

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON GROWTH AND INFRASTRUCTURE**

**Eighty-Second Session  
March 2, 2023**

The Committee on Growth and Infrastructure was called to order by Vice Chair Tracy Brown-May at 1:34 p.m. on Thursday, March 2, 2023, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda [[Exhibit A](#)], the Attendance Roster [[Exhibit B](#)], and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/App/NELIS/REL/82nd2023](http://www.leg.state.nv.us/App/NELIS/REL/82nd2023).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman Howard Watts, Chair  
Assemblywoman Tracy Brown-May, Vice Chair  
Assemblyman Max Carter  
Assemblywoman Jill Dickman  
Assemblywoman Danielle Gallant  
Assemblyman Bert Gurr  
Assemblywoman Heidi Kasama  
Assemblywoman Elaine Marzola  
Assemblywoman Brittney Miller  
Assemblyman Cameron (C.H.) Miller  
Assemblywoman Sarah Peters  
Assemblywoman Shondra Summers-Armstrong

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

None

**STAFF MEMBERS PRESENT:**

Jann Stinnesbeck, Committee Policy Analyst  
Connie Barlow, Committee Manager  
Kathy Biagi, Committee Secretary  
Garrett Kingen, Committee Assistant



**OTHERS PRESENT:**

Dan Musgrove, representing Google Fiber, Inc.

Brendon Pinkard, Counsel, Google Fiber, Inc.

John Burchett, Head of Public Policy and External Affairs, Google Fiber, Inc.

Mike Cathcart, Business Operations Manager, Finance Department, City of Henderson

Cadence Matijevich, Government Affairs Liaison, Office of the County Manager, Washoe County

Ashley Garza Kennedy, Principal Management Analyst, Government Affairs, Clark County Department of Administrative Services

Randy Robison, Director, Government and Community Affairs, City of Las Vegas

Leonardo Benavides, Government Affairs Manager, City of North Las Vegas

Dora Martinez, Private Citizen, Reno, Nevada

Craig Stevens, Senior Manager, Government and Regulatory Affairs, Cox Communications

Kara Bush, Senior Director, State Government Affairs–West Region, Charter Communications

Kerrie Kramer, representing National Association of Industrial and Office Properties

Amy Shogren, representing Vegas Chamber

Chris Ferrari, representing Verizon

Danny Thompson, representing International Brotherhood of Electrical Workers Local 396 and Local 1245

Tony F. Sanchez III, Executive Vice President, Business Development and External Relations, NV Energy

Scott Leedom, Director of Public Affairs, Southwest Gas Corporation

Misty Grimmer, representing Nevada Resort Association

**Vice Chair Brown-May:**

[Roll was called. Rules and protocols were explained.] Welcome. Today we will have one bill presentation, Assembly Bill 105. I will now open the hearing on A.B. 105. Assemblyman Watts, begin when you are ready.

**Assembly Bill 105: Revises provisions related to broadband Internet. (BDR 10-712)**

**Assemblyman Howard Watts, Assembly District No. 15:**

I have the pleasure of representing District 15 in Clark County, right in the heart of Clark County, and it is my pleasure to present Assembly Bill 105 for your consideration today. The last few years have highlighted how important it is for people and businesses to be connected to the Internet. Unfortunately, the last years have also shown how large the digital divide still is with many communities lacking high-speed connectivity and many others lacking affordable Internet access. One year ago, HR&A Advisors conducted an assessment of Clark County's broadband and here is what they found: Clark County had the worst median broadband speeds of its peer counties. Plan prices were at least 30 percent higher

than the national average. For a 50-megabytes-per-second plan, the difference was \$23 a month. That is about \$275 per year. In other words, we are paying more for less.

The only data we have on this issue is from the Federal Communications Commission (FCC) and it is limited. The problem could be worse, particularly in certain community zip codes. One of the suggestions from that assessment was exploring Internet service providers that may be interested in public-private partnerships who are not in the county but may be interested in meeting your public policy goals in developing a more competitive environment for the county.

That really is the ultimate goal of [Assembly Bill 105](#): more choices and competition without an investment of public funds. Under current law, video service providers or cable companies, and large telecom providers, or legacy telecom providers, are granted a presumptive right to access public utility easements, areas of the rights-of-way needed to efficiently deploy broadband infrastructure. These companies were pioneering Internet service providers and depending on the service they provide, they are subject to a range of federal, state, and local regulations. Now, there are new entrants onto the Internet service providing scene, broadband-only providers. They do not fully fit into those previous definitions of public telecommunications company or video service provider. And so they do not fit into a lot of those federal regulatory structures either, as they seek to negotiate right-of-way access agreements with local governments in order to build out their own high-speed fiber optic broadband networks. Their ability even to be allowed that access has been called into question.

The objective of [A.B. 105](#) is to clarify the ability of a local government to negotiate with any broadband provider to access those easements by clearly requiring licensing and authorization. We envision the following conditions would need to be met. Any company wishing to take advantage of this would need to negotiate a license agreement subject to applicable local ordinances, permits, fees, and other local right-of-way standards. Any easement access must protect property owners and not impose a material burden on the property or interest of the owner and the easement grantor. Finally, easement access must not materially interfere with the existing use of that easement by any other existing utilities or service providers. I think as we proceed through this hearing, you will hear some concerns about the bill and the current language.

There might be concern that some of these processes might be circumvented, and I want to be clear at the outset: That is not the intent. We want to ensure that all Internet providers, regardless of whether they provide video, phone service, or not, have the opportunity to go through this process of gaining access to these easements or rights-of-way and are not prohibited because they fall through the cracks of existing language. We all, I think, share the goal of equitable access. There are some disagreements at this point on how we get there with the language. Some have proposed treating broadband-only providers as cable companies. I do not think that is necessarily the right approach, but through conversations with stakeholders, we have prepared an initial amendment to try to clarify some of these concerns and are committed to ongoing conversations. I think we are going to continue to

see some adjustments to the language moving forward to get to a place that fully aligns both the language and the intent. With that, I would like to turn it over to Mr. Musgrove to discuss the amendment language that has been submitted.

**Dan Musgrove, representing Google Fiber, Inc.:**

I am here on behalf of Google Fiber. What you heard Mr. Watts describe is exactly why we are here today. Google Fiber has already been in 14 metropolitan areas doing the very same thing and chose Las Vegas as the next municipality they want to expand their capabilities. More importantly, they want to expand the capabilities of that community by bringing in broadband fiber. They are already beginning the work with the local governments. We have had discussions with all the local governments down in southern Nevada, and it came to our attention, through the city of Henderson, as Assemblyman Watts stated, that they thought it might be very important for us to make sure we did not fall through the cracks.

In a non-home rule state like Nevada, or in unincorporated Clark County for that matter, it might not have the ability to grant us that access because it does not specifically describe in *Nevada Revised Statutes* a broadband provider. When the statutes were created back in the seventies, no one probably even knew what broadband was to this degree that Google Fiber wants to do in Nevada. Again, this bill is truly agnostic. Anybody can do it. It is not for Google Fiber. We just happened to be the first to come and seek this permission from the local governments and then found out that we needed to tweak the statute. So that is why we are here today.

The amendment that you see in front of you [[Exhibit C](#)] is our first go-around in solving some of the issues. Most of the language on this comes from my work with the local governments regarding what they felt they needed to ensure they had the ability to sit down with us and give us true permission to access their right-of-way and the right-of-way of their constituents. If you look at that amendment, the most important thing was in the original draft. It talked about exclusive easement or right-of-way. And again, it is exclusive easement and right-of-way and talks about being licensed and authorized, not licensed or authorized. Again, as Assemblyman Watts described, we have to work with our local government partners to get that permission to work in the right-of-way.

Candidly, we thought this was a very simple bill in that it really was just granting broadband providers that same access that those historical institutions that have always been in that access have always had. Granted, now that we are working with our stakeholders, we realize that we need some tweaks. We are committed to working those out. Hopefully before work session, you will see a document that satisfies almost everyone. Obviously, this is a bill that forces competition and forces folks to look at customers, to look at what is in their best interests as to whom they choose.

There may be some legacy folks that find that competition a little bit intimidating, but I think that is good for our communities to have that kind of choice. Unless there are specific questions as to the amendment, this was our work with the local governments. We are continuing to work with the other stakeholders such as NV Energy, Southwest Gas, National

Association of Industrial and Office Properties, and homebuilders, and I think everyone supports the concept. They just want to make sure the language is right, as we all do. With that, I stand open for questions. If not, I will turn it over to Assemblyman Watts.

**Assemblyman Watts:**

Thank you, Mr. Musgrove. If it pleases the Vice Chair, I would also like to allow our other presenter to give a few remarks and then we will be glad to take any questions the Committee may have.

**Brendon Pinkard, Counsel, Google Fiber, Inc.:**

Thank you for the opportunity to appear before you today to discuss A.B. 105. As a prospective provider of competitive broadband in the state, we support this modest amendment because we think Nevadans should have the opportunity to choose between and among competitive providers of broadband service.

Access to the right-of-way should be granted on fair, equitable, and competitively neutral terms. Over the course of the last several days leading up to this hearing, we have talked to a number of you and stakeholders throughout the communities in the state. We have heard quite a bit of enthusiastic support for the bill and some detractors. We have learned, I think, the detractors have a vested interest in complicating what is quite a simple proposed amendment. I would like to take the opportunity to simplify what specifically A.B. 105 would propose to do.

It is important to note that this is not a new policy. State law grants narrow easements to public utilities, telecommunications companies, and video service providers. As a creature of state law, these public utility easements cover a narrow portion of private properties—think the portion of yards that run along the sidewalk or the streets—based on the premise that it is in the public interest to facilitate the deployment of this essential infrastructure.

When this law was drafted many decades ago, broadband-only providers such as Google Fiber did not exist, but telecommunications and cable companies did. Given how reliant we have all become on broadband today, and as it has been amplified in recent years with remote work in schools through COVID-19, it is almost inconceivable that broadband providers would not also be granted the same access to the public utility easements as the telecoms and cable companies enjoy today, were this bill drafted fresh today.

The proposed bill would fix this accident of history by simply updating the law in a modest and narrow manner to reflect the evolution of infrastructure in the 21st century. Thank you for the opportunity to appear before you today and we look forward to answering any questions that you may have.

**Assemblyman Watts:**

That concludes our presentation, and we will take any questions.

**Vice Chair Brown-May:**

We have a number of questions. We are going to start with Assemblyman Carter.

**Assemblyman Carter:**

You kept referring to the legacy providers. The legacy providers, in return for access to the citizens and those easements, have a significant investment in the community, a significant responsibility to maybe not access everybody, but to take and provide service to a broad scope, not just picking off the low-hanging fruit. What are the plans to ensure that part of the playing field is level?

**Brendon Pinkard:**

I think it is important to note that there are significant conditions associated with this easement access. You mentioned the legacy providers and that they are regulated at the state level. Because of innovations in technology, broadband providers are now offering a new service that is not contemplated under state law. Most states do not regulate broadband service and that is in the interest of fostering competition, innovation, and so forth. We as a broadband-only provider are not subject to Public Utilities Commission of Nevada regulation like the cable companies and telecoms. But Assembly Bill 105 would impose the condition that any broadband-only provider that is granted access to the easement must first negotiate and enter into local right-of-way agreement with the municipality in which it wants to build out and invest in broadband infrastructure. Those agreements are closest to the rights-of-way because what we are talking about are easements that are located in these specific municipalities. What that condition does is subject those broadband providers to negotiate with those municipalities and allow those municipalities to establish the terms and conditions on which those broadband providers will deploy and occupy the public rights-of-way. Additionally, in terms of accountability, the easement bill has two additional important conditions: the use of the easement by the broadband-only provider cannot materially affect the property owners' enjoyment of their property, and it cannot materially affect the use of the easement by the other occupants of the easement, the public utilities, the telecom providers, and the cable companies. So, there are significant protections built in. The notion that there is inadequate oversight associated with this easement occupancy by broadband providers is, I think, very well cared for in the proposed legislation.

**John Burchett, Head of Public Policy and External Affairs, Google Fiber, Inc.:**

Yes, historically, the cable companies and the telcos were given access in exchange for something and there were some PEG [public, educational, or governmental] channels and things like that. That was also historically in exchange for a monopoly, which a lot of those providers have exercised for the last 30 years. We cannot speak for all broadband-only providers. Our business model is when we go into a city, we intend to build as much of it as possible. We can never say 100 percent because some people live behind the railroad track or five miles out of town. But our goal is to build as much as possible.

We have a robust community impact program in the communities we go into. It is focused on digital equity, and we work with nonprofits in the communities that are working on digital equity. We will have an affordable, low-income product or part of the Affordable

Connectivity Program (ACP), the federal program. We very much care about some of the issues you are talking about as we are planning our build-up.

**Assemblyman Carter:**

Very good. A follow-up kind of statement/sort of question is that we are seeing a sea change in technology. We have seen that before in this state and it is going on right now as we are trying to play catch-up. I am talking about the shift to electric vehicles and the dissolution of the revenue stream that helped maintain our highways. I want to make sure that we keep that in mind with regard to this technology shift that we take in and make sure that we keep those revenue streams in place to support what the existing infrastructure supports.

**Assemblyman Watts:**

I appreciate that concern, Assemblyman. I would like to turn it over to the folks from Google Fiber to provide their perspective. Speaking personally, I think all of this comes down to we want to make sure these companies have the ability to go to local governments and negotiate. At a minimum, I hope our local governments negotiate a variety of terms, in terms of deployment, service, accessibility, and quality, as well as the cost associated with being licensed. That helps address some of those issues and ensures that we maintain the benefits associated with that as the technology shift happens and as more competitors potentially enter the market. I hope that it will be a benefit in a variety of ways.

**John Burchett:**

We are currently in conversations with municipalities to make sure they have revenue that is going to be commensurate with some of the revenue they have historically gotten. The franchise rule in Nevada, as in most states, is 5 percent for video revenue. None of the incumbents pay any percentage on Internet revenue. As more and more people cut the cord, that video revenue is going down. We are working with the local governments. We have done this in all the markets that we are in to make sure it is a number lower than 5 percent because that 5 percent number is going down and the base is much broader. We want a number that would allow the cities to maintain that revenue they currently get out of the franchise agreement.

**Assemblywoman Peters:**

I need to start a little bit from the beginning. What is the big problem? I feel like we have been seeing broadband being funded across the state. We have been talking about it in this body. Where did the problem arise? Where was broadband being laid, if not in the easement? I guess I do not understand the baseline of where the problem arose.

**Assemblyman Watts:**

Again, I will turn it over to potentially get some additional background on this. I believe that when this company approached local governments about deploying, there was concern that we have some clear language that allows telecom companies, utilities, and video service providers access to these easements, these rights-of-way, to deploy service. Because there is not, there is concern that they do not have authorization to enter into a similar licensing and authorization process for a broadband-only provider. To the larger point of your question,

I think a lot of the conversations about expanding the deployment of broadband have been with providers that are already located in the state.

**John Burchett:**

I think Chair Watts answered that perfectly correctly. The problem around broadband is, in part, that there is a lack of competition. If there is one major incumbent that has 95 percent of the market share, the likelihood of higher speeds, lower costs, and better service is less than if there are two or three providers. With the goal of broadband being affordable and at the speeds we are now all expecting, competition is sort of a requirement. A lot of the broadband funding is intended to get to the very, very rural areas of Nevada. Those places are very expensive and hard to reach. That is what I think you are going to see a lot of with this federal funding that is coming down. The state will be able to choose where the federal funding goes, and much of that will be going to those unserved places in rural Nevada.

**Assemblywoman Peters:**

What has been happening is the broadband that has been deployed is coming from companies that fall under those telecommunications or entities that are already defined in here, but are then going out and laying the broadband framework infrastructure under that definition. Okay. I think the other thing I need clarification on is the easement. It sounds like the county is on the easement, but talk about what that relationship is with the property owner and what the relationship is with the infrastructure that is already laid in the easement.

**Assemblyman Watts:**

Again, I will probably turn this over to get a bit of additional context. One of the things I will speak to you on again is the intent of the bill, which I think has been the topic of a lot of discussion. There has been concern that the goal of this bill is to get around some of the existing processes to negotiate and there are both rights-of-way that are managed by local governments and also easements that are on private land. The intent of the bill is the process would remain exactly the same for consulting with those private landowners, requiring them to agree, and potentially compensating them if there is any impact; then on the local government side, again going through a licensing and authorization process and ensuring that the work that is going to be carried out is held to a high standard and does not impact anybody else using that right-of-way. So that is at least the intent of how we see it working. Does anyone else want to speak about the right-of-way or easement process?

**Brendon Pinkard:**

Under existing state law, every parcel of property in the state is required to set aside and dedicate a small portion of their property for public utility easements. That has been true for decades and it is true throughout the country, which is why oftentimes you will see telephone poles in people's yards or small handholds located in the front of somebody's grass. That is a requirement of state law right now. The class of providers who are enumerated under the existing statute, who are granted access to that small easement on private property, is limited currently to public utilities, telecom providers certified by the state, and video service providers also regulated at the state level. So again, this would be a modest amendment to that provision of existing and decades-old state law, to expand the scope of the enumerated



class of providers who are granted access to these private easements granted by the state to broadband providers in order to promote and accelerate the broadband efforts that you have seen throughout the state here and nationally.

**John Burchett:**

To add onto what has already been said, I think there is or has been a misconception we have been trying to counteract for the last day or so. That is that this would somehow impact private easements people have negotiated across their property and if you have negotiated with somebody to let them have access to your property, this would allow a broadband-only company to jump into that easement. That is not the case, and we would be happy to make sure the language is crystal clear on that. The intent is to stay within the public utility right-of-way and act like another public utility. It also requires anyone who goes into the infrastructure, anytime the gas company or the water company or an incumbent goes in, they must go to the "locates regime," they have to call 811, they have to figure out exactly where everyone else's infrastructure is, and then dig in a way that does not bother existing infrastructure. That requirement will be on the broadband-only providers. It should not be any different for the existing people in the infrastructure or for the existing landowners. It will just be a different entity going on their property periodically to either lay down infrastructure or to fix infrastructure.

**Assemblywoman Peters:**

Related to the other infrastructure in the easement, what is the obligation or existing law to the equipment that is owned by other entities in this public easement? What is the obligation there with relation to other folks' owned infrastructure?

**John Burchett:**

Like anyone who digs, even if you dig in your own front yard to plant a tree, you are supposed to call 811. The 811 systems identify people who have infrastructure there and generally have two days to go out and mark exactly where their equipment is. Then we cannot dig right where their equipment is. Anytime you are building infrastructure, things can happen. Sometimes things get hit. If the water company is repairing a sewer, they might hit the gas line, they might hit the Cox [Communications] line, but the system is designed to minimize those dangers by putting requirements on anyone who digs. Those requirements would be on the broadband-only providers and us, in particular, if we are the ones who are digging. Our methodology is a little different than most.

We do shallow trenching between 6 and 14 inches deep. Most infrastructure, your gas mains and your water, is between 24 and 36 inches deep. We do that because it is an innovative, less costly, and faster way to deploy broadband. It has the added benefit of having less interference with existing infrastructure. We would have the exact same obligation that the gas company has when they go in to dig in this easement that they have been operating in for 40 years.

**Assemblywoman Kasama:**

I think we all sitting here know that we always want to expand broadband and make it accessible to everybody because it is our way of life now. I do have two questions based on some of the information you are sharing. With the amendment, you were saying the new providers could go in and use the trenching and the areas that were already there and that you would work with the public utility companies as far as a payment or if something else was required. Is that correct?

**Assemblyman Watts:**

Again, what we envisioned is that a broadband-only provider would follow the same process as any other existing provider. So, if it is gaining access to that easement and that access is managed by local government, then the access is going to be negotiated with the local government. There is going to be an agreement and that is going to include a payment to the local government to be licensed. In the event there is an impact on any private landowner or entity, then there would have to be a negotiation that would allow that private entity to consent. That would potentially involve compensation.

**Assemblywoman Kasama:**

There would be a negotiation there. What about for cable companies that 20 years ago dug trenches, which was a huge capital investment for them? Is there any compensation anticipated for those people for the infrastructure they put in? I don't mean the public utility company, but the people who dug trenches and have invested millions, if not billions, in many areas.

**Assemblyman Watts:**

What I would say is, again, this was brought up in previous testimony. One of the benefits to those companies was exclusive access that has been enjoyed for quite a long period of time. Although there has also been, as was noted by other members of the Committee, continued innovation, it used to be everything had to go in the ground. Then there was satellite technology that allowed the provision of different services without even having to do any digging. We are going to continue, I think, to see innovation and additional ideas for competition. Even now we have multiple Internet service providers in the state; things are changing on that front. And again, what we are looking at and what I think we envision is to have a uniform, fair process for any provider to have access to those easements, to deploy the technology that they want, that they contribute for being able to access that infrastructure and have the opportunity to serve the community. Again, that foundation will be applied across the board.

**John Burchett:**

It would be unheard of to require a competitor to compensate an existing business for competing with them. That has not happened anywhere in the country that I am aware of, no. The existing companies have made a lot of money for many years because they chose to deploy their assets and build the business. New broadband providers are now asking for the right to do the same thing. To be hobbled by having to pay the existing incumbents for the right to compete with them would be highly problematic.

**Assemblywoman Kasama:**

I am just trying to understand it. If Google went out to a rural area and built infrastructure, then other providers would have access to that as well.

**John Burchett:**

No, they would not necessarily have access to our infrastructure, and we are not asking for access to anyone else's infrastructure. But if somebody else came in and built infrastructure behind us, we would have to compete with them and that is the way it frankly should be.

**Brendon Pinkard:**

Thank you for the question because I think it does give us an opportunity to clarify what we are proposing here with this bill. What our intentions are in terms of how we intend to deploy is that we are not proposing to use any other providers' infrastructure. We intend to make our own investment to the extent we are able to deploy here in the state. This bill would not grant us the right to dig or the right to use anybody else's infrastructure or otherwise leverage the investment that they have made. All this bill would do is grant us access to the space the state has dedicated for the purpose of public utilities and similar providers. We would have to make our own investment and occupy our own space and make sure our occupancy and installation of our facilities within that space does not interfere with the other providers you referenced who came here before us. In fact, there are mechanisms in place to protect their investment and just allow us to use the area of the private rights-of-way that the state has already granted.

**Assemblywoman Kasama:**

The other question is one you alluded to, and I want to make sure what the intent is when it comes to private property easements. I am in real estate and private property rights are important. Taking of a private property without due compensation would give me a lot of angst. It sounds like you are saying this is running in the public easements that have been granted. I would want to make sure there is very clear language that, should there be any easements for private owners, that that would have to be negotiated. I cannot imagine a state statute saying it is granted without negotiating with each property owner.

**Assemblyman Watts:**

Again, I want to make sure we have the intent very clear. I have heard some of those concerns and we are open to language from all stakeholders to make sure it is absolutely clear. The focus is on the public easements and rights-of-way. If any provider wanted to pursue a negotiated access on a private easement, we want to make sure they have the ability to do so, but this is not intended in any way to circumvent the process, which would be sitting down with that private property owner and discussing and coming to an agreement, whatever the terms of that agreement would be.

**Assemblywoman Summers-Armstrong:**

You mentioned earlier that the telecom companies had franchise agreements because they offered phone. I have not heard you speak at all about broadband also offering telephone service. Google has Google phone. How are you all going to address that, because that is

part of what you are offering as a service? Earlier you mentioned that there is a franchise cost other folks must pay for phone service. Your service is phone, but it is offered through broadband. How do we manage that? I do not understand all of this. You are still offering parallel services, but you do not want to be considered the same type of utility per se.

**John Burchett:**

We do offer phone over broadband. I will have Mr. Pinkard jump in as he is more of the federal expert on this. First of all, the franchise fees are not for phone at the state level. They are for video for TV, and we do not offer TV. It is very specifically traditional TV over cable, and we do not offer that, so we would not be subject to that payment. We are working with cities that do have a right-of-way fee so cities can have somewhat comparable or comparable revenue coming off the right-of-way fees that over time we think will be much greater than what they, over time, will get from video fees, because video usage is going down. The universal service fund that is run by the FCC is the organization in Washington, D.C., that collects a small fee on phone bills. That is an issue that is being debated at the federal government level because so many people no longer have a landline. Those fund levels are going down and, like social security or other big things, they say, Wait a second, our funding stream is drying up on this. What are we going to do? That has been talked about for years and it probably will be talked about for another couple of years before it is resolved. But by all accounts, no broadband, no Voice over Internet Protocol is included in most of those universal service fund definitions. We are following the same rules that everyone sort of agrees is the structure now, and it will take time for the legal framework to catch up with the technological framework.

**Assemblywoman Summers-Armstrong:**

That makes perfect sense, and I am sure they will figure this out on the federal level. I just want to make sure that I am clear about right-of-way easements. There are public works people in the audience, so you all can nod your heads to indicate no if I have it wrong or yes if I have it right. In my years in my other life, the public agency that collected gas tax dollars from our taxes would lay conduit on the side parallel to the sidewalks. That was the right-of-way easement. They would run fiber and there was an extra tube in the ground in new construction that allowed our public utilities, mostly our cable people, to also pull their cord so that the streets were not torn up. Are you saying to us that you also want to be able to access that conduit to pull your fiber so that you can service areas and compete with them in certain areas, or are we talking about two different things?

**John Burchett:**

In different cities and communities, governments have laid dark fiber that is not being used. Governments and different entities such as gas companies and water companies have laid conduit next to some of their pipes when those are available. We would negotiate and ask to have access to them. That would likely be a situation where we would pay a fee to do that because it would be a dramatic reduction in our costs and that is sort of a separate negotiation. It is everyone's goal to have as little disruption to streets and people's yards as possible. It is best practice for cities to lay conduit when they are doing construction because their streets are being cut up a whole lot less by a whole lot fewer companies. That is based

on the availability, and sometimes now it is possible a cable company might have laid its own conduit during a construction period and that is their private conduit. We would not have access to that unless they chose to grant it to us. At that point, they would sell it or rent it. That is based on their business interests and our business interests. But if it is a government conduit, the first thing they say when we go to talk with them is, We have a whole bunch of dark fiber; are you interested in leasing it? Then we say, Okay, let us have the business people talk it over because that gets our deployment faster, it gets more competition faster with less disruption, and that is a win-win all the way.

**Assemblywoman Summers-Armstrong:**

Talk to us, please, about speeds and what you all are expecting to offer in our communities. I think it is really important that we are not the last and the lowest speed in the nation.

**John Burchett:**

Our baseline product is one gigabit. That is 1,000 megabits. Most folks might be averaging around 100 megabits. That was an average, if I heard that correctly. This is all through fiber and it is more than you will need at the moment. With increasing usage, you are going to need that. That is our baseline product. We also have a 5-gig product, and we are testing a 20-gig product. You are not going to need that for your email, but that is our baseline, and all of our customers have access to that. That is how we built the business model. We charge \$70 a month for that. We have charged \$70 a month for that since the day we started operating 12 years ago. That does not mean there is never going to be a price increase, but that is our standard speed and price.

**Assemblywoman Gallant:**

To piggyback on that question about speed: Was that your download speed? There is an upload speed too.

**John Burchett:**

I neglected to say that is symmetrical. A lot of times you will get a decent download, but you will get a very slow upload with various technologies. Fiber technology is going to be symmetrical, so it is going to be 1,000 down and 1,000 up.

**Assemblywoman Gallant:**

I have been learning about these government funds that everybody has received in order to get broadband everywhere, and we do not meet the criteria or we do not have that technology. Fiber would give us that technology. Are you planning on working and accessing those funds somehow?

**John Burchett:**

We have had a lot of internal discussions about it. There are a lot of strings attached and at the moment, we are not applying for federal funds. One of the things is that federal funds are first designated, and this is appropriate, for unserved areas. Those unserved areas tend to be very rural and very isolated. In our business model, we have not figured out how to get there even with a government subsidy. This is an area where if incumbents are already serving

people through a telephone line or something, it is a whole lot cheaper. I think what you will see is that maybe satellite people and wireless folks are the ones who are predominantly going to be applying for these funds. It is a once-in-a-generation opportunity. I know the state is taking it seriously, and this is a chance to get most of that funding to unserved areas.

There should be funding left over for what they call underserved areas that have what we would now consider pretty slow speeds at 25 download and 3 upload. I think that is the number, though I might have that number wrong. Those areas are going to be a little harder to define because the broadband maps are not super accurate yet. The FCC is working on that, but your broadband office in the state should be working with the local governments and all the companies in the next year when the funding comes downstream and you have to start deciding which projects to fund. So, there is a whole big process. It is somewhat new. The federal government has not done it this way in the past, but there is a huge opportunity, and I think it is great policy for folks to really be focused on that.

**Assemblyman Gurr:**

We have broadband being installed in the area I live in and it is in the right-of-way. I think everybody has to understand what right-of-way means, and I hope they do now. That is why I said probably this is done. But two broadband companies have come into rural Nevada and are putting this in through the mining industry and through government, I would assume. They are cleaning up a whole bunch of this and you will not even go there. But simply, does this bill just give you the right to get in and compete on that level? How your business model works out is up to you, in my mind. I think the bill, if it just gets you in the game, is a good thing.

**Assemblyman Watts:**

Yes, that is the intent.

**Assemblywoman Dickman:**

Thank you, Chair, for the bill. I guess this is for Mr. Burchett because I heard the word monopoly. The way I heard it, and maybe I misunderstood, but maybe it was a monopoly initially, but it almost made it sound like they have only done all these community-minded things because it was their payment for getting a monopoly. My question is, Are you planning to just pick the low-hanging fruit as opposed to doing the stuff in the rural zones and for the underserved people, you know, just to compete in the easy areas?

**Assemblyman Watts:**

I think there has definitely been corporate interest in benefiting the communities in which they are located. I think that is shared, no matter legacy provider or potential new providers. That is one aspect. And absolutely there is another aspect that was negotiated community benefits for being given access to a customer base. To your larger point, I think Mr. Burchett can speak on behalf of his company. This is the company that has come forward and is interested in pursuing this right now. This is not a Google Fiber policy. Potentially, other broadband providers could come in and look to serve additional areas. Again, this company has not figured out a way to cost-effectively deploy some of those rural areas. Back to some

of the previous questions, that is more for some of the other providers utilizing some of that federal funding to help deploy out into those communities. They are looking at adding another option and hopefully driving down the cost for everybody in the urban area and expressed their intent to serve as many people within that area as possible.

**John Burchett:**

I absolutely had no intention to impugn the motives of any company doing good works. All companies should be doing as much as they can within their business capabilities to help in the community, and I am sure the incumbents here have done some great things. We will work with communities, and the communities we are talking to are large, like Henderson, Las Vegas, and Clark County. Our goal is to serve as many people in those places as possible. Developing infrastructure takes a lot of time, so you do not get to everyone right away. We are building out whole cities, and we are not going in and taking the ten best neighborhoods and calling it a day. That is absolutely not what we have been doing or have any interest in doing.

**Assemblywoman Dickman:**

That is good to hear because we know there are many underserved communities in cities as well.

**John Burchett:**

Absolutely, and we get to those.

**Vice Chair Brown-May:**

Thank you for your presentation and answering questions. At this time, we will hear testimony in support, opposition, and neutral on Assembly Bill 105.

**Mike Cathcart, Business Operations Manager, Finance Department, City of Henderson:**

The City of Henderson is supportive of A.B. 105 with the amendment provided by Mr. Musgrove. We appreciate the sponsor working with us on the local government language. The city is supportive of bringing additional broadband services to our community, and we look forward to working with all providers who want to expand access for Henderson residents.

**Cadence Matijevich, Government Affairs Liaison, Office of County Manager, Washoe County:**

I will echo the comments of my colleague from Henderson. Expanding broadband access to our communities in Washoe County is part of the Washoe County strategic plan under innovative services. And so, to the degree that this bill will help that effort, we are very much in support. Thank you.

**Ashley Garza Kennedy, Principal Management Analyst, Government Affairs, Clark County Department of Administrative Services:**

I originally signed in in neutral today, but after the testimony and seeing the amendment that was presented before you, I want to testify in support with the amendment that was presented. I think our Board of County Commissioners has been very vocal that we want to expand access to broadband, and I want to put that on the record.

**Randy Robison, Director, Government and Community Affairs, City of Las Vegas:**

On behalf of the City of Las Vegas, I am here to testify in support of the bill as amended. I appreciate the Chair's intent to drive these conversations to the local level so that we can appropriately negotiate an agreement that makes sense for our communities. As you heard from testimony a couple of different times, we have areas in our community that are underserved, particularly on the east side and the historic west side. The opportunity to have conversations with companies like this that help us meet the needs of our residents throughout the city would be very helpful.

**Leonardo Benavides, Government Affairs Manager, City of North Las Vegas:**

I just want to echo the comments from my colleagues at the counties and cities. We appreciate the sponsors for taking into account the amendments that help clarify some of that language with regard to the city and local governments.

**Dora Martinez, Private Citizen, Reno, Nevada:**

We are here wholeheartedly in support of this amazing, commonsense, inclusive, diversity, equity, and accessibility bill. As you all know, many of us with disabilities have a hard time commuting and coming over there to see your beautiful faces. Having this available to us and everyone makes us be available to you. I am calling in support.

**Vice Chair Brown-May:**

At this time, we will move into opposition. Anyone in opposition to Assembly Bill 105, please come forward.

**Craig Stevens, Senior Manager, Government and Regulatory Affairs, Cox Communications:**

First, I want to say thank you to the bill sponsor. He has been incredible in trying to work with us in all the opposition that we do have with the bill. I think the Google representative said it best. There is a telecom statute, utility statute, and a cable statute. We believe that there should be a broadband-only statute. To just simply ask for everything that all these folks have and the obligations that we have to our communities without having those same obligations, it is not fair. They are creating a competitive advantage over those of us who must provide to everyone. We have certain requirements for our customers that we have to do. There are a lot of obligations that we have to our customers and to our communities that this would get around. They themselves said they want to, and I have a quote, "act like a public utility," but they do not want the obligation that comes with that public utility. This body went to a statewide franchise for cable because it was not equal. Certain local governments were creating an unequal playing field by saying, Come in here. If you give us



this deal, go in there. It was impossible for companies to come in to compete because there could be one community to whom they say, We are going to give you a 2 percent fee. Then someone else comes in, and if they are not as favored, maybe they ask for a 3 percent fee. There is not going to be even competition when it comes to this. This is why it is the obligation of the state to make those rules and to make sure they are giving back to this community so they can have access to the right-of-way. This is not just the government's property; it is our property. We pay taxes for this property, and it should not be given without an obligation to serve the community in ways just as, Hey, we are going to give you Internet. There is so much more that comes with being in the right-of-way. There is so much more that comes with just entering our market and allowing to be in this market because it is a privilege to be in this market and it should remain so.

**Kara Bush, Senior Director, State Government Affairs-West Region, Charter Communications:**

Charter Communications, more commonly known as Spectrum in the communities that we serve, is one of the largest Internet providers in the U.S. Charter believes that every Nevada resident should have reliable access to broadband. We stand ready to help bring the benefits of broadband and Internet access to those who need it most. In 2022 alone, Charter expanded its network to an additional 6,000 homes and businesses here in northern Nevada, making a \$97 million capital investment in the state.

Charter supports efforts to promote fair competition and increased choices for broadband consumers. We also strongly favor policies designed to foster broadband expansion to unserved areas in Nevada. The state's broadband policies, however, must ensure that competition is fair and equitable. A level playing field protects competition and therefore protects consumers by ensuring that companies compete to provide the best quality and price for their services, not to obtain more favorable treatment from the government. By giving direct competitors different treatment by the government with respect to both fees paid to the government and access rights to easements, private properties, and the right-of-way, Assembly Bill 105 would undermine fair competition.

Nevada state law allows local governments to charge video service providers like Charter up to 5 percent of their gross revenues in franchise fees for the authority to place facilities in the public right-of-way, again while tied to the provision of video service. This authority is also the basis for cable companies' placement of broadband facilities in the right-of-way. Under A.B. 105, broadband providers would gain the same authority to be in the right-of-way but without the payment of any fees. In fact, A.B. 105 specifically excludes broadband providers that are also video service providers from gaining the benefits of the bill by its own terms that expressly contemplates the creation of an inequitable regime whereby one broadband provider gains free access to something its direct competitors are required to pay for. Likewise, the bill gives one direct competitor an advantage over another in terms and conditions for access to private properties in the right-of-way. Video service providers are required to negotiate access.

All that being said, we are committed to supporting local initiatives through many of our philanthropic efforts. We promote digital literacy. We participate in the ACP federal connectivity program. We want to continue to expand our network, and we would just ask that competition is fair and equitable.

**Kerrie Kramer, representing National Association of Industrial and Office Properties:**

We are actually here in mostly support. We just have a couple of changes to a couple of sections of the bill. We have spoken to the sponsor of the bill as well as Mr. Musgrove, and we will continue to work through our concerns, but we do support broadband. We would like to see this move forward. We would just like to work on a couple of areas.

**Vice Chair Brown-May:**

Is there anyone else in opposition up here in Carson City? Please come forward.

**Amy Shogren, representing Vegas Chamber:**

We are in opposition to this bill and look forward to working with the bill sponsor and Committee members.

**Chris Ferrari, representing Verizon:**

Our clients submitted an opposition letter [[Exhibit D](#)], and we have been in constant communication with the Chair and appreciate his willingness to work with us for all the reasons stated by the previous opponents. We are opposed to the bill.

[[Exhibit E](#) was also submitted in opposition to A.B. 105.]

**Vice Chair Brown-May:**

Is there anyone else in opposition to A.B. 105? [There was no one.] At this time, we will move on to neutral. Is anyone here in neutral on Assembly Bill 105?

**Danny Thompson, representing International Brotherhood of Electrical Workers Local 396 and Local 1245:**

We represent all of the linemen and the gas workers in Reno and Sparks. I had initially signed in in opposition to this bill because our workers work in those easements. A lineman classification is the most dangerous job in the state of Nevada, and they currently have to climb these poles. I was glad to hear that none of this stuff is going to end up on a pole. I hope that is not their intention because our workers have to climb over these devices, and it is very dangerous work to begin with. All of these things that have been added over the years get in the way. After listening to the amendment and listening to the testimony, I am neutral. However, I reserve the right to oppose this bill depending on how this amendment comes out. I want to thank the Chair for working with the parties to solve these concerns.

**Tony F. Sanchez III, Executive Vice President, Business Development and External Relations, NV Energy:**

I am here representing NV Energy as neutral at this point. NV Energy shares the Chair's desire to see broadband expanded throughout the state. In fact, this very Committee two

years ago authorized and directed our company to build a \$2 billion transmission line through many of the most rural parts of our state. Within that transmission line, we have up-sized our fiber capabilities in our plans to allow broadband providers. We are acting as the so-called middle-mile provider throughout many areas of the state that currently do not have broadband. We have a strong interest and share the desire of the Chair in why he brought this bill. The amendment provided to the bill has assisted us in understanding the intent as well as the Chair's remarks and the remarks made by the representatives of Google. We still have a few remaining issues that we look forward to working on with the bill's sponsor as we move forward.

**Scott Leedom, Director of Public Affairs, Southwest Gas Corporation:**

I will not reiterate a lot of the concerns that have already been brought up, in particular about the public utilities' easements and the access this bill will provide. We are confident, based on the testimony provided by the bill sponsor and others, that their intent is not to come in and have unfettered access to those easements. Based on their testimony, we are confident that we can come to an agreement with them on amendment language. We look forward to working with the bill sponsor, Mr. Musgrove, and others who have been very responsive, and appreciate the responsiveness and are confident we can come to an agreement on that. We are neutral and looking forward to working with them on that.

**Misty Grimmer, representing Nevada Resort Association:**

We also very much appreciate the goals of Assemblyman Watts. The pandemic definitely did show that there are some gaps in equal access to Internet service and so we do appreciate the goals. As you might imagine, the last thing the Resort Association wants to be involved in is a fight between Internet companies competing with each other. A lot of our concerns were addressed in the comments of the sponsors today, and we look forward to working with them. Our concerns are focused on the easements because even though an easement may be a public utility easement, it is still an easement on private property. Our ability to still have some control over that work with the people who may be looking for access to it is still something very important. We look forward to working with the bill sponsor to ensure that the language of the bill still protects our rights to those easements.

**Vice Chair Brown-May:**

Is there anyone else in neutral? [There was no one.] Mr. Musgrove, would you care to make a few closing remarks?

**Dan Musgrove:**

On behalf of Google Fiber, we appreciate the excellent feedback and work. This Committee has obviously looked into this bill, and we appreciate all the questions. We certainly commit to everyone that we will continue working on this. Again, we just want the opportunity to bring broadband and right now we cannot—at least that is what we are told. So, we will work it out and we will figure it out. We will bring this to Committee, and we will hope for your support. Thank you very much for your attention today, and we appreciate it.

**Vice Chair Brown-May:**

Thank you, everyone. With that, we will close the hearing on Assembly Bill 105. That brings us to the last item on our agenda, which is public comment. [There was none.] That concludes our meeting for today. Our next meeting will be Tuesday, March 7, at 1:30 p.m. This meeting is adjourned [at 2:45 p.m.].

RESPECTFULLY SUBMITTED:

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Kathy Biagi  
Committee Secretary

APPROVED BY:

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Assemblyman Howard Watts, Chair

DATE: \_\_\_\_\_

## **EXHIBITS**

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a proposed amendment to Assembly Bill 105, submitted and presented by Dan Musgrove, representing Google Fiber.

[Exhibit D](#) is a letter dated March 1, 2023, submitted by Michael Bagley, Director of Government Affairs, Verizon, in opposition to Assembly Bill 105.

[Exhibit E](#) is a letter dated March 2, 2023, submitted by Mark Stallons, CEO, Valley Electric Association, in opposition to Assembly Bill 105.