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Transportation and Telecommunications Committee February 13, 2023  
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**GEIST:** All right. We're going to go ahead and get started. Good afternoon and welcome to the Transportation and Telecommunications Committee. My name is Senator Suzanne Geist. I represent the 25th Legislative District in south Lincoln and Lancaster County. I serve as Chair of the Transportation and Telecommunications Committee, and we're going to start off by having members introduce themselves. And I will start on my right with Senator--

**MOSER:** Mike Moser, District 22, it's Platte County and most of Stanton County.

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

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

**GEIST:** This is Mike-- oh, you can go ahead and introduce yourself, Senator Fredrickson.

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

**GEIST:** This is Mike Hybl, who is our committee counsel, Caroline Nebel, who is our committee clerk. We also have Delanie and Logan, who are our pages today. Delanie is studying political science at UNL and Logan's studying international business, also at UNL. This afternoon we're going to hear-- have a confirmation hearing and three bills, and we'll take them up in the order listed on the outside of the room. On the table near the entrance of the room, you will find blue testifier sheets. If you are planning to testify today, please fill one blue sheet out. Hand it to the pages when you come up. This will help us keep an accurate record of the hearing. If you do not wish to testify, but would like to record your presence at the hearing, please fill out the gold sheet on the table next to the entrance. Also, I would note the Legislature's policy that all letters for the record must be received by the committee by noon the day prior to the hearing. Any handouts submitted by testifiers will also be included as part of the record as exhibits. We would ask, if you have any handouts, that you please bring ten copies and give those to the pages. If you do need additional copies, the pages would be happy to make those for you. Understand that senators may come and go during our hearing. This is common and required as they may be presenting bills and another

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committee. Today, testimony for each bill will begin with the introducer's opening statement. After opening statements, we will hear from any supporters of the bill, from those in opposition, and then followed by those in the neutral capacity. The introducer of the bill will be given the opportunity to make closing statements if they wish to do so. We ask that you begin your testimony by giving us your first and last name and spelling it for the record, and we'll be using a five-minute light system today. When you begin your testimony, the light on the table will turn green. The yellow light is your one-minute warning, and when the red light comes on, we ask that you wrap up your final thoughts. And the final reminder is if everyone would silence their cell phones, would be much appreciated. And I will have Senator Brandt introduce himself.

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

**GEIST:** And with that, we will open up on the appointment of John Ernst for the Motor Vehicle Industry Licensing Board. You may come to the-- to the chair. Thank you. Thank you for being here today.

**JOHN ERNST:** Thank you, Senator Geist. Thank you, Senators. Shout out to my hometown senator, Senator Moser, and committee. My name's John Ernst. I'm from Columbus, Nebraska. My wife Michelle and I have two adult children, Tommy and Nicole. I'm a third-generation car dealer and the dealer principal of Ernst Auto center, which includes a General Motors store and a Toyota store. We've been in business there since 1960. In my 20-- 30-- 37-year career, I've served on automotive boards, both locally, regionally and nationally. I've also been pretty involved in the Nebraska New Car and Truck Dealers Association, where I was a two-term chairperson and presently serve on their board of directors.

**GEIST:** Great. We welcome you. Are there any questions from the committee? No questions? Yes, Senator Brandt.

**BRANDT:** So-- so, Mr. Ernst, can you tell me what this board does? I-- I apologize. I haven't had a chance to-- to go through this. But what does-- what does the Motor Vehicle Licensing Board, what are their responsibilities?

**JOHN ERNST:** I think what I-- my understanding is the Vehicle Licensing Board not only hears, you know, all sorts of advertising-type penalties that-- false advertising by car dealers. We also-- I think

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there's franchise laws involved, hearings on-- both from the factory and certainly from the car dealer's position, the motor vehicles and ATVs.

**BRANDT:** So you're-- you would be a new appointment to the board?

**JOHN ERNST:** I am a new appointment to that, yes.

**BRANDT:** So you brought up an interesting point. Do car dealers ever lie?

**JOHN ERNST:** Well, I don't know. I-- I guess some don't, maybe.

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

**JOHN ERNST:** Yes.

**GEIST:** Any other questions? Senator DeKay.

**DeKAY:** Thank you, Senator Geist. Mr. Ernst, how often will this appointment, how many meeting days do you have a year, and will you be coming into Lincoln periodically [INAUDIBLE]

**JOHN ERNST:** It looks like possibly, possibly, from what I understood, once a month, and there is some meetings that could last two or three days at a time, is my understanding, but obviously I haven't been to a meeting yet, but from what I've read.

**DeKAY:** You have anybody run the store while you're gone then?

**JOHN ERNST:** Well. I hope so.

**DeKAY:** No, I'm just kidding.

**GEIST:** Yes, Senator Moser.

**MOSER:** Well, as long as you brought it up, John, I've known him for 50, 60 years. I bought cars from his dad. I bought cars from his grandpa. And if it's something to do with cars, I'm sure he knows the business very well. However, my 2002 van, the battery went dead the other day. I left my dome light on.

**JOHN ERNST:** Oh.

**MOSER:** So I was wondering if you could fix it.

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**JOHN ERNST:** I'll see what we can do.

**GEIST:** Probably need a battery.

**MOSER:** I did leave the dome light on.

**JOHN ERNST:** Yeah, that'll do it every time.

**MOSER:** Thank you.

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

**JOHN ERNST:** Thank you.

**GEIST:** Thank you for your willingness to be on this--

**JOHN ERNST:** You bet.

**GEIST:** --the board.

**JOHN ERNST:** Thank you, Senator.

**GEIST:** Thank you. Are there any proponents for this appointment? Any opponents for this appointment? Any who wish to speak in the neutral capacity? I don't see any. With that, we will end the appointment hearing of John Ernst for the Motor Vehicle Industry Licensing Board. I don't believe I have any letters either. Thank you. With that, we will move on to the hearing of LB26. Senator Vargas. Is that correct? I'm sorry, LB773.

**VARGAS:** It's OK. I was thinking there's a bill that I don't know anything about that I have to present on.

**GEIST:** Oh, sorry about that. That's my--

**VARGAS:** That presented a-- that presented an issue for me.

**GEIST:** We just re-- renumbered your bill for you.

**VARGAS:** That's-- that's OK. Bill LB26 is--

**GEIST:** And while you're waiting to open, I would just let Senator DeBoer introduce herself now that she's joined us.

**DeBOER:** Hello, everyone. My name is Wendy DeBoer, District 10 in northwest Omaha.

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**VARGAS:** Welcome, Senator DeBoer. Good afternoon, Chairperson Geist and members of the Transportation and Telecommunications Committee. My name is Tony Vargas, T-o-n-y V-a-r-g-a-s. I represent District 7 here in the Nebraska Legislature. Today, I'll be speaking with you about LB773. Simply put, LB773 increases transparency on the cost of mobile phone services by requiring voters to approve any locally levied occupation tax on the service. Now, this topic will be familiar to some of you that have been on this committee for years. This is a topic I've covered in the past. This version is a little bit different I bring to you and it removes most of the opposition that we've previously seen in the past, not all the opposition. You'll-- you've got a letter or you have some people that will be here. But I'm eager and open to continue fine-tuning this with all of you. So with that being said, I'd like to start the discussion about this bill about talking about why I introduced it in the first place. For all of our talk in the Legislature, and we have a lot of talk about what we need to make our state be more economically advantageous, and specifically about Nebraska as a lower tax state and wanting to be that on personal income tax, on corporate income tax, on property taxes, and I think this is one of the areas of tax policy that, other than when I introduced a bill in 2019, we haven't talked much about it in terms of how we address the high percentage of taxes. And it might surprise you to learn that Nebraska actually has-- it's kind of oscillated. We've been in the top five for years. We're the fourth-highest state for state and local taxes on cell services in the country. Now the most comprehensive national review of this issue was found in the Tax Foundation's annual report from 2018 and continuing years. This report does a state-by-state analysis comparison of all the wireless taxes and fees, and it shows that Nebraska's effective tax rate is 25.5 percent, which is a combination of the federal tax rate of 6.34 and a combination of state and local taxes and fees, which are 18.75 percent. And bear in mind, many of these things, which you're-- you are very uniquely aware of in terms of taxes, are things that you've heard of, like NUSF or E911, but not only is Nebraska the fourth-highest tax state in the country that comes to cell services, it's far and away the highest in the region for local and state taxes and fees. Iowa is around 9 percent, Kansas is somewhere around 14, Colorado about 12, Wyoming around eight, nearly 9 in South Dakota, 14 in Missouri, 14 going on 15 percent. Now taxes and fees, our occupation taxes and fees on wireless services in Nebraska is what the focus is. But keep in mind that there's other wireless fees that we're not discussing here. We're not talking about the State Universal Service Fund of 6.95. We're not talking about telecommunication relay

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system fee of \$0.02 or the enhanced 911 fee or the state sales tax. We're not talking about those different entities right now. But what we do see is state statute permits cities to levy local sales and occupation taxes on wireless services. Now many cities across the state do take advantage of this, and they're already codified. But the highest local rates right now are in Omaha and Lincoln, where the combined local occupation and sales tax rates are somewhere between 7 and 8 percent. Now I want to emphasize that all these taxes and fees from cities and the state, they add up to about an effective tax rate of about 19 percent, and that to the federal tax rate of 6.34 percent, and Nebraskans end up paying up to 25.5 percent of taxes on their phone bills. Now, what other area of taxation would allow that high of a tax rate to continue? Can you imagine if our state sales tax, income tax or corporate tax were that high? Now we're talking about trying to decrease many of these things. Now each of these various fees and taxes allegedly locally serve a purpose in the city's budget, and it's going to be different for different cities. I don't, you know, claim that it isn't. When we're talking about occupation taxes, you may have heard from some of your cities that it generates revenue and these occupation taxes are going to help something that they're already serving. But they also say that these services will go away if you take away their occupation taxes. I'm here to say that this occupation tax is an additional tax that we put into statute. And what we're seeing, these effective rates of cell phone taxes overall continue to grow. We need to start to tackle the ones that we have a lot more say over, and we can't really create a line of sight to what exactly it's funding rather than just funding a municipality. Now I understand that perspective because I served on the budget committee. I want to make sure that we have a balanced budget. This is why I've written this bill in a way that doesn't actually take away funding from municipalities that currently have it. I will be working on an amendment that addresses this. I want to maintain the local control by allowing voters in each committee-- sorry, in each community to approve any occupation taxes or new locally levied occupation taxes by a vote of the people. True, this will require each city to make its case or new city to make its case and appeal to voters. But it will provide greater transparency for voters who will better understand how much those taxes that they're paying, what the money is actually going to fund, and then allow each person to consider whether or not they support this new occupation tax in their municipality or their community. You know, one of the concerns that arose the first time I introduced this had to do with how it affects some of the existing components of taxes that are within cell phone taxes. As I mentioned

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earlier, I just want to reiterate, we're not touching any of the NUSF or 911 services or any of these other very specific-purpose line items in state taxes. We're talking about new occupation taxes, is what I'm intending to work on, and I want to be clear that that is my-- that is my intent here, because at the end of the day, Nebraska taxes on cell phone services are much higher than every other state. And the question is, do they have to be? We talk about all these other areas of lowering taxation, but as many people are seeing, we're looking at everything on the table on how we can reduce the burden on taxpayers, especially in this way, which everybody needs a cell phone nowadays. Everybody needs to continue to use this. This is a lifeline. So I want to make sure that we can continue to be good stewards of taxpayer dollars and make sure that these future occupation taxes are not being just applied but, instead, are going for transparency and going to a vote of the people. With that, I'd be happy to answer any questions you may have.

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

**DeBOER:** Thank you, Senator Geist. Can you speak to-- well, first just a question I couldn't figure out from reading the bill. Can the existing taxes-- so if I wanted to change the percentage or something on an existing tax, would that also require a vote of the people or is that--

**VARGAS:** Yes.

**DeBOER:** So any change at all?

**VARGAS:** Yeah. So my-- my intent is, if you have an existing occupation tax in place, that that would stay the same. If you're trying to increase the occupation tax that you currently have at a current rate, that would go to a vote of the people; or if you're imposing a new occupation tax, that is the new amendment we're going to be working on. So I just want to make that clear. It's a great question. That's my intent. This way, we're not asking all those that already have an occupation tax-- I know that's how it's written-- that already have an occupation tax in place that have to go to a vote of the people just to maintain the current one that they have. They're all grandfathered in.

**DeBOER:** And then the next question is, since you were here, I think, five years ago asking for this the last time, I think there has been some movement, either in reality or in my brain, over whether or not

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this tax is incredibly regressive. And I think-- can you speak to the regressivity of occupation taxes on cell phone lines? Because my thought was that a cell phone wasn't a necessary item back then, you could just get a landline, but I think I've changed some on that. So can you speak to that issue? Do you have any data on the percentage of Nebraskans that just rely on cell phones?

**VARGAS:** I don't have any data, but I can get that for you. But what we have seen, at least, I don't have to tell you. You're looking at all the policy in regards to broadband and how reliant people are on their cell phone for many things outside of broadband services. But I can speak to our major areas of poverty in Omaha and Lincoln, where we do have a lot of data that corresponds with families are utilizing their cell phone as the main lifeline for being able to connect to schoolwork and to their teachers and their-- and their-- their school districts, like this is-- this is truly a lifeline. And the question I keep coming up with is the-- every other one of these fees goes to something very, very specific. We have a unique nature of allowing these occupation taxes to exist, and they are pass-throughs on the consumer. And does that need to be the case? I'm not saying you can't do it. In my past versions, as you might know, I just said you couldn't have any occupation taxes, which probably would have been what I originally would want. Instead, I'm just saying, hey, Senator Brandt, you know, mayor of, you know, future city over here, if you want to add an occupation tax, go to a vote of the people, and-- and then if they think that's fine for the purposes that you want to increase that very specialized tax, then you're going to make your case.

**DeBOER:** How do you preserve local control of this situation? You said you want to do it, but it seems like in some ways we're taking it away. Yeah, vote of the people, but for a future city that he's the-- the mayor of, they probably can't afford to do a vote of the people every five minutes.

**VARGAS:** Well, I think that brings up a great question, which is, well, hopefully they're not going to vote of the people every five minutes to imp-- to impose a new occupation tax or to raise it, right? That's-- that's the real hope here. And they're thinking about the entire budget and what are all the revenue streams that exist, rather than having to create a new revenue stream or increasing this revenue stream on the backs of taxpayers' cell phones usage. You know, at the end of the day, what I'm really hopeful comes out of this is we pass a bill that says-- I respect local control personally. But if we're



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seeing this occupation tax, which is not a standard across many other states being-- mind you. Occupation taxes are not something that are used in every single other state. It's not like a standard or practice. But it is being used a lot more in this state and we have many states have been utilizing it. Well, sometimes we take it upon ourselves to not impose limits, but impose transparency so that the vote of the people is upheld and people have some say in this. Otherwise, I would just say, you can't impose any new occupation taxes. And bear in mind, we have-- I think we passed a bill-- Senator McDonnell passed a bill that provided transparency on all the occupation taxes that do exist. And I'll get you a copy of that because it is really enlightening to see how many of them actually exist across the state. So I think there's local control, but I also want to make sure that we're providing that option for taxpayers to make the best and most-informed decisions.

**DeBOER:** Thank you.

**GEIST:** I think Senator DeKay had a question.

**DeKAY:** Thank you, Senator Geist. Senator Vargas, with this bill, LB773, as compared to the-- was it LB50 that was be-- you said there was several things taken out of it that people are opposed to. Can you give me a quick list of what--

**VARGAS:** I think, if I remember correctly-- well, there were many people against the original version of the bill, if somebody remembers. So we were just trying to lower or eliminate cell phone taxes and many of the different sort of purpose one-- E911 is one that really came up as a lot of opponents, and we have League of Municipalities and other cities that also came in because the concern was that we would just be eliminating occupation taxes altogether and it would require every single new occupation tax that-- if there's an occupation tax that currently existed, let's say, for like the city of, you know, Omaha, that they would have to go to a vote of the people just to maintain the one that they had. We wanted to make this on any new increases or-- or any new occupation taxes that are created because, in my opinion, look, the argument is, if you've already done it, then it's been done. But if you want to do it from here on in, then let's address it and have some transparency. So those are the things that we took out, many of those things.

**DeKAY:** Thank you.

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**GEIST:** Senator Fredrick-- Fredrickson.

**FREDRICKSON:** Thank you, Chair Geist. Thank you, Senator Vargas, for-- for bringing this bill. I, you know, I-- I-- I think I agree with Senator DeBoer. I think wireless phones are becoming more and more of an essential service for-- I think we all can kind of acknowledge that. The one thing that I get a little heartburn on whenever we cut a tax is sort of what-- how that might impact sort of city services, as well, so I appreciate the-- kind of the grandfathering in with this. One thing I was curious about, do we-- so Omaha, you mentioned, is one of the cities that has a higher rate of this. Do we-- what data do we have about how is Omaha using this tax currently? Do we know?

**VARGAS:** That's a fantastic question. OK. So you have to ask, I imagine, some of the lobbyists. We've-- we've been here before in some of the past conversations. I consider the people, both proponents and opponents, friends, and that's a question you'll have to ask them. One of the reasons why occupation taxes is such a unique aspect of a tax is, if you're imposing it, it doesn't have to have a purpose. You can ask them and they can tell you it funds this, but there's nothing line item saying it funds something. It is going into sort of the general fund of a municipality's, you know fund, and it could be used for any services for the state-- I'm sorry, for that municipality. They may have-- have a specific purpose that it has funded, but it was not created for a specific purpose. But in this, you would have to say, "I'm passing an occupation tax" and state the purpose, because if you don't state the purpose, I'm pretty sure voters are probably not going to just allow you to impose an occupation tax without saying what it's for. All right, the-- the obvious is for, like, the 911, you know, tax. There's a reason why people support it. It's because they want the enhanced 911. They want to continue to transition and support that, so there's transparency here. So this is a question you'll have to ask them, but there's nothing that's saying exactly what they have to fund it for is usually just going into the general fund, and great question to ask.

**FREDRICKSON:** Thank you.

**GEIST:** Yes, Senator Moser.

**MOSER:** You're not in-- including cable TV or Internet or any of those services, just cell phones?

**VARGAS:** Right now, yes.

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**MOSER:** And not telephone, landline?

**VARGAS:** No, not right now.

**MOSER:** In the discussion of this in the past, isn't the occupation tax a payment for using the city's right-of-way?

**VARGAS:** I don't remember that conversation coming up in the past in terms of opposition testimony--

**MOSER:** OK. Well, that's a question that we could ask the--

**VARGAS:** --because-- because there-- if municipalities, and we-- we dealt with part of this, are-- are utilizing some of the right-of-way, they are paying a specific amount for-- I can't remember the exact amount. We passed the bill when Senator Friesen was Chair.

**MOSER:** Well, they have a--

**VARGAS:** Yeah.

**MOSER:** There's a pole attachment--

**VARGAS:** That's a pole attachment, yeah.

**MOSER:** --fee, but I think just in general, I think the occupation tax also covers using the right-of-way because you have to connect some of those cell phone towers by fiber. And so they have to-- or I guess they can be wireless. They get wireless back home. Anyway, we'll-- we'll ask the city's reps when they come up.

**GEIST:** Senator DeBoer.

**DeBOER:** Thank you. Sorry, one more. Who votes these taxes in right now? Who--

**VARGAS:** Nobody.

**DeBOER:** Somebody does. Who-- who-- who levies the taxes?

**VARGAS:** Well, I mean, so it is--

**DeBOER:** Who levies the taxes?

**VARGAS:** It is the municipality, so it's going to be--

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**DeBOER:** So the--

**VARGAS:** --the city council or--

**DeBOER:** Why can't they just be voted out then? If they're raising these taxes too much, why can't that be an issue to vote them out?

**VARGAS:** Well, there isn't transparency on what that specific tax is going to be utilized for always, so it's really hard--

**DeBOER:** But then--

**VARGAS:** --to point and say, this is the reason why I'm voting you out, because you increased my taxes on this specific instance. And like I mentioned before, I think some of the other taxes are some of the reasons why, either property taxes or income taxes, but in terms of taxes that don't always have a specific set purpose but are usually added on for municipalities, this is the one where there's the least transparency, and I want to try to provide more of that line of sight.

**DeBOER:** OK.

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

**BRANDT:** Thank you, Chairwoman Geist. Thank you, Senator Vargas, for bringing this. I guess just a point. The first line of the bill, no municipalities impose an occupation tax on wireless and prepaid wireless services, in a lot of our small communities our Internet is wireless. It's not voice. Do we need to add some clarity to this if you're talking just about VoIP or-- I don't even know, because a lot of people use their cell phones for voice. But, I mean, do you want to--

**VARGAS:** Yes.

**BRANDT:** Do you think that needs to be defined more clearly?

**VARGAS:** I think it does need to be defined. Yes.

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

**GEIST:** Thank you. Any other questions? I don't see any. Do you plan to stick around to close?

**VARGAS:** If I will be here because I'm introducing another bill. I will be back here. If not--

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**GEIST:** OK.

**VARGAS:** --thank you for your time.

**GEIST:** OK. Thank you. Are there any proponents on LB773? Good afternoon.

**CHRIS PETERSON:** Chairman Geist and members of the Transportation and Telecommunications Committee. My name is Chris Peterson, C-h-r-i-s P-e-t-e-r-s-o-n, appearing today as a registered lobbyist on behalf of T-Mobile in support of LB773. Over the past several years, T-Mobile has rapidly expanded its Nebraska network and retail footprint for both their T-Mobile brand and their prepaid brand, Metro by T-Mobile. This expansion includes an investment of hundreds of millions of dollars in infrastructure as T-Mobile builds out its own network across Nebraska. T-Mobile agrees with its industry colleagues and CTIA, the wireless industry's trade association, that Nebraska's wireless tax burden is exceedingly high. In fact, it's the fourth largest in the coun-- highest in the country. According to a Tax Foundation study, most recently updated in 2022, the combined state and local tax rate on Nebraska consumers, that is, government-imposed taxes, fees and-- and surcharges, amount to 19.5 percent, or fourth highest in the country. Nebraska's 19.5 percent state and local tax rate compares to 9.9 percent in Iowa, 13.1 percent in Colorado, and 9.4 percent in Wyoming. That's almost double Iowa, 50 percent higher than Colorado, and more than double Wyoming. Even New-- New York and California have lower state and local tax rates combined on wireless than Nebraska, and Nebraska is one of just 14 states where local governments impose some type of tax on wireless services, in addition to local option sales taxes. The-- the 2002-- excuse me, the 2022 Tax Foundation study also tells us, quote, Economists use the term regre-- "regressive" to describe tax systems that impose higher tax burdens on low-income taxpayers, lower income taxpayers, than on high-income taxpayers, measured as a percentage of income. Because low-income households pay a greater percentage of their budgets on wireless service taxes than high-income households, wireless service taxes are regressive, end quote. At a time when wireless carriers are expanding and improving their networks, many states are looking at ways to encourage rapid investment. High taxes are a deterrent to investment, a disincentive to growth, and lessens competition. Curtailing these excessive taxes would provide business certainty and start to reduce the wireless tax burden in Nebraska. LB773 also offers the public a role in the process and creates a transparent process. LB773 would put guardrails on tax increases that deter economic development and

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competition, as well as shed greater light on a regressive tax that doesn't receive much attention. Thank you for your consideration of LB773. T-Mobile looks forward to working with this committee and Senator Vargas to hopefully advance the legislation.

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

**CHRIS PETERSON:** Thanks.

**GEIST:** Are there any other proponents?

**NICOLE FOX:** Good afternoon, Chairwoman Geist, members of the Transportation and Telecommunications Committee. I'm Nicole Fox, with the Platte Institute, N-i-c-o-l-e F-o-x. Nebraska is a high-tax state in many regards. With many local governments facing revenue challenges, taxes on wireless service customers pose a means of generating revenue. Wireless taxes are comprised of state and local taxes, fees and government surcharges. Wireless service is often the sole means of communication and connectivity for young Americans and lower income households. The taxes imposed on wireless services disproportionately impacts younger and poorer families, therefore, making them regressive. Nebraska imposes substantial wireless taxes on consumers and for years has ranked in the top five as having some of the nation's highest. And as two people have already pointed out, the Tax Foundation had a recent report in July of 2020-- or 2022, and this year we ranked in-- as the fourth highest at 19.49 percent, and this is up from 18.84 percent when Senator Vargas brought his LB550 back in 2019, which the Platte Institute also supported. The national average is 13.15 percent. So currently 14 states impose some type of tax on wireless service, in addition to local option sales taxes. These taxes only further increase the tax burden on wireless service, and Nebraska is one of those four tax-- 14 states. Excessive taxes and fees increase the cost of wireless service at a time when Nebraskans are relying on wireless service more than ever for access to things such as government services like education, healthcare and remote work. LB773 proposes that no municipality shall impose any new tax or fee related to wireless and prepaid wireless services unless the imposition of such tax has been subject to a vote of registered voters within the municipality at a primary, gener-- general or special election. Similar legislation was passed in Missouri in 2018 and the Platte Institute feels that this is reasonable. For example, Omaha, their general fund revenue-- or their occupation tax for wireless goes just to their-- to their general fund. And so we feel that it's

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important that if municipalities want to impose new taxes, that they should explain to the voters, you know, what those new taxes specifically are going for. LB773 is a policy solution recommended in the Platte Institute's legislative guide for the One Hundred Eighth Legislature. Page 17 of the guide states: To remedy-- to remedy this nontransparent tax, especially at the local level, no municipality should be able to impose any tax or fee related to wireless and prepaid wireless services unless the tax has been approved by the voters within that municipality or a prim-- at a primary or general election. So at a time when Nebraskans desire tax relief, LB773 gives consumers a voice when it comes to local taxing authority. And with that, I'm happy to answer any questions.

**GEIST:** Very good. Are there any questions from the committee? Seeing none, thank you. Any other proponents? Any opponents to LB773? Good afternoon.

**JACK CHELOHA:** Good afternoon. Chair Geist, members of the committee, my name is Jack Cheloha; that's spelled J-a-c-k C-h-e-l-o-h-a, and I'm the registered lobbyist for the city of Omaha. I'm here to testify in opposition to LB773 this afternoon. Thank you. Just a little background, city of Omaha is roughly a city of 485,000 people on the eastern edge of Nebraska. We have a strong mayor system of government and seven elected city council members by district. Drilling down a little bit, the city of Omaha does have an occupation tax as related to the green copy in this bill. And I-- my testimony is written for the green copy. I haven't seen any amendment. So basically, it would require us to have a vote of the people to continue our occupation tax, which is currently 6.5 percent, and with that, it raises roughly \$6 million in the city of Omaha, and that money is put into our general fund. Occupation taxes are a business privilege tax, if you will. Businesses are located on-- on city streets. They welcome customers in. They expect city services related to snow removal, police, fire, etcetera. Likewise, in order to provide their service, they occupy the right-of-way, whether that's use of fiber or wire lines, etcetera. So we feel that this tax is a fair revenue source for the community. In terms of taking a vote of the people, we would argue that that's not a good public policy based upon the fact that we do have elected local leaders who have voted and implemented this fee. Every year we implement a balanced budget, if you will, and it's open to the public with public hearings, and we look at this item every year that it goes before our budget process. If you did have a vote of the people, there's a cost to that. Roughly, in the city of Omaha, we-- we do our elections cycle off of the federal and state elections,

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and it costs us, to the Douglas County Election Commissioner, roughly \$400,000 a year to conduct elections. Let's see, what else did I want to share with you? If this \$6 million would be lost, we would be forced to either cut services or raise property taxes. But just to let you know, Omaha, with that population, our general fund budget is roughly \$500 million. So this \$6 million is a sig-- it's a significant part, on one hand, but it's not significant in terms of funding the whole city. The reason why I say it's significant is because we use general funds to subsidize our E911 services in Douglas County. We have a local contract with Douglas County to provide 911 services for both the city and the county, and we built the facility together and we jointly fund that budget. The currently wired users only pay \$0.50 a month to help pay for E911 services, and wired services are declining as people get more wireless phones or cell phones. The surcharge paid for 911 on wireless phones goes directly into a state fund, not back to the local government. So we do use this to subsidize part of our 911 services, which would be related to what we're talking about here. Let's see what other points I wanted to bring up. I testified that-- what we use the money for. Another point I wanted to make was, where it's not good public policy, is a vote of the people, what if every time the state of Nebraska wanted to change its sales tax base-- let's say now we're going to exempt business inputs, or we wanted to add business inputs, more of them, as an exemption. Would it be good public policy to take that to the vote of the people before you, 49 elected people for Nebraska, could even make a decision on it? We feel that this occupation tax is fair. This issue has been dealt with by the Legislature. Right now, for us to bring in more than the amount of revenue we have, there's other chapters that say, if we would either raise our rate above 6.5 percent or bring in more revenue, we'd still have to have a vote of the people. So the state law is already in place to deal with this matter, and we don't need LB773. And for those reasons, we oppose it today. Thank you.

**GEIST:** Thank you for your testimony. Are there any questions? Yes, Senator Fred-- Fredrickson.

**FREDRICKSON:** Tongue twister. Thank you, Chair Geist. Thank you for being here and for testifying. Good to see you. So you mentioned the \$6 million that the city of Omaha sort of stands to lose with this. I'm actually curious because my understanding was that the current rate would be grandfathered in, so we wouldn't lose \$6 million, the city, just the potential of an increase of that in the future.



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**JACK CHELOHA:** It's my understanding, Senator, that may-- there may be an amendment offered by Senator Vargas, but it's not in the bill that's before you today. We haven't seen that yet and we don't know about any grandfather clause.

**FREDRICKSON:** OK.

**JACK CHELOHA:** Alls we know is LB773 would require a vote of the people to keep what we have currently.

**FREDRICKSON:** Sure. Should that amendment be the case, where there would be that grandfathered in, would you-- would that be something the city would be amicable to?

**JACK CHELOHA:** I think we-- we'd like to see the language, but that would give us less concern for the bill then.

**FREDRICKSON:** OK. Thank you.

**GEIST:** Senator Moser.

**MOSER:** You do charge occupation tax for wired phone services, right?

**JACK CHELOHA:** Yes, sir, we do, and that goes into the same pot of our general funds.

**MOSER:** And would there be a justification for not charging wireless and charging wired? I mean, would it be fair to the wired phone companies if you let the wireless companies off not paying the occupation tax?

**JACK CHELOHA:** Well, that's-- that's a consideration. If-- if we look back prior to the invention of wireless phones, all of this revenue came from the wired services, and with that, it's been a declining source of revenue for a number of years now. In the meantime, as cell phones proliferate, we do take the occupation tax on the voice-over services.

**MOSER:** Do you charge for using the right-of-way other than pole attachment tax?

**JACK CHELOHA:** I-- I'd have to think about what particular communication device it is, but-- but there are certain fees that we do charge. And earlier this session, the same committee heard a bill where we're trying to clarify that matter, where a telecommunication

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company wants to put wire within the right-of-way, but we needed to make clear it wasn't going to be used for the--

**MOSER:** Small cell?

**JACK CHELOHA:** --small cell, yeah. And so it's a delicate situation, but--

**MOSER:** OK.

**JACK CHELOHA:** --right now, they're both charged.

**MOSER:** All right. Thank you.

**GEIST:** Any other questions from the committee? Seeing none, thank you.

**JACK CHELOHA:** Thank you.

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

**LASH CHAFFIN:** Afternoon. Senator Geist, members of the committee, my name is Lash, L-a-s-h, Chaffin, C-h-a-f-f-i-n, staff member at the League of Nebraska Municipalities, and today I would like to offer the League's opposition to LB773. A couple of-- a couple issues up-front. My testimony is based on the green copy. We also have not seen an amendment that would grandfather in existing taxes. So again, we did-- there's all-- the devil-- the devil's in the details. I'd want to see an amendment, but my testimony is based on the language of the bill as it's written out. Interestingly, I think most cities and villages that have an occupation tax on wireless services don't really view it as an occupation tax on wireless services. They view it as an extension of the tax they've had for decades on wired services. So they have a telecommunication tax in their mind. It may be worded differently, but in the late '50s and the early '60, cities started putting occupation taxes in conjunction with-- with the-- with the phone company on wired services. Along comes the late '90s, the early 2000s, a lot of cities started adopting the same tax. They carried it over to wireless services. In their mind it was just a new phone and-- and I think, you know, as the world's changed, sometimes that-- that sort of history gets lost of when that tax came to be and-- and why it's there. It was-- in many-- in many people's minds, might have been worded differently, but essentially it was just extension, something they've been doing since the early 1960s. As a matter of fact, the-- and this is a very, very, very unscientific survey I did-- the last city or village that I could find, and there's probably others, to impose a

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wireless occupation tax was in 2013, and that was the village of Ansley. And that generates about \$7,000 a year. So it's-- it's not a lot, but so nobody is really rushing to adopt these taxes today. They're-- in their mind, it's essentially just an extension of what they've been doing literally for decades. And-- and as prior testimony has indicated, these-- these-- these go into the general fund. These are funds that-- that-- that go to public safety. They go to fire departments. They go to police departments. They go to parks. They go to libraries. They go to-- to fund the-- the city or village portion of E911. They go to city services. And-- and these-- these funds have been going to city services literally for 60 years at this point. And-- and taking these funds out of the budget would-- would have a hold, would result in one of two things: either some service would get cut or property taxes would go up or they-- the process would be initiated. Also, as prior testimony indicated, having elections is not free. Elections are expensive and complicated. So if a city has to have an election to impose the tax, there-- there will be a cost to the taxpayers to fund that election. So it's not-- it's not-- it's not always that easy. The-- the-- the-- the numbers are interesting too. Other states surrounding us have local taxes on wireless services. I think sometimes I-- the-- the data I see where Nebraska's local government services are much higher, does seem inconsistent with what I see. I just-- I'd like to see, you know, maybe this is something that merits more study. I-- you know, Iowa has local taxes, yet their overall local state portion is lower. I just-- this-- this is-- this is difficult, a little bit difficult for me to get my hands around because, you know, I can ask, what is your local occupation tax, and rarely does it match up with what the national studies seem to indicate. And-- and I may be missing something, but wouldn't-- wouldn't say I'm necessarily an economist or a statistician, but sometimes the basics just don't seem to add up. But for those reasons, the-- the League is certainly opposed to LB773 and if-- if amendments do come forward, we would-- we would love to be a part of the amendment process and help look at those amendments at least to review them.

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

**MOSER:** Do you see a difference between the occupation tax on wired services versus wireless?

**LASH CHAFFIN:** That's an interesting question. And I used to have-- I can't find it anymore-- a chart of every-- every high-tech industry and how it's dealt with at the local level, because some-- some of

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the-- some of the taxes are via federal law, some of them are via state law, and some of it's just an absence of a law one way or the other. Thinking in a typical municipality's mind, they don't view it separately from the wired line tax they already have in place. That-- that mentality may be changing.

**MOSER:** Well, do you think it would be a fairness issue to not charge wireless services versus the wired?

**LASH CHAFFIN:** I think in the early 2000s, that was exactly the debate when they adopted these taxes. I think the debate was, well, we're already charging it here. We don't understand what this BlackBerry thing is or this or the big brick phone. We don't understand what it is, but it just seems fair we should charge this industry as well. I think that was the debate. I will say, you know, with the advent of broadband services and Internet, that debate may be changing. And with younger elected officials, the debate may be a little different at the local level. But that was-- that was-- fairness was the exact debate that took place in 2002.

**MOSER:** Do cities charge occupation taxes on Internet providers?

**LASH CHAFFIN:** Typically not.

**MOSER:** So how do you differentiate between--

**LASH CHAFFIN:** It's difficult. It is difficult. They charge some fees and things like that. But there are-- the federal law, how it interacts with the state laws is-- that's worthy of a whole day of bringing in economists and experts and lawyers. It's just very complex.

**MOSER:** Yeah, that's OK.

**LASH CHAFFIN:** Yeah.

**GEIST:** Yes. Senator DeBoer.

**DeBOER:** Thank you, Senator Geist. Since you're giving us a bit of a history lesson here, where did the original authority or theory of authority come from for the original occupation tax on wired?

**LASH CHAFFIN:** The-- the-- there are-- I'm not sure for cities of the primary class, but for cities of metropolitan class, cities of the first class, cities of the second class and villages, there are--

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there are-- they have-- they have statutes that are pretty broad for-- just with the ability to charge occupation taxes. So it dates-- there's-- every-- and-- and those statutes actually date back to the origin of the state. So every-- every class of city has a law allowing them to charge occupation taxes.

**DeBOER:** So presumably the territorial government of Nebraska--

**LASH CHAFFIN:** Prob-- probably.

**DeBOER:** --put in place the ability to do--

**LASH CHAFFIN:** Probably. And I will say in the '90s, in the 2000s, the Legislature did-- I mean, those-- those statutes stayed intact for forever. And in the '90s and the 2000s, the occupation tax statutes were modified substantially by the Legislature. And depending on the class of city and depending on the use, there's-- there are different procedures for different types of occupation taxes.

**DeBOER:** You mentioned a-- a cap-- is that kind of what you were saying?-- on the percentage that can be-- what were you talking about with respect to limiting the occupation taxes already?

**LASH CHAFFIN:** The-- well, I'm not sure what I was referencing, but non-- some non-- based on activities in the 2000s, 2010s, some occupation taxes, not necessarily the-- the-- the Chapter 86 occupation taxes anticipated here are not-- not subject to this, but some occupation taxes do have caps and tiered-- tiered mechanisms. And-- and I can-- I can get you those statutes. They're--

**DeBOER:** OK.

**LASH CHAFFIN:** --they're very hard to read.

**DeBOER:** And then last I wanted to ask-- I know that you all didn't have the amendment and you don't have an amendment. You're testifying on the green copy. But, you know, obviously, we're not going to have another hearing, so it would be helpful for us to know, with respect to the amendment, how you all sort of feel. And I'm hearing kind of a-- a lukewarm response that maybe if it's just we can't change our occupation taxes to raise them, that we might be OK with this. Is that an accurate reflection of your position?

**LASH CHAFFIN:** Possibly. We need to see it. The-- we would need-- we would need to see it and possibly talk to some-- some members to see

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what-- their thoughts on that. I-- it's-- this-- it was new to me, so I've given it zero thought.

**DeBOER:** OK. Thank you.

**GEIST:** Senator DeKay.

**DeKAY:** Yes. Thank you. Thank you for bringing this or be-- testifying today. What other entities have a tax similar to this in like Omaha that would go into general fund, and how much does this affect-- what percentage does it affect the general fund?

**LASH CHAFFIN:** It's a great question, and I-- I don't know the answer. The-- since I work for municipalities, I-- I know how they would be affected. I don't know. I-- certainly, Senator, I can ask around and get back to you. I don't know how-- how it would affect counties and NRDs and other taxing entities. I just don't have an answer to that.

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

**GEIST:** Senator Brandt.

**BRANDT:** Thank you, Chairwoman Geist. Thank you, Mr. Chaffin, for your testimony. So, lobbyists from Omaha, you've stated that the cost of the election, I assume, in Omaha is \$400,000.

**LASH CHAFFIN:** Yes, I [INAUDIBLE]

**BRANDT:** OK, so-- so that's probably the cost of the entire election, not just one item on a ballot that contains maybe 10 or 15 items. Would that be correct?

**LASH CHAFFIN:** Correct.

**BRANDT:** So, I mean, if you were to add one line on there, shall Omaha eliminate the occupation tax, the true cost of that is probably substantially less than \$400,000. Would that be a correct statement?

**LASH CHAFFIN:** For-- for most municipalities, yes, and it would depend on when you had the election, what else was on the election, then--

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

**LASH CHAFFIN:** Yeah. Yes.

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

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**LASH CHAFFIN:** Thank you.

**GEIST:** Are there any other opponents?

**DON WESELY:** Chairperson Geist and members of the Telecommunications and Transportation Committee, for the record, my name is Don Wesely, D-o-n W-e-s-e-l-y. I'm here representing the Greater Nebraska Cities, and those cities are Kearney, Grand Island, Hastings, Aurora, Holdrege, Lexington, and Minden. And I-- I have to say, because of the potential amendment, I'm a little confused about where we're at on the issue. But I will tell you, the discussion you're having on occupation taxes, I wish I would have had when-- when I was a member of the Legislature, because when I went over as mayor, I didn't-- I didn't have a familiarity with occupation taxes. But they are a small but significant part of the budget of a city when the-- I think they all have occupation taxes. Mayor, I don't know if you had that same experience as-- as your mayorship unfolded, but you soon find out that it's a significant role in funding the city services. So to me, the question before you is, if you-- if you cut revenue from this wireless occupation tax, you either cut services or you increase property taxes. That's it. That's-- that's the issue. And the cities choose to have the wireless occupation tax versus raising property taxes. So we come here and say we don't want to raise our property taxes. Our cities, Kearney in particular, has very low city municipal property tax and would like to keep them low. So I think I would tread carefully. Some-- some of your questions about if this perspective that might change things. And so, you know, depending on amendments and a discussion with Senator Vargas, we're open to that discussion to see how this might go forward. But I just wanted to emphasize, unlike the 911 surcharge that goes into 911, this is an occupation tax which goes into the municipal budget and-- and can make an impact on services or property taxes.

**GEIST:** Thank you. I have a question. So does this really lower your bill if it's prospect-- I mean, if it's looking forward?

**DON WESELY:** No, it wouldn't lower existing bills. By the way, that reminded me, Jack Cheloha came up to say the occupation tax is on the gross revenues, so the companies choose to pass on the tax to their customers. I mean, they could perhaps not do that and include it as part of their expenses, but so it's a little complicated. But I think you're learning more than I had when I was sitting in your seat and it's an interesting issue.

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**GEIST:** Um-hum. Any other questions? Yes, Senator DeKay.

**DeKAY:** Real quick, when you're talking about an amendment coming forward, would that be something-- I mean, in opposition to this bill, would that be something that you would be working with Senator Vargas on, probably, maybe compromising on the amount of the tax? Or how would you restructure that so it would be beneficial for everybody involved?

**DON WESELY:** Well, I think-- I-- I think you could-- the other city representatives said we're always willing to talk. And Senator Vargas sounded like he wanted to talk. There's always the overarching local control. You know, like I said, if you're a city council member or mayor and you're faced with a choice between occupation tax on wireless service or raising property taxes, that's a pretty easy choice. But we're-- we should be willing to talk about this.

**DeKAY:** Thank you.

**GEIST:** Yes, Senator Moser.

**MOSER:** The occupation tax, I kind of view it as-- as a right to use the right-of-way. It's kind of a charge for that.

**DON WESELY:** That's-- yeah.

**MOSER:** And so if you did away with a sales tax kind of occupation tax, you'd have to maintain your right-of-way some other way.

**DON WESELY:** Yeah, exactly.

**MOSER:** And isn't there a hearing every year on the budget--

**DON WESELY:** Oh, yeah.

**MOSER:** --when you go through all the taxes? I know we had hearings every year on the budget and we went through the occupation taxes and-- and all of it. So the citizens had a chance to weigh in on those, although I will say, not very many people showed up for our budget hearings.

**DON WESELY:** We-- we did. We had a lot of people show up sometimes, but they never came in on this issue.

**MOSER:** Yeah. Thank you.



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

**DON WESELY:** Thank you very much.

**GEIST:** Any other opposition testimony on LB773? Is there anyone who would like to speak in the neutral capacity for LB773? And I do not see Senator Vargas in here. Seeing that he is not here, that will close the hearing on LB773 and we will move to LB26.

**DeKAY:** Senator Geist?

**GEIST:** Oh, I'm sorry. Yes, I'm sorry, did I--

**DeKAY:** I was just going to ask, was there any letters of--

**GEIST:** Yes, I was just going to pull that out, and there are. I've just gotta see where I set the sheet of paper. I believe there's one letter of support and one in opposition, for the record. Thank you. And now we will move to LB26. Good afternoon, Senator Wayne.

**WAYNE:** Good afternoon, Chair Geist and members of the Telecommunication and Transportation Committee. 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 in northeast Douglas County. Today I'm here to introduce LB26, which would strike an unnecessary and arbitrary prohibition enshrined in our law that needs-- quite honestly, needs to be redone. I'm going to talk about why it should be fixed and why there's a ne-- near-- clear path for this to happen going forward. When Kermit-- Speaker Kermit Brashear got this prohibition passed, he referred to the Internet as not a developed technology that has been full-- that has been fully proven. He was pointing out how his detractors would claim that this was a conti-- his continued war on public power, ironically, something that some of the people on this committee know that I've been accused of. He talked about overbuilding the network, which, over 20 years later, would become a welcome problem, as opposed to the sad state of affairs we have with coverage today and the money that we have spent to still be in the condition that we're in. His argue-- his argument centered around pagers, fax machine and public power. The-- the conversation in our Legislature, as well as in others, is extremely outdated. And even for that time, looking at actual broadband and the potential, we should have had a more in-depth conversation. Proponents of this prohibition back then, 20, 25 years ago, would probably be the same opponents today. Many of

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them are in the telecommunication industry, such as Qwest, Cox, Nebraska Telecommunications Association, Alltel, the Chamber, Diller Telephone, and so on. But not-- when you look through the testimony, not one actual citizen spoke in favor and it was something that the citizens weren't even actually pushing for. Again, we should not have special carve-outs for corporations. We should not have blanket prohibitions because one company or a handful of powerful companies prefer it that way. That, by definition, is protectionism. This state-- this is a state for-- of enforcing private and for-profit monopolies has to end. The in-- this was the intent back in the '90s. It was clear by the-- by the committee hearings and the floor debates, and actually it was a big telecom push across the-- the United States during that time, where about 26 states passed similar or-- or-- yeah, similar laws to the one we have. Since then, though, only 17 states are left. People are starting to see that this protection in law is actually causing much, much-- much more problems than solving our problems. States that have gone back and loosened the repeal include Tennessee, Arkansas and Connecticut. Texas, Louisiana, North Carolina legislatures are-- have introduced bills and are looking at task force to figure out how to allow municipalities to provide broadband. Specifically, Washington and Arkansas lifted their ban that I'm trying to address here today. If a city or a village or a town determines that they are tired of their provider or that they can't even get proper broadband, then the city council, who's elected by them, and the mayor or the city manager decides to move forward. Outlined in this bill is specific safeguards for the public and, quite honestly, their private corporations to come together. This should not be something that cities are barred from doing, especially in this day and age, when you look at broadband being such a huge, what I would consider, utility. Instead of doing this from top down, we've-- we've spent, what, \$40 million one-- two years ago. We put another \$100 million in. I'm looking at Bostelman because he was in key of some of those conversations. And I believe over the next three to four years, we're looking at roughly around \$400 million of extra dollars going into broadband. Yet we still rank 45th in Internet broadband coverage. These are lofty goals, but sometimes it's better to put it where it should be, with the municipalities. If you look at some of the municipalities across the country who are doing really, really well, Bristol, Tennessee, 27,000 residents, Internet plans on their municipal-provided network cost just \$16 per month. Morristown, Tennessee, 29,000 residents-- these are all in rural areas because their communities needed to grow, provide businesses, attract entrepreneurship and young folks, and they saw broadband as being one

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of their obstacles. The crown jewel of kind of this municipality-type broadband is Chattanooga, Miss-- Tennessee. They provide some of the fastest Internet in the country, significantly faster than some of the ones that we even receive in Omaha. When-- in the world where speed is critical, they have figured out how to do 1 gigabit per second, which is faster than most people. We heard Google is coming to Omaha, so that-- they'll be able to offer that. But it didn't-- it didn't happen because of corporations coming in. It's a public utility. And these rural towns and small villages that are no different than Nebraska were suffering, and they were suffering because it wasn't economically feasible for them to do so. So today I'm asking you to show our cable providers that we are no longer accepting just talking points. It's been over 25 years since this prohibition was started, but longer than that, when you start talking about service funds and the amount of dollars to build out to the farmer, we'll say. Cities and towns should have an option to opt out of their monopoly and pay for their own infrastructure and lay their own. We are not mandating that cities do this. We are simply saying this is an option. The fact of the matter is shareholder demands, lofty executive compensation packages, and government-provided subsidies all get passed on to the taxpayer rate, which is our cons-- our constituents. And at the end of the day, our constituents are being lost in this conversation of actual real solutions around broadband. So one thing I've learned since the pandemic is the broadband we have in Omaha, and some parts of Omaha, particularly north Omaha, is just as bad as in some rural, that we had kids during the pandemic going to McDonald's to do their classes because their home was inadequate or they didn't have broadband altogether. Why is that important? Because we had people driving from rural two hours to get to Valentine to do their schoolwork at their-- at their libraries because they didn't have adequate broadband where they actually lived. That's a fundamental problem. It's a huge problem. And I'll end with this. What we're trying to do in this bill is provide the exact same steps that was used for public power. They got it right when they started with local communities saying, what are your needs, and to solve your needs. And it started at a point where-- in Crete, Nebraska, where the community said, we-- we need power, we need power, we need it consistently. And the providers weren't providing it. Omaha and Lincoln, we were fine. We had most of our power for manufacturing. It wasn't an issue. It was the small towns who were struggling to keep consistent power, particularly for their irrigation that pushed out stuff-- the power that pushed out to their farmers. We have the same problem when it comes to broadband, and I know many of you have heard me wrangle about this for the last two

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years, but this is the year that we can get it right. 1888 is when that-- when Nebraska decided, yeah, Crete, you can go ahead and do this. It wasn't till 1930 that we actually enabled the law in saying that communities can band together and do what they do to solve their problems with-- and trusting in local control. That's all this bill does. This isn't a mandate. This isn't opening up the floodgates. If you look at the procedural safeguards in this bill, it says, one, they have to hold public hearings. They have to do a feasibility study. And hopefully that feasibility study, you would think they would get input from the private sector and they can start comparing what it builds out and what it doesn't build out. The point is, is we're giving information to the communities to solve their issues. It's critical that we start with the municipalities, that somehow we-- that they incorporate through local agreements the counties, and let them grow naturally from the local level to solve this problem. We keep talking about growing western Nebraska. I've said from the beginning, in order for Nebraska to be successful, there has to be like a barbell state where you got a successful entrepreneurship, business growing, people on one side of the-- of the state. But you also gotta have the same thing on the other side of the state, and we gotta have a network that connects the two. And if you believe broadband is a utility, then why aren't we giving local people that access to-- to build their own utility? We do it everywhere else when we talk about utilities. This is an opportunity for us to get it right; it's an opportunity this year to send a message that there's a lot of money coming down. But at the end of the day, it should come down to the people who decide it the most, which is locally. They are the ones who are in control of this. And I hope this committee will kick this bill out because this is probably one of my priority bills this year.

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

**MOSER:** So is there any size limit to the size of city that would be permitted to have broadband?

**WAYNE:** We excluded Omaha, I believe. Yeah, we started with first-class cities, second-class cities and villages. That's-- that's our focus.

**MOSER:** But-- but metropolitan-class cities are--

**WAYNE:** No,

**MOSER:** --not?

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**WAYNE:** Well, because part of it is you have to-- you have to you-- have to first deem that you are underserved, and so that-- that-- and you have to have a study done to deem that you are underserved. That's one of the safeguards that I heard other people on this committee wanted last year, and so we incorporated that. So-- so, no, it wouldn't be Omaha. It wouldn't be Lincoln.

**MOSER:** But counties and cities can partner with a private corporation to provide broadband, correct?

**WAYNE:** They can, yes.

**MOSER:** And they could subsidize it if they wanted to.

**WAYNE:** Maybe.

**MOSER:** Yeah, they could. So this would just allow cities to be the primary business entity that owns it and runs it. They wouldn't have to partner with some [INAUDIBLE]

**WAYNE:** No. Yes, it would give them the option.

**MOSER:** Yeah.

**WAYNE:** It's just another tool in our local city council/mayor's toolbox.

**MOSER:** Thank you.

**GEIST:** Senator Cavanaugh.

**M. CAVANAUGH:** Thank you. Thank you, Senator Wayne. I just wanted to make sure I heard correctly that you said that public power got something right.

**WAYNE:** Yes. When you look back through the history of how it grew, absolutely, it grew locally and it solved their local problems, so yes.

**M. CAVANAUGH:** OK. So just for the record, you are giving some praise to public power?

**WAYNE:** Absolutely.

**M. CAVANAUGH:** OK. Thank you, Senator Wayne.

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**GEIST:** Any other questions? Senator DeKay.

**DeKAY:** Thank you. Senator Wayne, with this, do you-- you see a path forward with private investors and public power working together to solve some of these rural-- basically, really, rural broadband issues that are coming forward when it comes to sparsely populated-- populated areas, as in the central part of the state?

**WAYNE:** So I don't know about investors. That's been part of the problem that we saw through the-- through public power growth, is that, to build down to that, that one person three miles down the road, is just not economically feasible. And that's why I think there has to be a public component to this at this point. I look at what we do in the state for natural resources, whether it's the NRDs or-- or irrigation districts in western Nebraska. We have decided, when there is a utility that is this important to the state of Nebraska, that it should be public and not subject to investors' profits. And I think the Internet is-- is that critical.

**DeKAY:** Thank you.

**GEIST:** Senator Bostelman.

**BOSTELMAN:** Thank you. A question for you would be, one, I would-- I think what you said earlier, so there would be a-- you would see that the villages or towns, they would be able to apply for any grants, federal grants coming out, correct?

**WAYNE:** They can not right now. They would be able to if they decide to go down this path underneath of Biden's-- one of-- the infrastructure bill.

**BOSTELMAN:** So one part-- I'm interested in your thoughts on this. So one part of we build out, you know, the community, town builds out, but then once you leave the city limits, the town/village limits, we don't have broadband. And part of the problem, as you know, is then to try to find someone to build the rest of that exchange out. How-- what would-- what's your comments to that?

**WAYNE:** Well, I think we can do it through interlocal agreement with the county. I think you can almost, for better sake of words, like a co-op or-- or an area. Maybe it's a group of cities come-- a group of villages coming together that are 20 miles apart and decided they're going to run their own fiber to each of them. And so those individual farmers along the way could tap into that. I don't have an answer to

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that. And I guess that's part of the-- the unknown. I just know what we're doing right now isn't working.

**BOSTELMAN:** I hear you. I mean, that's part of the challenge we have.

**WAYNE:** Right.

**BOSTELMAN:** That's part of the challenge is, is giving those who want to build out in these communities, but then not only do you build out the community, you've gotta get outside of the-- the village limits. And that's the hard part, is getting outside, because if we don't have that anchor, if we don't have fiber, if we don't have the business model, feasibility--

**WAYNE:** Right.

**BOSTELMAN:** --the-- the town, you're darn sure not going to get it in that surrounding area. And that's the challenge, I think, with-- with anything we do, this bill or not. I think that's the major challenge. So thank you.

**WAYNE:** I agree.

**GEIST:** Yes, Senator Brandt.

**BRANDT:** Thank you, Chairwoman Geist, and thank you, Senator Wayne, for bringing this bill. So basically you want to create a public broadband district just like a public power district.

**WAYNE:** I don't want to create it. I want-- I want to give the-- the towns in your-- in your district the opportunity to.

**BRANDT:** And we appreciate what you do for us. We do. So when we did the public power districts, when those were created in the '30s, we forced all the privately owned power districts to sell to public power. That was the only way it would work. You couldn't have public power running just those lines outside the city. And then the-- the private's gotta keep the ones inside. So it-- otherwise, you would have two competing entities. You would have like this quasi-public entity, and they'd be at a disadvantage against the privates. And really, the only way public power really works good is it's the only survivor. Do you see that same situation here on broadband?

**WAYNE:** No, I don't, because we actually have some parts of the state that have for-profit electricity out in-- on the western side. They

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seem to work together with the ERE [SIC]. So I think you can figure out how to mesh that and-- and make sure they can work together. Again, my thing is, let's-- to-- to both you and Senator Bostelman's point, if the city is negotiating with X company, I think this gives them leverage, too--

**BRANDT:** Yeah.

**WAYNE:** --to say, you know, you do have to go down the road to Senator Bostelman's district or we'll just build it ourself for a cheaper price, or whatever that price may be.

**BRANDT:** OK. And-- and the word I wrote down, it was a hammer.

**WAYNE:** Right.

**BRANDT:** I mean, that's what you're looking for here is a hammer. Would that be right?

**WAYNE:** Yes.

**BRANDT:** All right.

**WAYNE:** Correct.

**BRANDT:** Thank you.

**WAYNE:** In a dream world, nobody would-- we wouldn't need this bill.

**BRANDT:** Yeah.

**WAYNE:** But it hasn't been a dream world yet.

**GEIST:** Any other questions from the committee? I do have a couple.

**WAYNE:** Yes.

**GEIST:** Do we have unserved towns in Nebraska?

**WAYNE:** I don't believe we have-- I don't know the answer to that. You said the word "towns." I don't know how--

**GEIST:** Uh-huh--

**WAYNE:** --the definition of how small it is.



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**GEIST:** --because this-- this is directed towards a municipality.  
Right?

**WAYNE:** Villages, too, which is--

**GEIST:** So do we have any that are unser-- I mean, I know outside maybe the city limits of smaller municipalities, but do we have any municipalities that are unserved?

**WAYNE:** I can't give you a for-sure answer on that, because we have a lot of incor-- unincorporated towns.

**GEIST:** Uh-huh.

**WAYNE:** When you used the word "towns," it threw me for a different definition.

**GEIST:** Yeah.

**WAYNE:** I'm pretty sure most of-- yeah, so I don't know.

**GEIST:** So it-- let's say a municipality decides to do this and-- and they have to hire someone, of course, to take-- take this over, because it's a pretty good-size position, and that person only wants to work few years and they have to find someone else to come in and take this over, I'm a little concerned about sustainability of-- of a network owned by a municipality. Do you-- you thought about that?

**WAYNE:** Well, I think it's more sustainable right now than corporations being bought out and sold on the tech side of it. I do understand a little bit of the concern, but unfortunately, as Urban Affairs Chair, everything that-- every tool that we give a city, when I was Urban Affairs Chair, had that same risk. And so this is just one tool. I don't-- but I understand your concern.

**GEIST:** Yeah. Any other questions? I don't see any. Thank you. Are there any proponents for LB26? Welcome.

**LASH CHAFFIN:** Thank you. Good afternoon, Senator Geist, members of the committee. My name is Lash, L-a-s-h, Chaffin, C-h-a-f-f-i-n. I represent the League of Nebraska Municipalities. I'm here today to-- to support LB26. Interestingly, this is not a science fiction idea. Cities and villages in South Dakota, Wyoming, and Colorado have been providing Internet services on a retail basis for-- since back to the origins of the selling the Internet. They-- they-- they provided cable

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TV and they just started offering Internet services over that time. Nebraska is kind of the outlier in the-- in that region in that we don't allow retail sales of-- of Internet. And in South Dakota, some-- sometimes it's the smallest, smallest village that does it. Sometimes it's a fairly large city. And in Wyoming, there were a couple fairly sizable cities that provide-- provide Internet services. So this is-- this is not something that just can't be done. It-- it gets done. And-- and it's-- interestingly, whenever a-- a new public works director or city administrator or city manager comes to Nebraska from Colorado or Wyoming, the first question they ask is, when they find out, oh, I can't get Netflix at home, first question they ask is, how do I-- how do I set up my own Internet utility? And we tell them, well, it's difficult. It's not that simple in Nebraska and-- and they're-- they're just-- they're beside them-- they just don't understand why they can't do it here in Nebraska, something you could do in Wyoming, which is also a heavily rural state and-- and has similar distance-- distance issues as-- as Nebraska. And I guess the-- I'm gonna answer a few questions in lieu of going on for five minutes. The-- with respect to unserved areas in Nebraska, within municipalities, there are-- I'm not sure, because we don't have great maps, as you know, as Senator DeBoer has been telling us for-- for several years. But I believe, looking at the most recent maps, there are parts of some cities and villages, not necessarily in the entirety, but there are parts of some of them that are unserved. There's a lot of cities and villages that are underserved. But the unserved, I don't know if there's anything in the entirety. There might be one or two, but there-- there are some chunks of-- of some fairly sizable places that-- that are unserved. It, you know, it depends on who you ask, and that is the mapping question that this committee has been struggling with for several years now. You gotta have accurate maps to know the answer to that question and-- and we've certainly supported all the mapping efforts and-- as they-- as they have proceeded. The issue is not-- you know, if-- if you want to make this-- we're definitely for this bill. But if you want to make it better, what I would do is I would take away the jurisdiction that it has to be within the ETJ. You want to make better, do it. Cities and villages, their water, sewer and electric utilities don't necessarily follow corporate boundaries. City of Sidney, Nebraska serves a couple center pivots. The finances of that are bewildering to me, but their water systems serve center pivots. Almost-- almost every village serves outside of the village, and if-- if someone wants to be served, they just try to find a way to do it. You know, it's-- it's someone local to them. Not every city electric system boundary matches up with

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the city corporate limits. City of Nebraska City serves Syracuse. They serve-- well, they serve Syracuse gas, they don't serve electricity. But it's the same with the city gas systems. They don't necessarily match up. And it's not a size issue. Pender serves-- serves natural gas at retail. Ponca serves natural gas at retail. I mean, these are not, you know, large metropolitan cities. So I-- you know, if somebody wants to serve-- if somebody wants to get out there and serve Internet, I don't think we should be in the way of doing it. And-- and along those lines, and I can't speak-- speak for them, but-- and no one asked me to say this, but I would open up this concept to other political subdivisions. You know, again, I cannot speak for those subdivisions, but-- you'd have to ask them. But if somebody is willing to do it, somebody should be doing it now. And-- and if this is-- this is where we're at, this is where we need to-- this is where we need to go. You know, if that \$400,000 German combine sitting in the Morton Building needs the Internet, you know what, everybody in Glenvil, Nebraska, benefits if that combine gets the Internet. And this-- this just isn't a border issue. This issue goes beyond borders and it needs to get dealt with. So thank you.

**GEIST:** Senator Moser.

**MOSER:** Currently, cities can partner with an Internet provider to provide Internet, though, correct?

**LASH CHAFFIN:** They-- they can provide it.

**MOSER:** So if they can't find somebody who's willing to come in on their own to their city, they can partner with whoever that Internet provider is and they can ask for a proposal, and if they want to subsidize it, they can. You know, they look at it as an economic development thing or-- or, you know, whatever reason they would want to do it. But the difference between that and what Senator Wayne is discussing here is the city could actually own it and--

**LASH CHAFFIN:** That-- that is the distinction, yes.

**MOSER:** Yeah.

**LASH CHAFFIN:** And sometimes it's not easy to find a partner. Chadron struggled to find a partner up to a few months ago.

**MOSER:** Well, the city's going to have to find a way to connect to the Internet--

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**LASH CHAFFIN:** They are, right.

**MOSER:** --because otherwise the Internet's only going to go as far as the city limits. If you-- if you're not connected to the World Wide Web, it's not-- not going to be too effective.

**LASH CHAFFIN:** True.

**MOSER:** Thank you.

**GEIST:** Senator DeKay.

**DeKAY:** Where I see the problem laying, from being out in the rural area-- and when I say rural, the closest city to me is population 1, so. But where the problem lies in my eyes is getting Internet to everybody. I mean, in a more densely populated part of the state, from basically Highway 281 east, the population base is-- you know, it's a lot-- it's a lot more the farther west you go. And being able to provide Internet beyond the city limits out to these ranches, farms that are 20 miles from town or 10, 15 miles from their nearest neighbor, and getting it to cost-- so that it's cost efficient to these places is where the problem lies. I mean, I live up in a very rural area, but I-- within my structure, I feel I'm very lucky because I do have-- I got fiber to my house, so I'm in a-- and I think there's entities that can work together to bring-- regardless if it's through public power or through telecommunications, through private investors, that these people all gotta going to be able to get on the same page and say, this is how we-- because you gottta make it cost efficient or-- so it's not so cost prohibitive to-- because the farther you go, more it costs to put Internet into a system. And I think that's where people need to be to make this work throughout the whole state.

**LASH CHAFFIN:** They-- they do. I-- that's a-- that statement is 100 percent correct. That final connection is the most difficult connection. And I think Senator --Senator Wayne's bill anticipates that there might be someone with more will to figure out how to get it done. And if that happens to be a government entity, why should we stand in their way? You know, and I-- I think the-- the-- the-- you know, it was-- it-- this issue is a little different than it was in the '30s and the '40s when public power came to be. The model-- the model is applicable, but now we've developed subsidies to-- to make that. In-- in 1938 the only subsidy was a subsidized loan that you could get from the federal government. The-- the-- the subsidies now are substantial and they're cash payments. So, you know, I-- I think

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if-- if we're getting to the point that villages and cities are the-- going to go out and serve these places, they probably should be eligible for the appropriate federal funding. Those-- those folks in the '40s, man, they had a lot of wherewithal to get this thing done. They-- someone-- if-- if-- someone should pat them on the back many times.

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

**LASH CHAFFIN:** Thank you.

**GEIST:** Any other proponents of LB26? Good afternoon.

**DANNY DeLONG:** Good afternoon, Chair and members of the committee. My name is Danny DeLong, D-e-- or, I'm sorry, start with my first name: D-a-n-n-y D-e-L-o-n-g, and I'm testifying today on behalf of AARP Nebraska as a volunteer and in support of LB26. AARP Nebraska is a nonprofit, nonpartisan organization that works across Nebraska to strengthen communities and advocate for the issues that matter most to people and families and those aged 50-plus. On behalf of our approximately 185,000 Nebraska members, AARP Nebraska supports LB26, which would modify Nebraska law with respect to provision of municipal broadband under certain conditions and expand the pool of local responsible broadband providers. The availability, affordability and reliability of broadband Internet access services are essential to the health and quality of life of older Nebraskans. Unfortunately, the debate over municipal broadband has tended to evoke positions on the extremes: those that adamantly oppose public participation in running local broadband systems and those who perceive municipal broadband as a panacea for all deficiencies in broadband coverage or competition. AARP understands that competent management and local buy-in are both important criteria for a successful municipal broadband venture. In reality, neither public nor private providers have a 100 percent successful track record. However, AARP believes that the public interest is not served by a blanket prohibition on municipal broadband. AARP believes that LB26's limited rollback of Nebraska's blanket prohibition of municipal broadband will create new opportunities for broadband systems that are particularly responsive to local interests and needs. AARP fully supports the bill's requirement that there be careful vetting of municipalities' plans to establish a broadband system and the requirement for clear evidence of support from the local community. The recently passed Federal Infrastructure Investment and Jobs Act will infuse a large quantity of grant money into state's broadband programs. The IIJA permits

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participation by both private providers and nontraditional providers, such as nonprofits and municipalities. This opens up a new opportunity for municipalities and other governmental units to obtain funding with a reduced burden on local taxpayers in order to permit municipalities to apply on a timely basis for grants that Nebraska will be administering with this new federal funding. The process for vetting proposals and obtaining public approval must not be more complex or timely than is required to achieve its legitimate objectives. Thank you, Senator Wayne, for introducing LB26. AARP Nebraska encourages the members of the Transportation and Telecommunications Committee to support the bill and advance to General File. Thank you. Any questions?

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

**DANNY DeLONG:** All right. Thank you.

**GEIST:** Any other proponents? Are there any opponents to LB26?

**TIP O'NEILL:** Chairperson Geist, members of the committee, my name is Tip O'Neill. That's spelled T-i-p O-'-N-e-i-l-l. I am a citizen of Nebraska and the president of the Nebraska Telecommunications Association. The NTA is a trade association that represents companies that provide landline, voice and broadband telecommunication services in Nebraskans across the state. We oppose the introduced version of LB26. The NTA has historically opposed public entry into what we believe is an appropriately competitive marketplace. Broadband, we believe, is different from other public utilities. First, while almost 100 percent of citizens purchase water and electricity, the take rate for broadband services is significantly lower. Broadband infrastructure is expensive to build, complex to operate, and in need of constant maintenance and expensive upgrades, and it can be delivered over multiple platforms: cable, DSL, fiber, fixed wireless, mobile and satellite. Second, there is no evidence that municipalities would have desire to serve areas where the most unserved citizens of Nebraska reside: outside the cities or villages. Public competition within those municipalities will make the private company business case for serving rural citizens even more difficult, even with subsidies for building broadband to them. We believe public-private partnerships where local governments can work with industry to improve service in cities and villages is the appropriate role for those municipalities. Right -of-way access is extremely important. The private sector can be a willing partner and has skills in

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technological innovation, innovation and detecting and remediating cybersecurity risks, skills that municipalities don't necessarily possess. We do not need to burden municipalities with additional responsibilities when they struggle to maintain their core public infrastructure. Sewer and water systems, street maintenance and repair, and other municipal priorities should be the focus of our cities and villages. Entry into a competitive marketplace should not be their priority. I'd be happy to answer any questions you may have. Senator DeBoer, for your information, the-- you asked a question on the last bill. In 1997, Nebraskans had-- 97 percent of Nebraska homes had a landline. Right now, that number, at least as far as the United States is considered, it's less than 40 percent, so.

**GEIST:** Any questions from the committee? Yes, Senator Cavanaugh.

**M. CAVANAUGH:** Thank you. Thank you for being here, Mr. O'Neill. OK. So you said-- you mentioned right-of-way access being important. Pay-- playing a little bit of devil's advocate here, if this is a-- if we were to push this forward and a municipality decided that they wanted to-- to start doing this, wouldn't they be working with another public entity on the right-of-way access, public power?

**TIP O'NEILL:** Well, it-- no, not necessarily. The municipality generally controls their own right-of-way within the municipality.

**M. CAVANAUGH:** Right, so they control their own right-of-way access. And then when they are dealing with right-of-way access with public power, then they're dealing with another public entity, so why would they have-- what-- I guess this doesn't seem like a hin-- that seems like a benefit, not a hindrance to giving them this authority, is what I'm asking.

**TIP O'NEILL:** I-- I don't think the right-of-way issue is-- is-- it's-- it's an important issue for us--

**M. CAVANAUGH:** OK.

**TIP O'NEILL:** --as-- as a private telecom provider.

**M. CAVANAUGH:** Oh, I see. Would you be concerned that they would deny you right-of- way--

**TIP O'NEILL:** Well, I mean--

**M. CAVANAUGH:** --if it were--

**TIP O'NEILL:** --no. It's-- it's-- it-- as a public-private partnership, what I'm saying is that they can take measures to assist us in accessing the public right-of-way so that we can improve service to the citizens in that municipality.

**M. CAVANAUGH:** But they could just do it themselves under this.

**TIP O'NEILL:** They-- they do in some-- some states. Again, we-- we think it's-- it's a competitive market place where--

**M. CAVANAUGH:** Sure.

**TIP O'NEILL:** --municipalities don't necessarily belong.

**M. CAVANAUGH:** So it is a competitive marketplace, but it's also become a public good--

**TIP O'NEILL:** Yes.

**M. CAVANAUGH:** --access to Internet, as--

**TIP O'NEILL:** Yes [INAUDIBLE]

**M. CAVANAUGH:** --as Senator Wayne said in his opening, especially with-- around like what we saw at the height of the pandemic with children having to have school at home on-- and have Internet. So it very much--

**TIP O'NEILL:** Right.

**M. CAVANAUGH:** --over the last three years has become a public good. And we're still struggling in this state with access to broadband Internet across the state.

**TIP O'NEILL:** Well, yeah, and there are several ways to define access. I mean, it could be--

**M. CAVANAUGH:** Sure, unserved, underserved, all of those things.

**TIP O'NEILL:** Well, and-- and-- and speed isn't everything. I mean, part of it--

**M. CAVANAUGH:** No.

**TIP O'NEILL:** --part of is what people want to pay for--



**M. CAVANAUGH:** Sure.

**TIP O'NEILL:** --for broadband service. There-- there may well be someone who has 100 by 20 service who doesn't necessarily want to pay for 100 by 20 service.

**M. CAVANAUGH:** Sure.

**TIP O'NEILL:** So you-- you're also talking possible subsidies and issues like that to improve broadband access.

**M. CAVANAUGH:** Some people have access to the end of their driveway.

**TIP O'NEILL:** Yeah,

**M. CAVANAUGH:** I'm-- I'm just trying to see it from other angles here and--

**TIP O'NEILL:** Sure.

**M. CAVANAUGH:** --and that it seems like it could create more competition if we were to have municipalities getting into the fray.

**TIP O'NEILL:** Well--

**M. CAVANAUGH:** And maybe-- maybe this is what we need to nudge our-- our-- our providers across the state to start actively implementing.

**TIP O'NEILL:** I would say that if you're talking about public competition versus private competition, there are certain inherent financial advantages that a public entity would have over a private entity. Public entity doesn't pay any taxes.

**M. CAVANAUGH:** Right.

**TIP O'NEILL:** It--

**M. CAVANAUGH:** And wouldn't those financial benefits be-- trickle down to the consumers?

**TIP O'NEILL:** Well, except that-- for-- for other activities of the municipality, who's going to-- who's going to pay for them?

**M. CAVANAUGH:** Well, I would say that there's probably-- just like we pay for power-- public power, we still pay for it. It just costs less because of public.

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**TIP O'NEILL:** Yeah, that's-- I mean, that's-- I-- I don't believe that my members would share that opinion.

**M. CAVANAUGH:** I'll leave-- I'll--

**TIP O'NEILL:** But I appreciate it.

**M. CAVANAUGH:** I'll leave you with-- with that.

**TIP O'NEILL:** OK.

**M. CAVANAUGH:** Sorry. Thank you.

**GEIST:** Senator DeBoer.

**DeBOER:** I'm going to pick up where she left off just for a second, because everybody confuses us anyway, so might as well. You said appropriately competitive, but I looked and the bill does limit it to underserved and unserved, so no one's competing. So, you know, this is a bill to say there's no one competing for this, let's let, where nobody wants to go, somebody come in there and try and do it. So if it were-- I would be all with you if it were anywhere-- even if there's already a-- a built-out system, but there's no system built out. This says only in areas that are underserved or unserved.

**TIP O'NEILL:** I'm-- I-- I'm looking for that language, Senator DeBoer. Can you tell me where that--

**GEIST:** Bottom of page 2.

**DeBOER:** Page 2, it says--

**TIP O'NEILL:** OK.

**DeBOER:** --Section 4, beginning January 1, 2024, a municipality may provide broadband services or Internet services on a retail or wholesale basis within the corporate limits and extraterritorial jurisdiction of such municipality if such municipality is located in an underserved or unserved area.

**TIP O'NEILL:** OK. That meets the requirements of the-- yeah.

**DeBOER:** Yeah. So--

**TIP O'NEILL:** Well, I mean--

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**DeBOER:** --I mean, there's nobody wanting to compete.

**TIP O'NEILL:** --again, un-- unserved is less than 25/3--

**DeBOER:** Right.

**TIP O'NEILL:** --as-- as the Nebraska Statutes say. Un-- underserved is less than 100 by 20.

**DeBOER:** Right.

**TIP O'NEILL:** So if you're talking about the entire municipality, does that mean that the entire municipality is unserved or underserved, or does that mean that areas within the municipi-- municipality are unserved or underserved or--

**DeBOER:** I probably read as-- as areas. But let's imagine if we decided to say only unserved.

**TIP O'NEILL:** Um-hum.

**DeBOER:** Right? Does your objection go away? Because the places that are unserved in Nebraska now, nobody's-- nobody's clamoring for those areas.

**TIP O'NEILL:** I-- I would have to speak with my membership on that--

**DeBOER:** Yeah, OK.

**TIP O'NEILL:** --before I could--

**DeBOER:** That'd be something interesting.

**TIP O'NEILL:** --take an official position.

**DeBOER:** And also, we probably couldn't clear up for sure, but I think it's-- if a portion of the, you know, municipality is underserved or unserved, we could probably come up with a way to work that around so that they're not overbuilding a place that's currently already served. I don't know. I'll ask Senator Wayne later if he'd be open to that, but--

**TIP O'NEILL:** Well, again, the-- the issue-- part of-- part of the issue is that once you have service to a municipal-- by a municipality with-- within the city limits, you are going to take resources away from rural areas outside those municipalities, because that's the way

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that a private business makes a business case for-- for serving that area.

**DeBOER:** Maybe we could start this in two years and say anything that isn't built by two-- you've got two years to make your claim. It's like the-- the land rush, Right? You've got two years to make your claim. After that, if you haven't done it, time's up, now we're going to have somebody else come in.

**TIP O'NEILL:** You know, two years, it probably won't bother me much.  
[LAUGHTER]

**DeBOER:** Thank you.

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

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

**DeKAY:** Thank you, Senator Geist. Thank you, Mr. O'Neill. Say, in the second to your last paragraph in your statement, first sentence said, we believe public private partnerships with local governments can work to improve it, beyond right-of-way and things like that, where do-- where do you think the options lie for those two entities to work together to fulfill this?

**TIP O'NEILL:** Well, I-- I think mark-- marketing, those sort-- sorts of things, encouraging people to-- to utilize broadband services, because, again, as I said, the take rate is a much lower percentage and-- and actually, the more a municipality has an elderly population, the take rate even then goes down, and then allowing the-- the-- the private businesses offering the retail to-- to do training for senior citizens, those-- those sorts of things.

**DeKAY:** Is-- do you think there's a possibility where, in their areas of expertise, that they can work together on a financial part of it that would say, hey, we can build-- you can maintain or you think there's any--

**TIP O'NEILL:** Yeah, most-- they're-- they're-- mo-- most of my companies do participate in the federal program that-- that limits the price that people, the low in-- low-income affordability plans. So those are-- those are out there. We do participate in those.

**DeKAY:** With one--

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**TIP O'NEILL:** Am I missing your point here? I'm sorry.

**DeKAY:** No, no, you're-- I-- I under-- out in the most rural areas, we're going to be talking, you know, because of cost effectiveness and stuff, we're probably going to be, rather than fiber going to every farm, ranch in the area. Right now, with satellite broadband, how-- how efficient is that? Is it-- I mean, on cloudy, stormy days, how much do we lose in those time periods. And otherwise, how efficient is it going forward? If that's going to be for people that got jobs and got ta answer the phone or whatever, how to-- how to make sure that they're able to do that and on stormy days or whatever?

**TIP O'NEILL:** You know, Senator Friesen and I used to have those discussions in-- in his office when I worked as counsel for the committee, and-- and it's the last 3 percent that create obviously the biggest problems because they're the most expensive customers to serve. And when your-- when it's costing you-- let's say if you're burying fiber, it's costing you \$10,000 a mile, I mean, more than that some places and maybe less than that some places. It's almo-- it's impossible to make a business case because if there had been a business case to be made, we'd already be out there because we're-- you know, like to make money. But it's-- it's very difficult. And to the extent that we can deploy fiber-optic technology, I think we should. But at some point, other-- other means of providing service are probably going to become necessary in the most sparse areas. Now we're-- we would like to see everybody get fiber. I just don't know if-- that even with all of the broadband money coming in from federal sources, even once you spend that money and-- and deploy that broadband, you're still going to have costs that aren't going to be recovered by the subscriptions that those really sparse customers are paying. And so we have to look at that. If somebody's paying 100 percent of the cost of the line, it still may not make business sense because you just don't have enough customers. So that's-- that's one of the things we-- we have to think about. But I hope that with-- with BEAD and with the federal ARPA Capital Projects Funds and-- and the state broadband grant program, which is a great program, particularly for the smaller companies I represent, because they don't have all of the-- the federal requirements that make it very difficult to administer, and in a smaller company, you just don't have enough people who are available to-- to do all of the reporting that is required in both the federal ARPA Capital Projects Funds and the BEAD program, so.

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**DeKAY:** I would-- I would like to say that the last 3 percent, I feel, need to be represented, I mean, in the public power world. And I know that they're the ones that are-- probably cost to build and maintain it. But in the electric industry they've-- they've made those concessions and they made those efforts to get to everybody, rural and urban, electricity to them at the cheapest rate they could. So I think those efforts can't go unnoticed in how we deal with broadband moving forward too..

**TIP O'NEILL:** Sure. It's an issue moving forward. I know that, so.

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

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

**GEIST:** Thank you for your testimony. Any other opposition testimony to LB26?

**DeKAY:** Senator Wayne's [INAUDIBLE]

**BENJAMIN DENNIS:** [INAUDIBLE]

**GEIST:** Good afternoon.

**BENJAMIN DENNIS:** Good afternoon. Senator Geist. And members of the Transportation and Telecommunications Committee, my name is Benjamin Dennis. That's B-e-n-j-a-m-i-n D-e-n-n-i-s, and I am an attorney at Hamilton Telecommunications in Aurora, Nebraska, a Nebraska communications provider since 1901. I'm testifying on behalf of the Nebraska Advocacy Group, a group of ten Nebraska telecommunications companies providing customers with telephone and broadband service throughout the state. Thank you for the opportunity today for me to briefly explain our opposition to LB26. We've-- we've touched on this already today, but broadband is vital to Nebraska's future and enables work, school, healthcare, entertainment, socialization. Although it is worthwhile to explore different ways the state can assist in closing the digital divide as quickly as possible, public entry would not address the truly high-cost areas and it's not the right solution. Public entry has been debated many times over the years by this body, and the Legislature has been wise to prohibit public entry in the past. Member companies in our group have deployed thousands of miles of fiber in their territories and know that constructing these networks takes a lot of time and resources. Based on our firsthand knowledge, we are convinced that established state programs, including NUSF, the Broadband Bridge program, along with federal monies from

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ARPA, the Capital Project Funds, and BEAD, are putting Nebraska on the right path to closing the digital divide as quickly as possible. We recognize that those Nebraskans who do not currently have sufficient Internet access, or to the legislators who are eager for this issue to be taken care of once and for all, the fact that so much progress is being made brings little comfort, but the reality that a ubiquitous broadband network is not yet complete in Nebraska does that-- does not mean we change course. As I stated already, broadband deployment is a time-consuming and challenging task. The prohibition against public entry helps keep the cities focused on what's-- what they do best; that's healthcare, parks, libraries, public safety and education, all of which are crucial for our rural areas. Continuing to support telecommunications companies with the expertise and experience to deploy fiber networks is the solution to this issue. LB26 would divert vital resources from experienced companies to-- to already strained municipalities who don't know the first thing about broadband deployment. In my opinion, it's not a plan for success in the last two years, \$40 million has been administered for broadband buildout through the Nebraska-- through the Broadband Bridge program. Nebraska Central Telephone Company, a Nebraska telecommunications company acquired by Hamilton in late 2021, was awarded nine grants in round one of the bridge program. That included five towns that otherwise would be eligible or would have been eligible to construct their own networks if LB26 passed. Those towns are Ansley, Arcadia, Burwell, Dannebrog and Sargent. NCTC applied for 11 additional grants in round two of the Bridge Program, but there were so many quality shovel-ready applications submitted that millions of dollars of eligible projects could not be funded in year two. Hamilton is committed to completing a ubiquitous fiber network in our ILEC territory, which covers nine-- or excuse me, 29 exchanges, whether grant funded or not. But we can definitively say these grants are helping accelerate deployment. We're happy to see that there was money appropriated to the Bridge Program in the Governor's budget, which will help Nebraska to continue to build momentum while waiting for BEAD funds in a couple of years. Nebraska is well prepared to deploy BEAD dollars swiftly and effectively to viable and meaningful projects. Nebraska has been wise to prohibit public injury in the past and is well positioned to address the digital divide in the next few years. For these reasons, we respectfully oppose LB26. And I'm happy to take questions, although this is my first time testifying, so if you'll take it easy on me too.

**GEIST:** Senator DeBoer.

**DeBOER:** All right. Since it's your first time, I'll--

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**BENJAMIN DENNIS:** Thank you.

**DeBOER:** --I'll take it easy. Hamilton's built most of its area out, hasn't they-- haven't they?

**BENJAMIN DENNIS:** That's a good question. Thank you. Yeah, so we are-- again, we want to reach every single person to fi-- to connect every person to fiber and earth in our ILEC territory, but it-- it just does take a lot of time. So we've been working on it for years, but we are over 80 percent done.

**DeBOER:** Yeah, I thought you guys were pretty far along. It seems like that we're going to put a ton of money out. The \$40 million is sort of 10 percent of what we're probably going to put out in the next couple of years.

**BENJAMIN DENNIS:** Yeah.

**DeBOER:** And--

**BENJAMIN DENNIS:** Yeah. And maybe this isn't exactly what you're asking, but what's kind of exciting about it is, I mean, this is a great public-private partnership in a way because, for all those community grants, we got higher match percentages for our rural applications, but we only ask for a 20 percent grant, so only 20 percent of those in-town projects are funded by-- by state funds. Sorry, I-- that's probably--

**DeBOER:** No, no, no, that's--

**BENJAMIN DENNIS:** [INAUDIBLE] the question at all.

**DeBOER:** But I-- I was just thinking, it seems like when I've had people do sort of back-of-the-envelope calculations of how much it costs to get everyone just to the farmstead, just to the one address spot, it's going to cost, somebody told me, \$4 billion, with a "b." And, yeah, we can leverage the federal funds and whatever as much as we can, but we're still going to be, at the very best--

**BENJAMIN DENNIS:** Right.

**DeBOER:** --a quarter of the way through--

**BENJAMIN DENNIS:** Right, yeah.



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**DeBOER:** --like probably not even that--

**BENJAMIN DENNIS:** Right, and so--

**DeBOER:** --with what's left.

**BENJAMIN DENNIS:** I appreciate that question. I think that's right. I don't believe that that's the exact figure that I've heard.

**DeBOER:** OK.

**BENJAMIN DENNIS:** That is-- the estimate is to build out the entire state. But the reality is, it's more than the BEAD monies probably. I mean, we don't know exactly what Nebraska's allocation of BEAD mon-- funds are yet, I mean, at least \$100 million plus our state's proportion of the unserved location-- serviceable allocations as it pertains to the rest of the country. But that-- but that's right. This is not going to be done. It's not going to be done.

**DeBOER:** So here's my question. Why not do a shot clock? Let's give you ten years, whatever you've got, seven years, two years, five years, probably more like seven, you get to do what you want to do, and then at that point, whatever's left is open season. I mean, at some point you're not going to be able to make a business case, not just for building it, but somebody mentioned not just building it but upkeeping it. And so at some point--

**BENJAMIN DENNIS:** I think that's right. I think if you-- so take what Hamilton's plan is to build out our entire network. If you take certain indi-- if you start piecing out individual service locations and say, OK, this is-- this one's \$100,000 grand, or whatever it is, and we don't have the individual justification to build this service location, well, we've already made that commitment. So it's a little bit more of a holistic approach, I think, for-- for companies who, again, are committed to building out their-- their entire network. But that problem that you speak to, I guess the shot clock is fine. I mean, that's not speaking on behalf of it, on behalf of the group. But the reality is, like Senator Wayne said, there's not any unserved, at least in the entire-- entirely unserved communities in this entire state. So we believe that this just would be a duplication of public support because the state is funding the carrier-of-last-resort responsibilities to providers and in exchange for that, we get the NUSF funds, plus the grants, plus these federal monies. The state has invested a lot to assist private industry to help get this completed,

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which, again, we believe will happen. But it's duplicative to then use those same taxpayers' resources that happen to live in a town that has a portion of the community that is unserved or underserved, overbuild a community, I mean, it-- it-- it's a duplication of public support.

**DeBOER:** But at some point, couldn't we say, look, you've had your chance, now anything else can-- that can get it done should be able to get it done?

**BENJAMIN DENNIS:** Yes. And-- and I'm not well versed on, I guess, legislative law, but I believe that this Legislature has the authority to-- to pass the legislation. And I think at some point it probably-- it probably does make sense. But what that point is, it's hard to say. I think, I mean, watching a lot of this debate over the last couple years, I recall Senator Frie-- that Chairman Friesen saying multiple times, you know, we've got the bridge, we're doing the bridge, we understand that, but you understand that these things take time--

**DeBOER:** Yeah.

**BENJAMIN DENNIS:** --these things take time. And I think that's been exacerbated by supply chain issues--

**DeBOER:** Sure--

**BENJAMIN DENNIS:** --employment issues, all those--

**DeBOER:** --and everybody--

**BENJAMIN DENNIS:** Yeah.

**DeBOER:** --everybody in the country wanting to build all at the same time.

**BENJAMIN DENNIS:** Exa-- yep, yep. And he-- he brought those things up many times. And I don't think that's a scapegoat. I think it's absolutely true. So I think we've identified the issue and are doing the best thing we can to-- to move the state forward and we're going to be in a great place after BEAD monies are distributed. I hope that answers your question.

**DeBOER:** Kind of.

**BENJAMIN DENNIS:** OK.

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**DeBOER:** Thank you.

**BENJAMIN DENNIS:** Yep.

**GEIST:** Yes, Senator Brandt.

**BRANDT:** Thank you, Chairwoman Geist. Thank you, Mr. Dennis, for testifying today.

**BENJAMIN DENNIS:** Thank you.

**BRANDT:** How do we incentivize private industry to build where they don't want to build? I mean, we-- we've got 75 percent matches. I imagine we'll just keep throwing money at this. And at the end of the day, you know, you-- everybody wants more time. I'm sorry. You know, it isn't getting the cable out to where it needs to be. We're seeing privates go back into existing towns and village-- villages and overbuild there, because I know if you have a mile of broadband through a town of 400, you've got customers.

**BENJAMIN DENNIS:** Yeah.

**BRANDT:** And if you got a mile outside of town, you've got nothing. What's it going to take to fix this?

**BENJAMIN DENNIS:** I think that's a great question, and I think the Legislature did a great job after round one to the-- one of the Bridge. So in LB388, even in the unserved and the highest cost areas, providers were only able to apply for a 50 percent match. So in round one, the two NCTC rural unserved applications that we submitted were the only unserved grant, I believe, the only unserved grant applications in round one. If you look at round two, almost all of the approved grant appli-- applications were unserved, and that was just by tweaking the grant from that 50 percent. That was the-- the highest match percentage in round one to that 75 percent that you cited for round two. So I think the Legislature did a good-- did a good job there. But-- but I think that's the type of incentive that it's going to take to-- to get this thing completed. And again, with the NUSF support com-- committing to that ongoing support in the future for those incumbents that have taken on that carrier of last resort responsibility, because it is expensive to maintain those facilities over their lifetime. So thank you for the question--

**BRANDT:** But isn't there some responsibility to the taxpayers also? I mean, I appreciate that Senator Wayne brought this bill--

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Absolutely.

**BRANDT:** --because all we're doing at this point is Nebraska, because of our restrictions on public power and public municipalities, is you guys have the whole pie to yourself. And, you know, what Senator Cavanaugh say about serving, you know, a board of directors and everything else--

**BENJAMIN DENNIS:** Yeah, thank you.

**BRANDT:** We're-- we're putting this public funds out there to accomplish a goal, and that goal is to get that last mile served some way--

**BENJAMIN DENNIS:** Yep.

**BRANDT:** --shape or form. And I guess I'm-- I'm a little frustrated after four or five years of listening-- we just need more time, we need more time. What's the plan?

**BENJAMIN DENNIS:** Well, obviously, I-- I appreciate the question and it's hard-- I mean, it's multifaceted, the question. I agree with you to a certain extent that the pri-- the priority for the Broadband Bridge was to build to those hardest-to-serve areas. I can only speak for our company, but that's why it's like before we apply for any of these communities, we have to apply for all of the unserved locations that are in our territory. That's the priority and that's what we-- that's what we need to start with.

**BRANDT:** All right.

**BENJAMIN DENNIS:** So I-- I- -I-- I agree-- I agree with you, like--

**BRANDT:** Yeah. You can sense my frustration. Thank you.

**BENJAMIN DENNIS:** Absolutely. Yep.

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

**BENJAMIN DENNIS:** Thank you very much.

**GEIST:** Any other opponents? Are there any who wish to speak in the neutral capacity? Senator Wayne, you are welcome to close. While he's

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coming, I will let you know there are three letters of support and one letter of opposition that were sent in for LB26.

**WAYNE:** Thank you, Chair Geist. So just real quick history of how-- the only reason municipal-- municipalities are-- this bill restricts it to municipalities is because when I introduced it three years ago, I was trying to get it to go to Urban Affairs. I lost that fight in Exec, and so now, no matter what I put in the bill, it's going to be referenced here. So I'm open to political su-- I'm open to counties. I'm open to political subdivisions. I didn't bring-- I didn't open it to public power, which I'm not afraid to, I don't care, because Senator Brandt had a bill at the time for dark fiber, so I wasn't going to duplicate that argument during the time. I don't care who it goes to. I just want to correct a couple things. So I don't care who goes to. I don't care if we erase the EG-- EG-- ETJ. I'm just about trying to figure out how we build broadband in western Nebraska. Quite honestly, it probably needs to happen in Omaha, too, but that's a different fight that I don't need to have right now. I think we need to figure out how to do it. And some of the testimony I heard was we're taking money from other things. We don't take any money from anything. This is just giving them the option at the local level to figure it out on their own. And again, we can open it to public power. We could open it to counties, municipalities. I-- I don't care. I just want them to go to the process that, one, puts their community on notice that we have a problem, here's the process we went through, they have a public hearing, and if they who are elected to-- to serve their constituents choose to go down this path, they should be able to. It's that simple to me. That's all I really have to say. It's just that simple to me.

**GEIST:** Yes. Senator Bostelman.

**BOSTELMAN:** Thank you. Thank you, Senator Wayne. The-- I think I would be interested in-- in some amendments to this as to how we get outside of the village or whatever. And I would-- I would-- for those who came, testified here, I would beg to differ that there's-- every village and town is served. We're underserved in this state. I've got villages, I think, in my district that are unserved, pretty bluntly. And the thing is, if we don't figure out a way to challenge those who haven't been building out and continuing to need more time, if this is a way that we could help them maybe partner together, that might be a way to do it. So what I heard is you're willing to put some amendments there.

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**WAYNE:** I'm willing to entertain any, Senator Bostelman, any amendment to cover whatever areas we need to cover to cover the state with-- with broadband. And to Senator DeBoer and Senator Brandt's point, or questions, I don't know how much more time we have to-- we're-- we're losing our-- our-- our youth to Omaha and then they leave the state anyway, but it's this massive migration. We're not building businesses in small towns, and villages and there isn't a business right now where broadband isn't important. I mean, most of our farmers, broadband in some form is important right now based off of what they're using. We've got to do better.

**GEIST:** Any other questions on the committee? Yes, Senator Cavanaugh.

**M. CAVANAUGH:** Thank you. Thank you, Senator Wayne. So would you entertain an amendment to put in the "Gold Rush" amendment, we could call it?

**WAYNE:** The Gold Ru-- the--

**M. CAVANAUGH:** Senator DeBoer's suggestion of a shot clock.

**WAYNE:** Shot clock? Yeah, I can't go ten years. I probably can't go seven. I'm done in two, so we can go two. [LAUGHTER] But, yes, I'll entertain anything just to get this moving.

**M. CAVANAUGH:** Yeah. I mean, I-- I agree with the sentiments that have been shared by the committee and yourself today that we're spending a lot of taxpayer dollars on this, which says to me that it is a public good and it's not being implemented across the state the way that we would like to see it. So I appreciate you bringing this bill again. Thank you.

**WAYNE:** Thank you.

**GEIST:** I'll ask just one question. If a-- how do I want to say this? I'll wait. I'll talk to you later.

**WAYNE:** I have three days with you this week, the committee.

**GEIST:** I'll hold my question.

**WAYNE:** All right.

**GEIST:** All right. Any other questions?

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**WAYNE:** Thank you.

**GEIST:** Thank you. That will close the hearing for LB26 and we will move on to LB607. Welcome, Senator McDonnell.

**McDONNELL:** Thank you, Chairperson Geist and members of the committee. My name is Mike McDonnell, M-i-k-e M-c-D-o-n-n-e-l-l, represent Legislative District 5, south Omaha. It is an honor to be here today to introduce LB607. This bill will relocate-- reallocate funding from 211-- from the Universal Service Fund, to the General Fund in order to strengthen our commitment to 211, a critical public service provider as a part of a collaboration with the State of Nebraska and United Way of the Midlands. 211 is a free confidential information and referral service that connects individuals to important services available in their community when they are in need of help. Nebraskans can call 211 whenever they are in need of non-emergency assistance. This includes things like emergency food assistance programs, employment, counseling services, housing, aid programs, medical treatment options, educational opportunities, or any other assistance a person may need. In case of an emergency, dial 911. For any other type of assistance, simply dial 211. 211 helps the hundreds of thousands of Nebraskans find support each year by connecting them to vital services. In 2002, the Public Service Commission granted United Way of the Midlands permission to use the 211 telephone number within Douglas and Sarpy Counties. Today, this system is available to everyone in the-- the state 24 hours a day, 7 days a week. In 2019 we passed LB641 with a vote of 41-0. This law gave us the chance to resume the 24/7 statewide 211 services. We could not have foreseen such a catastrophic combination as the devastating floods, a worldwide pandemic, and the rapid inflation in utility rates that we are currently experiencing at this time. Fortunately, Nebraska and all 93 counties have had 211 available to them during this period. The bill ensures that 211 can continue to operate and provide these vital services for Nebraskans by moving the state's funding from the-- for this partnership from the Universal Service Fund to the General Fund. Given the rise in--in cell activity and proper utilization of the funds from the Universal Service Fund, it is not-- no longer realistic to rely on earning-- earnings generated by the Universal Service Fund as a reliable source for 211. We have grown from 72,000 annual contacts in 2019 to an expected 440,000 in 2024. Sadly, this increase is being caused by growing needs within our communities. We need to make sure that this important service is maintained and utilize the data being collected by 211 to better target our services to match the unmet needs of our community. Also here to testify is Shawna Forsberg, president and

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chief executive officer of the United Way the Midlands. She will be able to provide more detailed information on how LB607 will ensure that these vital services remain readily available for Nebraskans in need. Most of you on this committee have had an opportunity to learn about 211 because I've discussed it every year I've been in the Legislature. This is a-- something that was-- that was brought to me, and sometimes when you're elected, you don't realize what's in your own backyard and what's available to your citizens. But I think every one of you have realized this, that there's been someone that's come into your office, someone you talked to on a doorstep when you were running. Someone that's called you or texted you, and they needed help. And you definitely wanted to help them, but it was not within your senate office to be able to do that. But you could direct them to 211. And when we found out that 211 had been put in place by the Public Service Commission but had run out of funding based on 24 hours a day, 7 days a week, the need and how many people were-- were calling 211 but there was no one there to answer, we as a Legislature took action. It's a partnership, and we've tried to look at that partnership over the years as a 50/50 partnership on funding just the 211 part. We're talking about having access to millions and millions of dollars. We know we believe that-- that people want to give of their time, talent or treasury to help their neighbor and friends, and that's happening in-- in the state of Nebraska. The-- the mission is, how do we connect those people that want to help and those services? And 211 does that, east, west, north, south, in the state. And what we're looking at now is making sure that the funding is there through the General fund. And we've-- any kind of funding that's been-- been there in the past, we've-- we've looked at it, but we've also committed to-- the long--term goal was to get the funding out of the General Fund. Governor Ricketts was-- was supportive of that and had put it in his fund at one point. It came through Appropriations and it was decided at that moment in time to still take it out of the Universal Service Fund, the earnings off of that fund. But also I gave my word to bring this bill to eventually move the funding to the General Fund. Now there's also something else I handed out today and it was a proclamation by Governor Pillen and recognizing the importance of 211. I wanted to make sure that you had that. We are working with the Governor's Office, and as a member of Appropriations, we are currently going through the agencies' proposals, and of course the Governor's-- he proposes the budget and we depose as-- as Appropriations, and then we bring it to the members of the Legislature. So we're in that process right now, but the goal is to get the funding for 211. And-- and for the new senators, it does make



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a difference. And again, the need is there. Unfortunately, it keeps going up. But also, I think it's-- that's somewhat of a positive because people are learning about 211, just like it took years to educate people about 911 and children and it started off in schools because at one time, it wasn't 911 you'd call for an emergency throughout the country. Everyone had a different number, even in the state in Nebraska. Our goal is to make sure everyone in the state of Nebraska knows, and if we can educate through the kids for their parents that if they need helping-- help with housing, with food assistance, with employment, that you call 211. Here to answer any questions. I'll be also here to close.

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

**DeKAY:** Real quick, right now, you-- we're-- allocated \$955,000. In two years we'll be up about another \$500,000 to almost, you know, a thou-- \$1,445,000. What's that driving those costs up? Is it--

**McDONNELL:** People in need making those calls and trying to make sure that we have people there to answer the calls. If you look at the \$955,000 off the Universal Service Fund, off the earnings, now we're looking at increasing it from that \$990-- \$955,000, up by another \$320,000 for 2020-- '20-- next year, and then the following year for the budget, we'd move it up to another \$490,000. It's based on trying to keep that balance of a 50/50 partnership with private-public sector. So we're asking the-- the 211, we're asking the-- based on that part of their budget through the United Way, for them to go out and have that private partnership, and that we would take the public money, the taxpayers' money, and match half of that, and that's what's driving it as that 50/50 partnership.

**DeKAY:** So, and if I'm under-- so in total, it'd be close to \$3 million to run the 211 service then?

**McDONNELL:** No. Well, as-- yes, as a biennium we're-- we're going to be at that. But for each year, annually, we'd be at \$1.2 million for next year because our new budget would start July 1 of '23. The following year it would be up another \$490,000 for a total off of the \$955,000. So you're looking at an increase of \$320,000 up to \$1.2 million for this year. Then, if you went back to the \$955,000, you're going to \$490,000 to \$1.4 (million).

**DeKAY:** OK. So it's based off of the \$900-

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**McDONNELL:** It's the biennium budget.

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

**GEIST:** Yes. Senator Cavanaugh.

**M. CAVANAUGH:** Thank you. Thank you, Senator McDonnell. I have questions about the money. I'm just a little confused. So the \$955,000 that we currently give out of the cash fund--

**McDONNELL:** It's cash fund-- Universal Service earnings.

**M. CAVANAUGH:** Right. So what would happen-- does that money go to something else then in the Universal Service Fund?

**McDONNELL:** It could or it would just stay. That could be used for something else, but otherwise that would stay in the Universal Service Fund.

**M. CAVANAUGH:** OK. And so-- so we would fully be funding this out of General Funds. Is there a possibility for us to funnel a percentage of the Universal Funds to still fund this? I-- I'm only asking because, if we have that money that we're currently using, it'd be nice to offset it. But maybe that's too--

**McDONNELL:** To an-- to answer your question, yes. Could you use General and cash? My goal and what I've committed to is trying to get 100 percent funded through General Funds.

**M. CAVANAUGH:** OK.

**McDONNELL:** But through the process over the years, we've worked it out to where we have used the Universal-- the earnings of the Universal Service Fund, but--

**M. CAVANAUGH:** It's just more stable to do it through the General Funds?

**McDONNELL:** Yes.

**M. CAVANAUGH:** OK. That's-- thank you.

**GEIST:** Yes, Senator Brandt.

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**BRANDT:** Thank you, Chairwoman Geist. Thank you, Senator McDonnell, for bringing this. To follow up on what she said, did you see the fiscal note from the Public Service Commission?

**McDONNELL:** Yes.

**BRANDT:** OK. That-- and that's why I was confused, too, because the language in the bill said the money is all coming from the General Funds, and yet we have a fiscal note here that took the amount requested minus \$955,000 in cash funds for a net of \$320,000 the first year and \$490,000 the second year. So is their fiscal note wrong?

**McDONNELL:** No. So if you look at if we used, if we continue to use cash funds, the total amount would be, for each year, we would, I mean-- we would be increasing it up by \$320,000 the first year off of the \$955,000--

**BRANDT:** Right. Yeah.

**McDONNELL:** --and then \$490,000 the-- the next year. But we're

**BRANDT:** Right.

**McDONNELL:** --this bill proposes to take it out of General Fund and not use the Universal-- the earnings off the Universal Service Funds any longer.

**BRANDT:** But that's at odds with what-- I guess what I'm pointing out is that fiscal note is at odds with the language in the bill.

**McDONNELL:** Well, we currently-- OK. so we're currently-- if you looked at-- if you were in Appropriations and when they came through with the agency requests, there was discussion about continuing to use the \$955,000 off the earnings on the Universal Service. So when Scott put this together-- he's the fiscal analyst--

**BRANDT:** Right.

**McDONNELL:** If this bill would pass, then we would be taking all of it from the General Funds and nothing from the Universal Service Fund, earnings off the Universal Service Fund.

**BRANDT:** I-- I kind of concur with Senator Cavanaugh. Why not keep pulling the \$955,000 out of that Cash Fund? I mean, we've got it appropriated now and then you've only got to supplement the difference

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from the General-- what's the advantage-- tell me what the advantage is to going 100 percent General Funds.

**McDONNELL:** I think long term, the consistency of it and the idea of that money being available in the-- in the general fund versus the earnings off the Universal Service fund. Now I don't want to mislead you. There's \$124 million in the Universal Service Fund. OK. But what I'm saying is that is-- that is going to be used. And if we're looking at the long term, the future of 211 and the partnership of having United Way raise 50 percent from the private sector and then we match it with approximately 50 percent, then it would be more dependable financially to look at the General Fund.

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

**GEIST:** Any other questions? Thank you for your testimony. And you said you're sticking around?

**McDONNELL:** I'll be here to close, yeah.

**GEIST:** OK. Are there-- is there any proponent testimony with LB607?  
Good afternoon.

**SHAWNA FORSBERG:** Good afternoon. You guys are-- I don't know how you do this all day, so thank you for having us.

**GEIST:** Some days are better than others.

**SHAWNA FORSBERG:** Good afternoon, Chairperson Geist and members of the Transportation and Telecommunications Committee. My name is Shawna Forsberg, S-h-a-w-n-a F-o-r-s-b-e-r-g, and I am the President and CEO of United Way of the Midlands, located in Omaha, and I am here today to testify in support of LB607, a bill that would increase state funding for the Nebraska 211 contact center operated by the United Way of the Midlands. United Way of the Midlands is celebrating 100 years of celebrating others and supporting our community. We have a deep history of working with over 600 corporate partners to support nonprofit agencies that lift up those in our community that need a helping hand to get back on their feet. When organizations like ours achieve 100 years of making positive impact in the community, it's so easy to look back and marvel at what has been accomplished. But instead of doing that, we're using this milestone as an opportunity to look forward and see how our organization can make an even more meaningful contribution to the state over the next 100 years. That's why we're here today, to strengthen that foundation for many years to

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come. United Way's 211 contact center partnership with the state first began in 2002, when the Public Service Commission designated the 211 telephone number to United Way of the Midlands for Douglas and Sarpy Counties. From there it grew to all 93 counties by 2010. It makes a lot of sense for the state to have one centralized call center with all the necessary infrastructure and overhead to provide the essential service for the entire state. Having this structure also helps the other 13 United Ways throughout the state by keeping their donation local and supporting the nonprofits that 211 is able to refer your constituents to when they need assistance. In 2019, the Nebraska Legislature passed LB641 to provide the necessary resources for the 211 contact center to reestablish 24/7 operations, to provide easy access to local providers through 211's intake and referral service for local communities in western, central, rural and frontier Nebraska. Last session, the Nebraska Legislature included LB911 as part of LB1012, sustaining the state's portion of our public-private partnership to 40-- to 40/60, with the state supporting 40 percent of operations and outreach cost. Outreach and awareness of 211 is an important component of the state's support. We participated in over 190 outreach events and reached over 3,000 participants. We also made people aware of the service with billboards in Columbus, Kearney and Sidney, coupled with PSAs that reached 3 million devices and 500,000 households across the state. What we have seen is a 32 percent increase in contacts from outstate Nebraska over 2021. I'm here today asking your support of LB607 to further strengthen the state's commitment to providing easy access to the referral network of over 4,000 service providers located in your local communities. When we worked with the Legislature last year, we anticipated and seeing the volume of requests coming in at 211 leveling off after the pandemic. We've actually seen just the opposite. In calendar year 2022, we received over 364,000 contacts, which equates to nearly 1,000 contacts a day. This is up 325 percent since 2018, and we're forecasting to be over 440,000 contacts by the end of 2024. The need for this service is so vital to ensure our friends, neighbors and community have somewhere to go when they don't know who else to call for help. This legislation proposes a 50/50 public-private partnership. It started as of 45/55, then went to 40/60 and, based on our current budget forecast, proposes a 50/50 commitment. Unlike a lot of public private partnerships that end up being the state funding a private organization and calling it a public-private partnership, we truly believe bringing this half to the table leverages the state funds against raising the other half. The current philanthropic environment dictates that we have a partner like the state with known commitment each year, so we know as an

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organization how much we have to raise to support this essential service. Without it, I'd hate to think what people would turn to in their time of need. LB607 also realigns the funding source to their earnings from the cash fund at the Public Service Commission, the Nebraska Telecommunications Universal Service Fund, to the state's General Funds. This preserves the true purpose of the Universal Service Fund that Nebraskans have equal access to affordable telephone and Internet service, regardless of where you live. So thank you for your time today. I've included a letter of support from our board of directors, which is attached to my testimony, and I encourage you to please support LB607 and would be happy to answer any questions you might have.

**GEIST:** Thank you. Thank you for your testimony. Are there any questions from the committee? Senator Bostelman.

**BOSTELMAN:** Thank you. Could you give us some-- provide to us at some point here in the near future, I guess, a budget, because you're asking for increases in funds, but no reason, nothing to show us why you need the increase other than saying we have more phone calls.

**SHAWNA FORSBERG:** With it now, increase in cost, as far as the number of calls that we have come in, we had to add more people. Also, salaries have gone up as well. And when we initially proposed the 40, 45, 50 percent partnership, it ended up being closer to 20 percent with the volume of calls that came in. We had to expand it faster--

**BOSTELMAN:** I understand that. COuld you provide us what you're paying people and that,, because my question is, is seems like every year we're coming back, increasing and changing, increasing, changing. Where's it going to end? Where's it going to stop? So if you're asking this body to provide more funding, I-- I guess my question would be, and maybe Senator McDonnell will have it, is where these funds are actually being used and how they're being utilized, because if we continue to increase the funding, of course, I think it's our responsibility to know exactly those decisions, how it's being been made, how much-- what's being expanded and-- and in what areas, so, appreciate that.

**SHAWNA FORSBERG:** Yes. Yes, absolutely. We can hand that to you.

**BOSTELMAN:** Thank you.

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**SHAWNA FORSBERG:** And like I said, it's primarily salaries and adding people to the works. When you go from 70,000 contacts a year to 365,000, there are more people that are needed for that. Yes.

**DeKAY:** How many--

**GEIST:** Senator DeKay, go ahead.

**DeKAY:** Sorry about that.

**GEIST:** Nope, that's all right.

**SHAWNA FORSBERG:** Sorry.

**DeKAY:** Thank you, Senator Geist. How many people are employed with-- in the 211 service right now that are answering the calls and doing the work of that?

**SHAWNA FORSBERG:** Yes. Yeah, 28. Yeah.

**DeKAY:** Thank you.

**SHAWNA FORSBERG:** And we have some part-time, all overnight, too  
[INAUDIBLE]

**GEIST:** Yeah, well, we can't transcribe--

**SHAWNA FORSBERG:** Yes.

**GEIST:** --what's said back there, so if you would repeat that, please.

**SHAWNA FORSBERG:** We-- we also did a lot of extra housing work in the last couple years and had additional funding for that. We were at closer to 50 people during that time frame, but we're right now at 28 people.

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

**SHAWNA FORSBERG:** Appreciate you. Thank you.

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

**TIP O'NEILL:** Hello again. Chairperson Geist, members of the committee, my name is Tip O'Neill, spelled T-i-p O-'-N-e-i-l-l, president of the Nebraska Telecommunications Association. You know what we do. We have no opinion on increasing the amount of support for the 211 fund.

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However, we do support changing the funding source for the 211 support from the Nebraska Uni-- Universal Service Fund to the General Fund. I'm going to give you a little background on the NUSF. It was-- it was-- it's funded from surcharges on connections and voice services. Fund was created in 1997 in response to the Federal Telecommunications Act, passed in 1996 and is used to provide state support for telecommunications companies designated by the Public Service Commission for the provision, maintenance and upgrading of facilities and services in high-cost areas. Significant support for capital expenditures will come to companies in the state for building broadband out in high-cost areas from the State Broadband Bridge Act, federal ARPA Capital Projects Fund, and the BEAD program. However, none of those programs provide for continuing operational support for repairs, maintenance and upgrades that will be necessary for areas that are too sparse to support those continuing operations. The NUSF is important for. Future critical expenditures, and the interest from income to the fund should be used, in our opinion, for the purposes of which the program was created. We would also ask the committee to consider an amendment to LB607 that was added to Section 86-324, the section of the law creating the NUSF, and LB384. The mainline budget bill passed in 2021 and which was amended by LB1012, also a budget bill passed in 2022. Subsection (4) of 86-324 was added to give authority to the Legislature to direct NUSF earnings to the 211 cash fund. Since future funding is intended to be from General Funds, we believe this subsection is no longer necessary. I'd be happy to answer any questions you might have.

**GEIST:** Thank you. I'm glad you brought this testimony because I was going to ask the senator when he closes about-- about that, so--

**TIP O'NEILL:** OK.

**GEIST:** --thank you for-- for clarifying exactly where NUSF funds go and why we may need more of it in the future.

**TIP O'NEILL:** Right.

**GEIST:** So are there any questions from the committee? Seeing none, thank you very much.

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



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**GEIST:** Any other proponents for LB607? Are there any opponents for LB607? Are there any who wish to testify in the neutral capacity? Well, Senator McDonnell, you are welcome to close.

**McDONNELL:** Thank you. I'll try to follow up here a little bit. I'm going to get you copies of-- of this-- this budget. But starting pay, \$17.50, a little bit more if you're bilingual as you-- I'll get you the scale. But trying to look at some of this, and I'm going to get you this copy, if you look at the-- the actual cost and-- and-- and look at how many-- cost per call, it's about \$6.38. So if we-- if we look at the total help, and if-- it-- it's-- there's a formula and-- and we'll get it because you can kind of see it playing out in these numbers. If we're taking on X number of calls, we need X number of people answering the calls. It's co-- it's common sense, so as those calls go up and that assistance. And part of it was we wanted to educate the state of Nebraska, where some, of course, is based on the pandemic, some is based on-- on the economy, some of those calls. But also, I think a large part of it's based on the education, that people just didn't know, and trying to keep that 50/50 partnership, financial, I agree with Senator Bostelman, it should be-- it should be detailed. We're not tying the hands of the future legislators. We're looking at the-- this budget that we're looking at the biennial budget for, you know, the '23-24, 24-25, and we're going to do some projections off of this budget. But we have real data here and real numbers, and I'll make sure that you have a detailed budget from the United Way. And I'm just looking at it right now, just-- and I think it'll answer most of your-- your questions. And what that's going to be in the future, hopefully it's less because if-- if we start getting that help to those people and the economy goes a different direction, hopefully there's less people calling for food assistance, for housing. But until then, to answer the big question for the future legislators, it's going to go up if we're going to truly have a 5050 partnership funding. Hopefully that's not the case because then we have less people-- there's less people suffering in our communities. Also, what we're going to get you is make sure we get a breakdown of every one of your legislative districts and how that-- the calls that are coming in, is it overall housing and-- and utility assistance? Yes, but we'll get a detailed breakdown for-- for you on that. And-- and, you know, knowing that the Governor had the proclamation, and I have never talked to anybody that didn't agree of trying to have an assistance line and help. Now it's the idea of how do we do the funding. You know, is the-- is the idea of-- of possibly going a different direction? Does somebody have a different idea? The goal is

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to make sure the funding is there. But for-- for-- for me, and looking at this and talking about it, long-term success and that long-term commitment, at least for this next biennium budget, would be coming out of the General Fund. But we'll have those discussions with the Governor and we'll have them with the members of this committee.

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

**MOSER:** What did you say the cost per call was?

**McDONNELL:** So if you look at right now, cost per call is \$6.38; cost per Nebraskan is \$1.28, based on-- they're-- they're breaking it down with the comp benefits. They go through-- and I'll get you a copy of this. They go through the comp benefits all the way through the-- the-- every-- it's a detailed budget. But they're looking at yeah, they're looking at cost per Nebraskan, \$1.28.

**MOSER:** Well, \$1.28, but that includes people that don't call; \$6 is for the actual people who call?

**McDONNELL:** Well, and I'm going to get you the-- because this is the bullets. So we're talking about the actual cost for fiscal year '22, \$2.3 million; \$300,000 from the state covered 13 percent of that. If we look at actual cost for fiscal year '21, \$1.4 million, \$300,000 from the state covered 21 percent of that. It's breaking down their budget and it-- it starts with the reason for the increase is the cost of the \$320,000 ,moving from 40 percent to 50 percent; public-private partnership of \$250,000; call volume projected to increase a modest 10 percent; 2 add full-time employees at \$50,000, then it breaks down the total benefit package, anticipating 4.5 increase in salaries and benefits at \$82,000. Over 364,000 contacts came into 211 in the year 2020 tier; '22, nearly 1,000 per day, so it breaks it down so you can see exactly as the calls go up and the costs and then the full-time employees.

**MOSER:** Yeah, it-- that sounds expensive to me.

**McDONNELL:** Oh, wait till you actually look at the Department of Health and Human Services and what they're-- they're paying. I'll get you a comparison for that of what 211's doing and their-- their referral line and other things that we're paying for as the state. I'll make sure you get a comparison sheet on that.

**MOSER:** Thank you.

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**GEIST:** Yes, Senator Fredrickson.

**FREDRICKSON:** Thank you, Chair Geist. And thank you, Senator McDonnell, for bringing this bill. I-- I just want to kind of underscore the value of this phone number. As a social worker, I mean, this is a real, true safety net for a lot of folks in our community. And I think that, you know, should this number not exist, some of the issues that we see that get addressed or triaged that this number would-- would exacerbate oftentimes becoming more and more costly to our state. And I think it's also important to underscore the-- you know, if this were not existent, this also alleviates potentially calls to 911 or other systems as well. So I think the-- I can appreciate the expense of the calls but it's also, I think, a really cost-saving service overall, in-- in these ways, as well, so just wanted to underscore that, so thank you for bringing the bill.

**McDONNELL:** You're welcome.

**GEIST:** Any other questions? I don't see any. I do have two letters of support, one letter of opposition for LB607.

**McDONNELL:** Thank you.

**GEIST:** That'll conclude your hearing. Thank you.

**McDONNELL:** Thanks.

**GEIST:** All right. We will have-- as that then concludes all of the hearings day, we will have an Exec Session, but you can take five minutes.