

May 2, 2024

Governor Tim Walz
130 State Capitol
75 Rev. Martin Luther King Jr. Blvd.
St. Paul MN 55155

Re: Article 10 of HF 5242 will effectively stop the job of Connecting all Minnesotans to Broadband

Dear Governor,

As you know, Minnesota is in line to receive \$652 million in federal BEAD funding to achieve Internet For All, funds that will be matched by an equal amount of private sector investment. All totaled, the BEAD program holds the promise of \$1.3 billion in broadband investment for Minnesota.

But today we write you with dire concern that these funds will go **unused** due to bills progressing through the Legislature that would dramatically increase the cost of BEAD projects, and impose onerous, unjustified new regulations unfairly targeted at the broadband sector.

These provisions are contained in Article 10 of the House Labor Omnibus bill (HF5242). Sections 1 and 2 would effectively require BEAD funded projects to be prevailing wage projects. Recognizing the need to stretch BEAD funding as far as possible to achieve the federal universal broadband mandate, Congress intentionally didn't apply the Davis-Bacon Act to BEAD. For the same reasons, the Minnesota Legislature hasn't (until now) considered imposing prevailing wage requirements on state funded last mile broadband projects. Minnesota is going to need every penny of that \$1.3 billion (and maybe then some) to reach the remaining unserved Minnesotans. The prevailing wage requirements in Article 10 will guarantee that a substantial number of Minnesotans remain unserved indefinitely.

Sections 3 and 4 of Article 10 are equally problematic for different reasons. Section 3, the only section of the House bill included in the Senate companion, creates an unjustified, burdensome new broadband installer certification program. The labor union backing the legislation has accused the broadband industry of unsafe underground construction practices. After being challenged about this claim, the union hired an organization called North Star Policy Action (NSPA) to write a report supporting their claims. The firm appears to be run by a single individual with no expertise or prior experience in underground construction or broadband. The report admits the data it relied on is "plagued by many unknowns." Yet the author did not hesitate to make deeply flawed, sensationalized findings. For example:

- NSPA's lead finding is that "Underground telecommunications installation is the leading cause of damage to buried infrastructure in the state." But here is what the data actually shows:
 - From 2020-2022, electric and natural gas utilities were responsible for approximately 16% of all underground construction damage incidents.
 - From 2020-2022, telecom was responsible for 14.45% of all damage.
 - Other industry sectors were responsible for the remaining 70% of damage incidents.

- Omitted from the report is the fact that damages to underground facilities by the telecom sector are on a strong downward trend:


- 2020: 638 damage incidents
- 2021: 400 damage incidents
- 2022: 347 damage incidents

- NSPA cited “a recent national survey” to find that “57% of telecommunications technicians said they saw safety risks for workers and the public.” The “national survey” was of 1,500 AT&T subcontractors’ employees. AT&T provides no wireline broadband services in Minnesota and will not be eligible for BEAD funding in Minnesota.

We’re not claiming we have a spotless safety record. All we ask for is fact-based legislation. To that end, we’ve proposed alternative legislation that would require appointment of an underground safety task force to ascertain safety issues, and recommended standards to the Department of Labor and Industry. A similar process to the one we are proposing led to agreement this year on a bill updating the Gopher State One Call law that is poised to pass this session with strong industry support.

We greatly value the partnership forged over the past 10 years with the State, building what has become nationally known as the “gold standard” of state broadband grant programs. Let’s not trip over our own feet as we hit the homestretch. **We want to be clear: This language will essentially make it impossible for any internet service provider in the state to participate in the BEAD or any other future border-to-border grant program.** Broadband investment to the remaining unserved areas of Minnesota will come to a halt. Proponents of the legislation may call this a victory, but it will be a hollow one. We do not envy those who will have to explain why the State of Minnesota, with a once in a lifetime chance to finish the job, instead chose to leave \$1.3 billion in broadband investment on the table. We ask for your help in preventing this harmful legislation from becoming law.

Sincerely,



Executive Director
MN Cable Communications Association



President/CEO
MN Telecom Alliance



State Advocacy Manager
WISPA