

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee December 13, 2022
Rough Draft

FRIESEN: OK, everyone. Welcome to this afternoon's interim hearing of the Transportation and Telecommunications Committee. I'm Curt Friesen from Henderson, Chairperson of the committee, and I represent District 34. The other members of the committee can introduce themselves starting on my right.

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

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

FRIESEN: I do feel Senator Geist, Senator Albrecht will be joining us shortly, so they'll probably come in the middle. I'd ask that you please silence all your cell phones and other electronic devices. We'll be hearing the resolutions in the order listed on the hearing notice. Those wishing to testify should move to the front of the room as to be ready to testify. We have an on-deck chair up there if you want to be ready when the next one-- turn comes. You will be test-- if you will be testifying, we'd ask that you 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 handouts, you need from the 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 name slowly for the record. If you happen to forget this, I will ask you to stop your testimony and ask you to do so. Please keep your testimony concise. Try not to repeat what has already been covered. With that, I'll introduce my staff. We got Sally Schultz to my left here is the committee clerk and the legal counsel is Tip-- Mike Hybl. OK, I think Senator DeBoer is joining us on the telephone and Senator Geist just joined us. So with that, we are going to start out with the Next Gen 911. Mr. Sankey, you can step forward and give us your report.

DAVID SANKEY: Good afternoon, Senator Friesen and members of the Transportation and Telecommunications Committee. My name is David Sankey, D-a-v-i-d S-a-n-k-e-y, and I am the state 911 director with the Public Service Commission. I want to thank you for this opportunity this afternoon to update you on the progress the commission has been making on transitioning the 911 centers across the state to Next Generation 911. Each of you should have a presentation packet, so if you'd like to follow along with me, I'll take you

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through it. So I thought it'd be important just to refresh where we're at legislatively. I know most of you folks already know this, but in 2016, LB938 was passed. That bill created the 911 Service System Act and established the Public Service Commission as the statewide coordination and implementation authority. It also required that the commission develop 911 service system implementation plan and that that plan be presented to the, to the commission and to the Legislature. Also included that-- in that was the requirement to establish statewide uniform training standards, which weren't in place previously. So we went to work, we got together with, with a group of stakeholders, and we developed a plan, presented that to the commission, and they adopted that in November of 2017. And then presented that to a joint session of this committee and the Appropriations Committee in December of 2017. As a result, LB993 was introduced in 2018 and passed, and that act created the 911 Service System Advisory Committee. That's a group of 16 people that help advise us on how to move forward with the Next Generation 911 plan. And importantly, it authorized the implementation of the 911 service system effective July 1, 2018. So if you recall, the plan was to work with the 68 911 centers across the state to organize into host remote regions. Host remote regions being the hosts have the expensive back-room equipment in each one of their PSAPs-- there's two in each, in each region-- and then the remotes would connect to them via a regional IP network. The idea there is there's multiple advantages for doing that, but primarily it's sharing equipment, sharing cost, sharing services. But it also gives the 911 centers the ability to have redundancy. So if for some reason they can't take a 911 call, their neighbor can take the 911 call for them. It also talked about establishing a statewide emergency services Internet protocol network, ESInet, and then connecting the hosts in each one of the regions to the ESInet. Now-- and in addition, providing for the Next Generation 911 core services and the core services are the functional elements necessary to locate and route callers. And that's-- that'll be done in the Next Generation 911 world with GIS data. So two important points: The difference between the current legacy 911 system and the Next Generation 911 system is that the Next Generation 911 system will be able to not only focus on-- they'll not only be able to make voice calls, but they'll be able to send data as well. So text, photos, videos, those kind of things. In addition, instead of being routed based on where the tower is located and what tower the caller reaches, they'll be located based on, on geographic information system data. And then again, establish mandatory and uniform technical and training standards. So that, that was the highlights of the plan. So we

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partnered with the State Purchasing Bureau and we developed and issued a RFP for a statewide ESInet and core services for a telecommunication provider to provide those services. Through that process, Lumen was selected as the ESInet provider and they partnered with Intrado to provide the Next Generation 911 core services. We agreed and executed a contract in January of 2021. Since that time, we've been working to establish points of interconnect in each one of the LATAs in our state, as well as to the two data centers that operate the NG 911 system. They're Lumen data centers. The telecommunication providers in our state have been working to develop circuits to connect to those points of interconnect and the call-handling providers, we've been working with them to configure their equipment to be able to connect to the system as well. On the next page, you'll see a multi-colored picture of our state, and I'll just try and walk you through each region, as I may. There are seven regions. The first is the purple region, which takes up about one-third of the western half of our state. This is the south-central/Panhandle region. The hosts for this region are in Kearney and in Lexington. And you'll notice that the shaded area up there in Dawes in the northern part of the Sioux is shaded because they intend to connect to the system, but they're not connected yet. So once they connect, then we will take that shaded portion off of them. This region is connected to the ESInet and has been since March of this year. The region in red across the north is the north-central region. The hosts there are Valentine and O'Neill. The area in brown is the northeast region. The hosts there are Norfolk and South Sioux City. And this region just recently connected so they're still in the process of testing and making sure everything's working fine. You'll notice in that area there are two counties in gray, Pierce and Thurston. Pierce County is working towards joining the region. They-- I understand they have equipment ordered and it's on its way. So once it's, it's here, we can get them connected to the region. And Thurston County is pending their county board approval so that-- they're, they're working on that as well. The area in bright green is the midwest region. The hosts are Fremont and Schuyler and they are connected to the ESInet. They connected in October. The area in blue is the metro area. The hosts there are Omaha and Pottawattamie County, Iowa. And I'll show you in-- our plan is for them to get connected soon here. The area in the center there, the yellow area, is the east-central area. The current host is Wahoo and Columbus. However, they're moving Wahoo to Grand Island, so the hosts will be Grand Island and Columbus. And then once we get them connected, that area that's shaded, Custer County and the area known as Region 26, will be joining them as well. And then down in the corner is southeast

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region. Southeast region is working with Lumen to establish their new regional IP network and so once they get that up and running, then they'll connect to the ESInet as well. The area at the bottom in gray is an area that's covered by a PSAP known as Mid Rivers, and we're working with the folks in that area to identify which region they want to connect so we continue to work with them on that. The next page is a timeline. As I mentioned, the south-central/Panhandle connected-- region connected in March of 2022. They still have a PSAP in Dawes County to connect and then they'll be complete. The midwest region is-- connected in October of 2022 and as I mentioned, the northeast region just connected. We expect to have Pierce and Thurston join them soon. So after the first of the year, we hope to get the metro region established and connected. They are in the process of testing and making sure that everything works properly and then all the failovers work. And so we hope that that will be completed and they'll be connected in early January. And then the east-central region, we hope, gets connected by March of 2023, the north-central region shortly after that in April, and then the southeast region by the end of June in 2023. So if all the testing goes according to plan, all of the 911 centers in Nebraska should be connected to the ESInet within the next six months. The next page you will see is a diagram showing the progress as the ESInet-- as the PSAPs connect to the ESInet. We're demonstrating that on this map and we'll make that available and update it as, as those regions connect. So once we get all the 911 centers connected to the ESInet, we still have many things to accomplish. As I mentioned, one of the things that, that you, the Legislature, asked us to do is to come up with statewide training standards. So the commission did that. They adopted training standards. Those went into effect January 1, 2022. The PSAP personnel have until the end of this year to become compliant with that so we're working with them to make sure that that gets accomplished. They're working on a couple of other initiatives. When I say they, the training working group and the 911 Service System Advisory Committee, and that is telecommunicator CPR and emergency medical dispatch. So they are working on those programs to try and bring those to some of the PSAPs that don't have those. Text-to-911, we've had an interim solution to Text-to-911, but not all of Nebraska areas have been covered by that. Once the PSAPs connect to the ESInet and their call-handling equipment is capable, we'll be able to deliver Text-to-911 to all of the 911 centers in Nebraska. And so that-- we're hoping that happens very soon. We'll continue to work on the GIS data so that we can transition to geospatial call routing as soon as possible. A lot of that depends on the, the call-handling equipment

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and it depends on the carriers being able to deliver that with the XY coordinates as well. And then, then we'll continue to work on how to develop and, and receive photos and videos and the additional data that the system will give capabilities for. And in addition to that, allow for the 911 centers to be able to share that data between each one of them, have, have shared CAD system or at least have a capability to share data between the 911 centers. So in closing, Senators, I'd just like to say on behalf of the state 911 department and the Public Service Commission, Senator Friesen and, and members of the Transportation and Telecommunications Committee, we thank you for all the support that you've given to this very important public safety initiative over the last several years. And with that, I'll be happy to try and answer any questions you might have.

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

BOSTELMAN: Thank you for being here. Could you repeat on the Text-to-911? I just didn't quite catch what you said with that.

DAVID SANKEY: Yeah, so, so the commission has employed what we call an interim solution for Text-to-911 across the state, and that has been done by PSAP by PSAP. And so there's about 40 PSAPs that have that capability right now. Once the call-handling equipment-- once the PSAPs get connected to the ESInet and the call-handling equipment is upgraded to the point where it can accept those, then all of the 911 centers in Nebraska will have the ability to receive text messages. They'll receive them through the ESInet.

BOSTELMAN: Once these get all online--

DAVID SANKEY: Yes. Yeah. And then there's-- for example, the south-central/Panhandle region has been connected since March. They're in the process of upgrading their call-handling equipment to the next, to the next level. Once that happens, then they'll be able to receive text through the ESInet.

BOSTELMAN: I think-- yeah, I'm in east-central and I have a neighbor that would utilize that system so that's why I asked that.

DAVID SANKEY: Yeah, so we're hoping to get to it as soon as we can.

BOSTELMAN: OK.

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FRIESEN: Thank you, Senator Bostelman. Any other questions from the committee? When we-- I've been talking about down the road, the funding that's required to get the system finished and up and running. How's that-- how are the dollars and cents looking, I guess, right now is to-- is completing the project that we had looked at?

DAVID SANKEY: Yes, sir. So as you know, we are funding this with-- entirely with the 911 service system surcharge funds. So the wireless surcharge and the prepaid surcharge funds that are collected and remitted to the commission, we're utilizing those funds for that purpose. That surcharge is currently at \$0.70. We're, we're also, at this point in time, supporting both the legacy system and the Next Generation 911 system. And so as we can get transitioned off those legacy elements, perhaps that surcharge rate can, can be reduced. But for now, the surcharge rate is projected to maintain the costs associated with the system.

FRIESEN: Because there's-- you know, obviously, there's going to be training costs and things like that in the future and maintenance of the system. But you're saying that right now, that looks like everything's going to run fine?

DAVID SANKEY: Yeah, for now, at \$0.70 per device, per connection, that is-- we projected that's able to sustain both the legacy system in-- until we can get off of that and then the Next Generation 911 system moving forward.

FRIESEN: Are, are all areas contributing \$0.70?

DAVID SANKEY: All areas are not. Thank you for that. There's a statute that prohibits Douglas County from raising their rate above \$0.50. So all of the, all of the counties, their current surcharge rate is \$0.70 except for Douglas County, which is at \$0.50.

FRIESEN: OK. Have you noticed that any of the 911 centers are consolidating? Is there some of that happening?

DAVID SANKEY: There has, there has been some of that. Yes, sir. And I think as we continue to mature in this process, I-- and I think some of the 911 centers are already seeing it, but they're having staffing issues. And so they're looking at other options like can another 911 center take my calls overnight, for example? There's some additional challenges there, not necessarily on the 911 side, but on the, on the dispatching services side. So we'll work together to continue to move

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in that direction, but there has been some consolidation and, and we think organically, it'll continue.

FRIESEN: OK. Senator Albrecht.

ALBRECHT: I do have just one other question. Thank you for being here and sorry I was late. I was across the street hearing about a few other things that are going to happen next year. But Thurston County, you're waiting for their county board. Will they be within the northeast Nebraska area and working with these other counties: Knox, Cedar, Dixon, Dakota, Wayne, Stanton, Madison?

DAVID SANKEY: Correct, yes.

ALBRECHT: A part of that?

DAVID SANKEY: That, that's, that's the direction that they're looking at going. And we've provided their-- folks in that county with some information and they're taking it to their county board for consideration. So we expect that they will be joining the northeast region.

ALBRECHT: OK. Thank you.

FRIESEN: Thank you, Senator Albrecht. Seeing no other questions, thank you for giving the report. I do appreciate working with you. You've done a great job. I think this whole rollout has been pretty well on schedule and done very well. I've not had any, any complaints, so congratulations on getting this done. When we first started on this, I know it looked like a big project, but--

DAVID SANKEY: We've got a good team. Thank you, sir.

FRIESEN: --it has rolled through pretty well, so appreciate that.

DAVID SANKEY: Thank you.

FRIESEN: So seeing no other questions, thank you very much for providing your report. And with that, we will open up on the LR10-- LR401. She's our page for the day. Commissioner Watermeier.

DAN WATERMEIER: Good afternoon, Senators. Chair Friesen and members of the committee, my name is Dan Watermeier, spelled W-a-t-e-r-m-e-i-e-r, and represent the commission's first district and I am the current chair of the Nebraska Public Service Commission. I'm here today to

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provide comments regarding the commission's progress in deploying broadband throughout the Nebraska Broadband Bridge Program and the federal funding sources. First of all, the commission just released its second round of bridge grant awards last week. We were able to distribute just over \$2.3 million to 37 projects across Nebraska. And these projects will serve approximately 2,200 locations that are currently unserved, as well as 260 locations that are underserved. We expect these projects to be completed by the end of 2024. In order to distribute these awards, the commission made several changes to the bridge program, which we think have improved the program significantly. The challenge process was adjusted to encourage cooperation between providers and allow for modifications to applications. Additionally, providers submitting a challenge to a project claiming that they serve an area must now provide more detailed information, including facility maps, speed testing information, in order for a challenge to be found to be credible. We also put in place speed testing requirements this year for providers, enhancing what was already part of both the bridge program and the other NUSF grant programs in order to increase provider accountability and to help the commission obtain information necessary to determine where broadband is most needed in the state. Looking forward, the commission expects to administer large amounts of federal funding through the bridge program over the next five years. Pursuant to last year's LB1024, we are working with the Department of Economic Development to administer at least \$40 million each to Congressional Districts 1 and 3 in the Capital Projects Funds through the bridge brand-- bridge-- Broadband Bridge Program. We will be administrating the first cycle of that funding in the first half of 2023, and we'll assess the need for future Capital Projects Fund cycles following that. Additionally, the commission has received initial planning funds in the amount of \$5 million from the Federal Broadband Equity, Access, and Deployment Fund, known as BEAD. Using those planning dollars, the commission is now in the process of hiring broadband-specific positions in order to administer BEAD funding. Those staff will be entirely focused on the development of broadband across Nebraska and include analysts [SIC], an outreach coordinator and legal support. Over the next eight months, we will, we will be developing our five-year action plan to submit to the National Telecommunications and Information Administration, known as the NTIA, as well as working through our initial proposal for how to fund through the BEAD program will be used to accomplish the goals of the program. We are also in the process of engaging a vendor to create a state broadband map showing where service is available in Nebraska pursuant to LB1144. And

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we are working on ways to challenge some of the data we are seeing in the FCC's national broadband map. One additional item we wanted to address was the Precision Agriculture Grant Program put in place by Legislature in LB1144 last year, LB1144. We opened a docket in 2022 to seek input from interested parties on that program and received comments overwhelmingly in support of the program. However, we also heard from many parties that they are concerned that the non-broadband portion of the program not-- may not be allowable use of BEAD funding. Specifically, the program is designed so that half the funding will provide adequate precision agriculture connectivity, i.e. broadband. The other half of the funding is designed for on-farm traceability solutions, products that include soil health and water management, autonomous solutions for agricultural machinery. This latter use of the program, however, does not appear to be allowable use of the BEAD funding. Currently, Nebraska Revised Statute Section 86-1403 states that both parts of the Precision Agriculture Program would be funded through BEAD. Given the current guidance on allowable uses of BEAD, it is our recommendation that the Legislature look at alternative sources of funding for this program. We do recommend that the legislator-- Legislature consider alternative funding sources for both the agriculture side of the program and the broadband portion so that the commission can administer both parts of the program at the same time rather than waiting on approval from the NTIA for the broadband portion. This concludes my written testimony and I'd probably be glad to answer any questions as you can. I would just end on a couple of notes here, that the conversation is, you know, Nebraska is in a pretty good place. We think it is. And I just got back from a conference here this last fall with other states that have implemented some programs. They've been ahead and maybe created more-- I'd say more bureaucracy in a lot of ways, but they're struggling to figure out what to do. And if I remind you a little bit where we are in Nebraska, the PSC has been administrating the NUSF, the federal USF, and two years ago, with the Governor's Broadband Bridge Act, that put us in a really good spot to implement all this BEAD dollars. These other states that are-- appear to be ahead by hiring more people are really just struggling. And I came back to Nebraska as a realization of how lucky we are right here. We had a Governor, I think, that put us in a great spot with the bridge act and this committee. And we're putting that to advantage and we're, we're-- we feel like we can use the expertise in our office.

FRIESEN: Thank you, Commissioner Watermeier. Senator Albrecht.

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ALBRECHT: Thank you, Chairman Friesen. It's nice to say that. I won't be able to say that very much more. So thank you for being here. Thanks for the report.

DAN WATERMEIER: Yeah.

ALBRECHT: Just two quick questions. This mapping, does the Public Service Commission have to go out and, and/or are choosing to go out to get a different mapping process than what we had already approved to do when the broadband team got together?

DAN WATERMEIER: I don't believe that, but we are really close to having our-- we're going to sign a contract with somebody here pretty soon. We're really close to having that.

ALBRECHT: OK, so all the information that you had gathered from the first map, will the same people have to have that same extra size on the second map or is something that you--

DAN WATERMEIER: It's going to be a different map, I think, than what you're describing. But I do have staff with me here today and Cullen Robins might want to explain that a little bit better if you want to.

ALBRECHT: I would like a little bit more information--

DAN WATERMEIER: OK.

ALBRECHT: --on that. And then the second thing, when you're talking about BEAD and that precision ag--

DAN WATERMEIER: Yes.

ALBRECHT: --so are we getting \$2 million from the federal government or are we as a state giving up the two--

DAN WATERMEIER: It was my understanding that if it would have been General Funds, we could have used it. But it's my understanding in LB1144 that you directed \$2 million of the BEAD funds to go to that program--

ALBRECHT: OK--

DAN WATERMEIER: --one for the precision ag-- well, it's all precision ag, but one for connectivity and one for implementation and--

ALBRECHT: OK.

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DAN WATERMEIER: --soil monitoring health and that's just not going to work under the BEAD program.

ALBRECHT: OK, so it's not going to work so we will have to look for some legislation to be able to fund precision ag in the following year.

DAN WATERMEIER: Yes.

ALBRECHT: OK, got it. Thank you.

FRIESEN: Thank you, Senator Albrecht. Senator Moser.

MOSER: I was looking at paragraph 2 here where you said that \$20.3 million was given to 37 projects serving 2,178 locations. Are those 2,178 customers? I mean, individual--

DAN WATERMEIER: They'd be locations based on an address and they would be unserved, meaning they're less than 25/3 today so that's why they qualified as unserved.

MOSER: Right, but it's not, it's not a hub location that goes out to 100 customers.

DAN WATERMEIER: No.

MOSER: It's one customer.

DAN WATERMEIER: That's correct.

MOSER: So dividing that out, it looks to me like it's \$8,326 a customer.

DAN WATERMEIER: Yep, it is. That's what high cost is going to cost and-- well, I'll just give you an example-- an analogy. On the first bridge act that we did a year ago, we got-- the cost was actually flipped. In this act that we just approved last week, 90 percent of those applications or those locations are unserved and only 10 percent were underserved. So the unserved are much higher. They are going to be \$8,500 to \$10,000 per location. And an unserved location may be-- underserved, excuse me, maybe much less than they may average \$1,500 a location. That's because of the length, the distance, the density. It all adds up and that's what we're talking about with high-cost locations. It's going to be that expensive.

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MOSER: Is there a term in the contract that says how long they have to provide service for that \$8,000?

DAN WATERMEIER: Yes, there is. It's a term and I'm drawing a blank, whether it's 15 years or I've got the-- I forgot what it is.

MOSER: So it's not necessarily solid state equipment that might-- I mean, if it only lasts-- if it has a lifetime of seven years, they have-- may have to replace it to maintain that?

DAN WATERMEIER: They're, they're required to keep it up, yes.

MOSER: But they get the money all up front, though.

DAN WATERMEIER: They do, yeah.

MOSER: And then how do you check on it to make sure that, that all those customers are still--

DAN WATERMEIER: That's what's different about the bridge act compared to the NUSF, where in the NUSF, we offer some ongoing support which allows us to go back and monitor that. So this is once paid and it's based on the performance measure, whether they're-- they make the application to us and they get it 25 percent up front, 50 percent when they get started. And then we check it at the last bat-- last piece. The last 25 percent can be held back. But your, your analogy is correct.

MOSER: OK. Thank you.

DAN WATERMEIER: Yeah.

FRIESEN: Thank you, Senator Moser. Senator Bostelman.

BOSTELMAN: Thank you, Mr. Chairman. Thank you, Commissioner, for being here. Follow-up question is, I think, maybe what Senator Moser was talking about. In 2021, in the first round, 43 percent of the allocation went to unserved area and then 57 percent into underserved. And then this last time, 13.9 percent went to unserved and 86.1 percent went to underserved. Can you explain--

DAN WATERMEIER: I think it's the other way around. The higher percentage was the unserved in the second round.

BOSTELMAN: 13.9 was unserved and 86.1 percent was underserved.

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DAN WATERMEIER: Well, those numbers I just read there, if you added the 2,200 plus the 260, a large percentage of that, a larger percentage of that would be unserved.

BOSTELMAN: Dollar-wise, but I--

DAN WATERMEIER: Oh, I see.

BOSTELMAN: --mean people wise, connecting locations, right?

DAN WATERMEIER: So I'm-- no, I'm-- going back up. I'm not following your question.

BOSTELMAN: So a map that-- so I don't have the amount awarded in the second. So in the first one, in unserved tier one, the amount awarded was eight million-- \$8.2 million, right?

DAN WATERMEIER: No, it should have been 19.7.

BOSTELMAN: And locations was 3,000 and, and the unserved was ten-- 11,000 with locations, 39. So location served in the second bridge act, unserved was 1,700 and underserved was 10,800-- 10,900-- 10,800. That's the numbers that I--

DAN WATERMEIER: I'm-- I'll have to back up and--

BOSTELMAN: Is that, is that wrong?

DAN WATERMEIER: Well, I don't want to question your numbers, but I think--

BOSTELMAN: So--

DAN WATERMEIER: --maybe-- I maybe wrote my testimony to something different than what you're speaking to.

BOSTELMAN: So-- well, my question is, is the breakdown of where the funding, where-- who was-- where the funding-- when it was unserved and underserved, where we focused on to give the, the funding to. It seems like in the first bridge act, it was more equal, unserved and underserved. And in the second bridge act that we just completed, most of the funding-- most of the target recipients were unserved-- underserved, not unserved.

DAN WATERMEIER: No, most of them were unserved. The 2,200 is the unserved, meaning there were less than 25/3.

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BOSTELMAN: OK.

DAN WATERMEIER: The 206-- 260, excuse me, is the underserved, meaning they're somewhere between 25/3 and 120.

BOSTELMAN: OK. Got my-- guess my number was wrong, so--

DAN WATERMEIER: Well, I'm not sure about that, but it really was a flip. In the first bridge, it was highly towards-- didn't-- we would-- we didn't want it to be that way, but it turned out to be it covered and supported the underserved. And on the second round, we really got it flipped to where we're-- now we're serving the unserved.

BOSTELMAN: [INAUDIBLE]

DAN WATERMEIER: And that's why it's so much more expensive.

BOSTELMAN: Well, cost wise--

DAN WATERMEIER: Yes.

BOSTELMAN: --the unserved is more expensive.

DAN WATERMEIER: Yes.

BOSTELMAN: I understand that.

DAN WATERMEIER: Yes.

BOSTELMAN: But the whole point of this is to get to underserved-- I mean, unserved and underserved is secondary.

DAN WATERMEIER: Secondary, correct.

BOSTELMAN: And what it seems to be is we're-- we went to more underserved versus underserved on the second time.

DAN WATERMEIER: We did, we did.

BOSTELMAN: So does that mean--

DAN WATERMEIER: We took the applications in the order they came and we-- I think we awarded about 35 to 40 percent of the applications.

BOSTELMAN: So how much more do you think-- do we have that's unserved in the state?

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DAN WATERMEIER: Oh, I just saw that number yesterday. I mean, I think, I think there's clearly 26,000 unserved locations and 135,000 that are underserved.

BOSTELMAN: And is that off the current FCC map?

DAN WATERMEIER: I can't tell you where I got that number at.

BOSTELMAN: That's fine. I mean--

DAN WATERMEIER: I don't think it is.

BOSTELMAN: I'm just kind of curious where the data comes from for that because--

DAN WATERMEIER: Yeah.

BOSTELMAN: I mean, that's part of the mapping process to figure that out. But--

DAN WATERMEIER: It is.

BOSTELMAN: --you know, just where that's at. The, the other question for clarification for me on what you talked about-- and I'm understanding on the BEAD for the, the second part of the on, on-farm traceability solutions.

DAN WATERMEIER: Yes.

BOSTELMAN: What is-- could you explain that to me? What's this? Is that because it's, it's wireless? Is-- or is that because it's the, it's the equipment being used?

DAN WATERMEIER: I think it's where it's going. It's not actually going to connectivity. It was going to be going to specific uses and specific hands. That's why it's not going to qualify under the BEAD grant.

BOSTELMAN: So it's, so it's going to-- so the fiber goes to the farm, the business, whichever.

DAN WATERMEIER: It could, yes.

BOSTELMAN: Then the idea was, was it's wireless from there out to say the pivot to turn them on or off.

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DAN WATERMEIER: Um-hum.

BOSTELMAN: Or it goes out to the tractor that's going down the field, applying chemicals, whatever it might be, or it goes out to a soil moisture, soil moisture monitor. So the objection is, is that those uses do not apply in the BEAD?

DAN WATERMEIER: That's correct. I think that would be a simple analogy of it, yes.

BOSTELMAN: So is that the wireless service that doesn't apply?

DAN WATERMEIER: I think it's-- well, for one thing, you need-- the money's going through. It may not be on ETC status through when we get it funded through an ETC. That would be probably the first thing I would-- I look at. But I wish Myron Dorn was here. I know he introduced the bill and had it in Appropriations. It'd be good to talk about it, but I think you have people lined up behind me that want to talk about that precision ag piece as well.

BOSTELMAN: Yeah.

DAN WATERMEIER: But it's my understanding it's going to be difficult for us to administer it through the BEAD.

BOSTELMAN: Yeah, I mean because we're talking wireless connectivity. Well-- and that brings the question into any wireless connectivity.

DAN WATERMEIER: I think the fear was that cost was going to be put into a soil moisture probe or very specific equipment on an individual's balance sheet and that just it's going to fall outside of BEAD. I think it's as simple as that.

BOSTELMAN: OK. Thank you.

FRIESEN: Thank you, Senator Bostelman. Senator Geist and then Senator Albrecht.

ALBRECHT: Well, you might ask my questions.

GEIST: Thank you for your testimony. And I'm just curious about the mapping that, that you were talking about.

DAN WATERMEIER: Um-hum.

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GEIST: And I know that we've been hearing over and over and over about the FCC maps, but if, if you're commissioning to have maps done as well, is the FCC going to look at those in order to disperse or to give out funding? Or are you duplicating what they're doing or how is that going to blend with what we're going to see coming for BEAD?

DAN WATERMEIER: What I'd really like to have is Cullen explain the value of the second map, but what I would value and add in my term is the FCC map is a little better than the old 477 map. The fiber map that we got last week is a little bit better, but we still see a lot of holes in it.

GEIST: Right.

DAN WATERMEIER: And we're getting comments from people who say, I really can't get that or I never could get it. But I don't know-- it's going to take us about a year before we need to worry about actually getting the BEAD money here. But the challenge process right now is July-- is January 13. So that's what we're kind of anxiously working on to make sure we get enough challenges in there, the challenges map. We're not going to be able to have the Nebraska map up that quickly, even though we're close to having a vendor hired. It's not going to happen that quickly.

GEIST: So the challenge process ends the 13th for the current FCC map--

DAN WATERMEIER: Yes, it does.

GEIST: --is that what you're saying?

DAN WATERMEIER: Yeah.

GEIST: OK and so will there be then another challenge process to that map?

DAN WATERMEIER: I really think it's going to be more ongoing. I think they're getting so much pushback from other states that they're going to extend it.

GEIST: But then back to-- then if we have, through the FCC, our own map, that is-- is the FCC going to recognize that map?

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DAN WATERMEIER: We're going to use that to overlay to the FCC and use it as background. And I should really have Cullen explain that a little bit better if you want. He's going to stick around--.

GEIST: OK.

DAN WATERMEIER: --till the end of the testimony today.

GEIST: OK.

DAN WATERMEIER: He can be-- answer a couple of questions on that.

GEIST: OK.

FRIESEN: Thank you, Senator Geist. Senator Albrecht.

ALBRECHT: Thank you. One more question.

DAN WATERMEIER: Yes.

ALBRECHT: So you're talking about this 26,000 and the 135,000 that are underserved. In LB1024, we kind of put some parameters out there that certain companies could only do certain areas. Would you see this needing to be revised a bit so that they can encompass more people around them if they're actually being awarded a contract and they're already there? You know, like if I'm, like, right outside that little circle that they got to take care of. I mean, is that something that we should be looking at? And would that--- would the mapping help us understand whether we should or shouldn't be able to do?

DAN WATERMEIER: I think the mapping will help you with that. I will tell you that I think all hands need to be on deck now. And the preconceived idea of having one sort of connectivity is the best is a great idea and clearly everybody wants fiber, but there's going to be a need for this middle mile. There's going to be need for the last acre, the last home. We're going to have to look at every option we can. And I think there's some options out there. Technology is changing by the day and I think we-- there may be an option to be able to change that. But in order to change the statute in Nebraska, you change the rules here. We got to go back to the Feds to ask for permission to change--

ALBRECHT: Well, that's what I'm saying. So if, if we're-- it might not be able to happen this year.

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DAN WATERMEIER: Eventually. It will.

ALBRECHT: If that second wave of money is coming and we're not ready for it because we can't be-- we're going to be in session probably when we hear about it-- then--

DAN WATERMEIER: Well--

ALBRECHT: what happens to--

DAN WATERMEIER: --there's not going to be any BEAD money until next year. That's just the way it is.

ALBRECHT: So--

DAN WATERMEIER: You would have time to change it this year in the session, and that would give us time to go back to the Feds to adjust it, to have it approved.

ALBRECHT: OK.

DAN WATERMEIER: And that can happen.

ALBRECHT: All right, thank you.

FRIESEN: Thanks, Senator Albrecht. Any other questions from the committee? Seeing none, thank you, Commissioner Watermeier.

DAN WATERMEIER: Absolutely, thank you. Like you said, I'll have my staff here. If people need to clean up some questions, they can come back up.

FRIESEN: Yep.

DAN WATERMEIER: All right, thank you.

FRIESEN: Good afternoon.

TOM ROFLES: Good afternoon, Chairman Friesen, members of Transportation and Telecommunications Committee. My name is Tom Rolfes, T-o-m R-o-l-f-e-s, and I'm the federal program officer hired by the U.S. Department of Commerce, NTIA to assist state leaders as they prepare to implement the federal high-speed Internet and digital equity grants that would be coming to Nebraska. At the invitation, Chairman Friesen, I'll be providing information today on four separate topics: federal funding opportunities for broadband, most current

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timeline and key dates to administer the BEAD program, information about FCC mapping, and fourth, the NTIA guidance for state broadband offices as they ramp up to administer the BEAD digital equity grants from 2022 to 2027. So first, an overview of federal funding opportunities, adding to what Commissioner Watermeier has shared. The bipartisan infrastructure law passed in November 2021, created three separate programs under the Department of Commerce. Those programs include the Middle Mile Program, the Digital Equity Act program, and the Broadband Equity, access, and Deployment Program, nicknamed BEAD. The Middle Mile Program allocation was \$1 billion nationwide, and the competitive grant applications were submitted directly by applicants to the NTIA on or before September 30. Though I will note that NTIA proactively extended that deadline for one month for Puerto Rico, Florida, South Carolina and parts of Alaska impacted by natural disasters. Middle Mile grant awards announcements may begin in early spring 2023. The second program, Digital Equity Act, total allocation was \$2.75 billion nationwide, which included \$60 million for state planning grants, \$1.44 billion for state capacity grants, and \$1.25 billion for competitive grants. Nebraska was recently awarded just shy of \$600,000 for its digital equity planning grant and will be embarking on a year of stakeholder engagement and development of a state digital equity plan that could receive as much as \$7.2 million over a four-year period for the capacity grant. So the third program, the BEAD Program, is the largest, total nationwide authorization of \$42.5 billion. Nebraska applied for and has received its BEAD planning grant, just shy of \$5 million, and is now developing its five-year action plan to inform the NTIA how it plans to connect as many Nebraskans as possible to high-speed, affordable and reliable internet service. In addition to these three funds, I'll mention that Nebraska's six federally recognized tribes were eligible to apply for separate digital equity and broadband funding, and those applications are currently being reviewed. In mid October, the Winnebago tribe in Nebraska received a tribal broadband connectivity program grant of \$35.2 million in Thurston County. Nebraska is also eligible to receive \$128.7 million in U.S. Treasury Capital Projects Funding, of which \$87.7 million has been awarded for broadband development in the First and Third Congressional Districts. Nebraska providers also have received Federal Universal Service funds from the FCC in the form of CAF II, RDOF and U.S. Department of Ag funding from the ReConnect program. Second item, most current timeline of key dates to administer the BEAD program. Nebraska submitted its BEAD planning letter of intent at the signature of the Governor on July 18, and its planning grant proposal was submitted on August 11. Nebraska Public Service

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Commission received its CD-450 funding award document in early November and Nebraska had 30 days to sign its acceptance documents and 45 days to submit its human subjects research qualification. The remainder of the chronological dates and deadlines are listed in table 1 below in the testimony, with the most significant deadlines listed in bold print. So the period of performance has been established, November 15, 2022, to November 14, 2027. In addition, the initial report deadline will be due on February 13, 2023, and the five-year action plan submission on or before August 12, 2023. So things are rapidly moving in motion for the state planning team. And then the other future forms and reports are listed in that table. Third item, the FCC mapping program. The FCC's broadband data collection map was made public on November 18. Individual and bulk challenges to location fabric and service availability data submitted by Internet service providers can be submitted at any time, as the FCC intends to update the map in perpetuity. However, the commission has represented to NTIA that challenges submitted on or before January 13 give the FCC the best opportunity to ensure that those challenges are resolved and reflected in the next version of the map on which NTIA intends to determine each state's budget allocation for the BEAD program. And you know that date to be June 30, 2023. The inset in my testimony would guide you as an individual to make a challenge for an individual address or more to the FCC map. Beginning on September 12, 2022, state, local and tribal government service providers, other entities could file bulk challenges to the broadband serviceable location fabric and that process continues. Here's a link to the FCC Challenge Process help page in my printed testimony. I was asked to comment on the NTIA's confidence in the accuracy of the national broadband map. The FCC has developed a process so that the map will continue to get more and more accurate as more data is submitted from individual states and territories and other entities. Some states are in the process of devising their own version of the broadband map to better understand their geographic challenges and to more confidently submit bulk challenges. Ultimately, it will be the states, not the FCC map, that will determine eligible project areas based on additional information not included in the FCC map, such as service areas subject to funding commitments from state infrastructure programs, other federal agency programs, or private investment. So by June 30, 2023, NTIA will announce each state's allocation of BEAD funding, primarily based on the relative number of unserved locations. And this would be in the entire United States and six territories, and that would be any broadband serviceable location that lacks access, any-- excuse me-- to reliable broadband service at speeds less than 25 megabits per second

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downstream and 3 megabits per second upstream and latency levels low enough to support real-time interactive applications. Further, Nebraska will have the opportunity to run its own state challenge process to further refine the FCC maps and ensure that no Nebraskan is left behind when it's time to decide where to build infrastructure using BEAD funds. And fourth and finally, NTIA guidance on state administration of federal funding programs. So the NTIA has made available to states and territories a number of resources to assist with broadband office creation and staffing. Those include the office creation toolkit and the office creation checklist and other resources found on the website cited in my testimony. Excerpted pages from these resources are appended as you have them before you. And again, only an excerpt. The NTIA sponsors State Broadband Leaders Network that meets regularly and is providing resources and training, along with attendance by fellow federal program officers and other NTIA staff. So all the state broadband offices staff get together monthly or bi monthly across the entire country on virtual meetings. And states must have enough staffing capacity and expertise to properly administer millions of dollars of grant awards, dozens of subaward projects, and to comply with numerous federal reporting deadlines. To quote the office creation checklist, at a minimum, a broadband office should have at least six full-time staff members, or their equivalent, fulfilling the functions outlined within the identified key portfolios. States may need more staff or more staff in a specific portfolio area depending upon current capacities of broadband program. And these key portfolios are listed in the handout: program leadership; legal, regulatory, and policy; grants management; technical programs; communications and outreach; as well as digital equity and inclusion. So these positions do not all need to be full-time staff of state government, but their equivalents, at a minimum, are going to need to be available to the broadband office. If the state doesn't want to have additional full-time staff within the broadband office, this capacity can be contracted for or lent from other areas of state government. NTIA's assumption is that each state will manage their office differently with the mix of state employees and contractors to meet the goals of the program. Ultimately, there are many ways to get the job done, but get the job done properly will require a well-resourced office. So at this point, I'd like to thank Chairman Friesen, members of committee for the opportunity to present testimony. I'll ask if there are any clarifying questions from members of the committee. If I cannot answer any question in real time, make any-- every effort to get answers back to the committee in the days following. Thank you.

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FRIESEN: Thank you, Mr. Rolfes. Are there questions? Senator Bostelman.

BOSTELMAN: Thank you, Chairman Friesen. Thank you, Mr. Rolfes, for being here. So explanation on some deadlines or some FCC requirements, if you will, help me understand those so-- I want to make sure I'm, I'm on the right track with this. So the bulk challenge process for location fabric data was due the 11th of November.

TOM ROFLES: 10th.

BOSTELMAN: So that was the opportunity for the PSC to submit data for a challenge is-- or anyone else, is that correct?

TOM ROFLES: Or any other entity, correct.

BOSTELMAN: And PSC did not?

TOM ROFLES: To my knowledge, no.

BOSTELMAN: OK. Then the next date that we have is January 13, I think.

TOM ROFLES: Correct.

BOSTELMAN: And that's for service availability challenges by individuals or others, right? So between the 10th-- November 10 and January 13, can you explain to me the significance between those two dates as far as what can be submitted?

TOM ROFLES: They become more crystal and clear in the past few weeks from the FCC's office hours.

BOSTELMAN: I'm sorry, say that again.

TOM ROFLES: So the FCC has conducted a number of what they call office hours, open periods of time where state officials, individuals like myself, can join a call and ask clarifying questions or what has--

BOSTELMAN: OK.

TOM ROFLES: --been communicated by their agency. November 10 became a much more significant date in my mind just in the last few weeks. So not realizing, I think, by many parties that that was an essential date in order to clarify any location fabric at a bulk level. Now, any kind of challenge from many individuals in the committee, anyone in the audience can still be submitted, but those are not likely to

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appear until November 2023, which would be the third version of the map. Second version of map by June 2023 determines each state and territorial allocation for BEAD.

BOSTELMAN: OK, so if I'm understanding right, the November 10 deadline will determine the next map and allocations for this coming year, what will come out?

TOM ROFLES: It would determine the number of allo-- broadband serviceable location addresses that appear--

BOSTELMAN: OK and then the NTIA will take that data and determine--

TOM ROFLES: Right.

BOSTELMAN: --the distribution of funds.

TOM ROFLES: But the January 13 would be a deadline for challenges related to actual service availability.

BOSTELMAN: Well, but that's individuals like myself and trying to get people in the--.

TOM ROFLES: I'm--

BOSTELMAN: --hundreds or-- people in the state of Nebraska actually respond to it, so. What-- is that right?

TOM ROFLES: It, it doesn't eliminate the opportunity for bulk challenges. You can still.

BOSTELMAN: So is there-- is it possible that we will not receive as much funding this year as what we potentially could have if we would have known about the the 10th of November date, individuals-- I mean, whoever, whoever wants to challenge it, whether it be the PSC, whether it be anybody else--

TOM ROFLES: You're--

BOSTELMAN: --is there funding potentially that we won't be receiving now because of that?

TOM ROFLES: You're asking is it possible and the answer would be it may be possible.

BOSTELMAN: Thank you.

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FRIESEN: Thank you, Senator Bostelman. Senator Geist.

GEIST: Thank you. I'm, I'm focused on your last page about the, the staffing requirements or suggestions, I guess.

TOM ROFLES: Guidance.

GEIST: Yes. So I know we have established a broadband coordinator, but this is recommending six full-time staff members. And I know that's just guidance. So what we established statutorily the last couple of sessions was a-- the coordinator, but I don't believe there are additional people that work with that person specific. That person works within OCIO. So is what we have adequate to oversee this distribution of funding?

TOM ROFLES: What's been identified in statute is what could become the overall leadership position of the office.

GEIST: Um-hum.

TOM ROFLES: What's been proposed as part of the \$5 million of planning funds identifies a number of key positions that correspond to these portfolios.

GEIST: OK.

TOM ROFLES: And what the state may want to do is look at any kind of gap analysis of what's being recommended in the guidance and what's been described as potential hiring, as Commissioner Watermeier mentioned, which is underway.

GEIST: OK. All right. Thank you.

FRIESEN: Thank you, Senator Geist. Any other questions from the committee? So is there-- I-- in the article that I've been reading, I mean, it sounds like there's a lot of states pushing back on when the maps might be adopted to disburse funds because a lot of states were caught. Is there a, is there a chance that you feel that those maps and everything could be pushed back and they would allow more of the bulk challenges? Or are they going to stick to their timeline?

TOM ROFLES: I have no answer for that question.

FRIESEN: OK. I mean, again, I think other states were caught in the same thing. They weren't ready in order to do the bulk challenges. I

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know individuals now are able to go out there and do that, but unless there was a really concerted effort in a short amount of time, there's not a lot of work going to get done in that respect.

TOM ROFLES: And my superiors remind me that if every state is in a similar situation, remember, the \$42.5 billion is divided by the number of unserved addresses across all states and territories. And if every state is similarly situated, then the-- whatever disadvantage may be applied across all.

FRIESEN: The first allocation of money might be smaller than expected.

TOM ROFLES: It could be larger than expected--

FRIESEN: OK.

TOM ROFLES: --or it could be just what we expected.

FRIESEN: OK.

TOM ROFLES: That's to tune in on June 30.

FRIESEN: After that, I mean, is the, the BEAD program, as we're established so far and the way it's going to be disbursed once we get to that process, are there any things that we need to look at yet that will make that run smoother? Or do you think we're positioned pretty good in Nebraska to use those dollars?

TOM ROFLES: Capacity wise, that's in process for development, right? In terms of changing, if we would fast forward to 2028, the culmination of all the federal funding, the end in reporting involved projects and programs, the question to be asked is how many Nebraskans are now served and are there any left that are underserved or unserved? And will the federal money between now and then do everything that's required? Or can the trajectory be changed by state alterations, policy investments and so on to assure that by 2027 or '28 that it is truly Internet for all? And that question is what every state is wrestling with right now. Are we going to get enough to do everything when we know that there's high-cost sites out there or are there actions that we can take now or midterm that could change the potential outcome?

FRIESEN: When do you think the first BEAD dollars will arrive in the States?

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TOM ROFLES: Commissioner Watermeier is accurate. So they'll submit their five-year action plan. Within 270 days, it will be reviewed. And then possibly, I think it says as late as December 2023, could be there, no less than 20 percent funding release requests for the first tranche of whatever that allocation is. So that would be early 2024 administration probably.

FRIESEN: OK. Thank you. Any other questions from the committee? Seeing none, thank you for coming in.

TOM ROFLES: Thank you.

FRIESEN: Welcome.

PATRICK POPE: Good afternoon. Chairman Friesen and members of the Transportation and Telecommunications Committee, my name is Patrick Pope, P-a-t-r-i-c-k P-o-p-e, and I am the special assistant to the vice president of corporate strategy and innovation at Nebraska Public Power District. Prior to this position, I was NPPD's president and chief executive officer for nine years. My focus is now solely on NPPD's interest in the promotion and facilitation of high-speed, reliable and affordable broadband service in outstate Nebraska and possible public-private partnerships furthering that goal. NPPD serves all or part of 86 counties in Nebraska, largely-- in largely rural areas of the state. Access to broadband service in outstate Nebraska is critical for economic development, healthcare, education and precision agriculture. Industrial development prospects now include access to high-speed broadband on their list of must-haves when evaluating potential sites to build new facilities and existing businesses can't grow without it. That's a clear threat to NPPD's core business of selling electricity and our customers' ability to enjoy the good life, which is why NPPD is so interested in helping to solve this issue. I believe Nebraska's Broadband Bridge Act and the Public Service Commission's administration of it has worked relatively well. If all you're interested in is an inside-the-box mechanical process to distribute subsidy dollars to traditional incumbent telecommunications providers, and you're not worried about ultimately serving all broadband serviceable locations throughout rural Nebraska. If instead you are looking for a process that fixes Nebraska's rural digital divide, things will need to change. Best practices being employed by neighboring states to fix their rural broadband problems include hiring a dedicated full-time rural broadband coordinator with experience in broadband program management, public-sector financial management and budget oversight, facilitation of community groups and

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staff supervision. Many states have had this position filled for some time and are well on their way towards developing strategies and tactics to meet their goals of connecting every broadband serviceable location to 100 by 20 or greater service by a date certain. Nebraska has designated a budget management analyst who already has full-time responsibilities and to the extent I can determine, none of the authority or responsibilities inherently needed to be effective in this role. Nebraska's goal appears to be to simply distribute all the money it gets, whether that ultimately fixes the digital divide problem or not. Other states are also ahead of Nebraska when it comes to hiring sufficient staff to attend to areas such as program leadership, legal, regulatory and policy, grants management, technical programs, communications and outreach, and digital equity and inclusion. I've heard rumors of staff increases at the PSC, but none reporting to Nebraska's part-time broadband coordinator. Both the leadership and staffing issues point to the bifurcated approach Nebraska has chosen to try and fix its digital divide problem. What Nebraska needs is a visionary rural broadband coordinator at a high level within state government who has financial authority over grant dollars received by the state, as in-- and is empowered to take the lead in solving the state's broadband problem. While this person may very well choose to employ the Nebraska Broadband Bridge Act mechanism to distribute a portion of the grant dollars received, mandating that all funds flow through the PSC is a recipe for failure. The Nebraska Broadband Bridge Program, by design-- and I mean provided-- provider-submitted project proposals-- may leave thousands of rural locations unserved or underserved because the sparsely populated areas do not translate to future profitability for providers. Nebraska faces several risks that should be and should have been addressed. The broadband data collection fabric maps, an FCC dataset that includes all locations in the United States and territories where fixed broadband Internet access service has been or could be installed, are extremely inaccurate and may have a significant impact on the amount of money Nebraska receives in BEAD allocations. The state should have submitted a bulk location challenge by November 11 in order to make it into map version two. I'm uncertain as to why Nebraska's rural broadband coordinator or the PSC, which actually has access to the FCC maps, failed to do this, even though highly accurate location data is available for Nebraska's power districts. It may cost Nebraska a significant amount of BEAD funding. The total combined funding from the U.S. Treasury, the National Telecommunications and Information Administration, Nebraska Broadband Bridge Program and other sources may be insufficient to connect every broadband serviceable location

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with speeds greater than 100 by 20 by the end of the BEAD grant period. That is a key reason why I believe Nebraska needs to tap into the best of both the private and public worlds to solve our rural broadband problem. Both have capabilities and expertise that, when combined, can bring rural Nebraska the broadband network it desperately needs and deserves. Private entities bring their experience and knowledge of technology and actually running broadband businesses. Public entities have access to patient capital, low cost, and with longer time horizons that allow business cases to be feasible in situations where private capital won't tread. And they have a long history of building infrastructure. Public power in particular brings infrastructure such as fiber-optic cable and towers that are integral to their electric operations and can't be outsourced due to security, cost and reliability issues. Finally, existing Nebraska statutes regarding who may provide broadband conflict with the BEAD notice of funding opportunity, which states the eligible entity may not exclude, as a class, cooperatives, nonprofit organizations, public-private partnerships, private companies, public or private utilities, public utility districts or local governments from eligibility as a subgrantee. This NOFO requirement could impact the amount of BEAD funding Nebraska receives and should be addressed by the Legislature. Despite years of significant subsidies at both the state and federal level. Nebraska's exclusive reliance on a private-sector investment strategy alone has clearly demonstrated an inability to close the digital gap. The Nebraska Broadband Bridge Act is not in and of itself a solution, and the sooner the Legislature realizes this and institutes change, the better chance we have to finally fix Nebraska's digital divide problem. I'd be glad to answer any questions.

FRIESEN: Any questions from the committee? Senator Moser.

MOSER: So the previous testifier indicated that it costs \$8,326 to add a customer to the qualified speeds. In your public-private partnership applications that you've submitted, would your cost per location have been that or less or--

PATRICK POPE: I, I don't have access to those numbers, but I would point out one of what I consider the, the huge public-private partnership success stories in the state of Nebraska and that happened right south of here in Gage County. Gage County committed \$4 million of their ARPA funding, took the initiative, put a request for proposal out on the street, entertained proposals from several providers. And in the end-- and I, I'm open to be corrected later on because I think one of the Gage County commissioners is here and is going to testify--

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they were able to secure an agreement that brought fiber-optic cable to 90 percent of the rural residences in Gage County. I've not, in all my time dealing with rural broadband and trying to fix this problem, seen a success story like that. We also have another one on deck right now. The Platte County commissioners have committed \$1 million of their ARPA funding and they're working with the Loup Power District, which now has a request for proposals out on the street. I'll be very interested in seeing what comes out of that. But in general, to your question, I think we have the best opportunity to secure the best service for the lowest possible price through a competitive process like that, combining the skills, the capabilities of both the public and private sectors.

MOSER: You know, in-- I-- your resume, I see that you were-- I have personal knowledge of this, but for everybody else-- that you were CEO of NPPD for a number of years. Now this is recent history, of course, but are you familiar with the history of public power in Nebraska?

PATRICK POPE: Oh, very much so.

MOSER: OK.

PATRICK POPE: All the way back to the--

MOSER: So how-- yeah, well, to what, the '30s or what was it?

PATRICK POPE: Well, we can go back to the '30s if you'd like.

MOSER: Yeah. Well, anyway, just as a background question. So if we were to use the system that we're using now to improve broadband, to provide electricity to customers in Nebraska, you know, how would you contrast the--

PATRICK POPE: I don't-- I think we'd still have areas of the states still in the dark. If you're talking about using the Nebraska Broadband Bridge Act in a electrification--

MOSER: Yeah.

PATRICK POPE: --I don't think it would work. You know, let's take a step back and let's think about what we're really trying to do here. We're talking about rural broadband. Some people think about that. Well, that's technology and whatnot. Yeah, but, you know, it's not rocket science. What we're really talking about here is an economic development effort. And if you really want to solve this, if you don't

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want to simply spend whatever money comes your way and hope for the best, if you really want to solve this, you need to use some of the techniques that the economic developers use. If you've got a prospect that's looking at Nebraska or looking at your community, you're normally going to put together a group of people that are going to brainstorm and they're going to figure out how to make that happen. They're going to figure out what that prospect wants. They're going to try and figure out who can do what. And there may be contributions from the private sector. There may be contributions from the public sector. But in the end, they need to bring all of that together to be successful. The mechanism that we have now is simply a mechanism. We have X dollars come in the door. We have a provider-- a service provider submit in applications. There's no grand plan of how-- there's no vision of how we get to the point where at the end of this process, when the money's gone--

MOSER: What do we got?

PATRICK POPE: --we can look back-- pardon?

MOSER: What do we have when it's done?

PATRICK POPE: What do we have? And, and quite frankly, if we continue down the path that we are on right now, people in many different areas will be able to honestly say, well, I did my job. I did what I was supposed to do. I acted in accordance with statute. I acted in accordance with the rules that we have in this organization. But we still didn't achieve the objective.

MOSER: Well, the problem is, is that it's just not economic for Internet providers to provide that last mile of service.

PATRICK POPE: I--

MOSER: And they're probably never going to be, you know?

PATRICK POPE: Correct and that's why we need to bring the public and the private sectors together. They did it in Gage County. They're going to do it--

MOSER: Now, there are prohibitions against public power providing Internet to individuals, correct?

PATRICK POPE: And I'm glad you brought that up because even if we don't-- let's not go back to the 1930s. Let's go back to probably the

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'90s when there was a significant amount of head-butting between the private telecommunications industry and public power about Internet service. Even at that point, my predecessors were not talking about providing retail broadband service to individual customers. They were talking about utilizing the infrastructure that was installed by the power districts to help further the goal of rural broadband. And today, we still talk in those terms. When I talk about, you know, well, you look at Gage County or you look at the Loup-- or Loup Power District, I can guarantee you that neither Gage County nor the Loup Power District wants to be in the rural broadband business. They don't want to build. They don't want to have to service those customers.

MOSER: Maybe they're spending more than \$8,000 a customer.

PATRICK POPE: I doubt it.

MOSER: Well, the public-private partnership thing is permissible under current law.

PATRICK POPE: It is.

MOSER: But the power district can't actually provide Internet service to a private individual like they can electricity.

PATRICK POPE: Well, and that's--

MOSER: Is that right?

PATRICK POPE: --to-- that is true under current law. But to my last-- the NOFO comments that I made, that's an issue that I think the state's going to have to address, not that, quite frankly, the power districts want to be in that business. But there's a difference between oh, we allow public-private partnerships in this process and having someone that taps into that synergy, brings those parties together and makes it work. The one experience that I was personally involved in with a public-private partnership involving a power-- rural power district ended quite badly based upon what we considered a very poor interpretation of a challenge. And I, I told all the public service commissioners that this was going to set a precedent.

MOSER: Well, I don't particularly want to try those cases here, but--

PATRICK POPE: Nope.

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MOSEER: --but-- and I don't think the power districts would want to get into individual customers providing Internet because there's a lot higher maintenance there, I would think, in trying to maintain an Internet connection than what there is just providing electricity.

PATRICK POPE: I've told many of the rural managers, stay away from it. Stay away from being in that business. You got to go out, you got to hire technicians, you got to set up networks. You've got a lot of-- do a lot of stuff that you don't do today.

MOSEER: Gotta do a lot of hand-holding with customers--

PATRICK POPE: Stick with putting stuff in the ground or hanging it on poles to facilitate and help the Internet service providers, the private Internet service providers be even more successful.

MOSEER: OK. Thank you very much. I didn't mean to drag you off on a tangent there.

FRIESEN: Thank you, Senator Moser. Senator Geist.

GEIST: Thank you. And you mentioned Gage County. Can you tell us what the partnership looked like with public power in Gage County?

PATRICK POPE: It actually didn't involve public power--

GEIST: So it involved--

PATRICK POPE: --in Gage County. It involved--

GEIST: --just the county?

PATRICK POPE: --the Gage County Commissioners.

GEIST: OK.

PATRICK POPE: And Gage County Commissioner Emily Haxby is in the audience and I do believe she plans on testifying.

GEIST: Oh, good. OK.

PATRICK POPE: She's a real go-getter.

GEIST: OK. Thank you. I'll wait for that then.

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PATRICK POPE: I was, I was actually mortified when I found out what Gage County was doing, not because I thought it was bad. It's because why didn't we hear about this sooner so that we could get public power involved and help them do even more? It was a missed opportunity on our part, but we're working very closely today on this effort.

GEIST: So it just involved the county--

PATRICK POPE: County--

GEIST: --partnering with private sector?

PATRICK POPE: A private Internet service provider.

GEIST: OK. All right.

FRIESEN: Thank you, Senator Geist. Any other questions from the committee? So I'm going to take you back a few years though. When we talk about rural electric--

PATRICK POPE: Um-hum.

FRIESEN: --I've still got areas that are not served by electricity. And you've been working on it for 100 years. I still have to pay to bring that service in if I want it there.

PATRICK POPE: OK.

FRIESEN: So, I mean, I get that you're trying to be helpful.

PATRICK POPE: Um-hum.

FRIESEN: But again, I think maybe you should concentrate on getting electricity where it needs first and then we can work on this.

PATRICK POPE: Yeah.

FRIESEN: So tell me what efforts you've made to do the public-private partnership to get something done? Because I think one of the rural electrics had a very successful public-private partnership with their private providers in getting their substations hooked up. They partnered and--

PATRICK POPE: Well, I would say--

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FRIESEN: --according to one of their directors at least, it sounded like they had a good project.

PATRICK POPE: I don't know which one you're necessarily talking about, but the ones that I have seen have not been true mutually accountable public-private partnerships where both parties take risk and see reward. The one that you may be referring to, quite frankly, the power district was required to pay a contribution of-- in construction, as you referred to it, on the electric side to get fiber to their substations. And they're mostly a customer of that private Internet service provider.

FRIESEN: I mean, I've been told of cases, though, where a private industry would have put fiber out there and given the power industry several strands to run their substations with. There's all sorts of ways of structuring this, but it seems like there's this battle of who owns the fiber. And so I have constantly run into when I talk to rural electricians, if you really want fiber out to rural, why don't you roll up-- lower your pole attachment fees? Why don't we work on solutions that--

PATRICK POPE: It could be--

FRIESEN: I think you can work together. I really do.

PATRICK POPE: And that could be an option. That could be.

FRIESEN: In some areas, I think it's going to be dependent on that partnership.

PATRICK POPE: But right now, in the mechanism that the state has set up, there's nobody helping drive those conversations. And I do think there--

FRIESEN: Well, I agree that the broadband coordinator position that we created here, I think we all intended to be different.

PATRICK POPE: Yeah.

FRIESEN: It was created with no funding and, and now it's not full-time funded. And I would like to see it fully funded. And I've talked to people that are going to be in charge of that. And I think it's an extremely important position that should be well funded. It's going to be a-- it could make a difference on whether or not how we get broadband.

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PATRICK POPE: I agree.

PATRICK POPE: Any other questions from the committee? Senator Albrecht.

ALBRECHT: I just have to ask. Thank you. OK, so you would like to get in to help, obviously, to get them-- to either hang on a pole or use your-- maybe use your staff and your equipment to possibly bring the fiber underground. Is that what you're kind of thinking?

PATRICK POPE: There's lots of different ways that you can do it.

ALBRECHT: OK, so let me ask you this. In doing so, you would charge them a monthly fee for the duration of however long it's on your pole or under your ground. And I think that's, that's the rub here, I can see, because there's, there's a bottom line for every business--

PATRICK POPE: Um-hum.

ALBRECHT: --on whether it's profitable or not. And when you have thousands of dollars-- where I live, to get it to come to my house or to be able to find it-- a way to get it to Senator Bostelman's house, there's a cost. So I can see where the rub is on both sides. Hey, we want to help, but to what, to what end? But then, at the same time, when you have the vendors who are taking care of the customers, who are continuing to, to put the money in and to have to put the money up to even get any federal funding and to hopefully, you know, backwash whatever they've lost, that's where-- I mean, it's like, yeah, you do get need to get together. And everybody needs to sit down and figure it out because I feel like as long as I've sat here, we're the ones doing the babysitting. Like, hey, let's all get along. Let's all try to figure something out here. And we're Nebraska. It shouldn't be that tough.

PATRICK POPE: I agree.

ALBRECHT: I appreciate what you're saying here. And, and you have the ability, because it says you do, to, to get in the game. But you'd have to be working with the vendor who's got the customer who has to put the-- everything in, you know, because right now, we're asking, do you have supplies, do you have manpower, do you have equipment? Do you have, do you have, you have and if you don't have it all, you can't get it anyway.

PATRICK POPE: I agree.

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ALBRECHT: So, so there's a little bit of time between now and January when we decide to get all these bills written up. If there's something that works for, for everybody, we're more than happy to listen. And I appreciate, you know, you're coming to the table and helping us try to figure it out because people in the rural districts get-- they need the Internet.

PATRICK POPE: They do.

ALBRECHT: We need it in every which way. And if-- and I always said, if we can have power to the home, how can we not have our Internet?

PATRICK POPE: Absolutely.

ALBRECHT: OK. So thank you. Please go to work with them to figure out how we can get that done.

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

PATRICK POPE: Thank you. Have a merry Christmas.

FRIESEN: Merry Christmas.

ALBRECHT: Merry Christmas.

FRIESEN: Welcome, Mr. O'Neill.

TIP O'NEILL: Thank you, Senator Friesen. Members of the committee, Senator-- Chairman Friesen, I'm-- 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 telecommunications services to Nebraskans across the state. Our companies have made substantial investments in Nebraska that serve significant numbers of customers and employ many of our citizens. I-- one of the handouts, it's entitled NTA members are putting in the work. You know, we got this information when we surveyed our members last year relating to current and planned broadband development projects. This one-page document is a summary of that survey. As you can see, NTA members have been investing in their networks and will continue to invest even more with the assistance of state and federal support for the benefit of their customers. We sent a follow-up survey to our members earlier this month and we will be updating this information early in 2023. But you can see we made 92,000 fiber

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connections in '20/2021. We plan to make 96,800 fiber connections in 2022. We have a lot of money invested in our networks and, and we've, we've been doing, we've been doing work. We haven't just been sitting around waiting for the federal money to show. The NTA views the next five years as a critical period for realizing this committee's vision, shown by its support and passage of the Nebraska Broadband Bridge Act and subsequent legislation of bridging the real digital divide that exists in Nebraska. We have an unprecedented opportunity with the infusion of state and federal support for those broadband deployments in unserved and underserved areas of Nebraska to bridge that gap. Our state cannot afford to ignore this opportunity, and we need to ensure we have appropriate resources on the state level to do so. We support providing additional resources to the state broadband coordinator's office so Nebraska can make-- take advantage of this opportunity. To successfully administer BEAD, the state broadband office must act as a grant administrator, regulatory expert and an informed leader on broadband gaps, technology options and required investment. The office will need to engage in outreach to gather information about broadband needs and priorities from many stakeholders. The office must also take the lead in providing grant support, asset management, data collection and policy considerations in addition to the required outreach and engagement efforts. We appreciate the work that Patrick Redmond is doing in coordinating meetings of stakeholder groups, the Public Service Commission and the Office of the CIO. But as we move forward, we know that a state broadband office will need additional staff to perform all the work, including significant federal reporting requirements that will be required. And the state has an obligation to ensure that assets are not squandered but are instead successfully deployed to bring advanced services to Nebraskans in unserved and underserved areas of the state. We ask this committee to work closely with the Governor's Office and the Appropriations Committee to provide adequate resources for the state broadband office. We know there are significant federal resources to ramp up this effort from the federal planning funds. I'd be happy to answer any questions you may have. Thanks for your consideration.

FRIESEN: Senator Bostelman.

BOSTELMAN: Thank you, Chairman Friesen. Thank you, Mr. O'Neil, for being here. Just a couple, couple quick questions. On your survey--

TIP O'NEILL: Yes.

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BOSTELMAN: --your 92,000 or your 96,000 connections and '21-22, are those in town or outside of town?

TIP O'NEILL: It-- they, they are, they are both.

BOSTELMAN: [INAUDIBLE]

TIP O'NEILL: Some of them, some-- not all of them are in unserved locations by any means.

BOSTELMAN: And then--

TIP O'NEILL: Not all of them even are in underserved locations.

BOSTELMAN: And I-- yeah, I totally agree with you on the, on the need that we have before us and the-- and setting up an office and getting that done. I'm just-- and I appreciate your members for what they do. The one thing that we're-- the difficulty of what we're at right now is to reach all those areas that you all aren't. Because there's areas that, one, you're not going to be able to get to cost wise. And the other one is there's going to be another provider there that's not going to let you get-- do that work. So I was just curious as to, you know, the number of those, if they're towns or if they're out-of-towns and how that might be.

TIP O'NEILL: Right.

BOSTELMAN: Thank you for your testimony. Appreciate it.

TIP O'NEILL: Sure.

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

MOSER: Currently, are Internet providers prohibited from serving a customer anywhere in the state?

TIP O'NEILL: No. An Internet service provider can operate either as an ILEC provider, which is their, their home area, or as a CLEC, so-- and they, they can op-- they can operate as a--

MOSER: So there aren't necessarily regulations that are keeping--

TIP O'NEILL: No.

MOSER: --people from providing service to customers.

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TIP O'NEILL: No, no, they are not.

MOSER: How do you, how do you-- what's your idea on how to solve the unserved customers? We got, according to what Commissioner Watermeier said, I believe-- or no. Well anyway, I think, I think the number was 26,000 that have no Internet in Nebraska. How do we provide Internet to them?

TIP O'NEILL: Well, again, I'm trying to speak on behalf of, of my members. And I would say that if you look at the criteria for, for both the Broadband Bridge Act and BEAD, the priority for both of those programs is for customers in unserved areas. So if, in fact, a company cannot make a business case to serve a customer in a particular location, that's the purpose of, of the state and federal subsidies, is to be able to serve those people when you can't make a business case. I mean, it's, it's-- you've got a lot of companies that are over-- overbuilding populous areas and-- because they think they can make a business case there. You don't see very many companies overbuilding some place-- some exchange up in the Sandhills because you just don't have enough customers to make it pay.

MOSER: OK. Thank you.

FRIESEN: Thank you, Senator Moser. Any other questions from the committee? Do you keep a record with your companies today? Could they, you know, kind of collect some data on how many public-private partnerships are out there?

TIP O'NEILL: I'm, I'm sure they could.

FRIESEN: Yeah.

TIP O'NEILL: I--

FRIESEN: And how many attempts, I guess, to work in the public-private sectors and, and getting out there? I mean, I've heard of people wanting to do this. I've heard of the rural electrics want to do this. I'm just starting to wonder if anybody's talking to each other out there. So it'd be interesting to hear how many, how many attempts have been made and--

TIP O'NEILL: Um-hum.

FRIESEN: --and failed and how many success stories there are out there because I think the opportunity is there.

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TIP O'NEILL: I can certainly survey, survey my members. We have a lot of them in town for a meeting tomorrow and on Thursday and I'll, I'll, I'll get that information for you.

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

TIP O'NEILL: Before I leave, Senator Friesen, I want to thank you and your, your wonderful staff. The, the years that I worked in your office were very special too. I have never laughed more in my entire life than I laughed in working in your office. You were a great boss and a great leader and I appreciate it, so thank you.

FRIESEN: We try to put some sanity to the insanity. Thank you, Mr. O'Neill. Welcome.

BRAD MOLINE: Thank you. Chairman 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. First and foremost, I want to thank the committee for your work on this legislative session. Your efforts have helped advance and expand broadband availability throughout the state. I especially want to thank the term-limited senators, Chairman Friesen and Senator Hughes, who isn't here today, for their service to the state. So thank you very much. ALLO was founded in 2003 in Imperial, Nebraska, so we've been building fiber for 20 years. ALLO has been building ubiquitous, citywide fiber-to-the-premise networks in communities throughout Nebraska. We invest a little more than \$600 million to bring broadband to Nebraskans. ALLO's efforts have resulted in the city of Lincoln being ranked in the top three of the 100 largest American cities in upload speeds, which we ranked number three, download speeds, number four, and latency, which was number two. We're also-- ALLO is a-- in total is ranked as the second-fastest provider in the seven-state region. We take immense pride providing all ALLO customers with world-class service. ALLO has completed or is in the process of building fiber-- full fiber networks in 25 communities throughout our state, and is currently utilizing private capital, capital to build networks in, in these communities. I won't list them all. The smallest community we've, we've built to date is 1,400 people of Bridgeport, Nebraska. We'll actually be going to some smaller communities outside of Lincoln here and then the--

[RECORDER MALFUNCTION]

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BRAD MOLINE: No, we are not underwater.

[RECORDER MALFUNCTION]

BRAD MOLINE: Well, I have put people to sleep when I've talked but never had sleep music, so anyway, no, no problem at all. And with Linc-- and so our smallest today is Bridgeport, Nebraska, largest being Lincoln, and we are looking at developing some smaller communities starting here in Lancaster County we have under construction, representing about \$150-175 million investment. We'll provide 160,000 more Nebraskans with symmetrical gigabit broadband to their homes and businesses and the government entities. With these communities, approximately 60 percent of Nebraskans who live outside of the city of Omaha will have access to ALLO's gigabit service. With Omaha and the recent announcements of other carriers in Omaha, Nebraska is getting very connected. Nebraska's broadband position, in my opinion, is better than in most states. Almost every Nebraska committee-- community with a population of at least 5,000 has access to fiber or has had a fiber come in, building it with fiber. Since ongoing maintenance costs [INAUDIBLE] significant long-term savings, which is especially important [INAUDIBLE]. It is essential that we provide these remaining households with high-quality fiber for broadband. ALLO has been an applicant in the first two rounds of Nebraska broadband bridge funding and has been active in numerous other grant programs. I should point out that of the \$600-plus million being invested, less than 1 percent has come from any type of government funding portal. It is on this basis that our, our experience with-- in these broadband grant programs that ALLO makes the following comments. First, we applaud the committee for adding accountability to the broadband bridge challenge process. This ensures that lower-performing networks cannot block grant requests from competitors. ALLO hopes to see this requirement retained in future rounds. Second, ALLO advises the Legislature and the state to look for ways to leverage current state programs to coincide with the coming wave of [INAUDIBLE] funds. These grant programs, in our opinion, must work together to ensure widely effective broadband deployment. Also, since BEAD funding will likely be delayed to some extent, ALLO encourages the Legislature to continue funding broadband bridge from all available sources, as this will help maintain positive momentum. Third, ALLO advises the committee to expand the use of Capital Project Funds in Congressional District 3 areas. These funds are currently limited to projects in cities of the second class and villages. These zero-match funds could help fill in sparse rural areas that are otherwise difficult to build with broadband. Fourth, ALLO encourages

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the state to evaluate ways to verify and challenge the FCC's maps to ensure Nebraska gets full deployment of BEAD funds. ALLO believes that the NTIA/Ookla indicators of broadband need map, which is based on end-user speed tests, provides a good baseline for identifying unserved and underserved areas. Fifth, ALLO supports these public-private partnerships by-- and has actively coordinated cities, counties and local utilities in an effort to develop rural broadband projects by utilizing existing assets. [INAUDIBLE] discussions to talk about some specifics there. ALLO encourages other providers to do the same as rural communities apply broadband deployment. Finally, ALLO encourages the Legislature to consider ways to transfer Nebraska Universal Service Fund ongoing support to provide [INAUDIBLE] in large local areas, continuing to fund outdated or [INAUDIBLE] funds. In conclusion, ALLO's goal is to see that Nebraska is second to none as a connected state in the country. That was our goal stated 20 years ago. To that end, ALLO will continue to invest in the state and reach beyond the half a millions dollars we've spent so far and, and connect to the 600,000 Nebraskans. ALLO will continue to leverage grant programs and these public-private funds in an effort to connect more Nebraskans to world-class broadband. I'll be happy to answer any questions the senators may have. And I'll answer one, which is give me an example of a, of a public-private partnership. Well, here in Lincoln, Lincoln had a [INAUDIBLE] conduit and so we did public-private partnership for that. I contend every market that we build is a public-private partnership. [INAUDIBLE]. They're allowing us to use [INAUDIBLE]. It's also a public-private partnership in the way we use the [INAUDIBLE] cities. That's also public-private partnerships. So to go completely off of script here, Nebraska is phenomenal to work with to build networks. It is the best state we, we work with today. [INAUDIBLE] as well. I think it's the leadership of the Unicameral, the PSC, the entire state that allows this to happen. I see that desire playing out over and over and over again. I can give you horror stories about some other states. I can, I can talk to you about having an entire community built that was underserved. The only thing they had was DSL and it taking nine months to go across a highway. That doesn't happen here. So anyway, I don't need to pump you guys up, but you do a good job so I'm not going to be negative. But we'll continue to use the public-private partnerships. We believe that the electric utilities in the state of Nebraska perform extremely well. And those-- we've had some issues at time. We get in a room and we talk. It's amazing how that works and we end up with-- in good things. To get to the very, very rural areas, we have not done that before. We're in the process of starting to do that. I-- you guys have

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heard this before. I grew up 18 miles from town. I get it. We have-- my dad, at his farm, has fiber now, 18 miles out of town. Not by me, but by someone.

FRIESEN: Thank you, Mr. Moline. Just to clarify, I mean, you are one of the companies, though, that has put out more fiber than anybody probably without any subsidy.

BRAD MOLINE: I--

FRIESEN: You have overbuilt the communities with asking for nothing. And I guess I look at it differently when you say you worked in Lincoln with a public-private partnership. It was feasibly-- economically feasible to do that here, but the taxes that Lincoln collects from that helps them considerably too. It is a partnership, but when you're trying to-- and like you said, you've not gone into the rural areas yet where it is totally not economically feasible to go and any taxes or revenue you could get charged just makes the cost of that service even more uneconomical. So it's a whole different ball game, I guess. But I'm looking forward to you guys getting into the more rural areas in the state because I think you have the expertise to do it.

BRAD MOLINE: Well, thank you. I think we have a-- one, we, we have a great team. The other is but for the conduit system in Lincoln, we wouldn't have built Lincoln.

FRIESEN: Right.

BRAD MOLINE: And I like to say but for the support or other assets in very rural areas, they're not going to get broadband. So let's figure out the ways to make it work. Let's get very creative. And, you know, we've looked at a few and we'll-- in the next 12 to 24 months, we'll, we'll have built out to, to some rural areas, but not, not in the very rural parts of the state. I commend those that are doing it and doing it well. We're learning. That's probably the best way to say it.

FRIESEN: Did you-- do you see an issue longer term with those rural areas, with the sustainability of it, the maintenance of the facility? I mean, I know we're putting a lot of money upfront, but there's maintenance and there's equipment that has to be purchased down the road. And is that economically feasible or do we have to look at some sort of help down the road for those areas yet?

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BRAD MOLINE: Under our model, the things I'm concerned about, I think, is, is, is, one, in a very rural area, you know, the partnership with power to go above ground is very important. Because as you mentioned earlier, earlier, standard rates aren't a pole rental make it-- make some of these locations not feasible. However, in almost all cases, when you talk to the electric utilities, they say, give us a proposal, let us respond to it. So I would say the, the discussions that, that I'm seeing and hearing and trying to lead are better than they've ever been in the state. But I am concerned you build a large area aerially and you have a major ice storm and you need to rebuild that area, I don't have that solution. So we like to-- we're looking at a mix of underground and aerial just to, to increase that sustainability.

FRIESEN: OK. Any other questions? Senator Geist.

GEIST: I do, just quickly. I'm so intrigued by what you've done. I've kind of kept up with your business. And I'm curious, just with your opinion, since you've already, you already work creatively with other entities, do you see statutorily things that need to change or are you able to work within your business model without our help?

BRAD MOLINE: The, the easy answer is we need your help. Again, in cities, we solved that model-- gosh, we started-- I think we started in Scottsbluff in 2005 building all-fiber networks. So that's worked. In-- but we need help in the very rural areas and I think we're going to need ongoing support porting that, maybe bidding that is going to be important.

GEIST: So are you speaking statutorily or financially?

BRAD MOLINE: I think they're financially. You're getting out of my wheelhouse now.

GEIST: OK, but you mean financially.

BRAD MOLINE: Yeah.

GEIST: You would need subsidies to be able to--

BRAD MOLINE: Yeah.

GEIST: --serve those areas.

BRAD MOLINE: Yeah, statutorily, I think we can do what we need to do.

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GEIST: OK. OK and that-- I guess that was-- I should have clarified that was my question.

BRAD MOLINE: Yeah and so maybe enabling the PSC to do certain things, there might be some fine lines there where I'm not sure which side of that answer I'm on.

GEIST: OK. Thank you.

FRIESEN: Thank you, Senator Geist. Senator Moser.

MOSER: I just wanted to tell you thanks for all the work you're doing in my part of the state. I know Norfolk had a lot of opportunities added to their potential Internet providers. And I live in Columbus and I see dozens of ALLO trucks. I'm just sitting there thinking about the lease payments on all those trucks-- how in the world-- but, you know, there are providers in Columbus already. In fact, my business is served by a different telecom, but we do have fiber. But I commend you on making those-- making more opportunities available to the citizens in our area and thank you.

BRAD MOLINE: Well, thank you. I should point out that it isn't just getting fiber installed. It's then the amount of bandwidth you put over it. The cost structure you apply to it. You know, in other words, what you charge the individual. But then it's the workforce that takes care of it as far as the customer service and, and the like. And, and-- what I, what I find is quite often, communities and others say, oh, once there's fiber, check the box. You're just getting started then. It's also how you-- are you going to stay ahead of the game as far as networking technology so thank you.

MOSER: Thank you.

FRIESEN: Thank you, Senator Moser. Any other questions from the committee? Seeing none, thank you for your testimony and good luck--

BRAD MOLINE: Again, thank you for all you've done.

FRIESEN: --in your future endeavors.

SALLY SCHULTZ: [INAUDIBLE] So do you want me to have her call back?

FRIESEN: Wendy?

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MOSER: Maybe there was a feedback loop here or something that's causing-- the speakers are back on now, so.

SALLY SCHULTZ: OK. I'll just tell her to call back.

FRIESEN: Welcome.

EMILY HAXBY: My name is Emily Haxby, E-m-i-l-y, Haxby, H-a-x-b-y. Thank you, guys for having this meeting today so that everybody could come share their opinion. To start off, I, I'm a fifth-generation farmer, a mother of four, and currently sit as the vice chair of the Gage County Board and led the broadband committee with our project. But today I'm here speaking for myself and how I think we could maybe improve or-- well, how we did what we did and how it could maybe look for the rest of the state. Sounds ominous.

FRIESEN: Go ahead.

EMILY HAXBY: [LAUGHTER] Gage County elected to pursue a direct public-private partnership with Nextlink, leveraging our \$4 million of ARPA allocation to connect 950 unserved and underserved rural households to symmetrical two-gigabyte fiber-optic broadband. For every dollar we spent on broadband, we generated \$2.25 an additional investment, ensuring taxpayer dollars are spent responsibly and efficiently. We do not seek any funding from the NBBP for several reasons, with accountability chief among them. With that project as it sits right now, we're looking at about 340 miles of fiber within our project. With the current structure of the NBBP, providers are not held accountable by the communities that they are seeking to serve. Instead, they must answer only to the Public Service Commission and a handful of loose and ineffective post-award rules. Our partnership with Nextlink includes a 25-year agreement, liquidated damages lasting the full initial term of the agreement, no blocking, no throttling, no pay prioritization and limits on rates of increase in monthly recurring costs to our consumers. To, to preface this, within our RFP, the-- we-- Gage County does not tend to own or operate a network or get into the broadband business at all. This is purely a subsidy to get a responsible provider in that would be accountable and, and providing good service to our constituents. ARPA marked the first time many rural counties and communities had access to the sort of capital required to have a say in the broadband discussion. Some opted to address other needs in their communities and some sought to expand broadband access through public-private partnerships or conduit infrastructure. But when we consider the sorts of public-private

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partnerships received-- that received funding in the second round of the Nebraska Bridge Program earlier this month, it's hard to argue that we could-- the real-- the good faith in that we have realized the potential of the partnership model. County and local officials know their constituents' needs. They know providers' track records and they have the wherewithal to weigh these factors against the resources available to them to ensure every home and every acre has access to high-quality broadband connections. It is my opinion that we should be using these funds either allocated to counties to be granted to providers through an RFP process or require that a contract be in place with a public entity as part of the application process. It is our responsibility to ensure that the services obtained with government-funded sources, our taxes, be-- are reliable and enforceable. It is similar to the bridge program. Counties have bridges-- when-- counties have bridges when needed to be built, repaired or replaced and counties go through a grant process to see who gets funding. Counties apply with plans, costs and reasons to show need. Once we have the funds, we call for bids with certain specifications from interested contractors. We select the best response, which is typically the lowest bidder, and this process encourages contractors to be competitive to receive the bid. The county then oversees the construction of the bridge and is held, and is held to a standard that is safe and will remain functional for years to come for the best interests of our constituents. The same concept-- if that same concept were to happen with broadband, it would be a disaster. A disa-- a contract-- a-- sorry. If we were to build bridges with the same process that we have historically built broadband infrastructure, it would be a disaster. A contractor could pick the biggest bridge, whether it needs to be built or not. As long as they bid on it, they would get the funding, even if there's other bridges in worse condition. Not only are there better places that that funding could have been directed, but the contractor can also build it to any standard that they feel is sufficient, which may or may not be in the best interests of the people, but more in the interests of their pocketbook. To top it off, these contractors could then subject travelers to ever-increasing tolls and hidden fees. I have seen so many grant applications from providers that hit the edges of villages and go rurally to the two subdivisions just outside the town, which is not the purpose of the funding. This is cherry-picking at the finest and not accomplishing what these federal dollars are designed for. Nebraska will soon have access to at least \$100 million for broadband expansion through the Broadband Equity, Access and Deployment, or the BEAD program. As the committee examines the future of the Nebraska

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Broadband Bridge Program, the bridge two connected 2,178 homes at the cost of \$20 million. At the same rate, 100 million would connect just shy of 11,000 homes. With a direct public-private partnership such as what we implemented, Gage County connecting nearly a 1,000 homes for \$4 million, that number could be doubled or tripled. I did the math since you guys were asking questions. Our average cost per home subsidized was \$4,210.43. And as for the, the maps and the fabric, we, we are so far behind the curve right now in mapping and I think it'll soon hinder our state. We did actually do a MOU with public power, with five surrounding counties with Norris Public Power to do a feasibility study with NRTC. That was after we had already started our RFP process. As, as, as Pat said, we missed the start of our project. But through that, we were able to utilize public power data to locate missing points. So we, we've been trying to accomplish in the last-- in a month what could have been remedied over five months. We can do better. The new fabric map, I took a look at that. And just around my local area, there was 12 missing homes within about 12 square miles of my house not marked on the maps. So then we-- I did apply for a license to receive the fabric data so that we could correlate the public power data because ideally, if you are receiving power, then there is a broadband serviceable location. I overlaid those maps, did a buffer within five acres, and then I searched it. Took me about five hours, unfortunately, five hours twice because I lost the data the first time, but we had 483 missing locations in Gage County alone. Out of the 1,900 broadband serviceable locations in Gage, currently there are 285 unserved, 2,245 underserved. I think that is misrepresented availability wise. For example, my home shows that I received 25/5. I think it's 25/5 so I am underserved. On a good day, it's, like, six and two. But actually, if you take out cellular out of that, out of that equation, it actually puts my top speed at 10 and 1, which would truly show that we are unserved. I don't think that-- I don't know how to-- the best way to do that, but cellular Internet, at least for home base, isn't truly applicable because it is, it has a data cap and then after that it's throttled. A couple Netflix movies with the family is going to eat that up pretty quick. If we take out the cellular just in Gage County, I don't-- again, I don't know the state. Just from looking at what our county has, we would go from 285 unserved to 1,846. It would take the underserved from 2,245 down to 684. So it would really show the true-- between, between finding the homes that we are missing statewide and then challenging the availability, I think that Nebraska would be in a much better position.

FRIESEN: OK. Thank you. Questions? Senator Albrecht.

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ALBRECHT: This is great. I have some questions. OK, so who was serving your community at the time that you decided to do business with and take an RFP out? Was it-- were they already there?

EMILY HAXBY: Nextlink?

ALBRECHT: Uh-huh.

EMILY HAXBY: No.

ALBRECHT: OK.

EMILY HAXBY: They were an out-of-state company that applied, but their application-- we had an incumbent provider apply as well. They were in the top two.

ALBRECHT: Did you have several requests--

EMILY HAXBY: We had--

ALBRECHT: --for proposals?

EMILY HAXBY: Yeah, we had five requests for the-- we had five people ask for our RFP. We had three responses. Out of that, we had two really-- I mean, we had to kind of go in between them for a little while. But this Nextlink was going to put the fiber and conduit. That was one over the other. The price per-- it's really hard when you get those applications. They don't always have the same pricing tiers, but the one that was the same apples to apples was the 100 by 100 service. It was \$50 for one and \$80 for the other. So that was, you know, one of the-- another one of those. And then it was under 500 homes versus 1,000 homes. So again, we-- I mean, we just kind of had to put it out there. And then that actually is what got us to where we are today with our contract that has, I think, a lot of good accountability features in it because we had to have a, a good, a good contract with this company because we wanted to mitigate risk. We didn't know them. We wanted-- I mean, it-- and just all of our payments are as it's built. And so, again, we had 950 drops. I should specify it's not, it's not if the person is going to take the service. The drop is in front of the home, whether they take the service or not. Because we can't foresee the future if somebody moves or if somebody wants to move back to the family farm and the grandparents didn't want that service. It's there. We pay on milestones on when it is in the ground. So when 25 percent of it is built and installed and it's speed tested, then we pay 25 percent.

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ALBRECHT: So does the consumer have to pay for the hookup to their home at all?

EMILY HAXBY: That is the one-- that was the one drawback between the two companies. The one company had it free to the home and the other one is \$100 for the first 150 feet and then \$1.50 after. But they were allowed a two-year contract to pay that out over the two years because some people have a, you know, a quarter-mile-long driveway.

ALBRECHT: Um-hum. So-- and one other question. Did Netlinks [SIC], did they-- were they awarded any contracts through the bridge act? I mean, were they--

EMILY HAXBY: I'm not sure if they-- I know they, I know they applied, but I'm not sure--

ALBRECHT: So they are in Nebraska. It wasn't just--

EMILY HAXBY: They are.

ALBRECHT: --they came here for Gage County.

EMILY HAXBY: They did apply, yes.

ALBRECHT: OK. I'd say was money well spent? You know, you're-- but a 25-year contract, is that normal? Is that what most of them are asking for--

EMILY HAXBY: Well, we--

ALBRECHT: --doing business in 25 years?

EMILY HAXBY: I'm not sure.

ALBRECHT: Yeah.

EMILY HAXBY: We, we hired Universal Broadband Consulting. They did a great job--

ALBRECHT: OK.

EMILY HAXBY: --the acquired things. They were really experienced and really helped us out. I, I always joke with them. I said, I'm just a farmer. You got to help me out here.

ALBRECHT: But you got it done.

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EMILY HAXBY: But we just had-- I mean, I think that Gage County just had the will to-- they wanted-- I mean, we wanted something better.

ALBRECHT: OK. I appreciate you coming in. Thank you.

FRIESEN: Thank you, Senator Albrecht. Senator Bostelman.

BOSTELMAN: Thank you, Chairman Friesen. Emily, thank you for being here today. I had the opportunity to go down to her farm. We sat down one afternoon and talked about this. It's amazing, amazing what she was able to do. And the thing is, as we were talking-- Mr. Pope was talking about before is we need to have someone in an office that has the zeal and has a drive, someone like Emily, with the zeal and drive she has for her county and for the people in that area. What she's done is, is, is probably-- I know it's not been done anywhere else in the state. So thank you for doing that. That's a \$4 million ARPA to leverage a \$13 million project that will be wholly owned by that company in time.

EMILY HAXBY: Correct, yeah.

BOSTELMAN: You also have for future hook-ups in there-- in the contract and other things that allow for growth within the community and they have an office in the community as well.

EMILY HAXBY: Correct.

BOSTELMAN: And you, the commissioners, are the ones-- if there are complaints from customers, they come to you, correct?

EMILY HAXBY: Yes.

BOSTELMAN: That was agreed upon as well. So there's a lot of interesting things that she was able to do in that contract work with that. Who was-- who is the provider in that area?

EMILY HAXBY: Diode Communications and, and they've done an exceptional job in Gage County. They've been building out without subsidies for a very long time. They-- when Pat Pope said we have a lot of our county covered, that's because about the southwest quarter of our county has already been covered by fiber by that incumbent provider.

BOSTELMAN: And you didn't overbuild anyone. You went strictly into areas and you did have one every-- that you potentially--

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EMILY HAXBY: So--

BOSTELMAN: --could have and you--

EMILY HAXBY: That was--

BOSTELMAN: --moved away from there and--

EMILY HAXBY: --that was a real struggle. And with better maps, that would be very helpful because how we, how we had to make sure that we weren't overbuilding was, hey, do you have fiber? OK, click. And then we would mark it down on the map. That was how we figured it out.

BOSTELMAN: Right. And to understand a little bit as we go ahead-- and for those sitting here to understand as well, what Emily did was to find out locations who were unserved or not. She bugged her neighbors to no end until they got online and did the test. And if-- I say that because if we look back to the FCC map and where we're going now, if we think that we're going to get residents in the state of Nebraska to submit enough tests to the FCC to make any changes to the map, we have to have an Emily or two in every county to make that happen. Because it-- we're not going to have-- we're not even going to be able to scratch the surface with that. So, again, it's to, to her-- commend her for doing that amount of work that takes. A question I have now for you was as we look going ahead-- and I asked Mr. Rolfes some questions earlier about the dates, November date and January date. Can you share with me your thoughts on the dates, on, on what submissions and challenges ahead? What do you think can and cannot be done and what are those effects?

EMILY HAXBY: So I've been trying to-- so we, we are working on gathering all the public power data, all the data points from across the state, which it sounds like most of them are, are willing to do that, and then comparing it. And, and like I said, if you take 5 hours times for 4 hours times 93, you know, we're going to need a lot of people hours to sift through that data. But when I talked to the BDC who works on those maps, the, the deadline for the December 31 was-- it was the end of the year. When I talked to them today, they said they're still accepting those, but they are so backlogged that even if we were to submit a bulk challenge today on the data points, that it would not make the December 31 fabric. I, I expressed my frustrations with that because that fabric was-- wasn't available or was first posted on November 18. And so it's a very, very tight timeline. It hasn't even been a month. And, and even if we submitted it today, it

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would be so backlogged. I would, I would hope that that is seen at the federal level so that the, the first \$100 million allocation that is statutorily given, you know, is in that June timeline. But maybe wait and allow those challenges to go through and base the allocations, perhaps, on the June of '23 fabric so that there is time to process all these.

BOSTELMAN: So your concern is, is that since you-- since the-- since the state or, or-- annulants [SIC] any challenges, that we're going to-- if, if that \$100 million, like you say, doesn't come out, that we're-- potentially could lose, I'll say-- we won't be awarded a significant amount money that we should-- we could have had if we could have done the challenges. Is that your--

EMILY HAXBY: That's my understanding.

BOSTELMAN: Is that your concern?

EMILY HAXBY: Yeah, I, I'm, I'm for sure not an expert on all of this. I'm learning as I go. But just from what I've done in Gage-- like, what we've looked at in Gage County, we're missing close to 500, 500 broadband serviceable locations and the availability is very skewed.

BOSTELMAN: So I think, I think that's-- I appreciate that and I think that's significant, what you're saying, but especially when you look at the map. Because if we look at what you've done and look, look at what you've shown us, what-- you can, you can choose-- you can prove our unserved areas. And now we extrapolate that across the state, there's a significant need in there that we're missing. So I thank you for your work. I thank you for the time coming and talking to us. And thank you for what you've done for Gage County.

EMILY HAXBY: Thank you.

FRIESEN: Thank you, Senator Bostelman. Senator Moser.

MOSER: So you budgeted \$4 million for this?

EMILY HAXBY: Yes.

MOSER: And what did the contract itself cost? You spend all \$4 million with the contract with the Internet provider?

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EMILY HAXBY: We had-- the, the ARPA dollars for Gage County was about \$4.72 million or 1 point-- let's see-- \$4.172 million. So we had some extra in there to utilize for attorney fees to, to make that contract.

MOSER: And you hired a consultant to help you sort through all this? You didn't have all the background yourselves--

EMILY HAXBY: No.

MOSER: --to do this. And so what portion of the \$4 million went to the consultant and how much went to the company?

EMILY HAXBY: None, none of the \$4 million went to the consultant. The \$4 million is for the project. The consulting fees were the-- what we had left over because we didn't allocate our full ARPA. We, we left some for that. I think we were just under, just under \$100,000 to do that contract. But moving forward-- you know, I've talked about this with other counties-- they don't need to start from scratch like we did. We now have a template. I would, I would have changed some things. You know, through the process now and our RFP-- and, and I've redlined that already for anybody that wants to see it. But we have a template now for a contract too. Now, our contract isn't going to fit every application, but at least it's a start.

MOSER: How many customers did you add to your-- did you provide Internet to?

EMILY HAXBY: We have 950 locations.

MOSER: And you said it was 4,000--something.

EMILY HAXBY: Well, we're a little over 4,200. Now, I will say that-- preface that I mean we are a little bit more populated in Gage County. So as you go farther, you might see that, you know, increase.

MOSER: How many people live in Gage County?

EMILY HAXBY: Numbers, I don't know. We have that-- 1,000-- or 11,900 broadband serviceable locations, but that's on there's so probably a little over--

MOSER: That's--

EMILY HAXBY: --12,000.

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MOSER: --that's just relative.

EMILY HAXBY: Yeah.

MOSER: Thank you.

EMILY HAXBY: Sorry. I don't have--

MOSER: Yeah. No, that's fine. Thank you very much.

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

EMILY HAXBY: Thank you.

FRIESEN: How many more people do we have to testify? OK. Welcome.

JIM EDIGER: Good afternoon, Senator Friesen, members of the committee. My name is Jim Ediger, J-i-m E-d-i-g-e-r. I'm the chief legal officer at Hamilton Telecommunications in Aurora. I am testifying on behalf of Nebraska advocacy group, a group of ten rural telecommunication companies. We appreciate the opportunity to share our perspective on the broadband bridge program and our experience as telecommunications providers. The private telecommunication companies in our group have taken on the difficult and capital-intensive task of replacing copper legacy networks and building to new locations with "fiber-to-the-prem" in some of the least populated, but economically important areas of the state. The work of building broadband infrastructure takes time, money, labor and equipment. We have yet to see those align in abundance, but thanks to the broadband bridge program and the regulatory work of the Public Service Commission, fiber networks are being built statewide where they are needed most. Our company was awarded nine broadband bridge grants in round one to build fiber to the home in some most rural locations in our exchanges and four underserved communities that became part of our territory with our acquisition of Nebraska Central Telephone Company. This year, our company applied for round two grants for 11 more underserved communities, but due to insufficient funds, none of those 11 grant applications were awarded. Despite that, we think both the scoring and challenge process worked out as it was supposed to in round two and we understand there were simply just not enough funds for our projects. We encourage the Legislature to continue to provide \$20 million in annual funding for the broadband bridge program so the state can continue to make progress. While it may seem like other funding sources would negate the need for the broadband bridge funding, that

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is not the case. The ARPA Capital Construction Funds, while meaningful, are one-time funds that will not be used-- that will only be used for community centers and not broadband in the Second Congressional District, which includes Saunders County. And the use of the funds in the Third Congressional District are constrained to eligible projects and cities of the second class and villages, and will not help serve the highest-cost and hardest-to-serve locations in that district. The federal, federal funding expected from the broadband-- or for the Broadband Equity, Access and Deployment program, BEAD, is also important, but it will be delayed. We've just gotten done talking about the mapping with several other, you know, testifiers here so I won't go into that. But those funds aren't going to be used for broadband until sometime in 2025 and so there is a gap here that we think is important that the broadband bridge act continue to fund. We know the delays for the federal funding are related to the mapping fabric and just rest assured that our companies are working very hard to ensure that our maps are as accurate as can be. It's a huge lift. Rather than seeing the state implement another mapping effort, our recommendation is to let the mapping effort continue to be led at the federal level. Let's get that data right and focus on using the data that the federal government is putting together instead of starting from scratch. Ongoing broadband bridge program funding, in the meantime, will ensure that our state continues the steady progress that we have and maintain the workforce here in Nebraska. If the momentum we have going for the first two years of funding is stalled, Nebraska risks fiber crews leaving to do work in other states and a slowdown in the acquisition of material inventories by Nebraska providers. As the Legislature continues to consider the best policies to facilitate broadband access for all Nebraskans, we would caution you to continue to reject proposals that some have repeatedly presented and remind makers of the many reasons rural telecommunication carriers have long opposed public entry into the broadband internet service. We oppose a cost shift from ratepayers to taxpayers. It doesn't cost less for municipalities to serve an area than for an existing carrier. We oppose the waste created by allowing cities to duplicate existing service and compete with companies who are invested infrastructure connecting our communities. We oppose the government creating competitors and subsidizing them to overbuild served territories. Our companies have expertise to lay fiber in the ground and to connect customers to maintain that network and to serve those customers. We have trained a skilled workforce. We employ Nebraskans with the technical know-how to bridge the digital divide. There is no substantive data or economic analysis which demonstrates

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that the public-- that a public entity would be able to solve the problem of serving customers in a more cost-effective way. The current prohibition on municipalities entering into the business of Internet service provision was wisely designed to efficiently use limited resources to make sure public entities do not engage in pricing that undercuts an otherwise competitively neutral playing field and to preclude cross subsidization of costs by public entities. Not only does this save Governor-- government from getting into the complications and costs of being a telecommunication business, it also helps the telecommunication carriers spread their network costs over a broader base, making it more affordable for all residents. It also keeps the city's focus on what they do well, whether it be health, parks, libraries, public safety or education. This is especially crucial in rural areas. Supporting the broadband bridge program and Nebraska Universal Service Fund is more efficient use of our state resources for the equitable creation and maintenance of broadband networks. Thank you and I'd be happy to take any questions.

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

NICK PADEN: Good afternoon, Chairman Friesen and members of the committee. Nice to see you all again. My name is Nick Payden, spelled N-i-c P-a-- almost lost my spot in my name. That's a first. N-i-c-k P-a-d-e-n, and I'm here today testifying on behalf of the Nebraska Rural Broadband Alliance. Last time I testified on behalf of the NRBA, I did so as the group's registered lobbyist. This time, I'm testifying as a proud member of the NRBA. Two years ago, I joined my parents at Stanton Telecom, which our family has operated since 1980. Like all members of the NRBA that have regulated territories, Stanton has deployed fiber to all serviceable locations within our territory. That means NRBA members offer symmetrical, high-speed broadband access to some of the most remote farms and ranches in the state. We offer broadband to customers as far as 50 miles from the nearest town. The NRBA is serious about rural broadband. In fact, with the use of broadband bridge grant, Stanton Telecom is burying fiber just outside of our territory at this very minute. A number of rural unserved locations between Stanton and Norfolk are a couple of weeks away from having fiber services to their home. On behalf of the NRBA, I ask you to pass legislation next year to make sure that pending federal funding is utilized to the greatest extent possible to serve all Nebraskans. That was the promise of the Nebraska Universal Service Fund, the NUSF. Some companies like Stanton use NUSF support combined with a RUS loan to serve all our customers. We fulfilled our

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obligations as carriers of last resort. We're eager to help serve Nebraskans whose carrier is struggling with those obligations. Today, I will mention a couple of things this Legislature can do to help make sure that all Nebraskans have access to affordable broadband. First, the NRBA recommends you fully fund the position of the broadband coordinator. This funding is critical to making sure the duties set forth in Section 8 of LB992 from 2020 can be Mr. Redmond's full-time focus. In light of the sizable amount of federal funding coming, the state must be prepared to oversee the strategic deployment of infrastructure as quickly and cost effectively as possible. There's a lot of challenging work to do to make sure we are prepared. We would also recommend that the Legislature remove un-- remove unnecessary restrictions on the use of federal funds. For most accounts, the biggest restriction was put into place late last session by the Legislature. The law disqualifies rural areas in the Third Congressional District from ARPA-funded broadband projects. The restriction does not appear to have been intentional. The Third Congressional District restriction should immediately be repealed. Rural areas need this funding the most. There are likely to be a number of bills addressing broadband this coming session. We would encourage you to consider each of them with the following question in mind: Will the legislation improve or impede the state's ability to make sure that this time, federal funds are effectively used to provide affordable broadband access to all Nebraskans? That concludes my testimony and I'd be glad to answer any questions.

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

NICK PADEN: Thank you.

FRIESEN: Welcome.

DAYTON MURTY: Thank you. Good afternoon, Chairman Friesen, members of the committee. My name is Dayton Murty, D-a-y-t-o-n M-u-r-t-y, and I'm speaking on behalf of Charter Communications. Charter is a leading broadband connectivity, communications and technology company providing superior high-speed Internet, voice, video and mobile services under the brand name Spectrum to more than 32 million customers across 41 states. We're driving innovation and growing economies here in Nebraska from coast to coast and in communities big and small. From 2017 to 2021 alone, Charter invested over \$40 billion in infrastructure and technology. Closer to home, Charter serves approximately 178,000 Nebraska customers in 90 communities across the

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state. We have 257 Nebraska-based employees and we invested \$36 million of private capital into our network and paid more than \$20 million in Nebraska taxes and fees last year. The Legislature has worked hard over the last few years to expand broadband, broadband access to unserved and underserved locations across the state. In 2021, you created the Nebraska Broadband Bridge Act, allocating \$20 million annually towards broadband expansion. And this year, you came back after discussions with stakeholders to make the administration of the program even better. You have created parameters under which the Public Service Commission sets the rules of the program, as well as guidelines on what topics can be used to support applications so that the greatest number of unserved residents can receive high-quality, fast, reliable broadband service at the lowest cost to taxpayers. To protect consumers, you established rules that require providers to build and maintain the services they promise and obligate them to price their services supported with public dollars, the same as they price their services outside the project areas. But you also identified the scope of the PSC's authority to regulate by making clear that the PSC should not add to the obligations required of grant recipients, except as specifically authorized under the Nebraska Broadband Bridge Act, or as required by federal law to access and distribute federal funds appropriated for the purpose of broadband expansion. You also indicated that the commission shall not deny an application based on prices or terms and conditions offered or regulate any term of service. To date, the PSC has unfortunately not implemented the program in accordance with your statutory direction. They have taken public comment on their rules and staff and individual commissioners have always been willing to meet with us to discuss any concerns we have and we appreciate their work. But the rules they have applied have not followed the direction of the Legislature and have resulted in our inability to participate in the program. At Charter, we are committed to broadband investment. We have leveraged public subsidies with substantial private investment from our company to bring broadband to hundreds of thousands of new homes and small businesses in states across the country. We remain ready to participate in the program, but thus far, guidelines imposed by the PSC that go beyond the parameters provided in the statute have left us unable to participate. In 2022, Charter submitted five applications to the program, all of which were summarily denied because Charter was not willing to commit to a PSC-imposed requirement to freeze prices for five years from completion of the grant, despite the statute--statutory prohibition against price regulation. We could not make such, we could not make such an open-ended commitment. Instead, we

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committed to offer the same rates in the project area that are offered to customers outside the project area. This commitment follows the law you recently adopted and treats all Nebraskans the same, regardless of whether the network was built by Charter without government subsidy or with funds from the bridge act. Charter's unwillingness to commit to the PSC's price freeze, which exceeded its statutory authority under the Broadband Bridge Act, resulted in our application being summarily dismissed and disqualified from bidding. Another concern is the PSC's arbitrary comparison of rates in its scoring criteria. Today, Charter offers many tiers of service that meet the connectivity and financial needs of our customers. We offer all of these tiers to virtually all of our customers across the country. Yet the PSC, despite the statute, scores providers on a specific PSC-determined product, broadband at 100 megabits per second upload and 100 megabits per second download speed, at the same price the PSC determines was the statewide average, about \$80. Rather than-- whether our current speed tiers are offered at the same price in and out of the Nebraska Broadband Bridge program footprint. We want to work with the-- with this committee and the PSC to ensure that the rules of the program reflect the direction you set forth in the statute, which would allow us to participate in this program and further the goal of building broadband networks to all Nebraskans. Despite the fact that the vast majority of our customers subscribe to Spectrum Internet at 300 over 10 megabits per second, the PSC uses our Spectrum gig service at 1,000 over 1,000 megabits per second for its price comparison because, because it is the only tier of service we currently sell with an upload speed in excess of 100 megabits per second. With, with speeds that far exceed the 100 over 100 minimum imposed by the PSC, it is unfair to compare Spectrum gig at \$119.90-- \$119.99 to an arbitrary service tier of 100 over 100 megabits per second for \$80. With the influx of federal dollars through the American Rescue Plan's Capital Projects Fund and the upcoming Broadband Equity, Access and Deployment Program, Nebraska has a once-in-a-lifetime opportunity to extend broadband to the unserved and underserved residents of the state. As reflected in our \$36 million investment in Nebraska in 2021 alone, we want to be a part of that opportunity and actively participate in the Nebraska Broadband Bridge Act. Without changes to the rules, however, we will not be able to do so. Thank you for your time and opportunity to testify today. I'd be happy to answer any questions.

FRIESEN: Thank you. Senator Moser.

MOSER: So is your company a successor or the purchaser of Time Warner?

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DAYTON MURTY: There was a merger a few years ago and so Charter merged with Time Warner Cable, yes.

MOSER: And in the relative size of telecommunication companies, I use that term kind of broadly, how does Charter compare in size? Are you the largest or close to the largest or--

DAYTON MURTY: We're the second-largest cable broadband provider in America. We serve 32 million customers across 41 states.

MOSER: Who's the largest?

DAYTON MURTY: I believe that's Comcast.

MOSER: Comcast. They're-- are they based in Chicago?

DAYTON MURTY: Comcast--

MOSER: Yeah.

DAYTON MURTY: --or, or Charter?

MOSER: Comcast.

DAYTON MURTY: I'm not sure.

MOSER: I just figured you knew everything.

DAYTON MURTY: I wish. I can, I can, I can ask, you know--

MOSER: No, no, no.

DAYTON MURTY: --part of the association in Kansas.

MOSER: Oh, I'm just trying to make sense if the-- well, I can make sense, but keep track of what's going on because companies keep buying the companies and absorbing them and I'm just, you know--

DAYTON MURTY: Yeah, we're, we are a pretty large provider [INAUDIBLE].

MOSER: Time Warner was our cable provider when I was mayor in Columbus and we had negotiations with them several times. We, we renegotiated a contract. And that's why I asked because I knew some-- had some experience with that, so.

DAYTON MURTY: Yeah, thank you.

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

DAYTON MURTY: Thank you.

CULLEN ROBBINS: Good afternoon, Chairman Friesen and members of the committee. My name is Cullen Robbins, C-u-l-l-e-n R-o-b-b-i-n-s. I'm the director of our NUSF and telecom department with the Public Service Commission. I didn't necessarily prepare remarks, but I thought I would maybe address some of the questions that were asked before and then open, open it up to other questions that senators might have. There's certainly a lot of questions about mapping today. I think that was expected there. As, as Commissioner Watermeier indicated, we do plan to produce a state, a state map, state broadband map, as we are directed to do in statute. That map is to be funded through the BEAD funding so we are in the process of identifying a vendor and getting that map produced. There were some questions about whether it will involve the same data or different data from what the federal map will be producing and that depends a little bit on the vendor that's selected. You might recall there's language in the mapping-- the statutes regarding the state map that give preference to the vendor that's doing the FCC maps. So we'll be evaluating what we've received from vendors in light of that information. There were some questions, I think, from Senator Albrecht earlier about what-- about what data will be submitted to the FCC. Obviously, the state broadband map that we will be completing will not be completed in time for challenge information to be submitted to the FCC. However, we are preparing both challenges to be submitted prior to the January deadline for that-- for availability that we've talked about a few different times or that's been mentioned a few different times earlier today. I also want to reiterate, reiterate there are-- there is a value potentially to the state map that we have the ability to potentially use that to direct funding, particularly through BEAD. I think-- I don't want to put words in his mouth, but I think Mr. Rolfes alluded to that fact earlier today as well, that there is some utility to having a state map potentially for allocating BEAD funding. I thought I would respond to a question Senator Bostelman had on the precision agriculture program. The biggest kind of hang-up that we see with the way the statute reads with the precision ag program is that half of those-- half of that funding is essentially supposed to go towards equipment that could be used for precision agriculture and our-- both our interpretation and some of the comments we received through our docket kind of lead us to believe that that's not something that will be supportable through the BEAD, the BEAD funding.

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So that's, that's kind of what we see with that. Let's see, Senator, Senator Moser asked some questions about terms of service or length of service that, that applicants to the broadband program have to provide. That is 15 years and that's set by statute. And then there were some questions about confirming about-- confirming that the service is actually being provided. There are requirements for them to complete speed tests post completion of the project in order to receive the last part of funding for the project. And there also are requirements for additional information down the road to confirm that that service is still being provided. Let's see. I think that's all-- most of the questions. There was a question from Senator Albrecht about Capital Projects Funds and whether-- I guess there was a question about the language about what can be done in the third district. Just want to reiterate that our interpretation of the statutory language is that we would restrict projects to only be able to serve the towns and cities as they're defined in statute by the-- by that project. So we plan to proceed with capital projects grant cycle with that understanding. So with, with that, I'll just stop there and I'm happy to answer questions right now.

FRIESEN: OK. Thank you, Mr. Robbins. Senator Bostelman.

BOSTELMAN: Thank you, Chairman Freisen. Thank you, Cullen, for being here today. I take it the equipment would be similar to, like, a modem then. If you have fiber come to your house, you pay for the modem to go in your house. So it would be the same analogy?

CULLEN ROBBINS: The, the equipment-- and I'm trying to pull it up from testimony. So it, it talks about on-farm traceability solutions products that improve soil health and water management, autonomous solutions for agricultural machinery. So it's, it's more equipment on farm-type, farm-type equipment that, you know, might be kind of a stretch to--

BOSTELMAN: Right, I, I think I understand. I mean, I think some providers make you pay for your modem in your house. Fiber may come to the house. You got to pay for a modem. The same, the same thought here.

CULLEN ROBBINS: Could be.

BOSTELMAN: You got to pay for the equipment type thing, I get that. Do you have any comment to why we did not-- why the PSC did not provide a bulk challenge?

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CULLEN ROBBINS: Sure. Yeah, that's a good question, obviously. The-- frankly, we have been looking at location information, comparing it to 911 data. And I wasn't-- I am aware that public power has made their own efforts to make some comparisons. And frankly, we were as surprised as everybody when we were told that their-- the opportunity is already passed for any location information to be submitted in order to be incorporated into the version of the map that will be used to make funding determinations, so. You know, I think it's just a surprise to all of us that that's happening.

BOSTELMAN: And I think that's too bad. I understand. I think that's too bad that that happened. I know I read one article where 20 states had maps and actually did try to bulk challenge. So unfortunately, we're not there yet. And I think that, again, may hurt us as far as how much NTIA-- when we get funds sent out later this year, that may affect us. Hopefully not. The other-- and this isn't a fair question to you. That's all. Thank you.

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

CULLEN ROBBINS: Thank you very much.

FRIESEN: Seeing none-- no questions, thank you, Mr. Robbins, for--

CULLEN ROBBINS: Thanks, Senators.

FRIESEN: --tesifying. Welcome, Mr. Rieker.

BRUCE RIEKER: Thank you, Senator Friesen. Senator Friesen, members of the committee, my name is Bruce Rieker. I'm the senior director of state policy for Nebraska Farm Bureau. I, for one, appreciated listening to everybody's comments. I've learned a great deal throughout the day, some of the questions that we were trying to get answered as we prepared for today. When it comes to broadband and e-connectivity, Farm Bureau's focus is primarily about ensuring access to affordable and reliable high-speed service to farms and ranches and to the businesses, schools, healthcare providers and communities we rely on. Nebraska-- and this is part of why I think that this is important to the state or why we think this. Nebraska is home to the nation's third-largest agricultural industrial complex. Food production is our state's number-one industry. Precision agriculture and the data associated with it are key to ensuring our state's future economic viability. Failure to provide the needed connectivity in

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rural Nebraska is one of the greatest barriers to Nebraska's agricultural products reaching the consumer. The passage of the original broadband act-- bridge act and ensuing modifications coupled with federal BEAD funds presented our state with an unprecedented opportunity to provide broadband in unserved and underserved areas. Whether those have or will work well is yet to be determined. To date, it seems that our state is satisfied with simply receiving and distributing the federal, state-- federal and state money we get without a strategic plan. All of us need to step up our game if we are to solve Nebraska's digital divide. Employing a dedicated full-time rural broadband coordinator with experience in broadband program management, public financial management, budget oversight, facilitation of community groups and staff supervision would be a great start. Elevating the importance of this matter to a cabinet-level position in the next administration may be worthy of consideration as well. One thing that came to my mind since I wrote this is that in the coming year, I think the Legislature needs to pay close attention to the federal farm bill that will be developed and hopefully passed next year. There are discussions of elevating the importance of broadband to rural areas. I don't know whether that will be included, but I would suggest to the committee that you keep your antenna up about future developments in rural development and the farm bill. We contend that this should be-- it should be the goal of Nebraska to be the smartest, most interconnected state from border to border. Our economy and competitiveness worldwide depend on it. To do that, Nebraska needs full-time staff focused on leadership, grants, management, technical programs, outreach, regulatory issues, and a plan. To describe the process of coordinating, coordinating things between the federal government, Nebraska and the private sector as disjointed is an understatement. And that is not a statement towards anyone's performance or anything like that. That is a statement that this is such a multi-headed monster that we need to tackle. We're asking the state to put more resources into coordinating this and to helping all of the stakeholders have a better idea about what we need to do to get broadband to, to all areas of the state. We need help from our federal delegation, state elected leaders, state agencies to ensure we are investing our resources to achieve the highest- and, and state ed agencies to help us make sure that we have the highest return on the investment. Investing in those who contribute the greatest amount to our state's economy is a good way of doing that. Visionary leadership is necessary. People have already talked about the frustration with the challenge to the fabric map as well as possibly the availability map. One of the things that we hope and request as

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the state puts together its map-- you know, I know that there are a lot of folks looking at the map to make sure it's accurate with regard to broadband service locations that are homes. In conversations that we've had with several partners that we've been working with to get a better handle on what exactly this data means and what it could mean to bringing federal funds to the state. We hope that the state will make sure that broadband service locations such as barns and bin sites, where a great deal of economic activity takes place, you know that those are included on the map. As far as we can tell, a lot of them aren't. I know that there's criteria that probably goes into that as far as whether it's industrial or heavy industrial, but there are sizable investments that are being made. And broadband capability, just for instance, the, the Costco project, you know, where a farmer/producer puts in four barns, spends between \$3.5 to \$4 million, and needs connectivity to make sure that they're providing all of the information that they need to is something that we want to make sure is an opportunity in the future. We want to solve this problem as much as anyone. It's good for the whole state. And, you know, comments have been made about public-private partnerships. I think that that-- in our estimation or our definition, public and private isn't just the public power. It's public entities. I'm fascinated by what they did in Gage County and maybe we can model some things following that. So let's see, any other things? I think that that's it for now unless you want to talk about precision ag or something.

FRIESEN: Thank you, Mr. Rieker. After hearing a couple of times about the broadband coordinator, let's just leave it at this. We created the position back when we didn't have any money.

BRUCE RIEKER: Yeah.

FRIESEN: And we put it in a position to where it would be there. So if you want to lay blame do it in the executive branch--

BRUCE RIEKER: Got it.

FRIESEN: --not here. This committee, I thought, really stepped up and created that spot. We put it out there and it could have been filled and made a priority if the executive branch felt it was a priority.

BRUCE RIEKER: Yeah. I am not laying blame, but I will say this-- and I appreciate you bringing up the money issue. We do have the money now.

FRIESEN: Yes, we do and I do think it should be staffed accordingly.

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BRUCE RIEKER: And--

FRIESEN: It's an important spot.

BRUCE RIEKER: And I appreciate that. And we have shared that with the Governor-elect as well.

FRIESEN: OK.

BRUCE RIEKER: But we do have the money to do what needs to be done and this is a high priority for those of us in agriculture.

FRIESEN: If that probably would have been taken a little more seriously, we might not have missed the deadline. Senator Bostelman.

BOSTELMAN: Thank you, Mr. Chairman. Thank you, Mr. Rieker, for being here. A comment I was-- made before, which wasn't for, for Cullen, is where's Patrick Redmond? He's the coordinator. I got a letter. This is the second committee hearing I've been at that he should have been at that he's not here. That's telling. Thank you for being here.

FRIESEN: Thank you, Senator Bostelman.

BRUCE RIEKER: Are we done? Am I done? Yeah.

FRIESEN: Thank you, Mr. Rieker. So Does anyone else wish to testify? Seeing none, we do have two letters submitted for the record from AARP of Nebraska and from Patrick Redmond, the state broadband infrastructure coordinator. With that, we will-- before I close the hearing, I do want to thank the committee. And I know a lot of members have left and I do want to thank the staff from my eight years here. I've been Chair for six, but I think this committee as a whole has really worked on a lot of broadband issues and tough ones from where we started. When I first came to this committee, we talked just a little bit about releasing dark fiber and the pushback we got immediately from both sides was-- it was amazing. I had no idea. And so, I mean, from where we were back in those days to where we are today, I think we have changed things 180 degrees. And I do think with the money there and the importance that everybody talks about making this a priority, maybe some time we will actually make it a priority. So there's a difference between talk and action. So I hope you guys in the future keep working on this. But again, I think as you move forward, we've made a lot of changes and we want to be careful that we're not just keeping changes so no one can keep up with the changes. So sometimes we have to let industry catch up and see where we're at.

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So with that, I thank everyone for being here today and we will close the hearing.