

E AND R AMENDMENTS TO LB 1115

Introduced by Larson, 40, Chairman Enrollment and Review

1           1. Strike the original sections and all amendments  
2 thereto and insert the following new sections:

3           Section 1. The Legislature declares it is the public  
4 policy of this state to provide adequate natural gas pipeline  
5 facilities and service in order to expand and diversify the  
6 Nebraska economy resulting in increased employment, new and  
7 expanded businesses and industries, and new and expanded sources  
8 of tax revenue.

9           Sec. 2. For purposes of sections 1 to 7 of this act:

10          (1) City means a city of the first or second class or  
11 village;

12          (2) Jurisdictional utility has the same meaning as in  
13 section 66-1802;

14          (3) Natural gas pipeline facility means a pipeline, pump,  
15 compressor, or storage or other facility, structure, or property  
16 necessary, useful, or incidental in the transportation of natural  
17 gas; and

18          (4) Rural infrastructure development means planning,  
19 financing, development, acquisition, construction, owning,  
20 operating, and maintaining a natural gas pipeline facility or  
21 entering into agreements with an interstate pipeline for existing,  
22 new, or expanded capacity on the interstate pipeline's system for  
23 the transportation of natural gas necessary to supply unserved or

1 underserved areas; and

2 (5) Unserved or underserved area means an area in this  
3 state lacking adequate natural gas pipeline capacity to meet the  
4 demand of existing or potential end-use customers as determined by  
5 the jurisdictional utility presently serving the area. Unserved or  
6 underserved area does not include any area within a city of the  
7 primary or metropolitan class.

8 Sec. 3. A city that has been authorized to utilize funds  
9 pursuant to the Local Option Municipal Economic Development Act  
10 for purposes of sections 1 to 7 and 10 of this act shall have  
11 all necessary powers to implement and to carry out its powers and  
12 duties under such sections.

13 Sec. 4. A jurisdictional utility may undertake rural  
14 infrastructure development necessary to supply unserved or  
15 underserved areas in or adjacent to areas presently served by the  
16 jurisdictional utility and not served by another jurisdictional  
17 utility.

18 Sec. 5. Prior to undertaking rural infrastructure  
19 development, a jurisdictional utility shall consider factors  
20 such as the economic impact to the area, economic feasibility,  
21 whether other options may be more in the public interest, such as  
22 utilization of any existing or planned interstate or intrastate  
23 pipeline facilities of private persons, companies, firms, or  
24 corporations, and the likelihood of successful completion and  
25 ongoing operation of the facility.

26 Sec. 6. A jurisdictional utility shall not be subject to  
27 the State Natural Gas Regulation Act to the extent it is exercising

1 power granted in section 4 of this act except as specifically  
2 provided otherwise but shall be subject to sections 75-501 to  
3 75-503.

4           Sec. 7. Sections 1 to 6 of this act do not apply to a  
5 natural gas utility owned or operated by a city or a metropolitan  
6 utilities district.

7           Sec. 8. Section 18-2705, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           18-2705 Economic development program ~~shall mean~~ means any  
10 project or program utilizing funds derived from local sources of  
11 revenue for the purpose of providing direct or indirect financial  
12 assistance to a qualifying business or the payment of related costs  
13 and expenses or both, without regard to whether that business is  
14 identified at the time the project or program is initiated or is  
15 to be determined by specified means at some time in the future.  
16 An economic development program may include, but shall not be  
17 limited to, the following activities: Direct loans or grants to  
18 qualifying businesses for fixed assets or working capital or both;  
19 loan guarantees for qualifying business; grants for public works  
20 improvements which are essential to the location or expansion of,  
21 or the provision of new services by, a qualifying business; grants  
22 or loans for job training; the purchase of real estate, options for  
23 such purchases, and the renewal or extension of such options; the  
24 issuance of bonds as provided for in the Local Option Municipal  
25 Economic Development Act; and payments for salaries and support of  
26 city staff to implement the economic development program or the  
27 contracting of such to an outside entity. For cities of the first

1 and second class and villages, an economic development program may  
2 also include grants or loans for the construction or rehabilitation  
3 for sale or lease of housing for persons of low or moderate income.  
4 For cities of the first and second class and villages, an economic  
5 development program may also include grants, loans, or funds for  
6 rural infrastructure development as defined in section 2 of this  
7 act. An economic development program may be conducted jointly by  
8 two or more cities after the approval of the program by the voters  
9 of each participating city.

10           Sec. 9. Section 66-1801, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           66-1801 Sections 66-1801 to 66-1867 and section 10 of  
13 this act shall be known and may be cited as the State Natural Gas  
14 Regulation Act.

15           Sec. 10. (1) Prior to undertaking rural infrastructure  
16 development pursuant to sections 1 to 7 of this act, a  
17 jurisdictional utility shall file a rural infrastructure surcharge  
18 tariff with the commission consistent with the agreement negotiated  
19 pursuant to subsection (2) of this section. The filing may  
20 be a joint filing with other jurisdictional utilities and may  
21 affect more than one electing city. With the rural infrastructure  
22 surcharge tariff, the jurisdictional utility shall file:

23           (a) A map of the unserved or underserved area it proposes  
24 to serve;

25           (b) A description of the project;

26           (c) Information regarding support of the project from  
27 individuals, businesses, or government entities;

1           (d) An executed agreement with the electing city or  
2 cities; and

3           (e) The factors the jurisdictional utility has considered  
4 pursuant to section 5 of this act.

5           (2) An agreement submitted pursuant to subdivision (1) (d)  
6 of this section may include, but shall not be limited to, terms and  
7 conditions that address the following:

8           (a) Inclusion of representatives of the following  
9 possible parties: The electing city or cities; the jurisdictional  
10 utility; an interstate natural gas pipeline company; current and  
11 prospective customers; and any other interested parties;

12           (b) Impact on other cities, jurisdictional utilities,  
13 interstate natural gas pipeline companies, and current and  
14 prospective customers;

15           (c) The possibility of a joint filing with other  
16 jurisdictional utilities and agreements with other electing cities;

17           (d) The factors set forth in section 5 of this act;

18           (e) The capacity of the project;

19           (f) The potential to enhance demand for natural gas  
20 capacity created by the project;

21           (g) Ownership of the project or parts of the project;

22           (h) Participation by the electing city or cities and  
23 other parties to determine the customer or customers which will  
24 receive the additional natural gas capacity created by the project;

25           (i) Any matters involving rights-of-way and easements and  
26 fees, taxes, and surcharges related thereto;

27           (j) The payment of costs of the rural infrastructure

1 development, including, but not limited to: (i) Proposed rate  
2 increases for customers of the electing city or cities and within  
3 a city's extraterritorial zoning jurisdiction, including direct  
4 customers and residential or commercial customers; (ii) any city  
5 funds, including funds from the Local Option Municipal Economic  
6 Development Act, which may be used to pay for consultants, issue  
7 bonds, lower proposed rate increases, or otherwise finance the  
8 rural infrastructure development project; and (iii) contributions  
9 from direct customers or other sources, including, but not limited  
10 to, state or federal grants or loans; and

11 (k) Reimbursement of costs to the electing city or cities  
12 or ratepayers of the electing city or cities, including ratepayers  
13 in a city's extraterritorial zoning jurisdiction.

14 (3) A jurisdictional utility may file a gas supply  
15 cost adjustment tariff with the commission, consistent with  
16 the agreement negotiated pursuant to subsection (2) of this  
17 section, that adjusts the jurisdictional utility's residential or  
18 commercial customer rates to provide for the recovery of, but not  
19 limited to, costs related to ongoing gas supply, transmission,  
20 pipeline capacity, storage, financial instruments, or interstate  
21 pipeline charges or other related costs for rural infrastructure  
22 development.

23 (4) A rural infrastructure surcharge tariff or gas supply  
24 cost adjustment tariff shall become effective immediately upon  
25 filing with the commission of all items required under this  
26 section.

27 (5) Any rural infrastructure surcharge tariff or gas

1 supply cost adjustment tariff, and any future changes thereto,  
2 applied to high-volume customers obtaining direct service and  
3 to general system residential or commercial customers subject to  
4 jurisdiction of the commission shall be calculated and implemented  
5 in a manner proposed by the jurisdictional utility consistent  
6 with the agreement negotiated pursuant to subsection (2) of this  
7 section.

8         (6) The rural infrastructure surcharge tariff or gas  
9 supply cost adjustment tariff, and any future changes thereto,  
10 shall first be applied to customers receiving direct service from  
11 the rural infrastructure development. If such resulting rates  
12 are uneconomic or commercially unreasonable to those customers,  
13 the jurisdictional utility shall recover the costs above the  
14 rates determined by the jurisdictional utility to be economical  
15 or commercially reasonable from general system residential or  
16 commercial customers in the electing city in a manner proposed by  
17 the jurisdictional utility consistent with the agreement negotiated  
18 pursuant to subsection (2) of this section.

19         (7) A jurisdictional utility may collect a rural  
20 infrastructure surcharge or gas supply cost adjustment until costs  
21 are fully recovered even if the jurisdictional utility has not  
22 filed for or is the subject of a new general rate proceeding within  
23 that period of time.

24         (8) No more than once annually, the commission may  
25 initiate a proceeding and conduct a public hearing to determine  
26 whether the rural infrastructure surcharge of a jurisdictional  
27 utility reflects the actual costs of the rural infrastructure

1 development and to reconcile any amounts collected from rate  
2 payers with actual costs incurred by the jurisdictional utility.

3 The commission shall make a decision as to whether the rural  
4 infrastructure surcharge reflects actual costs within ninety days  
5 after initiating the proceeding. The rural infrastructure surcharge  
6 shall be presumed to reflect the actual costs of the rural  
7 infrastructure development, unless the contrary is shown.

8 (9) Any refund, including interest thereon, shall be  
9 made to presently served ratepayers in the electing city by an  
10 appropriate adjustment shown as a credit on subsequent bills  
11 during a period selected by the jurisdictional utility, not to  
12 exceed twelve months, or by a cash refund at the option of  
13 the jurisdictional utility. The jurisdictional utility shall not  
14 be required to provide such refunds to ratepayers served at  
15 competitively set or negotiated rates or under alternative rate  
16 mechanisms when the ratepayer is paying less than the full rate  
17 determined pursuant to the gas supply cost adjustment rate schedule  
18 or under a customer choice or unbundling program.

19 (10) A jurisdictional utility is not required to proceed  
20 with rural infrastructure development in an unserved or underserved  
21 area unless required to do so under an agreement with an electing  
22 city or cities.

23 (11) A jurisdictional utility utilizing a rural  
24 infrastructure surcharge shall separately identify the surcharge on  
25 each customer's bill using language sufficiently clear to identify  
26 the purpose of the surcharge.

27 (12) For purposes of this section:



1           (a) City means a city of the first or second class or  
2 village;

3           (b) Electing city means a city that has elected through  
4 its governing body to benefit from additional natural gas supply  
5 made possible by a rural infrastructure development and has  
6 executed an agreement with the jurisdictional utility serving  
7 the city and the city's extraterritorial zoning jurisdiction to  
8 provide the additional natural gas supply in accordance with terms  
9 and conditions mutually acceptable to the city and jurisdictional  
10 utility consistent with the agreement negotiated pursuant to  
11 subsection (2) of this section;

12           (c) Rural infrastructure development means planning,  
13 financing, development, acquisition, construction, owning,  
14 operating, and maintaining a natural gas pipeline facility or  
15 entering into agreements with an interstate pipeline for existing,  
16 new, or expanded capacity on the interstate pipeline's system for  
17 the transportation of natural gas necessary to supply unserved or  
18 underserved areas; and

19           (d) Rural infrastructure surcharge means a surcharge  
20 through which a jurisdictional utility may recover costs for rural  
21 infrastructure development.

22           Sec. 11. Section 66-1808, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           66-1808 (1) The provisions of this section do not apply  
25 to general rate filings.

26           (2) Unless the commission otherwise orders, no  
27 jurisdictional utility shall make effective any changed rate or any

1 term or condition of service pertaining to the service or rates  
2 of such utility, except by filing the same with the commission  
3 at least thirty days prior to the proposed effective date. The  
4 commission, for good cause, may allow such changed rate or any term  
5 or condition of service pertaining to the service or rates of any  
6 such utility, to become effective on less than thirty days' notice.  
7 If the commission allows a change to become effective on less than  
8 thirty days' notice, the effective date of the allowed change shall  
9 be the date established in the commission order approving such  
10 change or the date of the order if no effective date is otherwise  
11 established. Any such proposed change shall be shown by filing with  
12 the commission a schedule showing the changes, and such changes  
13 shall be plainly indicated by proper reference marks in amendments  
14 or supplements to existing tariffs, schedules, or classifications,  
15 or in new issues thereof.

16 (3) Whenever any jurisdictional utility files with the  
17 commission the changes desired to be made and put in force by  
18 such utility, the commission, either upon complaint or upon its  
19 own motion, may give notice and hold a hearing upon such proposed  
20 changes. Pending such hearing, the commission may suspend the  
21 operation of such change and defer the effective date of such  
22 change in rate or any term or condition of service pertaining to  
23 the service or rates of any such utility, by delivering to such  
24 utility a statement in writing of its reasons for such suspension.  
25 The commission may not suspend a tariff filed pursuant to section  
26 10 of this act.

27 (4) The commission shall not delay the effective date of

1 the proposed change in rate or any term or condition of service  
2 pertaining to the service or rates of any such jurisdictional  
3 utility, more than one hundred eighty days beyond the date the  
4 utility filed its application requesting the proposed change. If  
5 the commission does not suspend the proposed change within thirty  
6 days after the date the same is filed by the utility, such proposed  
7 change shall be deemed approved by the commission and shall take  
8 effect on the proposed effective date. If the commission has not  
9 issued a final order on the proposed change in any rate or any  
10 term or condition of service pertaining to the service or rates  
11 of any such utility, within one hundred eighty days after the  
12 date the utility files its application requesting the proposed  
13 change, then the proposed change shall be deemed approved by the  
14 commission and the proposed change shall be effective immediately,  
15 except that (a) in any proceeding initiated as a result of a  
16 filing by a utility of new or changed rates or terms and conditions  
17 of service, the commission shall, within thirty days of the  
18 receipt of such filing, review the applications, documents, and  
19 submissions made with such filing to determine whether or not they  
20 conform to the minimum requirements of the commission regarding  
21 such filings as established by applicable rule, regulation, or  
22 commission order. If such applications, documents, or submissions  
23 fail to substantially conform with such requirements, they will  
24 be deemed defective and the filing shall not be deemed to have  
25 been made until such applications, documents, and submissions are  
26 determined to be in conformity by the commission with minimum  
27 standards, and (b) nothing in this subsection shall preclude the

1 jurisdictional utility and the commission from agreeing to a waiver  
2 or an extension of the one-hundred-eighty-day period.

3 (5) Except as provided in subsection (4) of this section,  
4 no change shall be made in any rate or in any term or condition  
5 of service pertaining to the service or rates of any such  
6 jurisdictional utility, without the consent of the commission.  
7 Within thirty days after such changes have been authorized by  
8 the commission or become effective as provided in subsection  
9 (4) of this section, copies of all tariffs, schedules, and  
10 classifications, and all terms or conditions of service, except  
11 those determined to be confidential under rules and regulations  
12 adopted by the commission, shall be available for public inspection  
13 in every office and facility open to the general public of such  
14 jurisdictional utility in this state.

15 (6) Except as to the time limits prescribed in subsection  
16 (4) of this section, proceedings under this section shall be  
17 conducted in accordance with rules and regulations adopted and  
18 promulgated pursuant to section 75-110.

19 Sec. 12. Section 66-1831, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 66-1831 (1) The public advocate shall have the power to:

22 (a) Investigate the legality and reasonableness of rates,  
23 charges, and practices of jurisdictional utilities except for  
24 tariffs subject to section 10 of this act;

25 (b) Petition for relief, request, initiate, and intervene  
26 in any proceeding before the commission concerning such utilities  
27 except for tariffs subject to section 10 of this act;

1           (c) Represent and appear for ratepayers and the public in  
2 proceedings before the commission and in any negotiations or other  
3 measures to resolve disputes that give rise to such proceedings  
4 except for tariffs subject to section 10 of this act;

5           (d) Represent and appear for ratepayers and the public  
6 in any negotiations or other measures to resolve disputes that  
7 give rise to proceedings before the commission and make and seek  
8 approval of agreements to settle such disputes except for tariffs  
9 subject to section 10 of this act; and

10           (e) Make motions for rehearing or reconsideration,  
11 appeal, or seek judicial review of any order or decision of the  
12 commission regarding jurisdictional utilities except for tariffs  
13 subject to section 10 of this act.

14           (2) The public advocate shall not advocate for or on  
15 behalf of any single individual, organization, or entity.

16           (3) The public advocate may enter into stipulations with  
17 other parties in any proceeding to balance the interests of those  
18 it represents with the interests of the jurisdictional utilities as  
19 a means of improving the quality of resulting decisions in a highly  
20 technical environment and minimizing the cost of regulation.

21           Sec. 13. Original sections 18-2705, 66-1801, 66-1808, and  
22 66-1831, Reissue Revised Statutes of Nebraska, are repealed.

23           2. On page 1, strike lines 2 through 6 and insert  
24 "18-2705, 66-1801, 66-1808, and 66-1831, Reissue Revised Statutes  
25 of Nebraska; to authorize construction and operation of natural gas  
26 pipeline facilities as prescribed; to define and redefine terms;  
27 to authorized certain tariffs, surcharges, and cost adjustments; to

- 1 harmonize provisions; and to repeal the original sections."