is Bruce Bostelman, I spell that 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 LB338. I am bringing the committee an amendment, AM1110, which was just handed out, which makes some clarifying changes and no technical changes. The bill would allow the Public Service Commission to redirect Nebraska Universal Service Funds from one eligible telecommunications company, or an ETC, who is not fulfilling their service duties to another ETC. LB338 allows, also allows the Public Service Commission to consider rural-based plans when redirecting fund, funding. Current statutes allow for the PSC to withdraw NUSF funding from telecommunication--communications companies who fail to meet their obligations to serve

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the area they are receiving funding for. The PSC is then allowed to hold a reverse auction to award that funding to another ETC. This bill does not remove those provisions. What it does, it simply allows the PSC to consider a rural-based plan that has been created with the input of local businesses, hospitals, schools, residents and agricultural producers in and outside of the city or village limits on which the ETC-- on which ETC they think will best serve their needs. The PSC shall then consider the rural-based plan on a set of scoring criteria which can be found listed in the bill. I am bringing this bill because in the past we have seen ETCs award NUSF funds to provide rural communities with high-speed Internet, but have not fulfilled their obligations of providing the minimum 25 upload speed and 3 download speed. The reverse auctions, auctions, which have been used in the past, have often resulted in poor results in rural areas of the state. LB338 would give the PSC another avenue to redirect funding with the, with the input of those residing in the service area. Furthermore, furthermore, LB994, a bill passed by the Legislature in 2018, allowed the PSC to adopt and promul-- promulgate rules that establish standards governing the withholding of funding from the NUSF from any recipient. The PSC then adopted its rules and regulations pursuant to LB994, which allowed them to withdraw and redirect NUSF funding by either holding reverse auctions or using rural-based plans. However, the Attorney General rejected the rural-based plan portion of the rules as it was not explicitly allowed under LB994. So what LB9-- what LB338 will do is simply give the PSC the authority to consider the rural-based plans they originally tried to establish. With that, I ask for your support of LB338, and I'll take any questions you may have.

FRIESEN: Thank you, Senator Bostelman. Any questions from the committee? So the, the PSC has never done a reverse auction process yet, is that right?

BOSTELMAN: You would ask-- you have to ask PSC, I don't know for sure.

FRIESEN: OK. All right, thank you. Anyone wish to testify in favor of LB338?

KYLE ARGANBRIGHT: Good afternoon. Again, my name is Kyle Arganbright, K-y-l-e A-r-g-a-n-b-r-i-g-h-t. Senators, as I mentioned when I testified earlier on LB398, I did not drive here from Valentine, where I'm a community banker, a brewer and mayor, to sit here and belittle

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you by telling you we need broadband connecting all Nebraskans to the rest of the world. You know that. I'm here on behalf of the following groups. I'll let you read the list. Since last summer, I've been working on in earnest with many of these groups to try to figure out how to overcome the obstacles to rural broadband deployment. We talked to Senator Bostelman about those obstacles and ideas we had about solutions. He decided to introduce LB338 as a way of overcoming these obstacles. The obstacle LB338 tackles is specifically the lack of consumer choice in rural Nebraska. For too long, not only rural residents, but also city dwellers like those of us living in large towns like Valentine, have had no real choice when it comes to broadband service. We have to do better, better senators. You know that, you hear from your constituents. I hear it from mine. Senator Friesen, Mr. Chairman, you hear it. Thank you for your leadership on this very issue. The passage of your bill, LB994 in 2018, was the most significant piece of broadband legislation since the Nebraska Universal Service Program was established in 1997. It created the Broadband Task Force, which made good recommendations that the Legislature unfortunately ignored. But more importantly, LB994 directed the Public Service Commission to establish a reverse auction program, and the commission did so. As part of the reverse auction program, the commission also tried to establish a plan to give customers in rural areas more control over their connectivity. Like most Nebraskans, I believe in local control. City residents have some choice. The city of Valentine, for example, recently partnered with ALLO to deliver broadband services to city residents and businesses. Valentine picked ALLO because it will best meet the needs of our city. Rural customers ought to have that same kind of choice. There are plenty of fiber-based broadband providers out there chomping at the bit to serve rural areas across the state. We just need to make sure that rural customers have some choice in who will be providing services. LB338 does that. There will be a few people who follow me can answer questions about the nuts and bolts of this program better. I know it's complicated, but this bill is not. It simply allows farmers and ranchers the same control over their own destiny that a town like Valentine has because it was just big enough. In closing, Senators, Chairman Friesen, Friesen, you have already broken the shackles that monopoly telephone companies once had on Nebraskans by allowing the commission to withhold a telephone company's support. That happened with the passage of LB994 in 2018. Now go the next step

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and give consumers more say in where that support goes. Please give people a choice. Thank you.

FRIESEN: Thank you, Mr. Arganbright. Any questions from the committee? Seeing none--

KYLE ARGANBRIGHT: Thank you.

FRIESEN: --thank you for your testimony. Welcome, Commissioner Watermeier.

DAN WATERMEIER: Good afternoon, Chairman Friesen and Telecommunications Committee. My name is Dan Watermeier, spelled W-a-t-e-r-m-e-i-e-r, I represent the commission's first district and the current chairman of the Nebraska Public Service Commission. I'm here today to testify in support of LB338. The commission supports this bill, which provides an additional tool designed to redirect support away from carriers not properly investing it and award it to a carrier that is willing to deploy broadband service. This bill would provide the commission with the specific avenue to redirect support in a way that provides a role for community involvement. This idea was raised in our rule and regulation that the commission had opened to establish our reverse auction rules. We incorporated this idea into our rules as an alternative to a reverse auction, but were told by the Nebraska Attorney General's Office that a community-based redirection of support was not contemplated by the statute. Now I'm going to go to this part of my testimony was approved by a whole commission. And I know there's an amendment out there that Senator Bostelman handed out and it's going to clarify some of the things that I'm going to have to speak against. But we didn't meet as a commission to vote-- revote on that issue. We're going to be supportive of that amendment about, and I-- and my testimony is such as the way it was written. So I appreciate the bill introduction by Senator Bostelman, but I'm going to follow through with my, my arguments here so that you'll understand why he introduced the amendment that he did. Although we are supportive of this bill and the concept overall, we believe that some clarification is needed. First, we want to make sure that this bill continues to permit the commission to redirect the universal service support through a reverse auction mechanism. It appears to us that the introduced version of the bill would remove that authority. Secondly, we want to make sure that the bill does not favor one type of funding redirection over another. The commission has already put carriers on

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notice that support would be redistributed through a reverse auction mechanism if support isn't timely used, and the commission does not want the changes from this bill to delay or supersede that process. Finally, we believe the bill should be clarified to provide more specific definition or guidance as to what community-based plan mean. And I know that amendment does that. Because the universal service funding redirected here is used for high-cost, hard-to-reach locations that are uneconomical to serve absent support, we believe that it would be helpful to know if the funding is being redirected to only rural areas or whether a community-based plan includes providing universal service support for in-town areas that we have historically viewed at lower cost. I thank the committee and would try to answer any questions as, as I could. They're pretty technical, I'll probably have to just take that under advisement and take it back to the commission. I could answer maybe Senator DeBoer's question. I forget, was it in regards to boundary changes?

DeBOER: Yeah.

DAN WATERMEIER: We have on the website, and I think we had a big boundary change here in northeast Nebraska at Stanton, and that included about 30 applications, individual applications-- excuse me, one application with 30 boundary changes. And we've done about 60 so far since we've changed the rules in 2015. You can find that on the website, we've got all that listed on the website. And we haven't started a reverse auction process yet, and we're still waiting on Executive Branch rule, approval on the rules, but it will start soon.

FRIESEN: OK, thank you, Commissioner Watermeier. Any questions from the committee? Seeing none.

DAN WATERMEIER: All right. Thank you.

FRIESEN: Thank you. Anyone else wish to testify in support?

ANDY POLLOCK: One more time. Senator Friesen, Chairman Fresen, members of the Transportation Committee, my name is Andy Pollock, A-n-d-y P-o-l-l-o-c-k. Again, I, I appear on behalf of the Nebraska Rural Broadband Alliance. I would like to thank Senator Bostelman for introducing this bill. It was introduced simply because the Attorney General initially approved most of the Public Service Commission rules that adopted LB994, the reverse auction program. But the AG found that

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this particular portion was outside of the scope of LB994. And so we're asking the, the Legislature to restore it word for word the way the commission adopted, so that the commission has choices. And Senator Bostelman's amendment clears up the confusion that the commission had about whether it superseded or replaced the reverse auction. It does not. It allows this is an alternative, but still allows that reverse auction to be used as well. It also clarified, as the commission asked for, what community-based or rural-based program was. Senator Friesen, as Mr. Arganbright said earlier, LB994 was a significant piece of legislation. I would argue it's every bit as important as LB388 that you introduced yesterday. The reason you introduced that was because there are areas of the state that are underserved, and I talked about that in my earlier testimony. For 20 years-plus now, carriers have received hundreds of millions of dollars from the Nebraska Universal Service Fund. Some have built in rural areas, others have not. Rural areas are impatient. You all hear that more than I do. We need to do better. We need to create options. That's what LB994 did. It basically allowed the commission to withhold support from a carrier that's not providing broadband service and redirect it to another carrier. You envisioned a reverse auction program, you gave the commission wide discretion to adopt that. Unfortunately, my good friend Doug Peterson didn't interpret wide discretion to be wide enough for this community-based plan. This simply restores it. This is an idea that our group provided to the Public Service Commission. The commission embraced it, adopted it, put in some really good guide rails to make sure that funds are used wisely. And the main impetus at the time was to avoid the disasters that we've seen with the reverse auctions that have happened at the federal level that I've talked about earlier, that have not done good for rural Nebraska. Goal number one was to do better for rural Nebraska. Goal number two, and Mr. Arganbright emphasized this, was just to give consumers some choice. Senator Friesen, you asked some good questions on that last bill about whether there's community leaders that aren't just pushing enough for broadband. Right now they don't have a choice. They're stuck with one monopoly provider that they've had since the 1930s. Your bill and LB994 was intended to push them to have a choice. This mechanism is a preferable means of allowing consumer choice better than a reverse auction. Reverse auctions at the federal level have been bureaucratic decisions, that would happen here with the Public Service Commission. This gives the people, the people of the rural area, some say in their destiny. What

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are, what are their Internet needs? Who do they want to work with? Other good things in this bill that were in, in the commission's rules and regs were that it gave incentives and encouraged public power and private-- public/private partnerships to build out. It didn't-- it scores that as a factor in favor of approval. It makes sure that the commission can vet the record of the provider to make sure that they actually have a track record, unlike what we've seen at the federal level of providing service, not just telecom service and broadband service, but broadband service in rural areas. It encourages use of matching funds like you're doing in the, in the Governor's bill as, as a criteria. Importantly also, and I'll conclude with this, it gives the incumbent carrier that's lost support a place at the table. I think everybody, and I think you probably heard this a little bit yesterday on LB388, this whole transition between one carrier who's lost support and a carrier that's receiving support is damn complicated. There's federal implications that need to be taken into account. In the Stanton case, it was a negotiated transition, just 30 or 40 customers, a small one. This allows it on a larger scale, the commission envisions an exchange-based scale, so that you don't have companies cherry-picking for just the best customers. But it allows the company that's lost support a place at the table to make sure that they are compensated, that they're reimbursed for their undepreciated plant so that nobody's taking unconstitutionally, their unconstitutional-- their, their undepreciated plant, as is true with boundary changes, and it allows them to transition support and also their obligations to serve customers. You heard a lot from CenturyLink about that yesterday, about concerns about having obligations to serve all customers when they lost support. They shouldn't have that obligation. It should transfer to the carrier that receive, receives the support. And this bill, I would submit, allows that type of smooth transition. We believe this is an important bill. Thank you, Senator Bostelman, for introducing it. I'd be glad to answer questions.

FRIESEN: Thank you, Mr. Pollock. Any questions from the committee? Seeing none.

ANDY POLLOCK: OK, thank you very much.

LASH CHAFFIN: I tried. Thank you. My name is Lash, L-a-s-h, Chaffin, C-h-a-f-f-i-n, and I represent the League of Nebraska Municipalities. And I'd like to be on the record supporting another bill with threes and eights in it. And it's an important bill. I'd like to see these

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move forward. You know, it's been a long couple of days, but we need better Internet in the big hills north of Pender. We need better, better on North 72nd Street in Omaha. We need, we need it everywhere, and this is important, and I truly appreciate the attention you've given, you've given the league over the last couple of days, as well as the other presenters. It's, it's a, it's an interesting issue. It's fascinating times that we live in. So thank you. I would certainly entertain any questions.

FRIESEN: Thank you. Are there any questions from the committee? They seem glazed over at the moment.

LASH CHAFFIN: That's appropriate. That's an appropriate reaction. Thank you.

FRIESEN: Thank you for your testimony. Anyone else wishing to testify in support of LB338? Anybody wish to testify in opposition to LB338? Anybody wish to testify in a neutral capacity? Seeing none, Senator Bostelman waives closing. We do have-- yeah, we have letters in lieu of in-person testimony. It's letters of support for James Dukesherer, Nebraska Rural Electric. Opposition from Trent Fellers, Windstream. Support from Dwight Winegar [PHONETIC], ALLO. Position letters. Support, Nebraska Coop Council; support, League of Women Voters. Opposition from Crystal Rhoads, Nebraska Public Service Commission District 2. Yes, it is dissent position. With that, we'll close the hearing on LB338.