

AMENDMENTS TO LB994

Introduced by Transportation and Telecommunications.

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

3 Section 1. The Legislature finds and declares that:

4 (1) The availability, quality, and affordability of broadband
5 telecommunications service is important to the residents of Nebraska; and

6 (2) Because availability, quality, and affordability of broadband
7 telecommunications service is lacking in certain rural areas in Nebraska,
8 combined with greater investment in urban areas, the state may be facing
9 a digital divide.

10 It is the intent of the Legislature that broadband
11 telecommunications service in rural areas of the state should be
12 comparable in download and upload speed and price to urban areas in the
13 state where possible, and that state resources should be utilized to
14 ensure that the rural residents of the state should not be penalized
15 simply because of their rural residence. It is further the intent of the
16 Legislature that the residents of this state should have access to
17 broadband telecommunications service at a minimum download speed of
18 twenty-five megabits per second, and a minimum upload speed of three
19 megabits per second.

20 Sec. 2. (1) The Rural Broadband Task Force is hereby created. Task
21 force members shall include the chairperson of the Transportation and
22 Telecommunications Committee of the Legislature and a member of the
23 Legislature selected by the Executive Board of the Legislative Council
24 who shall both serve as nonvoting, ex officio members, a member of the
25 Public Service Commission who shall be selected by the chairperson of
26 such commission, the chairperson of the Nebraska Information Technology
27 Commission or his or her designee who shall act as chairperson of the

1 task force, the Director of Economic Development or his or her designee,
2 the Director of Agriculture or his or her designee, and the following
3 members to be appointed by the Governor: A representative of the
4 agribusiness community, a representative of the Nebraska business
5 community, a representative of the regulated wireline telecommunications
6 industry, a representative of the wireless telecommunications industry, a
7 representative of the public power industry, a representative of Nebraska
8 postsecondary educational institutions, and a representative of rural
9 schools offering kindergarten through grade twelve.

10 (2) The task force may appoint advisory groups to assist the task
11 force in providing technical expertise and advice on any issue. The
12 advisory groups may be composed of representatives of stakeholder groups
13 which may include, but not necessarily be limited to, representatives
14 from small and large wireline companies, wireless companies, public power
15 districts, electric cooperative corporations, cable television companies,
16 Internet service providers, low-income telecommunications and electric
17 utility customers, health care providers, and representatives of
18 educational sectors. No compensation or expense reimbursement shall be
19 provided to any member of any advisory group appointed by the task force.

20 (3) The Nebraska Information Technology Commission shall provide
21 staff assistance to the task force in consultation with staff from the
22 Public Service Commission and other interested parties. The task force
23 may hire consultants to assist in carrying out its duties. The task force
24 shall review issues relating to availability, adoption, and affordability
25 of broadband services in rural areas of Nebraska. In particular, the task
26 force shall:

27 (a) Determine how Nebraska rural areas compare to neighboring states
28 and the rest of the nation in average advertised download and upload
29 speeds and in subscription rates to higher speed tiers, when available;

30 (b) Examine the role of the Nebraska Telecommunications Universal
31 Service Fund in bringing comparable and affordable broadband services to

1 rural residents;

2 (c) Review the feasibility of alternative technologies and providers
3 in accelerating access to faster and more reliable broadband service for
4 rural residents;

5 (d) Examine alternatives for deployment of broadband services to
6 areas that remain unserved or underserved, such as reverse auction
7 programs described in section 4 of this act, public-private partnerships,
8 funding for competitive deployment, and other measures, and make
9 recommendations to the commission to encourage deployment in such areas;

10 (e) Recommend state policies to effectively utilize state universal
11 service fund dollars to leverage federal universal service fund support
12 and other federal funding;

13 (f) Make recommendations to the Governor and Legislature as to the
14 most effective and efficient ways that federal broadband rural
15 infrastructure funds received after the operative date of this act should
16 be expended if such funds become available; and

17 (g) Determine other issues that may be pertinent to the purpose of
18 the task force.

19 (4) Task force members shall serve on the task force without
20 compensation but shall be entitled to receive reimbursement for any
21 actual expenses incurred for such service as provided in sections 81-1174
22 to 81-1177.

23 (5) The task force shall meet at the call of the chairperson and
24 shall present its findings in a report to the Executive Board of the
25 Legislative Council no later than November 1, 2019, and by November 1
26 every odd-numbered year thereafter. The report shall be submitted
27 electronically.

28 (6) For purposes of this section, broadband services means high-
29 speed telecommunications capability at a minimum download speed of
30 twenty-five megabits per second and a minimum upload speed of three
31 megabits per second, and that enables users to originate and receive

1 high-quality voice, data, and video telecommunications using any
2 technology.

3 Sec. 3. The Rural Broadband Task Force Fund is created. The fund
4 shall be used to carry out the purposes of the Rural Broadband Task Force
5 as described in section 2 of this act. For administrative purposes, the
6 fund shall be located in the Nebraska Information Technology Commission.
7 The fund shall consist of money appropriated or transferred by the
8 Legislature and gifts, grants, or bequests from any source, including
9 federal, state, public, and private sources. Any money in the fund
10 available for investment shall be invested by the state investment
11 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
12 State Funds Investment Act.

13 Sec. 4. Based on consumer complaints or upon its own motion, the
14 Public Service Commission may open a docket to consider the
15 implementation and operation of a reverse auction program that awards
16 funding to broadband Internet service providers to support high-speed
17 Internet infrastructure deployment projects in unserved or underserved
18 exchanges within the State of Nebraska. The commission may, in its
19 discretion, withhold funding from the Nebraska Telecommunications
20 Universal Service Fund to any telecommunications company that has not
21 served, to the commission's satisfaction, those areas with service that
22 meets the criteria for successful investment of funding from the Nebraska
23 Telecommunications Universal Service Fund.

24 The commission shall adopt and promulgate rules and regulations that
25 establish standards governing the withholding of funding from the
26 Nebraska Telecommunications Universal Service Fund from any recipient,
27 including the provision of notice and the right to a hearing prior to the
28 issuance of an order withdrawing such funding. If the commission
29 withdraws funding from the Nebraska Telecommunications Universal Service
30 Fund from any telecommunications company, the commission may use the
31 funding that is withdrawn to implement and operate a reverse auction

1 program, except that any funding that is withdrawn shall be utilized in
2 the exchange area for which the funding was originally granted. The
3 commission shall have wide discretion in the design, implementation, and
4 operation of a reverse auction program but may use as a guide the program
5 designed by the Federal Communications Commission in its Connect America
6 Fund Phase II Auction process.

7 Sec. 5. (1) The Public Service Commission shall establish and
8 maintain a registry of locations within the State of Nebraska for
9 complaints made to the commission regarding the lack of coverage for
10 wireless telecommunications service.

11 (2) The commission shall annually prepare and make publicly
12 available a report describing the areas of the state which fail to
13 receive adequate wireless telecommunications service.

14 (3) The commission may utilize the information maintained in the
15 registry in making any determination related to the granting of funds
16 through any program administered by the commission to support the
17 construction of wireless telecommunications service facilities.

18 (4) For purposes of this section, lack of appropriate coverage means
19 a geographic area where a wireless device is not able to receive a signal
20 from the wireless service provider's network whereby an individual is
21 unable to use a wireless device.

22 (5) The commission shall adopt and promulgate any rules and
23 regulations required to carry out this section.

24 Sec. 6. Section 86-141, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 86-141 ~~(1) Telecommunications companies which serve less than five~~
27 ~~percent of the state's subscriber lines in the aggregate statewide shall~~
28 ~~not be subject to rate regulation by the commission pursuant to sections~~
29 ~~86-140 and 86-153 unless (1) (a) the telecommunications company elects by~~
30 ~~action of its board of directors to be subject to such rate regulation by~~
31 ~~the commission or (2) (b) the proposed rate increase exceeds thirty~~

1 percent in any one year, ~~(c) five percent of the subscribers petition the~~
2 ~~commission to regulate rates pursuant to subsections (2) through (4) of~~
3 ~~this section, or (d) the commission declares that the telecommunications~~
4 ~~company shall be subject to rate regulation by the commission pursuant to~~
5 ~~subsection (5) of this section.~~

6 ~~(2) Each such telecommunications company not subject to rate~~
7 ~~regulation shall, at least ninety days before the effective date of any~~
8 ~~proposed rate change, notify the commission and each of the~~
9 ~~telecommunications company's subscribers of the proposed rate change.~~
10 ~~Notice to the commission shall include a list of the telecommunications~~
11 ~~company's published subscribers. Notice by the telecommunications company~~
12 ~~to all subscribers shall be in a form prescribed by the commission, shall~~
13 ~~be by first-class mail, and shall include a schedule of the proposed~~
14 ~~rates, the effective date of the rates, and the procedure necessary for~~
15 ~~the subscribers to petition the commission to determine rates in lieu of~~
16 ~~the proposed rates.~~

17 ~~(3) The subscribers of a telecommunications company not subject to~~
18 ~~the commission's rate regulation may petition the commission to determine~~
19 ~~rates in lieu of any rate change proposed by the telecommunications~~
20 ~~company pursuant to subsection (2) of this section. A petition~~
21 ~~substantially in compliance with the rules and regulations of the~~
22 ~~commission shall not be deemed invalid due to minor errors in its form.~~

23 ~~(4) If, by the effective date of the telecommunications company's~~
24 ~~proposed rate change, the commission has received petitions from less~~
25 ~~than five percent of the subscribers requesting that the commission~~
26 ~~determine rates, the commission shall certify such fact to the~~
27 ~~telecommunications company and the telecommunications company's proposed~~
28 ~~rates shall become effective as published in the notice to subscribers.~~
29 ~~If, on or before the effective date of the proposed rate change, the~~
30 ~~commission has received petitions from five percent or more of the~~
31 ~~subscribers requesting that the commission determine rates, the~~

1 ~~commission shall notify the telecommunications company that it will~~
2 ~~determine rates for the telecommunications company in lieu of the~~
3 ~~telecommunications company's proposed rate change. Rates established by~~
4 ~~the commission or by a telecommunications company pursuant to subsections~~
5 ~~(2) through (4) of this section shall be in force for at least one year.~~

6 ~~(5) In addition to the procedure for petition prior to any proposed~~
7 ~~rate change pursuant to subsections (2) through (4) of this section, the~~
8 ~~subscribers of a telecommunications company not subject to the~~
9 ~~commission's rate regulation may at any time petition the commission to~~
10 ~~declare that the telecommunications company shall be subject to such rate~~
11 ~~regulation. If the commission determines that at least fifty-one percent~~
12 ~~of a telecommunications company's subscribers have properly petitioned~~
13 ~~that the telecommunications company be subject to the commission's rate~~
14 ~~regulation, the commission shall certify such fact to the~~
15 ~~telecommunications company and thereafter the telecommunications company~~
16 ~~shall be subject to rate regulation by the commission until at least~~
17 ~~fifty-one percent of the telecommunications company's subscribers~~
18 ~~properly petition that the telecommunications company no longer shall be~~
19 ~~subject to the commission's rate regulation. This section shall not be~~
20 ~~construed to exempt any local exchange carrier from regulation of its~~
21 ~~access charges pursuant to section 86-140.~~

22 Sec. 7. Section 86-144, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 86-144 (1) ~~(1)(a)~~ Except as provided in subsection (2) of this
25 section ~~subdivision (b) of this subsection, in an exchange in which local~~
26 ~~competition does not exist,~~ telecommunications companies shall file rate
27 lists which, ~~for all telecommunications service except for basic local~~
28 ~~exchange rates,~~ shall be effective after ten days' notice to the
29 commission.

30 (2) ~~(b)~~ Notwithstanding any other provision of Chapter 86, a
31 telecommunications company shall not be required to file rate lists,

1 tariffs, or contracts for any telecommunications service, including local
2 exchange and interexchange services, provided as a business service. Upon
3 written notice to the commission, a telecommunications company may
4 withdraw any rate list, tariff, or contract not required to be filed
5 under this subdivision if the telecommunications company posts the rates,
6 terms, and conditions of its telecommunications service on the company's
7 web site.

8 ~~(2) In an exchange in which local competition does not exist, basic~~
9 ~~local exchange rates may be increased by a telecommunications company~~
10 ~~only after ninety days' notice to all affected subscribers. Such notice~~
11 ~~of increase shall include (a) the reasons for the rate increase, (b) a~~
12 ~~description of the affected telecommunications service, (c) an~~
13 ~~explanation of the right of the subscriber to petition the commission for~~
14 ~~a public hearing on the rate increase, (d) a list of exchanges which are~~
15 ~~affected by the proposed rate increase, and (e) the dates, times, and~~
16 ~~places for the public informational meetings required by this section.~~

17 ~~(3) A telecommunications company which proposes to increase its~~
18 ~~basic local exchange rates shall hold at least one public informational~~
19 ~~meeting in each public service commissioner district as established by~~
20 ~~section 75-101.01 in which there is an exchange affected by the proposed~~
21 ~~rate increase.~~

22 Sec. 8. Section 86-162, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 86-162 Any telecommunications company or its agent who fails or
25 neglects to comply with section 86-131, 86-132, 86-140, ~~86-141~~, or 86-153
26 or who violates any of the provisions of such sections is guilty of a
27 Class IV misdemeanor.

28 Sec. 9. Section 86-579, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 86-579 The Nebraska Internet Enhancement Fund is created. The fund
31 shall be used to provide financial assistance to install and deliver

1 broadband or other advanced telecommunications infrastructure and service
2 throughout the state. It is the intent of the Legislature that two
3 hundred fifty thousand dollars shall be appropriated to the fund to be
4 used for startup costs and seed money for FY2001-02. The Public Service
5 Commission may receive gifts, contributions, property, and equipment from
6 public and private sources for purposes of the fund. The fund shall
7 consist of money appropriated by the Legislature, any money transferred
8 pursuant to section 86-127, and gifts, grants, or bequests from any
9 source, including money remitted to the fund pursuant to section 86-577
10 and any other federal, state, public, and private sources. Money in the
11 fund shall be distributed by the commission pursuant to section 86-580.
12 Transfers from the fund to the General Fund may be made at the direction
13 of the Legislature. Any money in the Nebraska Internet Enhancement Fund
14 available for investment shall be invested by the state investment
15 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
16 State Funds Investment Act.

17 The State Treasurer shall transfer one hundred thousand dollars from
18 the Nebraska Internet Enhancement Fund to the General Fund on or before
19 July 15, 2003.

20 The State Treasurer shall transfer fifty thousand dollars from the
21 Nebraska Internet Enhancement Fund to the Rural Broadband Task Force Fund
22 on or before July 15, 2018.

23 Sec. 10. This act becomes operative on July 1, 2018.

24 Sec. 11. Original sections 86-141, 86-144, 86-162, and 86-579,
25 Reissue Revised Statutes of Nebraska, are repealed.

26 Sec. 12. The following sections are outright repealed: Sections
27 86-145, 86-146, 86-147, and 86-148, Reissue Revised Statutes of Nebraska.

28 Sec. 13. Since an emergency exists, this act takes effect when
29 passed and approved according to law.