

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

FRIESEN: OK. Welcome, everyone, to this afternoon's public hearing of Transportation and Telecommunications Committee. I'm Curt Friesen, from Henderson, Chairperson of the committee, representing District 34. I'll begin with a few procedural items. Please silence all cell phones and other electronic devices. We will be hearing the bills in the order listed on the agenda. Those wishing to testify on a bill should move to the front of the room and be ready to testify. We have on-deck chairs up front where the next testifier can be waiting when their turn comes. If you will be testing-- testifying, legibly complete one of the green testifier sheets located on the table just inside the entrance. Give the completed testifier sheet to the page when you sit down to testify. Handouts are not required, but if you do have a handout, we need ten copies. One of the pages will assist you if you need help. When you begin your testimony, it's very important that you clearly state and spell your first and last names slowly, for the record. If you happen to forget to do this, I will stop your testimony and ask you to do so. Please keep your testimony concise. Try not to repeat what has already been covered. The acoustics in the room are very challenging, so if everyone would speak directly and clearly into the microphone, it does help. But I know it's hard to-- hard to hear back there. We will use the light system in the committee. We will use five minutes. The yellow light indicates there is one minute left. The red light comes on. It's time to wrap up your testimony. Staff is Committee Counsel Mike Hybl, Committee Clerk Sally Schultz. Pages are Sophie and Joseph, so thank you for being with us today. And with that, we'll start introductions to my right.

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

DeBOER: Oh, sorry. My name is Wendy DeBoer. I represent District 10, which is in northwest Omaha.

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

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

FRIESEN: So there are other senators that'll be joining us as we move along. They're probably in some other committee introducing bills, so we will get started. And with that, we will open the hearing on LB914. Welcome, Senator Bostelman.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

BOSTELMAN: Good afternoon, Chairman Friesen and members of the Transportation and Telecommunications Committee. My name is Bruce Bostelman, spelled B-r-u-c-e B-o-s-t-e-l-m-a-n, and I represent Legislative District 23. I'm here today to introduce LB914, which would task the Public Service Commission with creating and maintaining an official Nebraska location fabric broadband access map. This map will be similar to the map the FCC has stated they will be creating sometime in the future. The map will identify broadband availability and quality of service for all service-- serviceable locations in the state. The information provided would include, but is not limited to: the types of Internet services available, including wireless, fiber, coaxial cables; the number of entities providing service in an area; planned broadband infrastructure projects; and any other information the commission finds relevant. In order to create the map, the commission may collect proprietary information from broadband service providers as long as that information is protected as a trade secret. As a condition of receiving any NUSF funding or participating in the Bridge-- Broadband Bridge program, providers must comply with this act, as well as any recipient of federal broadband funding administered by the commission. Once the FCC completes their map, the commission shall eval-- evaluate whether there is a need to continue updating and main-- maintaining this map. When creating the map, the commission will gather county and property information in order to establish data-- to establish data down to a resident-- residential or business address. They will integrate information provided from Internet service providers, such as where they provide broadband services and the quality of that service, the advertised speed, and the utilization of the best available address level for map integration. We all know that the Form 477 data is terribly inaccurate. In-- incumbents are using Form 477 data to argue they are effectively serving their customers when we know that isn't always the case. They fail to build out fiber to their customers, as required by statute-- state statute for the-- for a carrier of last resort. Having a fabric location map would allow for a strategic approach when awarding funds and prevent funds from being misused. This map will provide detailed information regarding broadband services, current infrastructure, and information regarding the service providers that currently does not exist or is woefully missing. We have an opportunity to make significant strides with funding we will receive-- we will receive, and this tool will provide the commission with the best information to ensure funds are used where needed most. The continued delays in the creation of the FCC map is unacceptable. These significant delays have also sparked the attention of Congress-- Congresswoman Spartz of Indiana, who asked the FCC for a pro--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

projected timeline for the creation of the map. The FCC was unable to provide a timeline. I ask you, how much longer are we willing to wait to see if the FCC will actually do what they say? By passing LB914, Nebraska would join a growing number of states who have developed their own broadband maps, to include 15 that have created their own fabric location maps. The map created under LB914 would provide the commission with valuable information and provide for a more strategic deployment of broadband. I also want to address the fiscal note. I will be bringing an amendment to the committee that will address that 100 percent of the funding is to come from our federal funds out of the-- out of the infrastructure that's coming, the bill that's coming out of the federal government. Now is the time to act. Let's move LB914 to General File and make the difference Nebraskans are waiting-- are waiting for and have been waiting for for some time. I want to thank you for your attention, and I'll be glad to answer any questions you might have.

FRIESEN: Thank you, Senator Bostelman. Any questions from the committee? Seeing none--

BOSTELMAN: Thank you.

FRIESEN: --proponents who wish to testify in favor of LB914. Welcome, Senator Albrecht.

ALBRECHT: Thank you.

TIM SCHRAM: Good afternoon, Chairman Friesen and members of the Transportation and Telecommunications Committee. My name is Tim Schram, spelled T-i-m S-c-h-r-a-m. I represent the commission's 3rd District and I am here to testify in support of LB914. I appreciate Senator Bostelman's bill that would task the commission with creating and maintaining a location fabric broadband access map and broadband data entry depository-- excuse me, broadband data repository. It has been clear for some time now that better data about where broadband is available is needed. It was everyone's hope that the FCC would move more quickly with their efforts to address this problem-- problem in their Digital Opportunity Data Collection, DODC. It does appear that they will be moving forward with that effort later this year, but uncertainty remains with respect as to the quality of the data collection and what level of access will be granted to the states and the public once that data is collected. Given those uncertainties, we agree with Senator Bostelman that it makes sense for states to initiate its own program for the collection of this information. Having a state-owned broadband access map and data repository that is

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

accurate and up to date would be beneficial to the commission and other policymakers as we work together to increase broadband access across the state. We also appreciate the flexibility provided in this bill with respect to a couple of issues. First, a major portion of this work will require the commission to work with a third-party contractor or contractors. We interpret the bill's language that talks about quality of service and download and upload speeds advertised and experienced to mean that we would be-- also be collecting speed test data as part of this program. This will almost certainly require the assistance of a third party to manage that process. We also support the bill's language regarding the annual evaluation of the necessity of this project. We remain optimistic that the FCC's mapping efforts will someday result in a national broadband map, which would make the data collected through this process duplicative. If that happens, it is a good idea to allow the commission the flexibility to determine whether this program continues to be necessary. I'll close with a couple points on the fiscal note. First, we included estimated cost of third parties for mapping and speed test data collection. These are our best estimates of what those costs might be based on inquiries made to third parties that might be able to perform some of the tasks required for this project. We have heard costs in some other states that are much higher than the estimates the state received, so we are somewhat concerned about the actual costs might be. And second, the fiscal note indicates a request from General Funds. We understand that some portions of federal money made available to states through the various stimulus programs can be used for broadband mapping. With the language in the bill requiring the commission to maximize the use of federal funding when developing and implementing this section, we think there are opportunities for this program to be funded through federal programs. I thank you for your time and I am happy to answer any policy questions you might have. Also, PSC telecommunications director, Cullen Robbins, is available to answer any technical questions.

FRIESEN: Thank you, Director Schram. Any questions from the committee? So do you-- as we-- if you develop a state map and the feds down the road, is-- is-- the time frame for you to develop something kind of coincide with what the federal government might do on a map? And do they-- is it a waste of time or do the two tie together?

TIM SCHRAM: Well, hopefully the two will tie together at some point. We've been hearing from the FCC for quite some time now that they're trying to modernize their maps. And as I stated in the testimony, we're hoping later this year that that will happen. And so I did introduce a resolution for NARUC for next week-- that's the National

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

Association of Regulatory Utility Commissioners-- urging the FCC to cooperate with states in the collection of data and mapping, that we're on the same page.

FRIESEN: So is there a pot of money that is waiting to be disbursed until the maps are read, because that's how some of this funding comes, is they're based on these maps that they're supposed to produce?

TIM SCHRAM: I'm not aware of any federal money through the FCC at this point for mapping in itself.

FRIESEN: Well, it's-- it's-- but it's-- it's broadband money that's going to be distributed by states based on--

TIM SCHRAM: Right.

FRIESEN: --the maps.

TIM SCHRAM: And the states will have discretion.

FRIESEN: So they won't distribute any money until the mapping at the FCC is ready to go. Is that right?

TIM SCHRAM: I'm not sure on that, Chairman Friesen--

FRIESEN: OK.

TIM SCHRAM: --whether or not, you know, the-- the-- that the state-- the independence of the states as far as moving forward with their own mapping programs.

FRIESEN: OK, that would interest me a little bit because if that's-- would put a little pressure on the FCC to get the maps done if the money can't come out until those maps are ready, because if they're going to base it on each state's mapping, obviously, no one trusts a lot of people's maps already, so I think I probably--

TIM SCHRAM: I would agree that would be an incentive for them to move forward.

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

BURKE BROWN: Good afternoon, Senator Friesen, members of this committee. I am Burke Brown, spelled B-u-r-k-e B-r-o-w-n. I am the technology coordinator at School District OR1 in Palmyra, Nebraska. I am also a citizen of the rural, but growing, Nebraska community of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

Bennet. I am speaking in support of LB914 today on behalf of the Nebraska State Education Association, as I am a member of the board of directors and as chair of the broadband technology committee. The mission of our committee is to search for solutions in closing our state's technology gap that has widened by a growing, more critical broadband deficit. On behalf of the NSEA and this committee, I also thank Senator Bostelman for introducing this bill. Through recent federal funding sources, Nebraska has successfully moved the needle of equity in computing devices in our schools. It has been reported up to 100,000 new devices are now enhancing the educational opportunity of Nebraska students. Home Internet did not move at a significant level, though. Hotspots and Internet on buses were not broadly adopted across Nebraska, extending the school day, as districts, including my district, were uneasy about a funding cliff that would burden district with considerable recurring costs. How do we continue to improve the future-- the current and future educational experiences of all Nebraska students? I believe a foundation of affordable, reliable, and secure Internet connectivity must be guaranteed. To make this happen, we must first develop a verified record of connectivity throughout the last mile. By addressing this issue, we will then understand where our success stories lie, thus allowing for strategic models to form. Moreover, this map will allow districts to identify where our Internet at-risk students reside. Our best data is inadequate and must be addressed. With good intent, it was recommended that school districts conduct a self-survey of student households. The survey found 73 percent of students were queried, but rural did not report at a high level. In short, nearly 100 districts did not respond or had less than half of the data collected. Again, rural was highly underrepresented. It is only after we know who needs help and where help is needed can we effectively move the needle towards 100 percent, a 100-percent connected student population. LB914 begins the hard work of mapping and reporting Nebraska's connectivity at a more granular level. By collecting annual data for all serviceable locations on download and upload speeds, types of Internet services, available producing entities and pricing, and current and projected projects, we can effectively and efficiently start to address the equity gap in an affordable, reliable, and secure Internet connectivity. In closing, we strongly support LB914 as it moves towards accurate mapping of subscriber Internet throughout the last mile. Simply, it is only through identifying these realities of connectivity can we begin to close this broadband gap. I would be happy to respond to any questions.

FRIESEN: Thank you, Mr. Brown. Any questions from this committee?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

BURKE BROWN: Thank you.

FRIESEN: Just--

BURKE BROWN: Yes, sir.

FRIESEN: I got one. I mean, if-- let's-- let's say that we do get fiber to the home.

BURKE BROWN: Yes, sir.

FRIESEN: How many-- what percentage, do you think, of the students can afford to hook up?

BURKE BROWN: So--

FRIESEN: Because there's a lot of programs out there, and I don't know if your school does some of that or--

BURKE BROWN: So our school district, yes, sir, our school district is probably about 19 to 21 percent free/reduced at this level through the lunch program. Typically, we make calculations on that value. I would say, going with that, you know, 80 percent of our-- our people could do that. There are additional programs that I would recommend that I'd like to see every child in Nebraska have that reliable, secure Internet feed to help them grow. And we could do that through, you know, private-public-- private-public policy where, just like we do E-Rate, you know, we have so many students that qualify for free/reduced, they could have a filtered bandwidth Internet access to their home. And rather than paying the-- the-- the home, which in turn pays the-- the subscribe-- or the-- the producer, like E-Rate, we could-- they could self-bill the-- the government for that money to produce that into the home. I think that really would strengthen. I'm all about the private-public, working together in-- in solving this problem. So I would say about 80 percent could afford it. I think we could get that to 100 percent if we work together with our-- with our private sector, so.

FRIESEN: OK, thank you.

BURKE BROWN: Yes, sir.

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

BURKE BROWN: Thank you, thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

FRIESEN: Welcome.

AL JUHNKE: Thank you, Mr. Chair. Members of the committee, my name's Al Juhnke, A-l J-u-h-n-k-e. I'm the executive director of Nebraska Pork Producers. And in the-- in the reference of saving time, I'm also testifying on behalf of the Nebraska Soybean Association, Corn Growers Association, Nebraska Farm Bureau, Nebraska Dairy Association, Nebraska Wheat Growers Association, and the Nebraska Cattlemen, so-- and we are all in support of this really good bill that Senator Bostelman brought, as usual. So it's always good to see a Bostelman bill, and this one is no different. Maps are important. OK? We-- we need information in-- in order to serve our-- our territories, both in rural, and I'm going to show you an example that it isn't just a rural issue either. And I also say this isn't reinventing the wheel. I pulled this down. I've been using this for a year or two. If you look at the handout I gave you, nebraskaspeedtest.org, and if you pull it up, here's a cover page. You see it's run by the Nebraska Regional Officials Council, and they're the economic development people. They understand how important mapping is and how much-- how important speeds are. So when you pull it up, you can see the map. Here's what a map might look like. And by the way, I hope the maps in this bill or other bills we're talking about are available to the public so we can look as a policymaker or a homeowner or a farmer. So you can see the greens and the reds and the yellows start to show up. You can see clearly areas that need help right now. And then you could zoom in. So I went to the next page. I just took screenshots. Here's Custer County, so I'm interested in Custer County. So I look, and now you're seeing no service areas in rural areas, seeing a lot of red; Broken Bow, pretty good; Callaway, pretty good. So you're seeing the municipalities, not bad, but as you get outside the borders, we got problems. So the next page, I zoomed in on Broken Bow. And what this provides you, you can click on any one of those dots. As we upload speeds, and I've uploaded a number of them you'll see in a minute, that speed is recorded, both up and down, down and up, and the location and the cost you pay for that service you put in also, so you're getting cost data. Here, you see one of our pork producers out there, Thomas Livestock, south of Broken Bow. They took a measurement on November 18 of 2021: 1.64 is what they're getting at that business location, again, south of town, probably not being served by-- beyond the borders of the city. Now I also-- the next page will show you-- it's aggregated. You can look at the entire county and all the speeds that have been recorded to date, so you're getting those reports. And then the next page, I want to point out this isn't just a rural issue. We need it for our farmers. I can't build a pig barn unless I have

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

broadband or high-speed Internet to run my fans and systems and monitoring and-- and all the things I need to do. But here's-- here's Lancaster County. So you think you live in Lancaster County, it's pretty darn good, right? I mean, Lincoln, overall, if you're in the city limits of Lincoln, you can probably find high-speed broadband somewhere, somehow, and it's probably affordable. Turn to the next page. I'm going to-- I finally, Senator Friesen, get to tell my story. What you're looking at is my neighborhood, OK? I zoomed in on it. I was buffering the other day, January 30, 2022. As I was watching TV, the buffer started coming up. I couldn't watch it anymore. So I pulled out and I quickly did a speed test. There you can see what I'm getting: 0.89 was my lightning-fast speed at that moment into my house. Now, where is my home? So this is southwest Lincoln area. That blue line you see I drew across here? That is the city limits of Lincoln. So my house is in Yankee Hill Township, and you can see who serves my neighborhood. It's Windstream, OK? If you look in the upper-right corner of this, you are seeing a new development that's built out there. This is out near the racecourse, OK, on Denton Road. There's hundreds of new homes there, hundreds of them, and they're all being served by high-speed, you know, Charter or ALLO will probably be out there or others. We can literally throw a rock and hit those homes, yet I can't get those speeds across the fence line. Because I drew the short straw, I have Windstream and they have others. And Windstream, probably in their census blocks out here, shows there's high-speed somewhere, so they never have to wire these dozen houses on the other side of the fence. There's my story. I finally get to tell it on the record. I appreciate the committee's time on that. But mapping is a big deal. Please support Senator Bostelman. I don't care what it costs. This won't be that big a deal because we're not reinventing the wheel. It's out there already.

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

MOSER: So how do you get Internet? Is it DSL or is it--

AL JUHNKE: I have-- Mr. Chair and Senator Moser, yes, I have DSL, and I'm at the-- I'm at the front of the plate. The neighbors tell me, back behind me, it's worse. You know, if I turn it on at 3:00 in the morning, I'm at-- I might get 20 maybe, 15 maybe. If I shut off and just run it through my Verizon connection, I get 60.

MOSER: You're talking about cellular data.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

AL JUHNKE: Cellular, on my Verizon. I-- I get 60 with my cellular; on my DSL, Windstream, well, you saw. That's an anomaly. Usually it's under five, though; all those dots are mine. Every one of them is under five.

MOSER: So why wouldn't you just use your cellular data and get a hotspot if you got a lot faster speed?

AL JUHNKE: Well, I could. Again, affordability, what do you pay for it? Unlimited data is a little higher than that, but, yeah, that's an option, and it's one unfortunately we'll go to. But again, we're trying out--

MOSER: What do they tell-- well, let's not get--

AL JUHNKE: Yeah.

MOSER: --into more testimony.

AL JUHNKE: OK.

MOSER: So what does Windstream say when you complain to them? Do you ever call them and say, hey, I'm not getting fast enough speed?

AL JUHNKE: Mr. Chair and Senator Moser, yes, I have-- I have emailed them in the past. I mean, they've been out to my house hooking it up. I've-- I've said, I'm not getting the speeds that you're advertising, but--

MOSER: Yeah, and so--

AL JUHNKE: --they know that.

MOSER: --do they have a reason that--

AL JUHNKE: Mr. Chair, Senator Moser, no.

MOSER: OK. Well, thank you.

AL JUHNKE: Yeah.

FRIESEN: Thank you, Senator Moser. and thank you, Senator Geist, for joining us. Any other questions from the committee? Question: So part of the problem, too, with doing the speed test that you're talking about, I've done that at home on my desktop. So I did a Ookla speed test, and a speed test Nebraska, and came up with two very different results 30 seconds apart. I have fiber to the home. So there's a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

challenge there sometimes with the data and how we're doing it, and so how do you make sure that those speed tests are reliable and it's not just what I'm paying for versus what's available? That is some of the challenge of using this type of data.

AL JUHNKE: Right.

FRIESEN: Not to say there aren't better ways of doing this, but we've got to come up with reliable data if we're going to be doing this.

AL JUHNKE: Mr. Chair, you're right, and obviously I'm not the technician to explain how we get reliable data. One thing I should mention, though, too. All these tests that you and I and others are doing, that isn't for naught; that is all being stored federally right now in a repository. So when there are federal maps, if this matches, I assume the technicians that work on this will match whatever FCC is coming up with. So our data is already being collected and will become part of that repository, so.

FRIESEN: Right. And when I did those speed tests, I'm sure that data was collected also.

AL JUHNKE: Absolutely.

FRIESEN: But it was not correctly--

AL JUHNKE: Right.

FRIESEN: --because I know I had speed-- speeds faster than what they showed. But thank you for your testimony. Seeing no other questions, thank you.

AL JUHNKE: Thank you.

JOHN HANSEN: Mr. Chairman, members of the committee, for the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I am the president of Nebraska Farmers Union, and we are in strong support of LB914. We have been before this committee many times in the past talking about the need to improve our mapping, improve the measurement of what we're doing, so that we have a better idea of who's being served, who's not being served, and where we need to put more of our efforts. And so now we have a source of additional federal money, and so we are-- we are enthusiastically in anticipation of something happening, and we believe that the-- the better maps we have, the more likelihood it is that we're spending those monies cost effectively and that we're not doubling up and leaving out. And, you know, our-- our

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

landscape and the maps that-- that were just presented to you, and that was excellent testimony. But we have such an irregular landscape and we have such an irregular measurement system that it really is frustrating from our standpoint in terms of, you know, how do we get a handle on where we're at so that we can actually move forward at the rate that we need to. And so I'm encouraged with the positive support of Commissioner Schram. I-- I think our Public Service Commission has been doing a lot of good things recently in order to try to help gear up and-- and face the-- the complicated challenges of getting affordable, accessible, high-speed Internet broadband across the state, and I-- I commend this committee for the things that we have done-- you have done in the past. I think that we're better positioned than we have been. And so this goes the same general direction that we have been pushing for in the past, and so it seems reasonable and prudent and cost-effective. And, you know, with-- we-- we've sort of, in a-- in a very strange and complicated kind of way, wandered around in the-- in the darkness and the wilderness without good mapping, it seems, for long enough, so any efforts that we can have to come up with better maps, the less likely it is that we're going to waste the dollars that we're going to be investing. And with that, I would end my testimony and be glad to answer any questions if I could.

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

JOHN HANSEN: You bet. Thank you very much.

DANNY DeLONG: Good afternoon, Senator Friesen and members of the committee, I'm Danny DeLong, D-a-n-n-y D-e-L-o-n-g, and I represent AARP Nebraska. AARP Nebraska appreciates the opportunity to comment today on LB914, and we support the bill. AARP represents approximately 190,000 members in Nebraska. The availability, affordability, and reliability of broadband Internet access services are essential to the health and quality of life of our membership and of other older citizens who live in Nebraska. Although many state and federal resources have been directed over the past decade to overcome the challenges to providing every household with access and the means to afford and utilize high-quality broadband service, gaps remain in deployment, adoption, and digital literacy. LB914 proposes several important steps toward overcoming the remaining challenges by expanding the Public Service Commission's authority to collect data about broadband, including detailed information on service coverage, advertised and actual speeds, the technology platforms available to homes and businesses in each area, the number of providers and their rates, and the location of additional broadband infrastructure

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

projected to be constructed using federal, state, or local funding sources. These metrics are key to supporting a meaningful assessment of Nebraska's ongoing efforts to achieve universal, high-quality, reliable and affordable broadband. In addition, the bill authorizes the commission to collect data on other factors it deems relevant as Nebraska strives to put an end to the digital divide and achieve universal broadband. Tracking broadband availability should be paired with tracking adoption. Often, when broadband first becomes available, a lack of digital literacy remains as a barrier to adoption. The price of broadband service, especially in areas with limited competition, can also hinder adoption. Adoption data will make it possible to identify and follow up on these challenges. LB914 requires data submission by any provider that is a recipient of state funds or state-administered federal grants. AARP does not know if this requirement effectively includes all or only a subset of broadband providers in Nebraska. The PSC's data collection will be most effective if it is comprehensive of all areas and providers. Thus, AARP prefers to see the data submission requirement in LB914 applied to all broadband providers in the state. Thank you for the opportunity to comment on LB914.

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

DANNY DeLONG: Thank you. Thank you.

FRIESEN: Any other proponents for LB914? Seeing none, anyone wish to testify in opposition to LB914? Welcome.

TIP O'NEILL: Senator Friesen, members of the committee, my name is Tip O'Neill; that's spelled T-i-p O-'-N-e-i-l-l. I'm the president of the Nebraska Telecommunications Association. The NTA is a trade association that represents the majority of companies that provide landline, voice, and broadband telecommunication services to Nebraskans across the state. We oppose the introduced version of LB914. You know, we-- we-- we understand the frustration with the current 477 process. We know accurate broadband maps are integral to ensuring that we spend state and federal money for broadband deployment effectively. However, we believe the states should defer to the Federal Communication Commission's efforts to improve the mapping process at the federal level. You may recall in the-- in the Rural Broadband Task Force's report three years ago it said, "Because states are limited in their authority to compel providers to submit broadband coverage data, federal data collection efforts should be leveraged if feasible." Leveraging those efforts will also minimize state costs for

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

data collection. You know, we-- we have been frustrated, as you know, with-- with the FCC and the progress it-- it has made. But we believe the FCC, with the incentives and financial support of \$98 million provided by Congress in the-- in the-- in the CARES Act bill, is finally making considerable progress in improving broadband mapping. The FCC has selected a vendor, CostQuest, to assist in building a broadband serviceable location fabric. Although the process to begin has been delayed because another vendor contested the selection with the Government Accountability Office, as you may know, no money can be provided to any state from the Broadband Equity Access and Deployment, BEAD, Fund which was part of the federal infrastructure bill, which is at least \$100 million to each state until the location fabric has been established. If there's no map, there's no money. We expect the appeal process to wrap up by next month, and that CostQuest, which has already done much work on the fabric in doing pilot projects in-- in Virginia and Missouri, to put the wheels in motion and to get a national map and fabric completed by this fall. That's-- that's-- that's the plan, at least, as-- as we understand it from our national association representatives. LB914 would only require companies receiving Nebraska Universal Service Funds, Broadband Bridge grants, federal grants, or grant challengers to provide data for the state map. The feder-- federal mapping process will make all telecom providers provide data. We believe the cost to the state, the cost to companies with duplicative reporting requirements, and the completeness of the map make the federal mapping route a better one for Nebraska. I'd be happy to answer any of your questions.

FRIESEN: Thank you, Mr. O'Neill. Senator DeBoer.

DeBOER: Thank you. Thank you for testifying here today. You gave a list of the folks who are covered under this mapping requirement to provide data. Who does that leave out?

TIP O'NEILL: Wireless, you-- you know, companies that don't participate in the NUSF. I don't know which-- which ones don't right off the top of my head. And if-- if they're not-- if they're a company that doesn't participate in NUSF and doesn't apply for a grant or challenge a grant, either federal or state grant, they would not be required to report.

DeBOER: But the vast majority would probably fit within the category of those who--

TIP O'NEILL: I mean, I don't think Verizon or AT&T would fit, certainly.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

DeBOER: OK. And so has the fed-- the FCC gotten this far before as to have a vendor?

TIP O'NEILL: No.

DeBOER: This is new?

TIP O'NEILL: This is new.

DeBOER: Because I feel kind of like Lucy with the-- Charlie Brown with the football and--

TIP O'NEILL: Yeah, you-- you had LB486 last year and, you know, we were hopeful that that proc-- you know, it would go-- the feds would be farther ahead than they are now. I think Jessica Rosenworcel, who's the new chairperson of the FCC, said, you know, the best time to do this would have been five years ago, but the second-best time is right now. And so I think there's a real commitment from the FCC to get this done.

DeBOER: Will there be-- so I've heard you talk about the advantages of the FCC map versus a state map, such as the one we've envisioned here. But would there be additional data information granularity, if that's a word, that could be--

TIP O'NEILL: It--

DeBOER: --that could come out of this structure as Senator Bostelman has imagined it here?

TIP O'NEILL: Well, again, different-- different companies have-- have different strengths, I think. I mean, they're-- they're-- CostQuest is not the only company that does this. I mean, they're-- at least the perception is they-- they do it pretty well. But there may be other companies that are involved that-- that have a different way of doing things that could create different data set sort of things than-- than the CostQuest serviceable location fabric map. But again, if you go that route, then you have duplicative reporting requirements for companies who-- who have to report, and that's-- that's-- that takes money away from deployment of broadband.

DeBOER: What-- what does the reporting process look like? If you cannot speak to that, that's fine, but--

TIP O'NEILL: Well, right-- right now, the--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

DeBOER: --what is-- if I'm a company, what is the process by which I-- because presumably I already have the data. So what's the process? So-- so part of your-- your argument is that it's going to be expensive for them to repeat this process. So I want to know what it-- what effort they have to put in to get the data.

TIP O'NEILL: I think I'm going to allow a company representative--

DeBOER: Sure.

TIP O'NEILL: --to answer that question, Senator.

DeBOER: That's-- that's fine.

TIP O'NEILL: OK.

FRIESEN: Thank you, Senator DeBoer. Any other questions from the committee? Going back to, a little bit, the question of companies that would be required to report, so a company like ALLO or cable companies, would they report?

TIP O'NEILL: Not-- I don't-- I don't believe so. I don't believe they receive Universal Service Funds. I-- if they-- if they applied for a state grant, I think under this bill they would-- they would be required, or if they challenge a grant that was approved by the PSC they would-- they would be required to report--

FRIESEN: OK.

TIP O'NEILL: --but generally I-- not necessarily.

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

TIP O'NEILL: Thank you.

FRIESEN: Welcome.

JOHN IDOUX: Good afternoon. Thank you, Mr. Chairman. Thank you, members of the committee, and I want to thank you all for this fantastic weather you ordered. It's the first time I've testified without snow, so thank you. My name is John Idoux, J-o-h-n I-d-o-u-x, and I am Lumen's director of governmental affairs. I appreciate this opportunity this afternoon to express Lumen's opposition to LB914. Just because we are opposing it does not mean we oppose broadband, nor does it mean we oppose broadband deployment. Those are very serious

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

challenges that we all face. We just don't think it's the right time for LB194. Lumen has provided communication services in Nebraska under various names since 1911, and we have once again changed our name. We used to be known as CenturyLink. But Lumen brings together the talent, expertise, infrastructure and capabilities of CenturyLink, Level 3, and more than 25 other technology companies. Lumen serves larger communities such as Omaha, Grand Island, Scottsbluff, North Platte and Norfolk, but also more than 20 communities with fewer than 1,000 residents. Lumen maintains a very significant Nebraska workforce, has more than \$1.7 billion in network infrastructure in Nebraska, and made nearly \$200 million in new infrastructure investments in Nebraska over the last few years. Lumen has deployed more than 700 and-- 7,500 hundred route miles of long-haul fiber throughout Nebraska and has over 80,000 locations with 1 gig availability. Lumen is not opposed to broadband mapping. In fact, Lumen was an active participant in the USTA-FCC mapping pilot, which has served as a basis for the FCC's mapping initiative that is currently underway. We heard earlier that those pilot programs included Missouri and Virginia, and that's where Lumen participated. Broadband testing and mapping can play an important role to an overall broadband deployment initiative, but Lumen is opposed to LB914 at this time. Lumen would prefer a single national approach to broadband mapping, rather than 50 separate state solutions. However, there are other reasons behind Lumen's opposition to LB914. First, the time is not right for a Nebraska-specific broadband mapping that would duplicate and even triplicate national efforts. We've talked a lot about the FCC map that is currently underway in the final procurement, but let's not forget that the NTIA also has a map that is currently available. Now the NTIA map is not perfect. The FCC map will not be perfect. But a Nebraska state-specific map would also not be perfect either. LB914 requires the commission to produce a map by July 2024. However, most people in the industry expect the FCC to have it completed way before then. But there's no escape clause in LB940-- or in LB914. The commission would still have to go forward and produce that initial map with that-- with the cost associated. Secondly, I think LB914-- LB914 greatly under-simplifies the cost, resources, and complexities of an accurate, dynamic, up-to-date broadband map. Now more than \$100 million is being spent at the federal level for a map. Not only is the initial map expensive, but the map will only be beneficial if it is updated and maintained. Creating a Nebraska state broadband mapping initiative would entail significant cost, substantial resources by both the commission and providers, and require dedicated expertise by everyone. Basically, if there was a cheap and easy way to produce a broadband mapping solution, we wouldn't be here today. We've already talked

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

about it doesn't require all providers, so at best LB914 would not result in a comprehensive map. Finally, there are multiple providers-- provide-- there are multiple federal broadband funding initiatives underway, ARPA, invest-- the infrastructure bill, RDOF, RUS, and certain of these programs require the use of a federal map. Consequently, any state map developed by Nebraska cannot be used for these federal funding purposes. Now, for whatever reason, should the Legislature determine it is in the best interest for Nebraska citizens to move forward with a broadband mapping initiative, I'll be the first to admit Lumen will-- will participate, but we do have some recommendations. First, the commission needs to adopt the same data format and the data sets used at the national level. Makes no sense for us to have two different sets of data. Second--

FRIESEN: You're gonna have to wrap up pretty quickly.

JOHN IDOUX: --if they could use the same contractor, it'd be a lot cheaper. And I will be available for questions.

FRIESEN: Thank you for your testimony. Any questions from the committee? Senator DeBoer.

DeBOER: Yeah. I think you heard my question to the last testifier, which just asked you to kind of take me through what the burden on individual companies would be to provide this data. Can you kind of explain to me what the process would be? Does the data already exist?

JOHN IDOUX: The data already exists. It's going to be dependent upon what the required format is. My last point was, if we could simply provide the exact same data to the Nebraska commission as we would be to CostQuest or the NTIA, that would go a long way in-- in providing synergies. Now depart-- the FCC pilot program that used six states, I don't remember all six, but I know Missouri was one and Virginia was the other. You know, we and every other provider in those states participated and the FCC was able to determine the most optimal data set and the right data format so it can be produced by the providers, received by the commission's contractor, which is CostQuest, and used to efficiently and quickly produce a map. If that's the same process and there's-- there's really no reason it can't be adopted for the state level, then the burdens would be reduced or mitigated substantially. But even if that happened, even if we gave the feds one set of data and the Nebraska commission, the map produced by the Nebraska commission cannot be used for several of the federal funding sources. We've got to use that FCC map.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

DeBOER: One of the things that you-- that I noticed in your testimony was this you kept saying now is not the time. There were a lot of temporal comments that you made: this is not the time, the time is not now, this is not-- what-- did you-- was there a specific-- like, am I missing something? Was there a time that you thought in the future would be the right time or you just--

JOHN IDOUX: Yeah, I think we're all frustrated. I mean, this is probably the third year we've been hearing saying the FCC is-- is tackling this. There's no doubt that-- that as a provider, we've said that. I think the FCC has been actively working it, but, you know, all things politics in D.C., I think sometimes it takes a little bit longer. But they are in the final steps, stages right now with a federal mapping solution at the FCC. They've selected a vendor. They're going through the procurement appeal process, which is-- which is standard operating procedure for those federal contracts. But keep in mind, just because we don't have a map, doesn't mean we have to sit and-- and not use the-- the-- the state funding that's already available. Without a map, we were able to successfully get through the first year, the inaugural year of the Nebraska Broadband Bridge Act. I believe \$20 million-- I don't know if all \$20 million, but very close to \$20 million went out. I think there were 76 applications. There were some challenges to those. So those things can still happen. A map would make it easier, but a map is only one tool in the toolbox, and the map is not the end-all for broadband deployment.

DeBOER: So one of the other points that I-- we're going to agree to disagree about the importance of the map, perhaps. Well, I mean, I just think a map is really important, but you said something about the maps-- none of the maps are perfect.

JOHN IDOUX: Yep.

DeBOER: So help me out to understand. Is it possible that by having more imperfect maps, we can understand more clearly the situation that we have on the ground, right? So if we have more data points, this state map, the federal map, whatever, the maps that we already have-- probably not the census block map, because we all know that that one's pretty far off-- wouldn't it be helpful to have more maps or is that-- am I misunderstanding it?

JOHN IDOUX: Well, I think we're of the opinion it's better to have more broadband than more maps. And to-- you can have perfect maps, you could have more than three maps, but there's a cost associated with

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

that. And to-- to the extent that it-- it draws away from actual broadband deployment, we think it's better to-- to--

DeBOER: I think that's a fair point.

JOHN IDOUX: --to fund broadband deployment. There could be a point in time that you're going to need super accurate maps to-- to-- to actually pinpoint. But at this point, because we have limited funding, the providers and the-- and the commission, they know how to file applications, verify that those are the best places in the state to-- to use the state grant money and award grant money.

DeBOER: So that-- that makes some sense to me. So what you're saying is that because we can still find place-- there's still so many places that need help, we can still find some good places to do it, even without knowing on a granular level where we're having trouble. Is that what you're saying?

JOHN IDOUX: Yes.

DeBOER: OK. All right. Thank you.

FRIESEN: Thank you, Senator DeBoer. Any other questions from the committee? So when the companies come here-- and-- and I appreciate how much money has been invested by private industry. I mean, it's really worked well, the partnership. And you-- you tell us how many miles you have of fiber. But the question always comes to my mind is, how much you guys have left and how much is it going to take to get it done? What is the timeframe your company looks at to serve in your area and are we on a trajectory we're going to get that done?

JOHN IDOUX: A lot of challenging questions there. No, we don't have a specific answer as to how much money it's going to cost or when we will potentially have fiber to the prem to each and every one of our-- our locations. You know, we've, internally at Lumen, have changed our-- our investment strategy here in Nebraska and in-- in all of our states. We started off with-- with DSL deployment and we have a pretty successful DSL deployment strategy, not just within the city limits but starting to reach outside the city limits. I know DSL is not fiber to the prem. However, it provides some-- it can provide pretty good speeds up to 100 meg. It's not asymmetrical. I'm not trying to-- to hide that at all. But with COVID, the investment strategies from all the telecoms have shifted. Investors, communities, policymakers no longer want copper-based solutions. It's fiber to the prem. And, you know, we all would have loved fiber to the prem 15-20 years ago. It's

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

kind of no different than, you know, the wireless companies that are now deploying 5G. I mean, they should have deployed 5G 20 years ago, but the costs and technologies just simply weren't there. So as we are going forward, we are looking at every possible opportunity using our own investment. We have a very aggressive fiber-to-the-prem program going on in Omaha, which is 100 percent funded with internal investment. But we're also participating in probably a dozen different NUSF broadband grants where we're going outside the city limit and taking fiber to the farm. So it's going to take continued efforts by everyone involved to get beyond the city limits and out to the-- the very ruralest parts of the state.

FRIESEN: But I think that-- but that question is something I think everyone needs to start talking about more, is we've got a huge sum of dollars coming in and how are we going to leverage that to getting it into those rural areas that we're talking about when we don't seem to be, in some areas, making a lot of progress? So I mean, it's a-- it's going to be a challenge and-- and at some point, people are going to start to ask, you know, are we getting to the end, are we getting close, or where are we at?

JOHN IDOUX: I-- you-- I don't disagree at all. I completely agree, and our opposition to LB914 on the mapping, it's an apples and oranges deal. We agree that we've got to get the fiber, you know, beyond the city limits.

FRIESEN: It-- is it as simple as--

JOHN IDOUX: But having a map--

FRIESEN: --doing a survey and saying, if you have fiber to the home, you have broadband; if you don't, you don't. That's a simple way of mapping. But thank you. Seeing no other questions, appreciate your testimony.

JOHN IDOUX: Thank you. Thank you, committee.

FRIESEN: Welcome.

BRIAN THOMPSON: Thank you, Senator Friesen and members of the Telecom Committee. My name is Brian Thompson and I'm appearing here as opposed to LB914. I'll spell my name: B-r-i-a-n T-h-o-m-p-s-o-n. I represent Consolidated Companies, a Nebraska, family-based company, and also the Nebraska Advo-- Advocacy Group, which is a group of rural telecom providers. One of my colleagues said to me the other day, from our group in the Nebraska Advocacy Group, recently commented that no more

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

maps. And I'll tell you, I was listening to Senator DeBoer's question earlier regarding, you know, what's the cost to the company. Well, the cost to the company is that in a company like ours, where we serve 9,000 square miles, we have over 12,000 census blocks. We have to go through every one of those 12,000 census blocks and update it every time we add another customer with fiber or another location with fiber. Within that process. We have to also go through and identify what they're taking, in terms of the speed that they're buying from us, and then the speed that's available. So it takes hundreds of employee hours every quarter to do this job. For a company with 54 employees, that's a pretty heavy burden, and we get to do it for not only the FCC's 477 map, but we get to do it for the-- the Hub Map, which is the map that is required of companies that are in ACAM and CAF programs for federal support. Now within that, one of the other things that I find interesting in-- in this mapping discussion was there was a lot of discussion about, you know, well, customers can run a speed test and then provide-- you know, that provides information for our map and it makes-- you know, makes it accurate. Well, the problem with that is that speed testing only shows the package that the customer is buying. It has nothing to do with what the customer is capable of. In many cases, like at my parents' ranch near Dunning, Nebraska, they have fiber to the home. They're capable of 200 by 200 today, and faster if we-- as we add more electronics in town, but they're only buying 25 by 5. So when you run a speed test, they get 25 by 5 every time. Looks great, but they're capable of 200 by 200, if that's what they want to pay for. My brother lives a hundred yards away and his house, he has fiber to the home. He is buying the 40 by 5 package from us and he gets 40 by 5 speed test every time. So it's hard for people to understand that the speed test is only as good as the package you're buying in most cases when-- particularly when you're on fiber. We-- we welcome reasonable accountability and-- and with our public funds and we submit our data to the FCC and-- and to several other agencies on a federal level and then also to the Public Service Commission in terms of what speeds we can provide. One way to address this system or situation would be to go ahead and fund the broadband coordinator position and hire a person in the state of Nebraska to do that. But we are not sure that the type of map that we're looking at in LB914 is going to help the situation whatsoever. To give you another example of how this can be an issue, we-- we reported to the FCC at the end of January what all of our folks were capable of. Nobody in this room will get that information until about June. In January, we had 400 customers upgrade their speed in their packages. In the month right after, we submitted what they were capable of. So speed testing and what they're capable of are totally

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

different things and it's changing constantly. Consolidated installed over a thousand customers to fiber to the home in 2021. We intend to do 1,600 or so more this year. It-- it's moving so fast, I'm not sure you can keep track of it with a map.

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

BRIAN THOMPSON: You bet. Thanks.

FRIESEN: Any others wish to testify in opposition to LB914? Seeing none, anyone wish to testify in a neutral capacity?

CULLEN ROBBINS: Good afternoon, Senator-- or Chairman Friesen and members of the Transportation and Telecommunications Committee. My name is Cullen Robbins, spelled C-u-l-l-e-n, last name R-o-b-b-i-n-s. I'm the director of the NUSF and Telecom Department with the Public Service Commission, and I'm here in a neutral capacity on LB914. I have been involved with broadband availabil-- availability mapping from the very moment I was hired with the commission. The commission was involved in the process to mop-- map broadband availability that was the precursor to the current FCC Form 477 process. We understand the limitations of the data available today and we understand the need for better information to inform broadband policy. I really come before you more to answer any technical quest-- technical questions you-- that you might have, rather than offer additional testimony. So with that, I just thank you for your time and would be happy to answer any questions you might have.

FRIESEN: Thank you, Mr. Robbins. Any questions from the committee? Senator Geist.

GEIST: Thank you for your testimony. I'm curious that the-- the people who've come before you have indicated their-- their, for lack of a better word, trust of how this process is moving forward in the FCC. Do you have an opinion on where they're at and how this might differ or be the same as what you've seen in the past?

CULLEN ROBBINS: Sure. Yeah, the-- I guess a couple answers to that question. Certainly, we've-- we've tried to remain optimistic for now years that the FCC would have something ready to go in terms of a better mapping process. You know, I-- one of the previous testifiers mentioned that, I think it was, three years ago that the Rural Broadband Task Force at that time recommended, you know, we kind of wait and see, hopefully, the FCC can get something done. Well, that's,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

again, been three years ago now, and we're-- we're still waiting to see. I think somebody else testified as well that the-- the federal BEAD money will depend on that new mapping data from the FCC. So I think from that aspect, there's might now-- amount-- might now actually be reason for optimism that it will get done here quickly. But I, you know, I can certainly understand Senator Bostelman's desire to get things moving because we have been waiting a long time.

GEIST: if that data was collected and we did receive that by June or whenever this year, would that make this, in your opinion, needed or not?

CULLEN ROBBINS: There-- that depends certainly on a couple of things. One of the things that it depends on is what access of-- we would have to that data. To make it usable, obviously, we would need to be able to access some of that information, as well, so that we can determine, make policies based on the-- the detailed information that's being collected. So I'm not sure yet. There hasn't been any real information released on what level of access states would have, for example. The other thing I'll mention, I think the bill indicates that the first map would have to be completed by, I think it was, July of 2024, so there would certainly be opportunities ahead of that, if there were something immediately available, that we could address that concern-- or that you could address that concern more quickly, yeah.

GEIST: OK. Thank you.

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

DeBOER: Are there differences between the mapping that's envisioned in LB914 and what we anticipate will come out of the-- the FCC?

CULLEN ROBBINS: There are some additional requirements in the-- in LB914. I think probably the biggest one is that I-- LB914 envisions some speed test collecting. That's not necessarily part of the-- the FCC's federal mapping. I think they have some processes that allow for, what do I want to say, like crowdsourcing-- crowdsourced data to challenge what's reported in the federal process. But LB914 would make us collect speed test data and a couple of other things maybe like cost that may not necessarily be part of the federal report.

DeBOER: So one of the things we've heard is that there's already, and this is perhaps not a question you can answer, but there's already a number of different mapping requirements from the federal government

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

for various programs and things. Is there a way to sort of put all of those into one? Is that something that the FCC is envisioning or is that-- or are we still going to end up with multiple mapping requirements across several federal programs?

CULLEN ROBBINS: That's a good question, I think probably more of like a question that the FCC would be able to answer, but I--

DeBOER: Right.

CULLEN ROBBINS: --I think, you know, hard to speculate, but I-- I think what is envisioned would be kind of a consolidation of several federal mapping efforts. I mean, you know, I think for a while there's going to be a couple of dual processes at the federal level, the 477 process and their new Digital Opportunity Data Collection Process. I think eventually the-- what's regarded as the traditional 477 process will go away and the other one will remain. You know, it would make sense, probably, that they would be able to incorporate some of the data they collect on the HUB, which is what the FCC uses to collect information about their high-cost deployments. That would almost certainly be implemented in the new-- under the new mapping process. So, yeah, I think there is some opportunities for consolidation there.

DeBOER: So one of the things that is sort of always a perennial problem with respect to mapping, you've heard today, too, discussion of this idea of there's a difference between what people pay for and get and what is available in the area--

CULLEN ROBBINS: Sure.

DeBOER: --to their home. What sort of-- do we expect that the federal map will be able to sort of work around that concern, or do we think that that's going to be an endemic problem for any map?

CULLEN ROBBINS: That's a good question. I-- you know, I think-- I think the-- the FCC's primary interest is collecting data on what-- what is available, not necessarily what is being experienced. I think LB914 kind of want-- as I read it, kind of wants a little bit of both of those pieces of information where you're-- you're trying to also figure out not just what's available or what's being advertised, but what people are actually receiving. And, you know, speed testing has its own, you know, limitations that I think some prior testifiers have talked about that, that that's, you know, at this point, that's kind of what we're looking at.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

DeBOER: So some of these online testing places, you know, Google or whatever, you could-- I think the Chairman suggested that he at one point did a test and a few minutes later did a test and you don't get the same thing. Is there any sort of accuracy to any of these crowdsourcing methods? Is there-- I mean, I had a bill last year, but aside from that one, is there a way to-- to do this in a semi-accurate way or should we just sort of throw up our hands and expect that we're not going to get accurate, as-experienced data?

CULLEN ROBBINS: That's a really good question. You know, we-- in some of our other programs, we're-- we're asking those questions about how should we collect speed test information, is there a better way to do it. You know, like-- like we've said and like Chairman Friesen pointed out, user-initiated speed tests often only tell you part of the story. So it's-- you know, I'm-- I'm-- I believe that-- that carriers have way to-- ways to test their own speed capabilities to the customer premise. Maybe that's the way to go. It's-- it's-- kind of gets down to whether you think that's, you know, the best information you can use to validate speeds or whether you try to figure out other ways to-- to look at exactly what people are experiencing. There's a lot of-- you know, we certainly talked before about some of the other speed test methodologies that are out there, and some of them try to remove some of the variables that can, you know, lead to some of the issues. It seems like there's almost always some limitations, but, you know, we'll-- we'll hopefully get some good-- good comments and good feedback on some of our questions with respect to speed testing.

DeBOER: All right. Thank you.

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

CULLEN ROBBINS: Thank you.

FRIESEN: Anyone else wish to testify in a neutral capacity? Seeing none, we have two letters of support, two letters of opposition. Senator Bostelman, your close on LB914.

BOSTELMAN: I'm not so sure that the opponents really read the bill and understand the bill. A lot of their oppositions is-- is addressed in the bill. Let's start with a couple things. So it's too hard to do, can't do it, costs too much money, then why are you in the business? Sorry, you have to-- you have to report to the FCC. FCC is gonna come out with the mapping. How are you going to do it? Pretty easy. GAO already has guidance on how it's going to be done. I've been working

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

with the commission on this, talking about how this could be done, speed tests and everything else. It's-- it's an opportunity. What it is, it's fabric. OK, are you using multiple data sets, multiple parts of information to put together to understand, one, where people live, where businesses are, and then what's being provided out there. Now speed tests are a part of it. They'll decide on what how that speed test-- speed test will be conducted, either by the-- by the provider themselves, because they can-- my understanding, some of them they can ping that address and say, this is what we have available to it. The other one is you could have the person themselves, so, you know, the entity themselves, the business, the person themselves do a speed test. That's-- it's not impossible. It can be done. We've heard this for five-- I've heard it for five years now. I tried to get my provider, who sent an opposition letter, for 20 years to bring me broadband, something working. No, won't do it, can't do it. It's time to make some changes. Funding: the Infrastructure Investment and Jobs Act, \$65 billion for broadband. There's \$100 million coming to Nebraska of that, of that \$65 million [SIC], yet \$42.5 billion dollars includes money for mapping. So if that hundred million dollars is coming to us, mapping is allowed. That's what my amendment does. It says we're going to use those federal funds to do the mapping. If you submit proprietary information, it stays protected. It doesn't get released. It's protected. The FCC, if they come out, when they come out-- they've been telling us, we keep getting delays. There's lawsuits. There's other things coming out. If they come out, when it comes out, in the bill it says, on page 3, line 22, that the Public Service Commission shall evaluate and see whether they need to continue it. They can end the program right there. So we can continue to have no information. States such as Alabama, Alaska, Colorado, Georgia, New Mexico, New York, Pennsylvania, South Carolina, Vermont, Virginia, Missouri, and others have already done this. It's not too hard. It-- it can be done. So the question is, are we going to continue to not do anything and hope one day the FCC comes out with something better than the 477? We know the 477 is inaccurate at best. I think it's time that we take steps. If there's something needs to be addressed in the bill, talk to me. One of the oppo-- opposite-- those who come in opposition today, I had a Zoom call with them last week, didn't oppose the bill then. I think it's time that we need to do mapping. This mirrors what FCC is proposing to do, what FCC has already stated they're going to do. This provides the same type of information. It gives the PSC some flexibility. They can hire some contractors to come in and help it and get it done. With that, I'd ask the committee to kick this out onto the floor, prioritize it, and I'll take any questions. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

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

BOSTELMAN: Got the next bill.

FRIESEN: That will close LB914. And we will open the hearing on LB1101.

BOSTELMAN: Good afternoon again, Chairman Friesen, members of the Transportation and Telecommunications Committee. My name is Bruce Bostelman, spelled B-r-u-c-e B-o-s-t-e-l-m-a-n, and I represent Legislative District 23. I'm here today to introduce LB1101. As a result of talking with a number of stakeholders about the Public Service Commission's decision on its first round of-- of Broadband Bridge program grants, one of those stakeholders was Commissioner Watermeier, the commission denied a number of grants based on challenges by monopoly incumbents. As I see it, the main trouble was that these challengers have some fiber in the area but are not providing broadband service as we defined it under the Bridge Act last year. I'm not here to criticize the commission. Again, I'm not here to criticize the commission. It had little time to put the Bridge program together last year, and for the most part, the program worked. I was pleased last week to see the commission release proposed changes to the challenge process. That was one of my goals with LB1101, to fix the challenge progress-- process. We need to make sure that the commission is able to look at the best available speed data. My preference at this point would be to watch the commission's work in modifying the challenge process and ensuring use of the best available speed data. The parts of the bill calling for a formal challenge process should be put on hold while the commission reforms this challenge process. I plan to continue to work with the commission to improve the Bridge program. While I will not push for the formal challenge process, there are two important elements of LB1101 that are not addressed to the commission's Bridge proposal. Those issues need to be addressed by the Legislature either in this bill or in a committee priority bill. First, there's a question of just compensation for fortified in-- infrastructure. I believe there will be someone-- there will be some lawyers that testifies to this issue after me. Instead, I will focus my remain-- remaining remarks on the second el-- element of LB1101 that addresses the Nebraska Universal Service Fund. Last week's proposal by the commission addresses questions that have been raised under the pro-- Bridge program. The proposal-- the proposal, however, does not address similar questions under the Nebraska Universal Service Fund. We need to make sure those same issues that came up under the Bridge program don't come up and

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

impede broadband projects under NUSF projects like the reverse auction you established under LB994, Mr. Chairman. One thing we learned during the first round of the Bridge program is that there will be rough edges as we build state-funded broadband infrastructure. There are large areas of the state, especially rural areas, where fiber is especially lacking. But there are areas of the state, mainly in cities and villages, where there are-- where there may be fiber but little broadband service actually being provided to homes and businesses. That's what most of the Bridge challenges were about. The incumbent has fiber to a-- in a central office in town so it can provide basic phone and Internet service to customers but little fiber to the customers themselves. It is my opinion that those incumbents have not been good stewards of federal and state Universal Service subsidies in areas that remain un-- underserved. We all heard plenty about this is-- we all heard plenty about this from Senator Flood last year. It is especially upsetting that these incumbents haven't even found a way to build fiber to customers in cities. Under Nebraska statute, those providers have a duty to serve every customer. It is known as a carrier of last resort obligation. Several monopolies are not serving their customers. And again, that is within cities and villages. The areas-- the rural areas are worse, rural areas like where I live. We should not be protecting heavily subsidized monopolies that are not serving the public. Frankly, these providers should probably be paying back Nebraskans for subsidies not used to deploy broadband infrastructure in Nebraska. Look at the state. There are incumbents, good, small local businesses and cooperatives, that have built fiber not only to all customers in town, but also to all of their rural customers, each and every one of their customers. Even the most remote farm-- farms and ranches have excellent broadband. These small Nebraska providers use subsidies to put fiber in the ground and serve rural customers in areas across the state. These local businesses and others are looking for opportunities to help people in small towns and in less-fortunate rural areas, but our laws and regulations are allowing incumbent monopolies to stand in the way. Given the concerns about the veto power of incumbents in the Bridge process, I am concerned that we will face similar questions under NUSF programs, like the reverse auction program. We need to make sure the commission is considering the best available speed data for NUSF programs too. We need all of these programs to work. And, Mr. Chairman, LB1101 does just that. Therefore, I urge the committee to advance LB1101 to General File, and I'll take any questions you may have. Thank you.

FRIESEN: Thank you, Senator Bostelman. Any questions from the committee? Seeing none, thank you. Proponents for LB1101? Welcome.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

BRAD MOLINE: Senator Friesen, members of the committee, for the record, my name is Brad Moline, B-r-a-d M-o-l-i-n-e. I'm the founder and president of ALLO Communications, which was founded in 2003 in Imperial, Nebraska. For almost 20 years, ALLO has been building ubiquitous, citywide fiber-to-the-premise networks in communities throughout Nebraska, and we've invested a little more than \$500 million so far in bringing broadband to Nebraska's-- to Nebraskans. My purpose here today is to support the concept of LB1101 and to give you an update on ALLO's efforts to expand broadband availability in Nebraska. First, the update on ALLO: Since I last addressed the committee a year ago, ALLO has completed networks in Norfolk, Valentine, Wayne, and is currently utilizing our private capital for Ashland, Columbus, Fremont, Grand Island, Kearney, Milford, Seward, Sydney and York. The total investment in these new commu-- communities would be about \$150 million and serve about 200,000 more Nebraskans with Gigabit services. With the new committee-- communities, approximately 60 percent, or even up to two-thirds, of Nebraskans who live outside of the Omaha metropolitan area will have access to Gigabit services. ALLO has been an applicant in the first two rounds of the Nebraska broadband grant funding and received three grants in the recently completed Nebraska Broadband Bridge program. Our experience with the broadband grant program has informed the following recommendations. First, ALLO supports the concept behind LB1101 of making the grant challenge process more equitable. It's ALLO's position that the challenge process in the first two rounds has favored incumbent provider-- providers. I say ALLO favors the concept behind the bill because it is our understanding that numerous amendments are being considered. Second, ALLO supports using NTIA Indicators of Broadband Need map as a primary source for determining unserved and underserved areas. ALLO has participated in three separate grant processes in another state where the NTIA map is utilized. The-- there is a re-- rebuttable presumption that the NTIA Ookla.com data is accurate, and knowing the standard before preparing the grants makes the challenge process much simpler. ALLO has been referencing Ookla in our marketing for-- for some time here. Third, ALLO opposes any consideration of the FCC Form 477 data in determining unserved and underserved. The data is self-reported, not audited, and notoriously unreliable. Fourth, ALLO supports public-private partnerships and has participated in several of them. However, public entities should not be allowed to provide services to the end users as this provides a disincentive to private investment. Finally, ALLO supports the concept of requiring the burden of proof regarding whether an area is served or unserved to be placed on the challenger of the grant application. ALLO has had-- had a significant number of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

grant applications rejected based on incumbent's asserted network construction, although independent speed tests showed desired speeds are not being delivered in those locations. The NTIA results blend network availability with reasonable pricing and professional operations. High NTIA scores are the result of network operations and price. In conclusion, ALLO's goal is for Nebraska to be recognized as a top connected state. To that goal, ALLO has invest-- made this significant investment and has-- and has built to passing al-- almost 600,000 Nebraska residents. In the first two rounds of the Nebraska broadband grant, state government has not been able to distribute the full allotment due to the faulty challenge rules in place. With more than \$100 million coming into the state in the next 18 to 24 months, changes like those proposed in LB1101 will be needed to ensure that Nebraskans will appropriately benefit from these state and federal funds. I'd be happy to answer any questions that the senators may have.

FRIESEN: Thank you, Mr. Moline. Any questions from the committee? So is a-- is a company like yours, and you've built numerous communities, do you report anything to the FCC or--

BRAD MOLINE: Yeah. Yeah, we do that, the 477s.

FRIESEN: Are you required to?

BRAD MOLINE: I'm sure we are; otherwise, we probably wouldn't.

FRIESEN: It's-- so it's the Form 477, which we all know is inaccurate.

BRAD MOLINE: Yeah.

FRIESEN: Do you report any other data that would be more accurate?

BRAD MOLINE: I contend that the data we report is accurate. It's-- others use more of a marketing approach, if you will. We don't report, that I'm aware of, any-- any data that is-- is as good as the speed tests. You know, from my home, from my iPhone, I get, you know, 680 down and, you know, 570 up. Is it what could happen when I plug in? No, but directionally it's right, great broadband.

FRIESEN: And again, you're doing fiber to the home, so there's really no--

BRAD MOLINE: Yeah.

FRIESEN: --question that the speed--

BRAD MOLINE: Yeah.

FRIESEN: --could be there.

BRAD MOLINE: Yes.

FRIESEN: OK.

BRAD MOLINE: To-- to elaborate just one little bit more on that, the inconsistencies that you discussed earlier, that does happen because what we've run into, you know, you need 10 gig pipes into these servers, and quite often these servers are under-- underconnected, if you will. And so as-- as we move from, you know, the periods of 100 meg to now gig and now, you know, all our new markets will be 10 gig markets, that's one of the challenges, is, is-- is the path to the server sufficient? And we-- we ran into several situations where that was the case, so it was being a little bit underreported. But the reality is now the underreporting is not quite hitting the 10 gig level, which I don't think is really the problem you guys are looking at.

FRIESEN: OK. Thank you, Mr. Moline, for your testimony. Seeing no other questions-- welcome.

LOEL BROOKS: Good afternoon, Mr. Chairman. Members of the Transportation and Telecommunications Committee, my name is Loel Brooks, L-o-e-l B-r-o-o-k-s. I've worked in Nebraska for over 30 years as a telecommunications lawyer, helping both public entities and private partners with telecom legal issues. I'm also the co-founder of Universal Broadband Consulting, a Nebraska benefit corporation and a consulting company dedicated to helping public entities in rural areas, including villages, cities of the first and second class, and other public entities, to attract and deploy robust broad-- broadband, which is high-speed internet, in rural areas throughout the state. The goal of UBC is to help close the digital divide in Nebraska. UBC supports LB1101 and the concepts that are taken therein and thanks Senator Bostelman for introducing the bill. A big part of this state's role in eliminating the digital divide was adopting the Broadband Bridge Act, as we've been talking about, in-- in 2021 through LB388. The Nebraska Public Service Commission was directed to administer the Broadband Bridge Act program and to develop an administrative infrastructure necessary to accept and evaluate applications from eligible app-- applicants and to distribute the funds in accordance with the PSC application guidelines. We'd like to extend our appreciation to this committee for supporting the Bridge Act and to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

the PSC for its herculean efforts, I will say, to get this program up and running so quickly and initial grants were allowed-- were announced last month. However, as with any new complex funding program, there are always things that can be improved to better accomplish the policy objectives of the Legislature. With this program, as well as with the CARES Act broadband program administered by the Department of Economic Development in 2020, the fundamental goal of the legislation is to facilitate and fund the development and deployment of broadband networks in unserved and underserved areas of the state. The Bridge Act has defined unserved and underserved areas based upon actual broadband speeds delivered in those areas. "Unserved" was defined as areas lacking availability of at least 25/3 megabits-- 25 down, 3 up--the current definition of broadband under FCC rules. "Underserved" is defined in areas lacking availability of speeds of at least 100 by 20 megabits per second. The Bridge-- the Bridge Act is designed to increase broadband speeds available to consumers throughout the state. That's our large purpose behind the Broadband Bridge Act. Robust broadband service speeds are essential to economic growth in the state. Therefore, speed is the key criteria for determining what areas are eligible for funding, which means what current providers are actually providing these minimum speeds, and whether grant recipients will in fact actually deliver the higher speeds that they represent will be delivered through their new grant-funded networks. However, neither the state of Nebraska, the Pub-- nor the Public Service Commission has adopted a standard way to determine what areas are in fact unserved or underserved because there is no standard speed measurement tool that's been adopted, none. As we've heard today in testimony, the speed issue is all over the place. Instead, the state and the commission have relied on unverified speed data, self-reported to the FCC by carriers providing service in their service areas, known as 477, which you've heard about repeatedly this afternoon. The Form 77-- 477 data has been widely recognized as unreliable even by the FCC and the PSC. However, in 2018, Congress directed the U.S. Department of Commerce through the National Telecommunications and Information Administration, NTIA, to improve its National Broadband Availability Map, which everybody calls in NBAM, which has been largely based on flawed and unverified Form 477 data. In June of 2021, the NTIA released its new, updated, publicly available NBAM map, which uses many different sources-- 380, to be exact-- of data to identify service speeds actually delivered to consumers. This is what Mr. Moline was talking about a moment ago. The updated NBAM is the first interactive public map and data platform that allows users to evaluate different data sets to determine where people do not have quality Internet services. The NBAM draws from over

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

380 public and private data sources, including the FCC, including other agencies of the U.S. government, with data available at the county, census tract, and census block level. The NBAM is largely recognized at this juncture as the best available real-world broadband speed data in the country. Nebraska was one of the first states to partner with NBAM some years ago, and now over 40 states are partnering with NBAM. It is our opinion at UBC that the Legislature must designate NBAM as the standard tool for identifying where unserved and underserved areas are in the state for purposes of all funding programs that broadband-- excuse me, that broadband networks are intended to provide.

FRIESEN: Can you wrap up pretty shortly?

LOEL BROOKS: Sure. Using broad-- using a standard uniform measurement platform is essential to administer any program funding broadband. Without uniform speed-measurement standards, the Bridge Act program is doomed to failure. With these revisions, we think that the Bridge Act will provide important, essential, uniform standards for measuring actual broadband speeds, and they will be-- the PSC will be able to effectively administer where money should go and how it should be delivered. Be happy to answer any questions may-- you may have, but we feel this is an essential ingredient to the Broadband Act. Thank you.

FRIESEN: Thank you, Mr. Brooks. Any questions? Senator Albrecht.

ALBRECHT: Thank you. OK, sitting here and listening to all of this, you've probably hit on something that I'm not as aware of. This NBAM that you talk about is--

LOEL BROOKS: Yes.

ALBRECHT: --what again, and who administers it?

LOEL BROOKS: It is a digital available map that's publicly available that-- that records and produces data that's collected from 300 different sources, over 380 sources, about who is actually receiving-- actually receiving the speeds that are necessary to determine whether an area is unserved or underserved.

ALBRECHT: OK, so-- so this company calls on the consumer to find out what's happening or do they contact the folks in this room to say, you said that you're delivering this but you're-- you may very well be able to deliver this much to them? So what exactly-- are they for the consumer or are they doing this for the states, who--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

LOEL BROOKS: This is a national agency, the NTIA, which states are members of, which collects data that's real-time from subscribers in networks across the country and across the areas that we're-- in-- including in the state of Nebraska.

ALBRECHT: OK.

LOEL BROOKS: So it collects data. It's a little bit like crowdsourcing, which was-- was mentioned earlier. It's collaborating on all sorts of data sources, including Microsoft and other providers and testing agencies such as Ookla and mLab and GEO Partners, which have been mentioned, collects all this data and puts it together on a map so you can publicly look at the map and find your census tract and find out what the average speeds that are being delivered, that are actually being received by consumers, are. It's an actual speed test, not a self-reported piece of information.

ALBRECHT: Um-hum, and what's the fiscal note if we are to do that?

LOEL BROOKS: It's not-- it's not a fiscal note. It's available to the state. It's available to testing sources. It's available free.

ALBRECHT: So-- so--

LOEL BROOKS: It's being produced by NTIA.

ALBRECHT: --the Public Service Commission would-- would--

LOEL BROOKS: Yes.

ALBRECHT: --work with them to--

LOEL BROOKS: It has that data available now. I will also tell you that in September of last year, UBC was involved in applying for a \$50 million Broadband Act-- or broadband funding from the Infrastructure-- federal infrastructure act. And the criteria used in determining unserved and underserved areas was the NTIA NBAM map. It's the same mapping technology that Mr. Moline was talking about that's been adopted in the state of Arizona. It's available now. It's available to anyone who wants to use it. It's available to the testing sources. It is not something that has been developed for USF distribution, but all federal money coming from us today, the billions of dollars are not coming from-- from USF. They're coming from infrastructure general funds that are appropriated by Congress, and the NTIA is managing many of these, billions of dollars, including a half a billion dollars or a billion dollars in Nebraska with two more to come.

ALBRECHT: Well, and-- and so--

LOEL BROOKS: So this is-- tool is available.

ALBRECHT: So these are great tools, and-- and my whole thing is, if we're looking for the underserved--

LOEL BROOKS: Yes.

ALBRECHT: --it shouldn't be too tough to find out who doesn't have it, so--

LOEL BROOKS: That's correct.

ALBRECHT: And-- and maybe we have tasked too many different people to do too many different things and everybody wants in the pot, but if you don't have the people to administer, you don't have the parts, you don't have crews to go out and take care of business, I mean, we have a situation here that needs to be handled, and as effectively as we can without overregulating so many things--

LOEL BROOKS: Right.

ALBRECHT: --is what I feel, that we just need to get past this and get it done, but-- and mapping--

LOEL BROOKS: And I-- I agree with your-- your premise.

ALBRECHT: --mapping is important, but I-- I think it's a-- pretty much a no-brainer, the-- where the underserved should be located. I mean, I-- I just can't imagine that that's that big of an issue because--

LOEL BROOKS: It can be determined. The problem with not having a standard measurement system in the state is, for the CARES Act, for example, money was distributed, there was a challenge process, but the state could not effectively use the challenge process because there was no standard to use. There was no standard to determine whether those constructing a network had actually concluded that they were delivering the service because there was no stand to measure it. So you have speed as the standard for determining what's served and unserved, but you have no standard to do that.

ALBRECHT: Correct.

LOEL BROOKS: So there's no way you can effectively administer any broadband funding program without standards. So our suggestion is,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

here is one that's been adopted within the last six months. It's being used by NTIA to distribute billions of dollars of funding to broadband projects across the state. It's being used in the state of Arizona. It's being used by one of the leading providers of broadband, ALLO Communications here and in Arizona. It was used in our Broadband Bridge Act applications by many parties, but it was not recognized because it hasn't been adopted by the PSC yet or by the Legislature. So our concern is really if we don't have a standard broadband measurement system, we cannot administer this money fairly. We can't because there's no standard to do so. So all we're saying is, if everybody's on the same playing field, we have technology today and a map today that this state is a part of that can measure these things as a starting point. And then the challenge process, which we've heard about, can then be used with testing agencies that use the same digital platform to confirm all of this and whether this is available. And available means, under FCC rules, that it could be delivered to a party by an existing network within ten business days. So the issues that have been talked about, who's ordering what or who can't get access to something and who's not buying something, becomes a moot point because what we're measuring is the capability, the availability of this service by any carrier, using the same standard. So that's what we're trying to emphasize here. Let's have a program, if we're going to do it, that utilizes the same criteria for everybody. That way, we can reasonably and effectively administer this program while we await other developments at the federal level or wherever. This map exists today. It was released in June of 2021. It's being used now for the distribution of billions of dollars of assets by the federal government as we speak.

ALBRECHT: Well, thank you.

LOEL BROOKS: It's just our recommendation. We'd be happy to provide more information on NBAM.

ALBRECHT: Thank you.

FRIESEN: Thank you, Senator Albrecht. Any other questions from the committee? Senator DeBoer.

DeBOER: Sorry, I'll try and make this quick. For this new NBAM map, you say there's a variety of different data sources.

LOEL BROOKS: Yes.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

DeBOER: So some of those, I assume, would be consumer-based data sources, the consumer--

LOEL BROOKS: That's correct. It uses data from the FCC. It includes a database. There are 380 databases. It includes the 477 as another data source. It includes data from the U.S. Census Bureau; the United States Ser-- Use Act; the United-- the Universal Service Administration Company; the U.S. Department of Agriculture, which has its own broadband plans; the Department of Treasury; Ookla, which was mentioned by our Chairman earlier as a testing source that uses the same platform; another one called mLab, which is universally recognized as the leading testing source; another one called BroadbandNow and WhiteStar; as well as data received from state governments, to which the state of Nebraska is a party.

DeBOER: So it's an aggregation of all these different data sources.

LOEL BROOKS: It is. That's my reference to crowdsourcing. It is a huge aggregate database that provides information that, because of its aggregated nature, becomes more accurate as we move forward.

DeBOER: So is it subject to the same limitations that we've heard mentioned by several of these folks that you-- you may not have ordered the highest package, you may have gotten a lower package, and so then it may seem that you're getting 25/3 when in fact you could have gotten 2-- 200 by 200 but, because you're only paying for 25/3, that will be a data point that it looks like it's-- you're not actually getting a higher number. So--

LOEL BROOKS: There-- the--

DeBOER: --does this have the ability to control for that?

LOEL BROOKS: It does. It accounts for it in two different ways. One is the definition of-- the FCC has just adopted about what-- when is broadband at these levels available, and that means that's a-- that's a proof issue in a-- in a challenge process that would have to say a-- a incumbent who is saying we deliver this and we have access to it has to be able to prove that their existing infrastructure can provide these minimum services to any customer within ten days, business days.

DeBOER: So-- so--

LOEL BROOKS: That's one. The other one is a measurement of service standard that was adopted recently by the FCC says that all infrastructure needs to be able to provide 80 percent of their service

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

speed 80 percent of the time, including peak times, so that you have a basic understanding of you're not getting broadband just at midnight when everybody's asleep but throughout the day. So those two pieces deal with the issue of, are we delivering speeds, can-- and are these speeds available to our community? If they aren't available, then the infrastructure doesn't make any sense and doesn't ma--

DeBOER: But--

LOEL BROOKS: --factor into the issue.

DeBOER: But how would that test for availability, right? Because if I have-- if I use an Ookla product or some of these other consumer-based products, I will get what I pay for, arguably--

LOEL BROOKS: Correct.

DeBOER: --and not more than what I pay for, which, arguably, there could be a lot more available to me that I just don't-- I don't have that package. So how would that be controlled for? And maybe this is a longer conversation. The other piece would be I've heard in the past, and-- and this is maybe something you speak to more directly, that sometimes computer or the-- the consumer's hardware is part of the problem. Is there some way to control for the consumer's hardware?

LOEL BROOKS: What we're-- what we're looking for is whether the provider can provide the minimum speeds--

DeBOER: Right.

LOEL BROOKS: --through its infrastructure. And that's what the-- the term "availability" means. It's not-- it means that you have to have an infrastructure that is capable of delivering the service within ten days.

DeBOER: I understand that.

LOEL BROOKS: I'm not answering your question.

DeBOER: No, no, no. I'm not asking it well. How do-- how do I test whether something's available from a consumer side if (1) I'm not paying for it and (2) my hardware can't-- can't use it, can't collect it, can't whatever--

LOEL BROOKS: The provider would have to demonstrate that it has infrastructure--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

DeBOER: OK, so does that shift--

LOEL BROOKS: --that can deliver the service.

DeBOER: Does that shift the burden of proof then to the provider? Is that what--

LOEL BROOKS: Yes.

DeBOER: OK. OK, thank you.

LOEL BROOKS: Yes. Absolutely.

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

LOEL BROOKS: Thank you. Thanks for your attention.

BURKE BROWN: Good afternoon, Senator Friesen and members of the committee. I am Burke Brown, B-u-r-k-e B-r-o-w-n, on behalf of the NSEA broadband-- broadband technology committee, I also thank Senator Bostelman for introducing this bill and I speak today in favor of LB1101. We believe LB1101 will further strengthen the Nebraska Broadband Bridge Act by addressing questions in scoring grant applications and clarifying language in its challenge procedures. We believe this bill's data-driven position is-- in considering accurate and more granular mapping will expedite the completion of funded projects, thus reducing Nebraska's broadband gap. We raise consideration, however, that the threshold of 10 percent of subscribers not receiving service is too high in providing affordable, reliable, and secure Internet to all Nebraska students. We appreciate LB1101's intent to encourage a commitment to serve high-cost areas outside of cities and villages as the lifeblood of Nebraska cities and villages is the supporting rural lands. Moreover, we encourage-- excuse me. Moreover, the encouragement of 100/20 and 100/100 speeds will allow subscribers to engage in the media-rich educational lessons, as well as allow small businesses subscribers a baseline of connectivity. As we consider numbers of acceptable underserved subscribers in a defined project area, we raise the question that 10 percent would continue to hinder Nebraska schools from utilizing devices in assigning homework and extending the school day. In July 2019, the Nebraska Department of Education administered a homework gap survey to 21,000 K-12 teachers and received a 32 percent response rate, with more than 6,900 teachers answering the survey. Some of the findings, which were detailed in 2019, Appendix 10 of the Rural Broadband Task Force Report, include more than three-fourths, 77

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

percent of the teachers agree that if all students have broadband Internet in the home, it would positively affect student learning and achievement. Nearly half of the teachers, 48 percent, agreed that the absence of home Internet access for some students affects the level or amount of homework assigned; and an overwhelming majority of teachers, 90 percent, reported that accommodations are being made to address the lack of-- students' slow Internet at home. Some of the accommodations included providing more class time to complete homework, providing students with printed materials, etcetera, and they're listed in the handout. While these accommodations seem like excellent coping strategies to combat the homework gap problem, they are all affect-- they are all affecting the level and efficiency in which we educate our children, and that should be a concern to all Nebraskans. In closing, Nebraska's policymakers have started the important work of closing the-- Nebraska's broadband gap, allowing educators the ability to effectively assign homework to all students. LB1101 will strengthen the Broadband-- Broadband Bridge Act by clarifying the challenge procedures, relying on accurate mapping and subscriber data, and rewarding projects committing to higher broadband speeds. With continued attention to all unserved and underserved students, we can achieve digital equity in Nebraska. I would be happy to answer any questions.

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

BURKE BROWN: Thank you.

FRIESEN: Welcome.

JAMES DUKESHERER: Good afternoon, Chairman Friesen. Members of the Transportation and Telecommunications Committee. My name is James Dukesherer, J-a-m-e-s D-u-k-e-s-h-e-r-e-r. I am the director of government relations for the Nebraska Rural Electric Association. NREA is testifying today in support of LB1101. Our association represents 34 public power districts and electric cooperatives throughout the state. The more than 1,000 dedicated employees of our system serve 240,000 meters across nearly 90,000 miles of line. Under the first round of the Broadband Bridge Act, South Central Public Power District and Glenwood Telecommunications applied for a grant. The application was a one-of-a-kind of public private-partnership where two entities, a public power district and a small telephone cooperative, attempted to join forces to reduce costs, utilize existing infrastructure, and ultimately provide broadband service to a three-county area in south-central rural Nebraska. Despite customer-level speed test data

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

that was submitted confirming that most consumers in the area did not have access to broadband, the application was denied when-- when an existing provider in a project area challenged the application, stating they were already providing service to some customers within the project boundaries. I don't believe that members of the Public Service Commission believe that most customers in this proposed area had access to broadband Internet when they denied the project, yet under the act and the PSC process, the area under consideration was deemed served because it-- because it did in fact have fiber infrastructure in the area. LB1101 spotlights what we already know, that just because there's fiber in the area, doesn't mean that customers have access to broadband internet. Overbuild of fiber infrastructure is a real concern. We have to be efficient with the limited support available for rural broadband deployment, but we also have to be clear about defining what is served and how that's measured. Existing fiber buried in a project area cannot be the yardstick we use to measure broadband access; nor should we exclude an area from grant funding and new development just because a few customers have access to service. Customer-level speed data obtained from reputable sources should be used to verify if customers have access to the speeds required under the act. As the NREA sees it, if an area is deemed served, then a customer should-- then a customer should be able to call the provider and receive service within ten days. That's true access. True rural development outside city limits should be the goal of any broadband bill that is passed this year. LB1101 encourages developers to reach beyond city boundaries. If broadband service is brought to rural municipalities without a plan to reach rural areas, development outside town limits may never be realized. A business case for broadband development in rural towns without federal and state support can be made. LB1101 promotes a model where companies that present comprehensive applications with plans to serve both the urban and rural project areas are given-- are given greater preference. Doing so promotes true rural broadband development and directs limited broadband support to where it's most needed. We want to thank the committee and the Public Service Commission for being sincere in their efforts to remove roadblocks to rural broadband development, and we ask the committee advance LB1101. Thank you.

FRIESEN: Thank you, Mr. Dukesherer. Senator DeBoer.

DeBOER: I'll try and be quick again. Something you said really struck me, which was just because there's fiber in an area, doesn't mean that people are getting fiber speeds or access that you would expect with fiber. Can you tell me why that is? What might-- if I have fiber to my

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

home, can I expect that I'm going to get fiber-level speeds every time, or is there something that might interrupt that?

JAMES DUKESHERER: I think if you have fiber to your home, you can expect that. However, it's not uncommon among my members to-- especially farmers, to discuss about how there's fiber buried that goes past their farm but they don't have access. They can't call up an Internet provider and actually get connection to their house.

DeBOER: OK, so what you're saying, you're talking about the folks that maybe there's fiber running by them, but it's not the last kind of mile fiber that goes actually into their homestead, per se.

JAMES DUKESHERER: Correct.

DeBOER: OK. All right. Thank you.

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

JAMES DUKESHERER: Yep.

FRIESEN: Welcome.

ANDY POLLOCK: Chairman Friesen, members of the committee, my name is Andy Pollock, A-n-d-y P-o-l-l-o-c-k. I'm here on behalf of Nebraska Rural Broadband Alliance. As far as the alliance is concerned, we like the direction the commission is going with the changes that it has proposed last week in its challenge process. We would prefer those changes be overseen by the commission directly. We do not see a need for the formal protest process that LB11-- LB1101, the green copy, called for. I happened to draft that. We did it quickly after the commission's January 4 decision. The goal was to try to push for more transparency, but we believe the commission will improve the broadband process within the docket that it opened last week. But it's important to point out, as Senator Bostelman did in his opening, that LB1101 addresses issues that are beyond the scope of the commission's good proposal. I will comment on two key parts of LB1101 that remain important. The first part takes on concerns we've all heard about dealing with overbuild under both the CARES Act and the bridge program. Senator Bostelman referred to this issue as just compensation. The second part ensures consistency between the other program-- broadband programs that the commission administers, like the USF program, like Senator Friesen's reverse auction program. So the first issue, overbuilding, as Senator Bostelman said, LB1101 has language on the overbuild question that is absolutely nothing new to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

the Public Service Commission. The language we pulled came straight out of the commission's boundary change statutes. That process is a process for transitioning customers. It has worked. It has helped rural customers, but usually only one or two at a time. I would point out that Hamilton Communications has had great success in using this process that way, one or two at a time, in helping customers that have not been served by Wi-- well by Windstream. On behalf of the Stanton Telephone Company and about 30 former CenturyLink customers, I worked to get the Public Service Commission to change a boundary between Stanton and Cen-- CenturyLink up near Norfolk a couple years ago. While CenturyLink challenged the process, they challenged the application, there were open discussions between the parties. There was no arguing. There was very little haggling. Unfortunately, there was very little lawyering. The issue of overbuilt came up. We brought it up. The competitive provider, Stanton, brought it up. We raised it. We had professional and polite conversations with CenturyLink about the issue, and together the parties amicably worked out a solution-- a solution to the question. In fact, I think it's important for you to know that at the end of the day, there was no overbuild in that situation. We have 40 customers at the end of the day changing hands, no overbuild. There was no abandoned infrastructure. There was no stranded investment by CenturyLink. What happened was Stanton simply acquired CenturyLink's fiber. We took it off the barbed-wire fence where it was hanging, we buried it in the ground, and we're using that fiber now to provide state-of-the-art broadband services to all those customers in the area. Most importantly, the customers came out winners in that situation, but I believe CenturyLink and Stanton also came out winners too. Senators, here's the difference between the boundary change statutes and the bridge statutes-- and frankly, Senator Friesen, it's an issue with the reverse auction statutes too-- the boundary change-- explicitly require the commission to determine the issue of what's called under-appreciated investment. That's stranded assets, that's overbuild, that's just compensation. It's spelled out in statute. Simply by virtue of putting that elephant in the room on the table in the form of a statute, the boundary change laws have worked, like they did with the Stanton-CenturyLink transition. For this simple reason, I would strongly recommend putting the issue of under-appreciated investment or just compensation squarely on the table under the Bridge and USF programs too. I think also, incidentally, and there's more in my written comments about this, addresses a big issue that has come up from others about carrier-of-last-resort responsibilities. Finally, the commission has faced difficult questions in establishing how to determine the best available speed data under the Bridge program. You heard that from Mr.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

Moline and Mr. Brooks. Similar transitional programs under USF, such as LB994, have even less guidance for consideration of speed data by the commission. To make sure that the commission doesn't get caught up with the same issues it got caught up with the first round of the Bridge Act, I would strongly recommend that the Legislature clarify the speed data consideration requirements under LB1101 as they pertain to the Nebraska Universal Service Fund. I'd simply close, if I may, Senator Friesen, by saying that a functional LB994 will be critical to accomplishing the type of rapid, the type of large-scale deployment that will be possible with the great influx of federal funding coming through the state. With that, I'd be glad to try to answer questions.

FRIESEN: Thank you, Mr. Pollock. Any questions from the committee? So some of the suggestions here, I mean, deal with other programs, too, where we could help streamline some of the processes.

ANDY POLLOCK: Exactly--

FRIESEN: OK.

ANDY POLLOCK: --avoid some of the tough issues that the commission faced, just give them a little bit of a playbook to-- to go by.

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

ANDY POLLOCK: Thank you.

FRIESEN: Welcome.

AL JUHNKE: Thank you. Mr. Chair and members of the committee, my name is Al Juhnke, Al, A-l J-u-h-n-k-e. I'm the executive director of the Nebraska Pork Producers, and I'm also testifying today on behalf of Nebraska Cattlemen, Nebraska Corn Growers Association, Nebraska Farm Bureau, Nebraska State Dairy Association, Nebraska Soybean Association, and the Nebraska Wheat Growers Association. We're here to support another good Bostelman bill, bill number LB1101, and I'll speak very generally and quickly. We like the pieces of this bill because we believe it gets us down the road to where we need to be. And-- and we've talked about this as rural members many times. We go back 100 years, there was probably the same group sitting in this room talking about how we get electricity to all those farm places out there or how do we run telephone lines around the countryside. I can probably hear-- I can hear it echoing in the halls here. Mr. Chair. This-- this moves that broadband ball down the field a little more. Again, we think-- we think the Public Service Commission will-- will

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

eventually get to this point, but actually putting in priorities to people that want to provide broadband that they use the maps and understand where the speeds are; that we do have speeds that are available beyond 20 or 10 or 5 or what a lot of us get now inside our households; that we serve the high cost areas, the areas outside of town. Right? That's where our farms are. That's where my barns are located. That's where our bin sites are. That's where our houses are, where we need to hook up not only in our offices, but think about it for medical care and for our children's education and other things. Oh, yeah, and we give priority to people that charge a similar rate for those services outside of town. Again, when they put in the phones-- I grew up outside of town. When I grew up, our phone rate was the same as the people in town. Electric service rates were the same for me as it was for the person five miles down the road. So we need all these things to be considered, prioritized and hopefully our public dollars being awarded. That's what this is all about. We are all contributing to our own broadband service being deployed for us using our dollars, in part. So when we're doing these partnerships with our dollars, I think it's absolutely appropriate to look at a bill like this from Senator Bostelman and consider all these things and prioritize them to the people that can best do that. So with that, I thank you for the opportunity to testify on behalf of the farm community, and we hope that this bill, or at least some message in this bill that's trying to send, is heard by the commission and that these things move the ball as quickly as possible so we can get deployment. Thank you.

FRIESEN: Thank you, Mr. Juhnke. You know, if everybody would testify for as many organizations as you did, we'd be done already today.

AL JUHNKE: That's right. That's right. I hope they're taking notes.

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

AL JUHNKE: Thank you, Mr. Chair and members of the committee.

JOHN HANSEN: Chairman Friesen and members of the committee, good afternoon again. For the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n, and I'm the president of Nebraska Farmers Union. We would like to thank Senator Bostelman for bringing the last bill as well as this bill. And so we've been a part of the coalition of groups that are trying to gently but appropriately provide more push in order to make sure that folks who are sitting on top of-- service areas are actually, in fact, doing what they say they're doing and actually

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

providing services. And so this is a helpful bill. I think it does several things that are-- that we think are positive. The-- the use of best-available speed data, I think, needs to be more clearly ingrained into the decision-making process relative to funding. And I think that if we are able to use best-available speed data, I think that will help a lot of the really rural areas that we are trying to get coverage to. I think that by addressing some of the issues that Andy Pollock was talking about, I think that in the end is going to help us provide more competition. I think that will behoove us all in the end. And you know, we've-- we've found in other sectors of the ag economy that when you don't really have competition, then there's a whole sort of cascade of things that don't work the way we thought they were supposed to work when we all took ag econ. And so when we lose competition, we lose not only price but service, but also just the-- a lot of the-- the benefits of seeing who can do the best job of providing real coverage. And so I think that LB1101 is a-- is a very helpful bill. I think it goes the right direction, and I think most of the reasons have been covered by folks who are a lot more knowledgeable and smarter than I am, which is an ongoing problem in my case, I would just add. And so with that, I'd be glad to answer any questions if I could.

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

LASH CHAFFIN: Thank you, Mr. Chairman.

FRIESEN: Welcome.

LASH CHAFFIN: Good afternoon, Senator Friesen, members of the committee. My name is Lash, L-a-s-h, Chaffin, C-h-a-f-f-i-n, utilities section director at the League of Nebraska Municipalities, and I'd like to testify on behalf of cities and villages across the state in favor of LB1101. I think Senator Bostelman's openings on the last couple bills really paint a very accurate picture of where we stand right now in Nebraska with respect to broadband access. And this is-- this is a rural issue and it's an urban issue too. I mean, everybody on this committee, I assume, has heard all the stories from someone who's five feet away from the cable but can't get the broadband. You know, it's-- I think everybody's intuition knows now that the-- the mapping and the use of the data, the census data, just doesn't reflect reality of broadband access. And-- and I know a lot of cities and villages were following the South Central Public Power District Glenwood project and-- and also a project in Polk County very, very closely because I think a lot of villages and smaller cities in

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

particular saw this as a potential pathway to opening up broadband access in their municipalities, where-- where they just kind of feel they've been ignored. And I will say, you know, cities and villages don't understand NBAM and [INAUDIBLE]. They don't understand either. That was just-- they didn't understand any of that. But when the grant was denied for that project, my phone rang off the hook. Everybody goes, well, of course, the-- the-- the Internet's terrible down there, why didn't they get that grant? Everybody knows, you know, in-- [INAUDIBLE]-- intuitively, they know that the internet in that part of the state is horrible, and they were shocked that-- that that just didn't move forward. And-- and so I think that's something that probably as we move forward in this state, and as several of you have-- have referenced, we-- we're looking at three-- three sets of federal funding that probably is going to be unprecedented between the CARES Act and the-- the-- what was it-- the CARES Act, ARPA, and the Infrastructure Investment and Jobs Act, which people keep wanting me to refer to as the IIJA, which is very difficult to say, so I'm just going to keep referring it to the-- the longer version. This is unprecedented money coming into the state, and I think intuitively, all elected officials, local, state, federal, we-- we-- we look silly if we rely on data that the public knows intuitively just is-- is antiquated or inaccurate. And any-- any time we can-- we can provide better data to grants, to appeals, to the entire process, I think we need to move forward and try to do that. There's a lot of money at stake and I think everybody need-- needs to-- to up their game. And the Public Service Commission does a great job. When I first saw LB1101, I-- I stared at it for a long time. I knew something like that was going to come because I talked to a lot of the people involved. But it-- it occurred to me that really, probably, credit is due in a couple places. I will say the committee over the last couple years has had two major broadband packages, and the more I stare at LB1101, I will say, this is probably a component piece to those packages. It--it ties in directly to the goals of both-- I can't remember the numbers, but the package from two years ago and the package last year, and-- and I think it's-- it's an important component piece and-- and I'd like to see, in any way, shape or form, enhanced data, realistic data, data that the public trusts be used in all these type of processes. That-- that said, I would certainly answer any questions.

FRIESEN: Thank you, Mr. Chaffin. Senator Moser.

MOSER: Are there ways for citizens to weigh in on whether they think their internet is sufficient?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

LASH CHAFFIN: You know, Senator, I'm probably not the person to ask that question to. I suspect there are, but I-- I think someone at the Public Service Commission or-- or someone involved heavily in the telecommunications industry probably could answer that question. I hope there are ways that that can happen.

MOSER: Well, I'm just-- you know, we're arguing about whether the existing carriers are accurately reflecting their speed and-- and whether the-- the companies who are getting grants to try to increase internet access are actually improving it. And I would think that if-- if the technical answers to those questions are getting in the way, maybe there should be a petition process by the people who live in the area or some kind of a ballot question to see whether they feel that their internet is adequate.

LASH CHAFFIN: I-- I think that those are legitimate questions. And anecdotally, when the-- two of the people who called me on the South Central, our public power district, project were city employees who apparently lived-- they'd realized they just lived outside of Nelson, and they've tried for years to get enhanced Internet. They're willing to pay about anything to do it and have been unable to do it. But-- but it-- you know, there probably, in all fairness, as you indicated, there needs to be some way for them to report the fact that they've been submitting-- trying to submit speed data at any website that'll take it for-- for a long time.

MOSER: Yeah, I just think we're spending public money. There should be a good way for the public to weigh in on, you know, how this is implemented.

LASH CHAFFIN: It certainly seems like a legitimate, important public position, yes.

MOSER: Thank you.

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

LASH CHAFFIN: Thank you.

FRIESEN: Welcome.

JON CANNON: Thank you, Chairman Friesen. Members of the Transportation and Telecommunications Committee, my name is Jon Cannon, J-o-n C-a-n-n-o-n. I'm the executive director of the Nebraska Association of County Officials, otherwise known as NACO. We'd like to thank Senator

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

Bostelman for bringing this bill. We would certainly like to thank the committee for their continuing work on something that we think is of vital importance to all of Nebraska and all 93 counties, and that is what we're talking about here today. From the county perspective, there are a couple of things I'd like to mention that kind of veer off of everything that we've been hearing so far. The last decennial census that we received from the U.S. government shows that the continuing trend of the emptying out of rural Nebraska continues apace, as it has for about the last 70 years. You know, in-- from the NACO perspective, we are all about what we can do to reverse those trends, and there's a number of different things that we can talk about, certainly not in this committee, but what we have before us are those things that we think are vitally important for rural Nebraska in particular, and that would be reliable broadband. We found during the pandemic that those places that did have reliable broadband actually did not see the sorts of diminution of-- of people coming through their-- their areas. As a matter of fact, I know that up by Calamus Reservoir, they actually saw more people in the bars and in the restaurants than they had before, because a lot of people saying, well, if I can work from anywhere, I might as well go up to the reservoir and-- and hang out at the lake house. But you don't see that in all areas of Nebraska. With reliable service, we can prosper as a state. And again, my portfolio is 93 counties, not just-- not just a few, and not just the urban areas. Anything will help, and more accurate data certainly is going to lead to better development within the state. What we have been doing has not served rural Nebraska. Something needs to change. We need to look at all available opportunities that we have before us. And I'm not the technical expert on this, so I'm certain that I'm going to hear why we are going to get reliable broadband throughout all corners of the state within a timely manner, and the counties will be listening very intently. With that, I'm happy to take any questions you may have.

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

JON CANNON: Thank you very much.

FRIESEN: Any other proponents for LB1101? Any other-- seeing none, is there any opposition to LB1101?

MOSER: Don't stop the momentum.

FRIESEN: Welcome.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

JOHN IDOUX: Good afternoon again, Mr. Chairman, members of the committee. It's good to be back. Again, my name is John Idoux, J-o-h-n I-d-o-u-x, and I am Lumen's director of governmental affairs. LB1101 discourages private investment while minimizing competition. LB1101 proposes changes to existing law which would limit competition by favoring certain companies in the award of state broadband grants. Nebraska and its citizens are best served when multiple providers compete, even if such competition is for broadband grants. There is no public policy rationale that supports limiting competition, forcing certain companies out of the market, or distorting the rules of the road for certain providers, yet that is exactly what LB1101 attempts to accomplish. Now broadband is not a monopoly. No company needs Lumen's permission to invest and compete in Lumen's certified territory. No company needs special FCC, PSC, or city permission to deploy broadband if that company is willing to invest its own capital. Now Lumen currently faces intense and growing competition in nearly every exchange, from Omaha to McCook and Scottsbluff to Valentine. Free-market broadband competition is flourishing in Nebraska. So what is LB1101 about? Simply put, LB1101 is about access to state subsidies and grants. This bill is about who gets the NUSF and who gets the Broadband Act funding, and the proponents of this bill are attempting to swing the rules in their favor. LB1101 proposes changes to both the NUSF and Broadband Act statutes and, in doing so, the proposed changes decrease efficiencies, greatly increase litigation cost by the commission and all providers, and ultimately burden the Nebraska taxpayers. LB1101 will result in the delay of awards of broadband grants and increase the likelihood that state funds will be wasted by awarding broadband projects to areas of the state that already have broadband services. Now it is bad public policy for the state to encourage involuntary buyouts, which limit competition and facilitates monopoly behavior. However, LB1101 does just that. Now there's no laws against two companies entering into a voluntary agreement, but LB1101 mandates involuntary agreements while putting the thumb on the scale in favor of the company seeking expansion. Regarding the LB-- I'm sorry, regarding the Broadband Bridge Act, you know, LB1101 also proposes changes to the Broadband Bridge Act that was just enacted last year. Not only were those changes to the challenge process, but also to the weighted scoring system. Regarding the challenge process, LB1101 takes a very straightforward challenge process, one that was modeled after the FCC and largely successful last year, and turns it into an unnecessarily complex legal proceeding. My written testimony expands on this. Now there is absolutely no public policy rationale to use taxpayer funds to fund broadband networks in areas of the state that currently have broadband

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

services, and the primary purpose of the challenge process is to-- to ensure taxpayer dollars are awarded appropriately. All of the proposed changes are intended to accomplish one goal, and that is to seriously discourage legitimate challenges. Now Lumen is not suggesting the current challenge process cannot be improved. Indeed, Lumen was frustrated last year, as well, as it was unable to fully challenge proposed projects. At this time, however, the commission has all the tools it needs to make the necessary changes and has opened up such an initiative. Lumen suggests the commission be given the necessary latitude to improve the process for applicants, challengers, and ultimately the Nebraska taxpayers. Lumen respectfully requests the committee not to advance LB1101 at this time, and I will take any questions.

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

MOSER: I don't know if this question is something you can answer or not, but how do you reconcile what people are telling us about what they want in internet service with what the big internet providers are-- providers are telling us? They're telling us that in most areas they have broadband available and that, you know, they paint a fairly rosy picture of what's available, yet when I go out and-- and talk to citizens in my district, broadband access and the cost of broadband are things that I get complaints about. So how do we answer those questions if we don't do something like Senator Bostelman is suggesting here where we challenge some of that test data in order to make sure that it's accurate?

JOHN IDOUX: Don't get me wrong, the challenge process can be improved, and I believe there was opening remarks that the challenge process is currently under review at the commission, and most of the proponents of LB1101 are fine with putting that back to the commission. The other aspect of this has to do with funding, NUSF funding and the NUSF redirection programs, and the proposals put forward in LB1101, like I said, it's about state subsidies and who gets them and--

MOSER: What about the part that says we're not supposed to rely on 477 data?

JOHN IDOUX: I don't think there's a requirement today that the F-- that the commission must rely on 477 data. We have no problems with using whatever data is available. Whether it's the NTIA map, I mean, there needs to be a robust challenge process regardless of what funding program there is, with the end result being you do not want to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

spend state money to overbuild an area that already has broadband. You could be better serving Nebraska citizens by taking that funding and shifting it to other areas.

MOSER: You think citizens have access to faster internet but they don't want to pay for it?

JOHN IDOUX: Oh, in some cases, sure. I mean, not-- that's not going to be true out--

MOSER: Or not pay for it, but pay that much for it?

JOHN IDOUX: Oh, absolutely, I mean, whether you're in downtown Omaha or--

MOSER: But you think competition could--

JOHN IDOUX: And that's not-- that's not a-- that's not an availability. That's-- that's a consumer's choice of what speed packages they want to--

MOSER: But you think competition could help that?

JOHN IDOUX: Oh, absolutely.

MOSER: OK. Thank you.

JOHN IDOUX: But don't-- I mean, competition isn't going to go everywhere. There's parts of the state that clearly need government help and subsidies, and that's kind of what we're-- we're [INAUDIBLE]

MOSER: Does your company provide internet throughout the state or primarily in one area?

JOHN IDOUX: We provide it in our certificated areas, you know, and we don't provide it throughout the whole exchange. I think we're in about 60-- 60 exchanges.

MOSER: OK.

JOHN IDOUX: And we do offer broadband in all 60 exchanges. It's not fiber to the prem in all 60 exchanges and-- and, you know, we don't go out to the-- to the rural parts of the farm in all of our exchanges.

MOSER: OK.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

JOHN IDOUX: We're using the NUSF broadband grants to-- to start to fill in the process.

MOSER: All right. Thank you.

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

JOHN IDOUX: Thank you.

FRIESEN: --for your testimony. Any others wish to testify in opposition to LB1101? Seeing none, anyone wish to testify in a neutral capacity on LB1101? Welcome.

MARY RIDDER: Thank you. It's nice to be back. Good afternoon, Chairman Friesen and fellow senators. My name is Mary Ridder, M-a-r-y R-i-d-d-e-r, and I represent the commission's 5th District. I'm here to testify in a neutral capacity on LB1101. First, I will very briefly discuss the current status of the Bridge program. I call it Bridge I. The commission did receive 76 applications. We awarded 61 grants totaling approximately \$19.2 million and reaching-- to reach around 12,500 house-- households across the state. While we are pleased with the results of the first round, we knew that this grant process would require refinement each year as we incorporate lessons learned. That's what the commission does every year, we refine. To that end, on February 1, we opened a Docket, C-5368, setting out proposed changes to the program, asking for comment on these proposals and encouraging participation in a hearing which we have set for March 22. Among many adjustments, the order seeks to make changes to the challenge process. We are proposing that in future years participants would be required to submit more detailed information, including detailed mapping and speed-test data, to support applications and challenges to applications. Some of the issues that arose during the first round of the grant process were due to confusion about what areas exactly were being challenged and what information was being used to evaluate those challenges. You've heard about that today. Our proposed changes to the required information would address both of those concerns. One of our concerns with changes proposed in this bill is that it would replace the challenge process with a protest process, and our interpretation of this process is that it would require a full commission hearing for every protest filed. During the first grant cycle, we received 23 challenges. If each of these were to require a hearing, it would likely significantly delay the awarding of grants and add additional cost that would reduce what is available for grants. We agree with transparency in the grant award process, but we do not think it should

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

be at the expense of funding for grants and it should not delay the grant awards. Another concern we have is that statutory language currently allows for challenges in two types of circumstances: first, if a carrier provides service today in that location; and second, if a project is underway to bring service to that location. The way we interpret this bill is that it eliminates the second type of challenge. The effect would be that product-- projects already underway, which may be funded through NUSF, federal programs, or even grant projects approved in the prior year would not disqualify an area from being awarded another grant and would only serve to overbuild an already supported area, like an immediate overbuild. And I also want to address the mapping and speed-test data in this program. The bill creates a prohibition against the use of FCC Form 477 data. While there are well-documented shortcomings with 477 data, we would caution against putting in a strict prohibition against its use. To be clear, 477 data was not used to evaluate challenges. It was only used as an initial reference for speeds that might be available when looking at the applications. It was our first look. The commission used the best data it has available to evaluate all applications and challenges. Sometimes that includes NTIA data made available to states, not the public facing, but the state's version. But sometimes 477 data may be the only data available. I also want to point out that the NTIA map is largely built upon 477 data, and you heard about all the data points that flow in. Still, an example would be in the state of Arizona. It may be one data point coming from a county, and the NTIA public map is aggregated. My understanding of that is details are blurred. What we see in the state version map gives us a little more detail, but it's not the end-all, be-all of data. It is a piece of the toolbox that we use. One other point: It is possible that the FCC's improved mapping process will be morphed into the existing 477 data collection process, and putting in a strict prohibition might unintentionally prevent the use of better data down the road. And the last concern I want to real briefly raise is the timing of the bill. It's-- if it's passed with an e-clause, there could well be unintended consequences there as well. Our program year docket, we're already underway. We have started the process. We need to meet our July 1 deadline, so changing program timelines could create confusion and ambiguity for applicants. We recommend that any changes made to the Bridge program take into account existing deadlines and allow the commission sufficient time to provide guidance to applicants ahead of future program year deadlines. That ends my testimony.

FRIESEN: Thank you for your testimony, Ms. Ridder. Any questions from the committee? Senator Geist.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

GEIST: Yes, thank you. I'm just curious, since I just heard from Mr. Brooks about the NBAM maps and data, do you ever use that resource?

MARY RIDDER: We use the NTIA maps.

GEIST: OK.

MARY RIDDER: And whatever information is in it, we certainly take advantage of it. You know, the benefit-- I am certainly not here to speak up for this data, you know, 477. I'm not. I'm not going to be that person that says it's great, but I will say it collects data from all of our-- all of our carriers, everyone. So it is-- it is widespread, imperfect data. Or I could go to something that is not as widespread, a little more perfect. Neither one's exactly what we want, but together they're useful.

GEIST: So you cross-reference those?

MARY RIDDER: We use it all.

GEIST: OK.

MARY RIDDER: We use what we need to use to get the information we need, yes.

GEIST: OK. And then, so in your opinion, do you as a commissioner or as the commission altogether, do you have the authority to-- to make judgments on the infrastructure-- the stranded infrastructures and the just compensation on both of these programs, on the NUSF and the Bridge? Do you have that authority?

MARY RIDDER: That's a great question, and I'm not a lawyer, so I better not answer that. I better not answer that.

GEIST: OK, thank you. That's all.

FRIESEN: Thank you, Senator Geist. Senator Albrecht.

ALBRECHT: Thank you. Well, you all have a very big task. I appreciate you being here today with your testimony. I don't know if anybody's going to be behind you, but I kind of have another question similar to Senator Geist's. But does the commission have the authority to oversee the transition of carriers-of-last-resort obligations under both the Bridge Act and the NUSF programs?

MARY RIDDER: COLR. Do we have the authority to do that?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

ALBRECHT: Yes.

MARY RIDDER: Yes, we do.

ALBRECHT: And you do act on that in most cases where there's--

MARY RIDDER: We haven't had-- we have-- as long as I've been on the commission, we've never touched it.

ALBRECHT: Never had to?

MARY RIDDER: Never.

ALBRECHT: Thank you.

FRIESEN: Thank you, Senator Albrecht. Any other questions from the committee? So, I mean, I-- I-- just for the record, I want, you know, to make a statement saying basically that I know we put the PSC in a difficult spot with the timeline this last year. But I do think the commission did a really good job of getting that first round of grants out, and-- and I think at times you've probably bent over backwards to try and help companies accomplish what you're after. And I'm-- I guess from my standpoint, I hope you're looking at some of the issues, and I think you are, and going to address those challenge processes that happened. And from my standpoint, I guess, I-- I hope that you as a commission look at making those changes to the rules and regs versus legislation. But again, if there's anything we can do to help you, that's what we're here for.

MARY RIDDER: Thank you. I appreciate all of that, Senator Friesen. Interestingly, our staff was working on that work as this process was going on a year ago. It's not like we waited until the bill was signed and then we went to it, so it was developing along the way. But, yes, it was, as someone said earlier, a Herculean effort and we-- we took it on and accomplished it. In terms of what we're addressing, so the process in the commission is we have now set out date for comments to be in, which I think is March 1, on the Bridge Act. Anyone can participate in that. Anyone can submit their comments, not just telecoms. And then we have a hearing date. I believe it's March 22. I made a note of all the areas that we asked questions about. There might be five questions under the legal part. Under the challenge, we asked several questions. If we don't raise the question, we don't have to raise the question. Anyone else can raise the question that wants to participate in our process. So, yes, we asked lots of questions. Yes, we have lots of ideas, and we had those ideas as we saw applications coming in and saw things that, you know, we weren't quite

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

prepared for and we will be next time. And then there'll be changes for the next time, there'll be changes for the next time, because that's how it works. But, yes, several-- several-- I guess I'll throw it out. I-- I asked to have a question put in there about overbuilding. Should we care about overbuilding? Should we just say, who cares, if there's something there, let's overbuild it? That's kind of a radical idea, but let's ask the questions and see what people come in and say to us. The history, I guess-- I don't know if I'd say policy, but the history of the commission, probably commissions everywhere, was to respect infrastructure that somebody built and to not use public funds to take over. But I know the question is, what percentage of that infrastructure is real useful today and what is not? So that's a question we have to discuss.

FRIESEN: Thank you, Commissioner Ridder. Seeing no other questions, thank you very much for your testimony.

TIP O'NEILL: Senator Friesen, members of the committee, my name's Tip O'Neill, spelled T-i-p O--N-e-i-l-l. I'm president of the Nebraska Telecommunications Association. We are here to provide neutral testimony on LB1101. First of all, we appreciate the fact that the commission has opened a docket to-- to-- to look at the challenge process, and we know that NTA companies and other commentators will be participating in this process. It should be-- it should be very interesting. We are neutral on LB1101 at this time because our members have not reached consensus on all other portions of the bill. I'd be happy to answer any questions you might have.

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

TIP O'NEILL: Thank you.

FRIESEN: --thank you for your testimony. Any others wish to testify in a neutral capacity? Seeing none, Senator Bostelman, we do have one letter in support, one letter of opposition.

BOSTELMAN: So I would like to thank all the testifiers on both LB914 and-- and LB1101 for coming today. I do want to-- the challenge process is, as I stated in my opening, is we're going to watch it and make sure changes are made and things are done, and I want to make sure changes are made in that challenge process, how that works. We can't do the same thing we did the first time because we're getting the same results. Things have to change. We have to have differences. If they're worrying about overbuild, there's just compensation in

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

there. So you have a carrier that-- that brings fiber into their-- into their office, so now they've got fiber in town, but they've never applied or looked to build out at all. So in this process, someone put in for a grant to build that out and they challenge it, oh, you got fiber there, so, sorry, you're done. Well, but now with that just compensation, that person-- that company that applied for that grant can come in and pay for that. If that company wants to come out, they can pay for that infrastructure. It's there and they can compensate them. So there has to-- there needs to be changes, there needs to be those opportunities, because if we don't, what's-- what happened in the-- the last process is going to happen again. They're cherry-picking. They're cherry-picking communities and we're going to form islands in-- outside of towns in rural Nebraska. We're going to form-- we're going to form islands out there where no one's going to want to build because it's going to cost-- well, it costs too much money because we've cherry-picked all those towns around it. Now we're not going to build out to the rest because it costs too much money. Changes need to be made. We need to see some differences in what happened, and I'm encouraged that the PSC is looking at that, and the commissioners need to take that to heart and make those changes. I think what we have in the bill, the compensation and-- and the-- for the overbuild and also looking at-- and the funding end of it, I think those are appropriate. I'll take any question-- any questions you may have. Thank you.

FRIESEN: Thank you, Senator Bostelman. Any questions from the committee? Seeing none, that will close the hearing on LB1101.

GEIST: We all need a little stand-up break. [LAUGH] Yeah.

FRIESEN: OK, with that, we'll open the hearing on LB1214. Welcome, Senator Geist.

GEIST: I know I should do a-- some kind of sing-and-dance routine, but I won't. I'll keep you awake by just speaking to you. So thank you, Chairman Friesen, and good afternoon, members of the Transportation and Telecommunications Committee. For the record, my name is Suzanne Geist, S-u-z-a-n-n-e G-e-i-s-t. I represent District 25, which is the southeast corner of Lincoln and Lancaster County. I'm here today to introduce the LB1214 on behalf of Nebraska Internet and Television Association, which is comprised of members of the cable/broadband industry. Their members range from large urban broadband providers and small community-based broadband providers. These companies provide Internet services to countless Nebraskans, yet none of these companies are participating in the Broadband Bridge

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

grant program. When we passed LB388 last year, the basis for the Broadband-- Broadband Bridge grant program, this committee had an important goal: connect as many unserved and underserved Nebraskans as possible. Unfortunately, by not utilizing an industry that's already shown expertise in this area, connecting Nebraskans, I think the program is missing an opportunity. As this committee deliberates on how to deploy more broadband to unserved and underserved households, we should really be thinking about how to get all of our broadband providers throughout the state to participate in the program. Cable companies have hundreds of thousands of subscribers statewide, from Omaha to Ogallala. As we hear other bills to make changes to the program, I think these changes should be considered as well. When asked why they cannot participate, they told me of changes that need to be made to the program terms. This conversation led to LB1214. This bill contains the following changes. It would not disallow network management practices such as data caps or early termination fees, would allow providers to price services at the same level they offer services elsewhere, would release providers from the Broadband Bridge Fund contracts after a reasonable amount of time, and require Form 477 data during the initial application process. I almost fear to even read that right now, but-- we've heard so much about that today. My goal is to work with this committee to get as many unserved and underserved Nebraskans connected as possible. So thank you for your time and attention. I'd be happy to take questions. There will also be someone behind me that can go into more detail, should you need that in your question.

FRIESEN: Thank you, Senator Geist. Any questions from the committee? Seeing none--

GEIST: All right.

FRIESEN: --thank you. Proponents for LB1214?

JULIA PLUCKER: Good afternoon, Chairman Friesen and members of the Transportation and Telecommunications Committee. My name is Julia Plucker, J-u-l-i-a P-l-u-c-k-e-r, appearing on behalf of the Nebraska Internet and Television Association, also known as NITA. NITA is the primary trade association for the cable/broadband industry in Nebraska. As Senator Geist stated, our members include Fortune 500 companies and community-based independent operators that provide video, broadband, and competitive voice services to Nebraskans. In Nebraska alone, the economic impact of the cable industry is over \$2 billion, employing over 1,500 individuals, resulting in nearly 15,000 direct and indirect jobs. Nationwide, the cable industry is the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

largest broadband provider of high-speed internet access, serving more than 66 million customers and investing over \$275 billion in capital infrastructure over the last 20 years. That fact is-- is exactly why we're here today in support of LB1214. Our member companies are the most experienced companies in the country, providing broadband services to businesses, residences and public entities. Unfortunately, because of certain restrictive terms, which I will outline below, we're unable to participate in the largest broadband grant program in Nebraska history, designed to connect Nebraskans who are underserved and unserved. We thank Senator Geist for introducing this legislation to further the conversation about the Nebraska Broadband Bridge Program and hope to continue the dialogue with legislators and PSC commissioners and staff. We have four proposed changes to the program. Number one, we ask that the Broadband Bridge grant program terms not disallow reasonable network management practices, such as usage caps and early termination fees. Both are reasonable practices that we think help customers, not harm them. Data usage limits allow providers to respond to our customers' needs, offering lower prices to light data users or changing heavy data users-- or charging heavy data users an additional amount for excessive use of the network that could degrade another user's experience. Number two, we would like the program to allow providers to price services at the same level the provider offers service elsewhere. The commission's rules require providers who don't currently offer broadband speeds of 100/100 in Nebraska to agree to price services at the level the commission determines to be comparable to the market in the state. Our members offer a variety of differing speeds in other parts of the country as part of a national pricing strategy, meaning that we would offer our services in rural Nebraska at the same prices, terms and conditions as we offer to customers in competitive areas. Number three, we ask that the commission release rule-following providers from their Broadband Bridge Fund contracts after a reasonable amount of time, such as five years. LB388 properly adopted a light regulatory touch. Section 8 of the bill stated that a winning provider must agree to provide Internet service in the area funded by a Broadband Bridge Fund support until released by the commission, and that the commission shall not add to the obligations of a grant recipient beyond these simple requirements. Section 8 did not, however, provide any direction to the commission as to how long a winning provider must serve or what a provider needs to prove for the commission to release the winning provider from its obligations. As such, we request that the commission make clear that the ordinary course would be to release a winning provider from its commitments after a period of time, say five years, provided, of course, that the provider is not in default of any of its obligations

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

or in overall-- or not in overall compliance with the commission's regulations. A five-year commitment conforms with the timeframes established in the commission's other programs, such as NUSF-92 and NUSF-99. Our final ask is that the commission require-- bear with me-- Form 477 [SIC] review during the initial application process, with zero points awarded if that information is missing. The commission's rules refer to the Form 77 [SIC] multiple times. In fact, challengers to applications are required to file Form 77 [SIC] as part of the challenge process to counter over-builds. Applicants should file an attestation that the most recent Form 77 [SIC] has been reviewed. Instead of weeding out applications with 477 data via challenges, make applicants do a Form 77 [SIC] review up-front and attest that census blocks in the application do not show as being served. Sorry. This should eliminate or minimize applicants seeking to receive funds like potentially could be used to overbuild. I've also been asked to relay support for this legislation, the changes I've talked about, from the Nebraska State Chamber. We thank them for their collaboration. We urge the committee to consider these changes, knowing that it was the Legislature's intent to use this money to reach the largest number of unserved and underserved Nebraskans. We would like the commission to know that we have talked about these concerns with commissioners and we are aware that they've opened a docket and were seeking comment, and we will participate in those comments and we appreciate them listening. We hope to work through the commission's process and have these changes made by the Legislature as well. With that, I'd answer any questions.

FRIESEN: Thank you, Ms. Plucker. Any questions from the committee? Senator Bostelman.

BOSTELMAN: Sure. Thank you, sir-- Chairman Friesen. On page 3, and you mentioned it before, the five years after receipt of grant funding, so is there-- is there either federal or state funds that's received to keep that system operational, NUSF funds or other funds that are available for that?

JULIA PLUCKER: I'm not sure. Our-- our intent-- are you talking about us asking that we be released after a time certain?

BOSTELMAN: So as-- yeah, the-- the question I have is basically, if you're saying, if I'm-- if I'm reading this right, if I'm understanding it right, so there's five years of-- of maintaining the system. So in that maintaining of that system for five years, are there funds, either federal or state funds, that are coming to keep that system built? And where I'm going with this is pretty-- pretty--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

if-- if it's only for five years and it's going to drop off in five years, then does that funding also drop off?

JULIA PLUCKER: I don't think we envision that it drops off in five years. I think what we're asking is, after a reasonable time, five years or whatever the commission would determine, that the provider-- it's not necessarily that the service will go away. I mean, the provider has-- has invested a large amount of capital there. It's just that the terms of the program regarding pricing, regarding data caps, regarding early termination fees and other restrictive provisions, would go away. So it's not like the service would go away, necessarily.

BOSTELMAN: So-- so six years from now, so I have-- I have 100/100 speed for five years; six years, it goes to 10/10, is what we're saying, and that's OK.

JULIA PLUCKER: I-- I mean, I wouldn't envision that.

BOSTELMAN: I mean, that-- that's what I'm hearing.

JULIA PLUCKER: Right.

BOSTELMAN: --is that this no longer tracks, so.

JULIA PLUCKER: I wouldn't envision that. I-- I'd envision us being able, the providers being able to-- to take a look at their entire system, build capital improvements upon it, you know.

BOSTELMAN: Well, I mean, I guess my point--

JULIA PLUCKER: I wouldn't envision that we would be offering 100/100 and then it would go to 10/10.

BOSTELMAN: Right, my ques-- my question being is, if you're receiving federal funds, other funds beyond that time, that you should still be required to do that. And if-- if-- if you're not required to do it, then I wouldn't expect those funds to come to support that system anyway.

JULIA PLUCKER: I don't believe we're talking about when we're receiving additional funds, but I-- your point is taken.

BOSTELMAN: Yeah. Thank you

FRIESEN: Thank you, Senator Bostelman. Senator Albrecht.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

ALBRECHT: I thank you. OK. You read through a lot of different things--

JULIA PLUCKER: Yes.

ALBRECHT: --that I didn't see in here. So are you suggesting an amendment to add that into this document?

JULIA PLUCKER: We-- the-- the last-- the last part regarding 477 review, it has-- we've talked about-- talked to the commissioners about that, so, yes, we would like that added to the bill and we will talk to Senator--

ALBRECHT: Could I maybe ask for a copy of your--

JULIA PLUCKER: Absolutely.

ALBRECHT: --statement because [INAUDIBLE]

JULIA PLUCKER: Yep, I'll send that to the entire committee.

ALBRECHT: It's not going to be in my brain when we go--

JULIA PLUCKER: Yeah.

ALBRECHT: --talk about this two weeks from now, so--

FRIESEN: Thank you, Senator Albrecht.

ALBRECHT: --thank you.

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

JULIA PLUCKER: Thank you.

FRIESEN: Any others wish to testify on LB1214? Anyone wish to testify in opposition of LB1214?

ANDY POLLOCK: Chairman Friesen and members of the committee, again, my name is Andy Pollock, A-n-d-y P-o-l-l-o-c-k. I'm here-- I appear on behalf of the Nebraska Rural Broadband Alliance as a registered lobbyist, was interested in the comments that Senator Geist made in opening on this bill. And I-- I respect and I don't doubt her intentions, but I think those who have put this bill together have grossly misled her in terms of what's going on here. What you're looking at here is an absolute deregulation bill. The groups that I

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

represent, we support competition. We support competitive entry. Contrary to what you heard from CenturyLink, we're just trying to get a foot in the door. The monopolies have a stranglehold on Nebraska. What this bill would do is it would say in a very general way that if you get Bridge funding, there are no strings attached. You would have no service obligations, there are no quality obligations, there are no affordability obligations. Is that a good way to treat ratepayer, taxpayer money? I would say absolutely not. It sends a horrible message to the public. The other thing it does is it says, after five years, you have no obligation to serve at all. You can abandon your-- your infrastructure. It doesn't say that things that Ms. Plucker said. It doesn't talk about caps and things like that. It-- it talks about your obligations. You can abandon that publicly funded infrastructure. That's just wrong. That's just wrong. The companies that I represent have spent 20 years receiving subsidies from the federal and state government, and they put fiber in the ground in every inch of their territory. They serve every location, every customer, no matter how distant they are from towns, and they use that money to -- to do that. They also realize that that money comes with substantial strings attached, service quality regulations that the PSC enforces, affordability regulations; that's all built into the Nebraska Service--Universal Service Fund. They're trying to take that out of this Bridge program. We strongly oppose that message. Our group is pro-consumer. We want to help people who have not been taken good care of by other telephone companies. This flies in the face of all of that. If I may just mention a couple other things, a response to Senator Moser's comment/question earlier, I think, to one of the Public Service Commissioners, it might have been to somebody else, but are there other programs that the citizens can use? Are there means that citizens can use if they think they are not getting the service that they deserve? The boundary change applications is one way you can do that through the Public Service Commission. It's a cumbersome process, gets, you know, maybe one or two customers at a time to a better customer. Senator Friesen's LB994 is frankly the most important vehicle. Right now, under Senator Bostleman's changes for that program, consumers can complain and they can say, we're not getting the service that we deserve from the incumbent, and they can basically push the incumbent out and bring in a carrier of their own choice. There are-- there are tools available. Frankly, I tell people, I think Nebraska has one of the best legal and regulatory structures in the country for competitive change, and competitive change is needed because monopolies across the state, many of them, have not taken care of their customers. Finally, it's a little bit confusing to hear CenturyLink's witness testify on LB1101 in the way that they did, and

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

I'm not going to get into a debate with him. But one of the issues that CenturyLink has brought to especially Commissioner-- Senator Geist, but all of you, is this issue of carrier-of-last-resort obligations. That overbuild, those need to be discussed. That's the purpose of LB1101. We just want to get those issues on the table so we can have frank discussions. There's nobody holding a gun to their head, telling them they have to give up territory, but their consumers can do that. And if they do that, we need to have a means for the commission to determine the best way for that to happen so that companies are justly compensated for infrastructure they might forfeit and so that their carrier-of-last-resort obligations transition from the old company to the new company. In the Stanton CenturyLink case, Stanton should be the carrier of last resort. The commission has some work to do in that regard. It's not clear how those issues are going to be addressed, and we look forward to working with the commission on that too. But we would ask you to not advance LB1214.

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

BOSTELMAN: Thank you, Chairman Friesen. I'll ask you the same question I asked Ms. Plucker. I may not have asked it in the best way, but at the end of five years, then would any subsidies, maintenance or whatever, would that continue? Would they-- would there be opportunities for that-- for that system beyond that timeframe? So in other words, as-- as-- if you receive a grant, you put in your five or whatever it is, you receive maintenance or-- or upkeep for that, subsidies of some type?

ANDY POLLOCK: That is not directly covered under the Bridge Act. There could be a potential, Senator Bostelman-- I'll get into weeds here-- that if a bridge project includes areas outside of town in high-cost rural areas, that Universal Service Funding could be available. It's called ongoing funding, and it's ex-- it's expressly set aside for ongoing maintenance and operations. You could receive that. If that's the case, then hopefully those companies would not be arguing that because they're receiving-- even though they're receiving those ongoing support subsidies, that they're off the hook from regulation. I mean, that would make no sense. That would make no sense at all, either.

BOSTELMAN: OK.

ANDY POLLOCK: But, yeah, there-- there-- there could be. It depends on the area.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

BOSTELMAN: I appreciate that, and-- and I appreciate your explanation. I don't necessarily support that for this-- this bill in that sense, but I sure would support that on 25/3, as doing away with that maintenance and upkeep on 25/3 systems out there. So thank you.

ANDY POLLOCK: Thank you, Mr. Chairman.

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

ANDY POLLOCK: Thank you very much.

FRIESEN: Anyone wish-- else wish to testify in opposition to LB1214? Seeing none, anyone wish to testify in a neutral capacity on LB1214? We do have one letter in support.

TIM SCHRAM: Good afternoon once again, Chairman Friesen and members of the Transportation and Telecommunications Committee, my name is Tim Schram, T-i-m S-c-h-r-a-m. I represent the Public Service Commission's 3rd District and I am here to testify in a neutral capacity on LB1214. We appreciate this opportunity to provide input on the bill-- this bill. I want to focus on a couple of the changes to the Broadband Bridge grant programs that this bill would enact and point out some of the potential impacts. Currently, a successful applicant in the Broadband Bridge Program is required to provide service in the project area until release from that commitment by the commission. This bill proposes limiting that time to five years. While I understand that awardees may not wish to be indefinitely required to provide service, the public has committed millions of dollars in grants awarded through this program, and five years is too short of a period to require those applicants to provide service. As an example, the projects awarded in the 2021 program year were all fiber to the premise. The useful life of fiber is estimated to be at least 15 years. Therefore, we suggest that the period should be extended out significantly longer than the five years in the bill. Second, there is a proposed provision that says the commission shall not add to the obligations required of a grant recipient, except as specifically authorized under Nebraska Broadband Bridge Act. This language has the potential to impede the in NBBP's ability to operate as an avenue of distributing federal support for broadband deployment. Currently, several federal broadband support programs are in the process of being finalized. It is important to note that the requirements of each federal program may differ slightly and may not be the same as the current language of the NBBP. Therefore, we recommend flexibility to adapt the program to federal requirements as needed. For example, the commission may need to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

require grant recipients to report additional information to meet future federal requirements. That isn't explicitly outlined in the Broadband Bridge Act statutes. Today, the commission has the flexibility, through its existing processes, to incorporate those requirements. Finally, we would suggest the revision to Section 4 may need some clarification. This bill language would set limits on the ability of the commission to regulate terms, conditions, speed tier offerings and prices of service and references-- references Section 86-124 as the limit of the commission's regulatory authority. Some clarification in that section may be needed to ensure the commission's ability to hold NBBP applicants to the commitments provided with their application is not inadvertently restricted. This would include the price the applicant intends to charge customers, the level of service they intend to offer, and the terms and conditions that protect consumers in those areas. This information is required for the commission to evaluate grant applications. I would suggest that the language of Section 4 be revisited to ensure the commission could take reasonable steps to ensure applicants cannot submit false applications or otherwise manipulate information submitted in an NBBP application solely for the purpose of receiving the grant. Thank you for your time, and I'm happy to answer any questions you may have.

FRIESEN: Thank you, Commissioner Schram. Any questions from the committee? Seeing none, thank you for your testimony. Anyone else wish to testify in a neutral capacity on LB1214? Seeing none, Senator Geist.

GEIST: OK. Well, first, I will just say that this is not a deregulation bill. What this addresses is the inability of the cable industry to come to the table because of some of the restrictions that are set up in the program, and that's what it is intending to address. There are other programs like the NUSF that allow releases from obligation in a reasonable period of time. It can be five years; it could be ten years. The commission can make that decision, but it's trying to make this an opportunity for some of the largest providers in the state instead of keeping them away from the table. They're not intending to abandon the service after five years since they are regulated. Again, the question is just, do they get to come to the table or not? I would like to say that the-- the build-- the broadband build project is-- or program, is one that pays a portion of the initial capital costs of construction. It's not ongoing payment. So it is different from the NUSF in that. And I'd also like to address the suggestions that the commissioner suggested in Section 4 are good ones, and we would be happy to work with them on those suggestions. So with that, I'll take any questions you may have and--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

FRIESEN: Thank-- thank you, Senator Geist. Any questions from the committee? Seeing none, thank you, Senator Geist.

GEIST: Thank you. Thank you.

FRIESEN: That will close the hearing on LB1214.

GEIST: All right, Senator Friesen, you may open on LB1021.

FRIESEN: Thank you, Vice Chair Geist and members of Transportation Committee. I'm Curt Friesen, C-u-r-t F-r-i-e-s-e-n, representing District 34. LB1021 would amend the Nebraska Universal Service Fund authority of the Public Service Commission to provide that, in addition to the commission's current quality-of-service authority over recipients of Universal Service Fund support for the provision of telecommunications services, that authority shall also include support provided for the provision of the broadband services. LB1021 also adds affordability to the oversight authority of the commission. You will recall last year when the committee considered Senator Bostelman's LB398. This language also appeared in that bill. Portions of LB398 were amended into the Broadband Bridge Act bill, but this language was left behind. As we see the increasing amount of public support being dedicated to broadband expansion and improvement, I thought it was important that we bring this particular concept back for another hearing and consideration by the committee. I believe that as we increase the investment of public funding being made in broadband, it's important to ensure that the public-- that these investments are being made, that we're providing the appropriate tools for the Public Service Commission. So I look at this as we have opportunity for telecommunications. If your phone isn't working, you can call in and file a complaint. But we really have no process where someone who doesn't have good broadband service, whether it's failed service or just not there or it's not up to the quality, that they can call in and register a complaint and the PSC could open a docket. So that's the-- the main thing I was after is just, if we're going to provide these public dollars, there should be an avenue for people to file complaints. With that, I'd answer any questions you may have.

GEIST: Great. Are there any questions on the committee? Seeing none, I suspect you're going to stay for closing? [LAUGH] Are there any proponents to LB1021? Any proponents? You have a big stack of papers.

MARY RIDDER: I wasn't asleep at the wheel. I was waiting for the word "support." No [INAUDIBLE]

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

GEIST: Well, welcome.

MARY RIDDER: Thank you. Vice Chair Geist and members of the Transportation and Telecom Committee, I'm Mary Ridder, M-a-r-y R-i-d-d-e-r. I represent the commission's 5th District with 4-- 51 counties now, and I'm here to testify in support of LB1021. Expanding broadband access across Nebraska is a primary focus of the commission. One major hurdle to overcome, however, is ensuring any service that's built in Nebraska-- rural Nebraska is actually affordable to consumers. In administering the first year of the Broadband Bridge Program, the commission received applications for broadband service with ra-- rates ranging from \$50 per month to \$159 per month. Meanwhile, we have seen estimates circulated within the industry that a monthly rate of \$55 to \$85 is closer to a price point that most cons-- customers can afford. The existence of a broadband network in an area is meaningless to a customer who cannot afford service at the offered rate. And we need to remember that these providers are accepting public money, so it only makes sense that the public be able to afford the service. This bill addresses this problem by giving the commission explicit authority to regulate the affordability of telecom and telecommunications and broadband services offered by eligible telecommunications carriers, or ETCs. Carriers seek ETC designation in order to receive support from the Nebraska Universal Service Fund, as well as various federal funding sources, so this bill is limited in its scope. Only carriers who are receiving public funds to support their networks would be required to meet commission standards for affordability. I also want to highlight some other important issues this bill addresses. Problems with service quality, customer service, and billing are commonly brought to the attention of the commission's consumer advocate and to we commissioners, regardless of whether consumer is using broadband or traditional telephone services. While we do our best to mediate these disputes and can often bring resolution to issues brought before us, there are times when the limits of our authority prevent us from finding a solution that's satisfactory to the customer. This bill would give the commission the explicit authority to address these issues on behalf of customers and would enable the commission to be an even greater consumer resource. NUSF has been used to build broadband-capable networks for years, and consumers are sometimes frustrated that the commission cannot do more to help them. We believe it makes sense to grant the commission the authority to regulate service quality and customer service, as these are key components of Nebraska's ability to actually use the telecommunications and broadwood-- broadband networks supported through public funds. One must ask, if a carrier is providing good

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

service quality to customers, why do they have an issue with the commission regulating them? And if a carrier does not provide good service quality to their customers, why wouldn't you want them to be regulated? For these reasons, the commission supports LB1021. I appreciate your consideration of the bill and I would be happy to answer any questions you may have.

GEIST: Any questions? I do have one.

MARY RIDDER: Yes.

GEIST: I probably should know this, but I'll expose my ignorance of it.

MARY RIDDER: I hope-- I hope I do.

GEIST: So is this affordability standard also applied in urban areas of Nebraska, or you're just specifically looking at those that get UNSF [SIC] funds in rur--

MARY RIDDER: This will look at specifically-- this will look specifically at those receive--

GEIST: N--

MARY RIDDER: --receiving funding.

GEIST: NUSF.

MARY RIDDER: Yeah.

GEIST: I misspoke. So is it specific to rural NUSF funds?

MARY RIDDER: NUSF is only rural--

GEIST: OK.

MARY RIDDER: --outside of a few small programs.

GEIST: And the--

MARY RIDDER: It's largely high-cost areas of the state.

GEIST: OK.

MARY RIDDER: Yes.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

GEIST: Gotcha. All right. My only-- yes, Senator Bostelman.

BOSTELMAN: So thank you for being here. Just to follow up on-- on Vice Chair Geist's question, so just NUSF, no other funding mechanisms, and the reason why I ask is, are there companies out there that-- providers that do both? So in other words, is there-- is there-- could there be confusion with-- with, you know, customers as to who really this applies to and who it doesn't, who you can and can't serve? Are you--

MARY RIDDER: I doubt-- I doubt, honestly, if the customers would know any change in a regulation that would help them. What they know is when they call us, if they have POTS, plain-old telephone service, we can help them to a certain extent; if they call with a broadband issue, an Internet issue, we-- our customer advocate, certainly calls that company and certainly interacts with them and certainly tries to get them assistance. But we have a hard time when we don't technically regulate. And-- and worse yet, the FCC doesn't either.

BOSTELMAN: No, I appreciate the-- the intent of the bill completely. You know, my-- you know, how many people will this really affect? If it's just rural, if it's not-- I mean, and not-- not that it's not needed. It's just that there's not confusion because of where you live. If I live in town, then I can't, but if I live in the country, I can, town being small, outside of large cities or-- or I guess that's-- that's the confusion I-- that I'm trying to understand, or that's the part I'm trying to understand in my mind.

MARY RIDDER: Everyone in the state-- in the state is supposed to have affordable, reliable service. And if we get a call, we certainly try to help them, no matter where they're from.

BOSTELMAN: OK.

MARY RIDDER: I don't need their address-- oh, well, I need their address--

BOSTELMAN: Well, understand--

MARY RIDDER: --but I get what you're asking.

BOSTELMAN: --I mean, there-- you can-- you can hotspot and stuff, too, and you're not-- there's nothing that you can do with that. You can try, but, I mean, that-- that's not within your purview of the PSC, so anyway, thank you. Appreciate it.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

MARY RIDDER: Welcome.

GEIST: Any additional questions on the committee? Seeing none, thank you. Is there any other proponent of LB1021? Seeing none, how about an opponent? Good afternoon. Those things must be connected.

TIP O'NEILL: [LAUGH] Yeah. Senator Geist--

GEIST: Thank you for being here.

TIP O'NEILL: --members of the committee, my name is Tip O'Neill, spelled T-i-p O-'-N-e-i-l-l. I'm president of the Nebraska Telecommunications Association. I'm here representing the NTA to oppose LB1021. The section in LB1021 is similar to a provision in LB398 last year that the-- the NTA opposed. The provision would expand the PSC's authority to regulate broadband and Internet services for those companies that receive NUSF support for telecommunication services. As we stated last year, we believe the provision likely violates the FCC's preemption of states' authority to regulate broadband and internet services. These services are deemed by the FC-- FCC not to be telecommunications services but, rather, interstate and informational services. John Idoux from Lumen will provide a more comprehensive analysis and be able to answer questions better than I am in terms of our position on LB1021. I'd be happy to answer any of your questions.

GEIST: Thank you for your testimony. Are there any questions on the bill? Seeing none--

TIP O'NEILL: Thank you.

GEIST: --thank you. Good afternoon.

JOHN IDOUX: Afternoon, Senator Geist. Good afternoon. Thank you for having me. Thank you, members of the committee. My name is John Idoux, J-o-h-n I-d-o-u-x, and I am Lumen's director of governmental affairs. This is the third time you've seen me. I'm not going to give you the Lumen commercial. As this bill indicates-- I'm sorry. As the bill title indicates, this bill proposes new regulations, but only for certain companies. Specifically, LB1021 proposes new Internet regulation for just one type of competitor: NUSF recipients. LB1021 is unnecessary. It'll worsen the regulatory disparity amongst competitors and will further disrupt and distort a very competitive marketplace. The commission already regulates telecommunications services for NUSF companies. LB1021 would greatly expand regulation, allowing the state commission to regulate the internet. Specifically, LB1021 would expand

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

commission jurisdiction over broadband service-- broadband services, requiring new government rules and regulations for internet service quality, internet customer service, internet pricing and billing. Such overreaching regulation does not exist today, nor is it needed. It is the FCC who has regulatory oversight authority over broadband and Internet services. "Internet services" has been defined as interstate informational services and not intrastate telecommunication services. As such, LB1021 likely violates the FCC's preemption over states' ability to regulate broadband internet services, and the FCC is taking steps regarding broadband. Just recently, they announced an initiative to empower broadband customers through trans-- transparency. Specifically, the FCC is undertaking a national Broadband Nutritional Label initiative to develop a consistent and straightforward way of providing accurate information about price, speed, data allowances, and other aspects of high-speed services, and the FCC is moving very expeditiously. Comments are due March 7, and the FCC proposal and final FCC rules are expected in 2022. LB1021 exasperates regulatory disparity as it does not propose consistent regulation for all providers. Only the legacy and common carriers will be subject to this broadband internet regulation. LB1021 makes an existing problem worse. For instance, there's already a substantial regulatory disparity between providers in Nebraska that is inconsistent with neighboring states and creates an unequal playing field amongst the various providers. Now even regulated carriers are regulated differently. Price cap companies do not receive any ongoing support for broadband projects, just one time aid-to-construction grants. Furthermore, price cap companies do not receive any ongoing federal support. LB1021 potentially requires indefinite obligations to serve with regulatory oversight requirements for billing, pricing, and Internet quality of service. Now existing laws, commission rules already provide sufficient consumer protections, as does a highly competitive marketplace. We've been talking a little bit about affordability. It's the competitive marketplace that's going to regulate affordability. There are probably a half a dozen competitors in Omaha, and since we operate in Omaha, the prices that we offer in Omaha are the same prices that we offer in rural Nebraska. So those consumers, even though they're not in a competitive area, do receive the benefits of a highly competitive marketplace. Price cap companies receiving NUSF broadband aid-to-construction grants already have made significant commitments to participate in the initiative. First, electing carriers have committed to provide broadband to every location within the designated census block as determined by the commission. Second, existing laws already require that any recipient of state broadband grants must deploy speeds of at least 100 megabits. Third, the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

commission already has requirements related to speed testing, advertising, buildout, etcetera, associated with the broadband grants. And fourth, the commission already retains oversight over ETC carriers until relinquished by the commission or otherwise changed by the FCC. For these reasons and above, Lumen respectfully requests the committee not advance LB1021, and I'll take any questions.

GEIST: Thank you. Thank you for your testimony. Are there any questions on the committee? Yes, Senator Bostelman.

BOSTELMAN: Thanks, Vice Chair Geist. Thank you, Mr. Idoux, for being here today. I would argue that the four existing laws and commission rules already provides the commission-- what you have there, that's all the more reason why to do this, because I hear from constituents in my area complaints. Who do they have to-- who do they have to complain to? Providers, carriers aren't building out areas. They're going into a town and they don't build it out. So who do you complain to? What do you do? You know, how do we prove that there's-- how-- how do you show that there's 100 megabits up, 20 meg-- megabits-- or 100-- 100 down, 20 up? We can't speed test. You don't want to speed test.

JOHN IDOUX: Well--

BOSTELMAN: So you can't complain about that. Third, speed testing, again, you don't want to do speed testing. Well, there are requirements, but you don't want to do it. Fourth, the commission already re-- retains oversight on this, but, again, it seems like they-- it's not done. So what is a person in my district supposed to do when they have-- when they have issues, when they have problems? They gotta call the FCC? Who they gonna call? Who they gonna talk to?

JOHN IDOUX: Well, let me address several of those. I'll-- I guess I'll start with the speed testing. When we accept-- and again, every carrier is regulated differently. But when a price cap company carrier accepts an NUSF broadband grant, it's a one-time, aid-to-construction. It's not 100 percent construction grant, and there's no ongoing support. But upon the completion of that project, there is a requirement that we do mandatory speed testing and show-- share those results with the commission. So at the time the project is turned up, we have committed and demonstrated that we are providing the-- the speeds that we committed to when we accepted the grant.

BOSTELMAN: So--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

JOHN IDOUX: So for the NUSF broadband grants, there is a speed testing requirement already built into the program.

BOSTELMAN: So six months down the line, someone says, well, I had it, but now I don't anymore, I don't know what happened, so there's no recourse. They can't go talk to anybody. How do they-- how do they-- how-- what are they supposed to do then?

JOHN IDOUX: Well, I think that's--

BOSTELMAN: And that's-- I mean, not saying that it would happen, I'm just saying, you know, as an example.

JOHN IDOUX: I mean, you can't legislate against every single possibility.

BOSTELMAN: Well, but-- no, but--

JOHN IDOUX: But it's kind of un-- it would be un--

BOSTELMAN: Isn't the point of this to have-- to provide an opportunity to have a voice somewhere to call to complain-- to--

JOHN IDOUX: Well, they can.

BOSTELMAN: --to ask questions?

JOHN IDOUX: They absolutely can. They can either call us, they can call the commission. We just heard that they can--

BOSTELMAN: Well--

JOHN IDOUX: --facilitate those results, and that works very, very well, not only here in Nebraska but in all the other states. We--

BOSTELMAN: Well, you're not my provider, and let me tell you, I call my provider and my provider refuses to assist. So I don't-- I'm not saying that your company does, but there are providers out there that I would-- I would argue that-- that aren't very helpful.

JOHN IDOUX: But when we-- and-- and I'm not going to say in every situation that-- that we are probably as responsive as we need to be. But when we get an inquiry from the commission, that is an avenue that is currently available today. You had a lot of different questions going on. But keep in mind, for us, for price cap-regulated companies, before the broadband grant program was initiated in 2015 or 2016, we were specifically prohibited by the commission from using any NUSF for

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

broadband. We had to demonstrate annually that we were not spending any of our NUSF money for broadband. It was only for voice. And it wasn't until 2015, 2016 that they started changing the rules and we only get the one-time broadband aid-to-construction grant. We get no ongoing support for that broadband network.

BOSTELMAN: OK.

JOHN IDOUX: And we get no federal support.

BOSTELMAN: OK.

JOHN IDOUX: So--

BOSTELMAN: OK, thank you.

GEIST: Any additional questions? I do have one.

JOHN IDOUX: Yes.

GEIST: Is-- is this dual oversight that this bill proposes, is this done in other states by a commission? Is--

JOHN IDOUX: Not that-- no. I under--

GEIST: You seemed to allude to something about that in your testimony. I just won--

JOHN IDOUX: Other states have tried and it has been litigated extensively--

GEIST: OK.

JOHN IDOUX: --so-- and that's--

GEIST: Litigated out of the realm of possibility or how so? What's the end result of what that litigation--

JOHN IDOUX: It kind of-- kind of goes all the way back to the net neutrality debate--

GEIST: OK.

JOHN IDOUX: --and that the states that have tried to regulate broadband and the-- and the Internet have not been successful through the appeals process up, I believe, to the Supreme Court, and the only

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

reason I'm hesitating is because I am not an attorney and I don't really study the history of all that, of the fights.

GEIST: Well, I'm not either, so I probably couldn't understand it, but--

JOHN IDOUX: But I know there's been a-- you know, it's definitely been at the-- the appeal process, and I believe the Supreme Court has probably made at least one ruling.

GEIST: But is this about actually regulating the Internet or is this about just customer, like when they have a problem, when a customer has a problem with this, with the service? It-- does it--

JOHN IDOUX: I would say it's both.

GEIST: OK.

JOHN IDOUX: And-- and because we're in all corners of the state, by us accepting a broadband grant for, say, Valentine, and then having commission regulations on that, the unintended consequences is all those regulations flow through to the rest of the state because we're an ETC in Omaha. And because we're an ETC in Omaha, we're going to have-- we're going to be the only carrier there having to live with these commission oversight when all of our competitors won't be required to do-- to do that. And there's more competitors coming. I know all the wireless companies are now advertising home internet service for-- through the wireless because of 5G. And so the-- the competitive marketplace in the urban areas is just going to get more intense, and the benefits that that provides as far as affordability rate structures are already being received, even in the rural parts that might not have the the level of competition--

GEIST: OK.

JOHN IDOUX: --because we offer the same rates and I believe everybody offers the same rates and probably are required to under some sort of federal law.

GEIST: OK. Thank you. Any additional comments, questions? All right. Thank you for your testimony. OK. Are there any additional opponents? Anyone who wants to testify in the neutral capacity? Seeing none, Senator Friesen, you are free to close. Oh, and-- well, before you close, I will say that we do have one letter online that is an opponent.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

FRIESEN: I guess in closing, I mean, I-- I look at this as it's-- it's not regulation of the Internet. It's quality of service. And when we're putting these kind of dollars in it from the state level, I know we can't regulate. There's all sorts of programs where companies have gotten money from the federal, from the Universal Service Fund. And, no, we can't regulate that because of federal standards, but I'll let the lawyers fight that out. I'm-- I'm thinking that, from my standpoint, because these are state dollars, that gives us an opportunity to regulate that quality of service so that customers have someplace to call. But it's a-- we can have that discussion, at least.

GEIST: OK.

FRIESEN: So that's--

GEIST: Are there any questions from the committee? Seeing none, we will close the hearing on LB1021 and we will open the hearing on LB1144.

FRIESEN: OK, thank you, Vice Chair Geist. Members of the Transportation and Telecommunications Committee, my name is Curt Friesen, C-u-r-t F-r-i-e-s-e-n. Last session, this committee advanced and the Legislature passed LB388, the Broadband Bridge Act. Last month, the Public Service Commission made the first round of grants under the Bridge Act, and as we move into the second round of applications later this year, we have the opportunity to review LB388 and consider any changes that we believe are needed to make the act better, to make the process to be as efficient and effective as possible. My perspective is that we should focus our attention on those changes and statutes that are absolutely needed, and that we allow the Public Service Commission to continue to revise and make those changes that they can make, and that we continue to give them the flexibility to adopt and adjust project application and review requirements as the commission and the grant applicants work their way through the development of the program. The commission has just opened a process to obtain comments on potential-- potential changes and will hold a public hearing on their proposed revisions March 1. I know the commission is here today and that they will go into more detail on what they have proposed. LB1144 makes two proposed changes to the Broadband Bridge Act that the commission cannot make through the administrative process. First, for the proposed projects that are located inside a high-cost area, the project match for a project is changed from 50 percent of the project cost to 25 percent. The second change is a deadline for filing grant applications: going forward, would be October 1, rather than July 1, as the current law requires.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

The commission is also required to award grants no later than the following January 31. LB1144 also proposes changes in the law regarding to the abandon-- abandonment or discontinuation of local or long-distance telephone service. The current process for abandoning or discontinuing service is modified to apply to telecommunications providers as well as telecommunications companies. The requirement for a hearing before the Public Service Commission is made optional-- is made optional by the commission, and a new subsection (2) is added, stating that the requirements of this section shall not apply to any telecommunications company retiring copper facilities and transferring impacted subscribers when the company has received approval from the Federal Communications Commission. And with that, I thank you for the opportunity to present LB1144 and would be happy to answer any questions I might be able to.

GEIST: Thank you for your opening. Are there any questions on the committee? Have a quiet committee. Seeing none, we'll take any proponents. Good afternoon, Mr. O'Neill.

TIP O'NEILL: Yes--

GEIST: You're welcome to--

TIP O'NEILL: --I'm a proponent, Senator. [LAUGHTER] Vice Chairperson Geist and members of the committee, my name is Tip O'Neill, spelled T-i-p O-'-N-e-i-l-l. I'm president of the Nebraska Telecommunications Association. Our companies represent a majority of-- of landline voice and broadband services to Nebraskans, and we've made substantial investments and served significant numbers of customers and employ many people. So we support the introduced version of LB1144, and I am joined in these comments by the Nebraska Chamber of Commerce and Industry, which also supports the bill. We thank Senator Friesen for introducing this bill as we believe it makes important and necessary changes to existing telecommunications statutory provisions. First, I have an amendment, AM1802, that strikes a portion of Section 1 dealing with the FCC procedures when retiring copper facilities. That apparently was-- had-- it was somewhat controversial. We just thought we'd-- we'd take it out. And also, we have-- the other portion of the amendment removes language, changing the application date from July 1 to October 1 for Broadband Bridge projects where we're-- we're taking it back to July 1 because that-- after-- after working through it with-- with-- with a group of companies, we believe the application date should remain July 1 as opposed to changing it. LB1144, in Section 1, proposes statutory changes to Section 86-134 which will allow the commission to authorize the migration of service to another

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

communications technology or provider that offers voice service if such transfer of service is in the public interest. Maintenance of existing legacy copper voice network when advanced fiber networks are available and capable of providing both-- both voice and broadband services is not in the public interest. Transfer of those customers, those-- those copper customers to the new provider with-- with better service, basically, will allow investment dollars to be used by the incumbent carrier for continued fiber deployment in other exchanges. Commission approval will still be required. Customer notification will be required. A hearing will still be required if deemed necessary by the commission. The carriers making such an application to transfer service to another carrier will be required to waive or pay for service fees to transfer existing customers to the company providing voice and broadband services. Finally, LB1144 does not-- this section does not propose any new terms or definitions and existing definitions for communications provider, real-time voice communications, and eligible telecommunications carrier are already defined or used in the existing telecommunications statutes. The changes in Sections 2 and 3 are amendments to the Broadband Bridge Act, passed by-- in LB388 last year. First, the company match for state funds in high-cost areas, as those areas are defined by the Public Service Commission, is reduced from 50 percent to 25 percent. Our companies believe more subsidy is needed to make the business case for deploying high-speed Internet in sparse areas, and we-- we think this is appropriate. Second, the state matching requirement shall not apply to federal funds that are part of any project. The match required for the federal funds from ARPA and the federal infrastructure bill are provided by federal law. Finally, the PSC could allow longer extensions than the current one-time, six-month extension upon request and for good cause shown. You're all familiar with our supply chain issues, workforce issues, they have impacted almost every business and the telecommunications industry is certainly no exception. Delivery of fiber cables, cabinets, electronic components, and other necessary equipment have been delayed as long as a year. Of course, it is in our company's best interest to get the projects completed as soon as possible because we get paid as soon as the project's completed, so there's no reason for us to delay if-- if we-- unless we-- unless we have no choice. So we hope you advance LB1144 to General File. I'd be happy to answer any questions. Thanks for giving me the opportunity to testify.

GEIST: Senator Bostelman, you have a question?

BOSTELMAN: Yes, thanks, Vice Chair-- Chairwoman Geist. So I knew it wasn't completely yes. There had to be a "no" there somewhere.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

TIP O'NEILL: What's that?

BOSTELMAN: I knew there-- it wouldn't be a complete yes, had to be a "no" in there. [LAUGHTER]

TIP O'NEILL: Oh, yeah, that's right. That's-- that's right.

BOSTELMAN: But my question on-- on the copper, is that-- so those facilities, are those-- do those receive NUSF funding or maintenance upkeep on those? And my question goes to, if so, would there be something in there that says I-- you don't-- the company will not receive funding, you know, in the same year that they're going to [INAUDIBLE].

TIP O'NEILL: Yeah, I-- you-- you know, I don't-- I don't know that the funds that are part of the Federal Universal Service Fund for maintenance of the network, I-- I don't think it depends on whether-- what-- what the technology is, if it-- if it's fund for maintenance in a high-cost area.

BOSTELMAN: Well, my question would be, say you get that funding in July, but then you turn around and were gonna pull that out in August.

TIP O'NEILL: Um-hum, OK.

BOSTELMAN: The-- there's got to be a mechanism in there somewhere that says that--

TIP O'NEILL: Yeah, I--

BOSTELMAN: --there's gonna be some time gap in there, I-- I would say, to--

TIP O'NEILL: Yeah, I don't-- I don't know. Obviously, if you're improving the system, that's kind of what that maintenance fund is for.

BOSTELMAN: Well, I understand. Yeah. OK. Thank you.

TIP O'NEILL: Sure.

GEIST: Any additional questions? I have one.

TIP O'NEILL: Yes.

GEIST: And it might be along the same lines, but I'm not sure.

TIP O'NEILL: OK.

GEIST: When you were talking about reducing from 50 cent-- 50 percent to 25 percent, but then it-- you go on to say the state matching requirement will not apply to federal funds that are part of any project. Let's say--

TIP O'NEILL: OK.

GEIST: --that there are federal funds, a part of the same project.

TIP O'NEILL: Yes.

GEIST: So the-- am I right in assuming that the-- the city or whoever, the entity would pay 25 percent of the project that is of the state funding? Or is it 25 percent of the [INAUDIBLE]

TIP O'NEILL: In-- in-- in high-cost areas, yes.

GEIST: Yes.

TIP O'NEILL: Let-- let's-- let's say you've got a project where \$100-- \$100,000 is from state funds and \$100,000 is from federal--

GEIST: From federal.

TIP O'NEILL: --ARPA-- or not ARPA. Let's say the Capital Projects Fund.

GEIST: OK.

TIP O'NEILL: If it's in a high-cost area, then the company match would be 25 percent for the--

GEIST: For the \$100,000.

TIP O'NEILL: --the state fund provision and 25 percent for the federal fund provision.

GEIST: OK, so it does apply to both.

TIP O'NEILL: Right. If it-- but-- well, if it's-- if it's not in a high-cost area, then the state match would be 50 percent, but it'd still be just 25 percent company match for the-- the federal funds, company match 50-- yeah, because the federal infrastructure, the BEAD-- the BEAD Program is a 25 percent--

GEIST: OK.

TIP O'NEILL: --match, company match.

GEIST: OK. I think I'm on the right page. Anyway--

TIP O'NEILL: OK.

GEIST: All right. Any additional--

TIP O'NEILL: I probably wasn't--

GEIST: --questions?

TIP O'NEILL: --very cogent there, so.

GEIST: OK. Thank you.

TIP O'NEILL: OK, thank you.

GEIST: Additional proponents? Good afternoon.

JOHN IDOUX: Good afternoon again. Thank you, Vice Chair. Thank you, members of the committee. My name is John Idoux, J-o-h-n I-d-o-u-x, and I am Lumen's director of governmental affairs, and I appreciate this opportunity this afternoon to express Lumen's strong support of LB1144. LB1144 continues the Nebraska Broadband Bridge Act journey. Lumen strongly supports a properly structured broadband grant initiative and, again, applauds Senator Friesen, this committee, the entire Legislature and Governor Ricketts for bringing forward and enacting LB388 in 2021 as a Broadband Bridge initiative. LB388, however, was just the beginning, not the end, of the Nebraska Broadband Bridge Act journey. The needs of citizens continue to evolve, just as technology's applications and solutions continue to evolve. LB1144 proposes modest modifications to accommodate the increased fiber deployment, as well as real-world learnings after the first year of the broadband grants. LB1144 puts forward three modifications addressing the needs of the citizens, communities, policymakers and the wide range of service providers in order to continue the early successes of the Nebraska Broadband Bridge Act. Specifically, LB1144 maintains all existing commissioner-- commission oversight while providing a pathway to fiber, flexible buildout schedules, and an increased funding for rural areas. Gonna go off script just a little bit rather than mirror what Mr. O'Neill said, talk to you a little bit about real-world learnings with why we need the fiber transition pathway. It's no secret we are deploying a lot of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

fiber throughout the state, including Omaha. Right now, we have over 80,000 locations that have access to 1 gig availability. With that fiber already throughout most of Omaha, we are getting requests from the city of Omaha, just regular requests, routine requests. We're going to do some road moves this coming spring, and they need us to relocate our copper facilities. It makes no sense for us to relocate and reinvest in copper when those customers have access to fiber. All they have to do is call us up, put in a service order request. We will switch them over to fiber, no cost, no change in the monthly rate, no change. Our-- our fiber can provide voice services. We are reaching out. We are doing the mailers. At the end of the day, when it comes time to deactivate that copper, we have no expectation that 100 percent of our customers will have responded to our-- our outreach. We would like a pathway to go to the commission and ask the commission for the authority to transition them off our copper network because they already have other options available to them. Current law allows this, but the current law was enacted in 1986 and the terminology in 1986 do not match the technologies of today. And so that's why we are putting forward a fiber transition pathway with full commission oversight. Commission approval will still be required. Customer notification will still be required. A hearing will still be required if deemed necessary by the commission, and carriers will still be required to pay any transition fees. Regarding the other two, the flexible buildout schedule, we are having current supply chain issues, fiber, plastics, contract labor. Some of our partners that we need permits with the railroads and-- and canals are-- have labor shortages, too, so there's delays with the permits. This gives the commission the ability to extend the project if it deems good cause was shown. And then finally, without a change to the 50 percent match, you probably never will get out to the "ruralest" parts of the state. And with that, I will take your questions, but do urge your support of LB44-- LB1144.

GEIST: Thank you. Any additional que- or any questions on the committee? Yes, Senator Moser.

MOSER: Wanted to make sure you were talking to me and not-- oh, she's [INAUDIBLE].

GEIST: Not the chair, um-hum.

MOSER: Yeah. It's getting late. We had to do something goofy. One advantage of copper lines, though, is that they are energized from central office, and so they work when you have power outages and-- and

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

natural disasters, where the fiber lines have to be energized wherever the boosters are, right, or hubs are-- what do you call those?

JOHN IDOUX: Well, the network itself will be energized. The customer prem, the customer would have to have some backup power to light up the electronics on their end. And every single voice provider that's using fiber is required to offer that backup battery source. We offer it, we sell it, but then we tell the customer it's much cheaper if you just go to Amazon and get it for 30 bucks.

MOSER: But otherwise, your hubs are all on uninterruptible power or backup power?

JOHN IDOUX: Yes. And the alternative then would be to maintain two networks. You maintain a copper network for one or two customers--

MOSER: Yeah, well--

JOHN IDOUX: --when most of your customers have already transitioned to fiber, it just makes no sense to maintain two networks.

MOSER: Yeah, I was just curious how that compares. I mean, it's kind of cool when there's a disaster and you can pick up your phone and get a dial tone, you know.

JOHN IDOUX: Unless you have one of those phones that--

MOSER: It's-- it makes me a dinosaur, I know, but--

JOHN IDOUX: You have to have a wireline phone, or you have to have a-- if you have all wireless handsets in your house, that doesn't work.

MOSER: Yeah. No, I've got--

JOHN IDOUX: Yeah.

MOSER: --phones that are powered by the phone line, 48 volts.

GEIST: Any additional questions from the committee? Seeing none, thank you for your testimony. Good afternoon.

BURKE BROWN: Good afternoon, Senator Geist.

GEIST: Thank you for waiting.

BURKE BROWN: Thank you. My name is Burke Brown, B-u-r-k-e B-r-o-w-n, and I'm the technology coordinator at school district OR-1, and I'm

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

representing the National-- or the Nebraska Education Association. COVID-19 has thrown a spotlight on the lack of affordable, reliable and secure internet services in many regions of Nebraska. While lessons have been learned regarding educating Nebraska's students in pandemics, teachers across Nebraska learned firsthand the frustrations that our students experience trying to connect to lessons and complete homework over poor internet connectivity. Although it appears we are through the experiment of widespread-- widespread remote learning, we are far from closing the broadband gap in Nebraska. What does the broadband gap look like? It looks like students being forced to go to town to find Wi-Fi, rather than being able to engage in media-rich lessons from home. It looks like teachers continuously staying late at schools for untold evenings and weekend hours, doing our after-hour work at work when most of us can enjoy doing that work from home. Finally, it looks like motivated students wanting to take online classes for college credit or even personal growth being left behind as peers with affordable, reliable, and secure Internet access continue to grow. We strongly support LB1144 as it provides critical legislation to stimulate connectivity to high-cost areas of Nebraska that have been often forgotten. Specifically, we support ongoing requirements of funded projects to-- scalable to the speeds of 100/100 megabits in both upload and download speeds. Most importantly, we support that LB1144 will bring more projects to rural Nebraska as it redefines-- redefines the commitment of private vendors to only 25 percent of the local project cost if within a high-cost area. With this new language, this legislation can expedite meaningful change to those communities most severely affected by the broadband gap. Next, we support the continued vision of this bill to ensure a public-private partnership is fostered. As we seek to support Nebraska's rural communities, economy and schools, our public-private stakeholders must work together as these problems created-- these-- excuse me, as the problems created by the current broadband connectivity gap are too massive for either sector to address individually. Developing the prioritized grant system will provide necessary incentives and lessen financial risk to both small and large private entities alike. In closing, we believe LB1144 is critical to bringing affordable, reliable, and secure internet to high-cost areas in Nebraska. With continued support of this legislation, the broadband gap can be closed. And I would entertain any questions.

GEIST: Thank you for your testimony.

BURKE BROWN: Thank you.

GEIST: Does anyone have questions?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

BURKE BROWN: Thank you.

GEIST: Seeing none--

BURKE BROWN: Thank you.

GEIST: --we appreciate you staying. Thank you.

BURKE BROWN: Thank you.

GEIST: The next proponent. Good afternoon.

BRIAN THOMPSON: Hello, Transportation Committee, Senator Geist. My name is Brian Thompson, B-r-i-a-n T-h-o-m-p-s-o-n, and I'm here in support of LB1144. Mr. O'Neill and Mr. Idoux laid out a lot of the good points to this, and I truly agree. Our biggest kind of two issues for this bill are the 25 percent match by the company for the very high-cost areas outside of town. Most of the work that we have proposed thus far and been awarded have been in-town projects, and this year we are going to be building seven different communities with about 1,620 customer locations at a 200 by 200 level, and we were awarded \$969,000 in grants from the Broadband Bridge project. And we feel like this is an extraordinarily good way for us to keep moving our network forward. And we've also participated in the DED grant process, and in that process it was-- was quite rushed, if you'll remember, and we-- we did a project to build out to 58 Sandhills ranches outside of town. And that project, the total cost was nearly \$700,000 to do the 58 ranch build-outs, and about \$340,000 of it was grant dollars from the DED process. So that was very helpful to us and we were really pleased. The last very important point, though, that I want to be sure everybody hears is that our supply chain issues have just grown worse and worse. And in fact, we are now concerned about not getting adequate number of modems to cut over our new customers that we're going to be building. Our fiber lead times, depending on what kind of fiber, have extended out between 50 and 80 weeks, so we are-- we are, you know, more than a year out on fiber. And if the very-- the stringent clawback provisions are left in the current Broadband Bridge process, there's a good chance that some of these projects we won't be able to get to because we just are out of products to do the build. And we definitely want to get the builds completed. We currently have a contractor that-- or two contractors that are helping us and they're putting in everything that we have, that we can-- can use. But this is going to be quite the deal. And-- and many other states are doing similar things. Plus, there's, you know, ARPA money and other things coming. And we're told by our

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

vendors that the chips for broadband are-- are very hard to get, and they're afraid they won't be able to supply the actual fiber cards and modems necessary to-- to even hook people up. So that's my testimony. If there's any questions, I'd be happy to answer.

GEIST: Any questions on the committee? Seeing none--

BRIAN THOMPSON: All right.

GEIST: --thank you.

BRIAN THOMPSON: Thank you.

GEIST: Next proponent. Good afternoon.

ANDREW DUNKLEY: Good afternoon.

GEIST: Thank you for your patience.

ANDREW DUNKLEY: Of course, thank you for-- for being here and Chairman Geist and members of the Transportation and Telecommunications Committee. My name is Andrew Dunkley, A-n-d-r-e-w D-u-n-k-l-e-y, and I'm the director of state governmental relations with the Nebraska Farm Bureau. And because it was so popular earlier in this committee, I am also representing the Nebraska Cattlemen, Nebraska Corn Growers Association, Nebraska State Dairy Association, Nebraska Pork Producers, and the Nebraska Soybean Association.

GEIST: You're saving us a lot of time. Thank you.

ANDREW DUNKLEY: I'm happy to do it. And I won't read through my entire letter that-- that you have. Ag really supports any-- anything to help rural development and-- and broadband, help rural-- rural development. Support this bill specifically because it gives internet service providers incentive to further serve the communities that need broadband the most in rural Nebraska. High-cost areas, the way that it's defined in this leg-- this legislation are the least served, and-- served, and we need service throughout the state. We believe that this is-- this is-- these are simple-- simple additions to the Broadband-- Broadband Bridge Act, and I'll leave it at that. But we fully support this bill. If you-- if you have any questions, I'd be happy to try and answer.

GEIST: Are there any questions for Mr. Dunkley? Seeing none--

ANDREW DUNKLEY: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

GEIST: --thank you. Any other proponents? Good afternoon.

JON CANNON: Good afternoon. Vice Chair Geist, members of the Transportation and Telecommunications Committee, my name is Jon Cannon, J-o-n C-a-n-n-o-n. I'm the executive director of the Nebraska Association of County Officials, also known as NACO. And since Mr. Dunkley got a good reception by listing off the other organizations he was representing, I could say that I also represent Adams County, Antelope County, Arthur County, but I'll just stop there and say I represent 93 counties across the state.

GEIST: So you're saving us time as well, right?

JON CANNON: Yes, ma'am, I am.

GEIST: Is that what you're saying? All right.

JON CANNON: Like to thank-- thank Senator Friesen for bringing this bill. Now LB338 was a great start and we think that we just need to keep moving in that direction. I've already detailed the county's concerns as far as broadband, having reliable broadband throughout the state, as particularly in the rural parts of the state. I won't belabor the point about how we continue to see rural Nebraska lose population. And one of the things that we think could be helpful as far as buttressing our rural areas is something like reliable broadband. As we've-- as we've noted in the past, broadband is certainly a necessary part of that. We support this bill. We support Senator Friesen's bringing it to you, and I would be happy to take any questions.

GEIST: Great. Thank you. Are there any questions on the committee? Seeing none, thank you for your testimony.

JON CANNON: Thank you very much.

GEIST: Any additional proponents? Are there any opponents to this bill? Wow! Any neutral testimony? Good afternoon. Good to see you again.

MARY RIDDER: Well, thank you. Good afternoon, Vice Chair Geist and members of the Transportation and Telecom Committee. My name is Mary Ridder, M-a-r-y R-i-d-d-e-r, and I'm here to testify in a neutral capacity on LB1144. And I often think, when people testify, are they really in the neutral position? We are. We are here. The first part of this bill relates to a carrier's abandonment or discontinuation of service to a local exchange area. I understand it was due to a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

Nebraska price cap carrier wanting to retire copper facilities. We absolutely support the retirement of copper facilities in favor of replacement with fiber facilities to enable more robust broadband services. There are miles and miles of outdated copper in Nebraska's cities, towns, and rural areas that most certainly need to be retired, but it can't happen until replacement fiber is put in first. However, the bill, as written, would actually end in abandonment of facilities, not replacement. The bill indicates that if another provider provides real-time voice communications in the area, that a provider may apply for discontinuation and abandonment of service. Notably, "real-time voice communications" is a term not defined. Without a definition in the bill, it's likely that any type of voice service, including cell phone service, would meet the requirements of the bill. This would effectively remove requirements on local exchange carriers to provide voice service. This would conflict with carrier-of-last-resort obligations. There must be voice service available. Carriers have received millions of dollars in federal money to maintain their networks. What carriers did with that money was their choice, but they are still responsible to serve their voice customers, whether that be copper or fiber. The commission has never denied a carrier the ability to remove copper facilities, provided they put fiber in place first. The second part of the bill, which we like, seeks to make changes to the match requirements of the Broadband Bridge grant program. We support this portion of the bill as it would be helpful reaching more high-cost areas in rural areas. During the first cycle of the grant program, we estimate roughly two thirds of the projects went to builds that were primarily in towns. While there certainly is a need in these communities, we believe the areas of greatest need are the truly rural, rural areas of the state. Additionally, should federal funds become available for the Bridge program, a lower match threshold for rural areas would help ensure the commission is able to distribute that additional funding, so we agree with making an adjustment to the match percentage to incentivize rural build-outs. Anecdotally, maybe, we knew when this was being crafted last year that it would likely be more difficult for the high-cost areas to get into the program. But we also represent, you know, towns throughout the state, and we don't ignore the fact that they are also really struggling to get good broadband. Finally, I'd request clarification on the provision in the bill that says: The matching funds requirement in this subdivision shall not apply to any portion of a grant comprised of federal funds. We interpret this to mean that there would be no matching funds requirement at all on grant applications that utilize federal funds, with unintended consequence of completely removing the match requirement if an applicant can incorporate any source of federal

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

funds in their application, so we would appreciate clarification on that. And-- not prepared, but off the cuff-- when talking about extensions, the commission would certainly be open to the idea of additional extension bridges, 18 months. Additional extensions make sense. You've heard from carrier, Consolidated, that talks about the supply chain issue. It's real, it's getting worse, and we don't want to clawback a project that, that didn't have a chance to get off the ground, but we wanted to keep some control over that, like not unlimited. Come to the commission, we'll work on it and-- and go from there because we're very much wanting to help our carriers be able to get projects finished. I think that's all I have. Any questions?

GEIST: Thank you for your testimony.

MARY RIDDER: You're welcome.

GEIST: Senator Bostelman.

BOSTELMAN: Thanks, Vice-- Vice Chairwoman Geist. Two questions. First question is, is on the copper facilities in there, is there funding maintenance or otherwise that's going into those facilities that they would have received? And I'll go back to my point before is that--

MARY RIDDER: I heard your question before about--

BOSTELMAN: Yeah.

MARY RIDDER: --copper and fiber. My understanding is, if they get ongoing maintenance, it doesn't really matter what it is. And if you pull it out-- I would think if you pull it out in June and you put the other in July, it doesn't matter. You have maintenance for that year.

BOSTELMAN: OK. That would--

MARY RIDDER: And I think it's on a monthly basis.

BOSTELMAN: Then that was-- that's the basis that you get paid for maintenance of a copper, then you turn right around and pull it out and you put in the fiber and you're getting paid to put the fiber in. And so it's like, hmm, don't think we should be doing--

MARY RIDDER: You're getting paid for the ongoing maintenance of your network--

BOSTELMAN: Right.

MARY RIDDER: --of your infrastructure.

BOSTELMAN: Yeah. The other question I have is, can-- do you know, is-- what's the definition of high-cost area?

MARY RIDDER: Oh, I do, but I don't. I can't say it to you right now.

BOSTELMAN: OK.

MARY RIDDER: How we define it is so many people within a square mile outside of a community.

BOSTELMAN: OK.

MARY RIDDER: And if you remember, the Rural Broadband Task Force had a different definition than we did and we included both for various reasons.

BOSTELMAN: OK.

MARY RIDDER: We can get that to you.

BOSTELMAN: Thank you.

GEIST: And I would just add that-- that the-- when I was questioning about the state funds and federal funds, is that what you're asking for more clarity on in that particular section, or am I off base here, in the last paragraph?

MARY RIDDER: It's talking about-- yes, the bill evidently talks about matching funds requirement not applying to any portion of a grant comprised of federal funds. We just need to be-- have it clarified. What exactly are you-- what-- what is the reason or what is the outcome of that?

GEIST: OK.

MARY RIDDER: We need some information.

GEIST: So you're not asking the formula. You're asking the reason.

MARY RIDDER: No.

GEIST: OK.

MARY RIDDER: Yes.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 8, 2022

GEIST: OK, good. All right. That's all I had. Any other questions?
Thank you.

MARY RIDDER: Thank you.

GEIST: Thank you for your testimony. Any additional neutral testimony?
Seeing none, Senator Friesen, you are on the seat to close.

FRIESEN: Thank you, Vice Chair Geist. The only thing I'll add is that we-- we will look to make any clarifying changes that we need to make. And again, we will continue to look at anything that we can do to help make that process easier. But I want to re-emphasize that I really do want the commission to work on how they look at projects and do the things that they can do within the rules and regs to give them more flexibility when we're doing these programs. So--

GEIST: OK.

FRIESEN: --that's all I have.

GEIST: OK. And before we close, I will let you know we had three letters in support online. And with that-- do we have any questions from the committee? I almost chopped you off before you had an opportunity, but we can close the hearing now and close for the evening.