

AMENDMENTS TO LB992

Introduced by Transportation and Telecommunications.

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

3 Section 1. Sections 1 to 7 of this act shall be known and may be
4 cited as the Broadband Internet Service Infrastructure Act.

5 Sec. 2. The Legislature finds and declares that (1) it is in the
6 public interest for commercial broadband suppliers and electric utilities
7 to enter into broadband facility agreements and (2) the use of electric
8 utility easements and electric utility infrastructure for commercial
9 broadband facilities pursuant to a broadband facility agreement does not
10 diminish the value of underlying real estate.

11 Sec. 3. For purposes of the Broadband Internet Service
12 Infrastructure Act:

13 (1) Attached facility means a broadband facility or a broadband
14 network, or any portion of a broadband network, located substantially:

15 (a) Aboveground and attached to an electric utility's electric
16 utility infrastructure; or

17 (b) Underground in an electric utility easement;

18 (2) Broadband facility agreement means an agreement between an
19 electric utility and a commercial broadband supplier for the use of
20 electric utility infrastructure and electric utility easements for
21 attached facilities;

22 (3) Commercial broadband service means broadband service as such
23 term is defined in 7 U.S.C 950bb(b)(1), as such section existed on
24 January 1, 2020, or broadband Internet service;

25 (4)(a) Commercial broadband supplier means:

26 (i) A provider of commercial broadband service; or

27 (ii) A person that directly or indirectly sells, leases, or

1 otherwise transfers an attached facility or a right to install, operate,
2 maintain, or use an attached facility for another person's provision of
3 commercial broadband service or a person that intends to sell, lease, or
4 otherwise transfer an attached facility or a right to install, operate,
5 maintain, or use an attached facility; and

6 (b) Commercial broadband supplier does not include an electric
7 utility;

8 (5) Electric utility means any entity referred to in subdivision (8)
9 of section 70-601;

10 (6) Electric utility easement means a recorded or unrecorded
11 easement, right-of-way, or similar right in or to real property,
12 including prescriptive rights, no matter how acquired, held by an
13 electric utility for the siting of electric utility infrastructure or for
14 the purpose of delivering electric service;

15 (7) Electric utility infrastructure means electric utility poles,
16 structures, or other facilities used for the distribution of electric
17 service and street lighting, but does not include poles, structures, or
18 other facilities used for electric transmission service;

19 (8) Notice means a written letter substantially complying with the
20 requirements set forth in subdivision (2)(b) of section 4 of this act,
21 which notice shall be deemed delivered on the date postmarked or
22 otherwise time stamped;

23 (9) Person means an individual, a firm, a partnership, a company, a
24 corporation, a trust, a limited liability company, an association, a
25 joint venture, or any other legal entity; and

26 (10) Property owner means a person with a recorded interest in real
27 property upon which an electric utility easement is located.

28 Sec. 4. (1) An electric utility and a commercial broadband supplier
29 may enter into a broadband facility agreement for the use of an electric
30 utility easement or electric utility infrastructure, or both, to:

31 (a) Install, maintain, or own, or permit any commercial broadband

1 supplier to install, maintain, or own, an attached facility for operation
2 by a commercial broadband supplier in providing commercial broadband
3 service; and

4 (b) Lease or otherwise provide to a commercial broadband supplier
5 any excess capacity of attached facilities for purposes of providing
6 commercial broadband service.

7 (2)(a) A broadband facility agreement shall contain one of the
8 following with respect to the use of any electric utility easement:

9 (i) A statement that the electric utility has the legal right to
10 authorize the use of the electric utility easement for commercial
11 broadband facilities;

12 (ii) A statement that the commercial broadband supplier has
13 compensated property owners for the use of the electric utility easement
14 for commercial broadband facilities pursuant to subsection (5) of this
15 section; or

16 (iii) A statement that the electric utility has given notice to
17 property owners pursuant to subdivision (2)(b) of this section and the
18 time for making a claim has expired.

19 (b) Notice pursuant to this subsection shall:

20 (i) Be sent by certified mail from or on behalf of the electric
21 utility to the property owner at each of the following, as applicable:

22 (A) The last-known address for the property owner based on the
23 electric utility's records; and

24 (B) The address listed for the property owner in the records of the
25 office of the county assessor;

26 (ii) Include the name, address, telephone number, and named point of
27 contact for the electric utility and, if delivered by a commercial
28 broadband supplier designated by the electric utility, the name, address,
29 telephone number, and named point of contact for the designated
30 commercial broadband supplier;

31 (iii) Include the recording number, if any, of the electric utility

1 easement or recorded memorandum of the electric utility easement;

2 (iv) Include:

3 (A) A reference to the Broadband Internet Service Infrastructure
4 Act; and

5 (B) A statement that the electric utility intends to enter into a
6 broadband facility agreement, within ninety days after the notice is
7 delivered, for the use of the electric utility easement with the
8 commercial broadband supplier named in the notice;

9 (v) Give an estimated time for the start of installation or
10 construction with regard to any new installation or construction that is
11 to occur in connection with the broadband facility agreement; and

12 (vi) Include a statement regarding the statute of limitations for
13 the property owner to file a claim with respect to the electric utility's
14 exercise of action.

15 (3) The terms and conditions of a written electric utility easement
16 apply to the use of the electric utility easement for commercial
17 broadband facilities pursuant to a broadband facility agreement. A
18 prohibition on aboveground electric utility infrastructure contained
19 within a written electric utility easement constitutes a prohibition on
20 aboveground attached facilities. An electric utility or its designated
21 commercial broadband supplier shall comply with any notice requirements
22 contained in a written electric utility easement held by the electric
23 utility relating to entering the real property subject to the electric
24 utility easement or commencing any construction or installation on the
25 real property.

26 (4) Nothing in this section requires an electric utility to comply
27 with subdivision (2)(b) of this section in order to take any action or
28 exercise any rights under an electric utility easement that is already
29 permitted within the scope of the electric utility easement. An electric
30 utility easement shall be liberally construed in favor of its use for
31 commercial broadband facilities pursuant to a broadband facility

1 agreement.

2 (5) If, within ninety days after a notice pursuant to this section
3 is sent by an electric utility or a designated commercial broadband
4 supplier acting on the electric utility's behalf, a property owner
5 submits a written claim for compensation relating to the use of an
6 electric utility easement in connection with a broadband facility
7 agreement, then the commercial broadband supplier, through communications
8 handled by the electric utility, shall be responsible for the payment of
9 compensation to the property owner for such claim, and the electric
10 utility shall cooperate with the commercial broadband supplier in
11 connection with the resolution of the claim.

12 (6) The electric utility shall not be required to enter into a
13 broadband facility agreement until one of the following events occurs:

14 (a) The time period set forth in subsection (5) of this section has
15 expired without a written claim from property owners of record;

16 (b) Any written claim for compensation by a property owner pursuant
17 to this subsection has been resolved by a written instrument that shall
18 be recorded with the register of deeds of the county where the electric
19 utility easement is located; or

20 (c) The statute of limitations set forth in section 5 of this act
21 has expired.

22 (7) This section shall not apply to railroad right-of-way or
23 electric utility easements in or to railroad right-of-way property.
24 Crossings of railroad rights-of-way by telecommunications carriers are
25 governed by section 86-164.

26 Sec. 5. (1)(a) No cause of action against an electric utility or a
27 commercial broadband supplier concerning the use of an electric utility
28 easement for commercial broadband facilities pursuant to a broadband
29 facility agreement may be brought by or on behalf of a property owner
30 more than two years after the later of:

31 (i) The operative date of this section; or

1 (ii) The date of mailing of notice by an electric utility or a
2 designated commercial broadband supplier acting on the electric utility's
3 behalf pursuant to subsection (5) of section 4 of this act.

4 (b) Subdivision (1)(a) of this section does not apply to a cause of
5 action based on:

6 (i) Physical damage to property;

7 (ii) Injury to natural persons; or

8 (iii) Breach of the terms and conditions of a written electric
9 easement as the terms and conditions apply in accordance with subsection
10 (3) of section 4 of this act.

11 (c) Nothing in this section extends the statute of limitations
12 applicable to a claim or revives an expired claim.

13 (2) A cause of action to which subdivision (1)(a) of this section
14 applies shall not be brought against a commercial broadband supplier for
15 notice provided by the commercial broadband supplier on behalf of an
16 electric utility under subdivision (2)(b) of section 4 of this act.
17 Nothing in this subsection prohibits an electric utility and a commercial
18 broadband supplier from contracting to allocate liability for notice
19 required under subdivision (2)(b) of section 4 of this act.

20 (3) If a property owner brings a trespass claim, inverse
21 condemnation claim, or any other claim or cause of action to which
22 subdivision (1)(a) of this section applies for an electric utility's or
23 commercial broadband supplier's performance of actions described in
24 subdivision (1)(a) or (1)(b) of section 4 of this act, the following
25 applies to the claim or cause of action:

26 (a) The measure of damages for all claims or causes of action to
27 which subdivision (1)(a) of this section applies, taken together, is the
28 fair market value of the reduction in value of the property owner's
29 interest in the real property. In determining or providing the fair
30 market value under this subdivision (a):

31 (i) The following shall not be used and are not admissible as

1 evidence in any proceeding:

2 (A) Profits, fees, or revenue derived from the attached facilities;
3 or

4 (B) The rental value of the real property interest or the electric
5 utility easement, including the rental value of any attached facilities
6 or an assembled broadband corridor; and

7 (ii) Consideration shall be given to any increase in value to the
8 real property interest resulting from the availability of commercial
9 broadband service to the real property underlying the real property
10 interest that arises from the installation of attached facilities;

11 (b) The property owner shall make reasonable accommodations for the
12 electric utility or commercial broadband supplier to perform an appraisal
13 or inspection of the real property within ninety days following any
14 written request for an appraisal or inspection. If a property owner fails
15 to make such accommodations, the electric utility or commercial broadband
16 supplier has no further liability to the property owner with respect to
17 such claim or cause of action. The electric utility or commercial
18 broadband supplier shall promptly provide to the property owner a copy of
19 any appraisal performed pursuant to this subdivision (b);

20 (c) Any damages for any claims or causes of action to which
21 subdivision (1)(a) of this section applies:

22 (i) Are limited to those damages that existed at the time the
23 electric utility or commercial broadband supplier first performed the
24 actions; and

25 (ii) Shall not be deemed to continue, accrue, or accumulate; and

26 (d) With regard to a claim or cause of action to which subdivision
27 (1)(a) of this section applies:

28 (i) A property owner is not entitled to reimbursement from an
29 electric utility or commercial broadband supplier for the cost of any
30 appraisal, attorney's fees, or award for special, consequential,
31 indirect, or punitive damages; and

1 (ii) For purposes of this subdivision (d), any action or failure to
2 act by an electric utility or a commercial broadband supplier in
3 furtherance of the electric utility's or commercial broadband supplier's
4 exercise of action set forth in subsection (1) of section 4 of this act
5 shall not be deemed negligence or willful misconduct.

6 (4) By accepting a damage award for any claim or cause of action to
7 which subdivision (1)(a) of this section applies, a property owner shall
8 be deemed to have granted an increase in the scope of the electric
9 utility easement, equal in duration to the term of the electric utility
10 easement and subject to this section, to the extent of the property
11 owner's rights in the real property, for all of the uses of the real
12 property and actions set forth in subsection (1) of section 4 of this
13 act.

14 Sec. 6. (1) In entering into a broadband facility agreement, an
15 electric utility shall:

16 (a) Not discriminate among commercial broadband suppliers in
17 offering or granting rights to install or attach any attached facilities;
18 or

19 (b) Charge fees that are nondiscriminatory among commercial
20 broadband suppliers for a substantially similar lease or use of the
21 capacity of attached facilities owned or controlled by the electric
22 utility, but only to the extent an electric utility chooses, in its sole
23 discretion, to offer the lease or use to a particular commercial
24 broadband supplier.

25 (2) Nothing in this section requires an electric utility to offer or
26 grant a right to access or use an electric utility easement or to use
27 attached facilities or electric utility infrastructure owned or
28 controlled by the electric utility in a manner that would, in the
29 electric utility's sole discretion, materially interfere with the
30 electric utility's construction, maintenance, or use of any electric
31 utility infrastructure for the provision of electric service.

1 (3) Nothing in the Broadband Internet Service Infrastructure Act:

2 (a) Is intended to subject an electric utility to regulation by the
3 Federal Communications Commission;

4 (b) Constitutes an exercise of, or an obligation or intention to
5 exercise, the right of the state under 47 U.S.C. 224 (c), as such section
6 existed on January 1, 2020, to regulate the rates, terms, and conditions
7 for pole attachments as defined in 47 U.S.C. 224 (a)(4), as such section
8 existed on January 1, 2020;

9 (c) Constitutes a certification, or an obligation or intention to
10 certify, to the Federal Communications Commission under 47 U.S.C. 224, as
11 such section existed on January 1, 2020;

12 (d) Prevents the parties involved from filing a claim or cause of
13 action in any court of competent jurisdiction for any dispute arising
14 under the Broadband Internet Service Infrastructure Act; or

15 (e) In any way affects the authority of electric utilities to enter
16 into agreements with any party, outside the requirements of the Broadband
17 Internet Service Infrastructure Act, relating to the use of its easements
18 or electric system facilities.

19 Sec. 7. The Broadband Internet Service Infrastructure Act does not
20 apply to railroad right-of-way or electric utility easements in or to
21 railroad right-of-way property. Crossings of railroad rights-of-way by
22 telecommunications carriers are governed by section 86-164.

23 Sec. 8. (1) It is the intent of the Legislature to encourage local
24 and regional broadband planning and to encourage public-private
25 partnerships to enhance broadband services in unserved and underserved
26 areas of the state.

27 (2) The position of state broadband coordinator is created. The
28 position shall be located in the office of Chief Information Officer. The
29 coordinator shall:

30 (a) Encourage each county or region comprising a group of counties
31 to appoint a broadband coordinator to facilitate broadband planning and

1 coordination;

2 (b) Encourage each county or region to work with groups of
3 stakeholders, which may include, but not be limited to, businesses and
4 industries, community foundations, local governments, local or regional
5 economic development organizations, schools, colleges, other educational
6 entities, public libraries, health care institutions, financial
7 institutions, telecommunications providers, public power districts,
8 electric cooperatives, nonprofit organizations, and other interested
9 entities;

10 (c) Assist such counties, regions, and stakeholders in determining
11 what broadband assets are available, the areas for improvement, and
12 strategies to improve broadband availability and use; and

13 (d) Explore the creation of broadband cooperatives in unserved or
14 underserved areas of the state.

15 Sec. 9. (1) The Public Service Commission shall establish the
16 Nebraska E-Rate Special Construction Matching Fund Program. Beginning
17 July 1, 2021, the program shall receive funding from the Nebraska
18 Telecommunications Universal Service Fund to provide incentives for fiber
19 optic cable to be constructed to benefit public libraries.

20 (2) The commission shall establish criteria and priorities for
21 funding by establishing a support mechanism to deploy fiber optic cable
22 for the benefit of public library access to E-Rate special construction
23 matching funding.

24 (3) The commission may use its discretion in determining the amount
25 of funding required to be contributed by any public library in order to
26 receive matching funds from the program.

27 Sec. 10. Section 75-109.01, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 75-109.01 Except as otherwise specifically provided by law, the
30 Public Service Commission shall have jurisdiction, as prescribed, over
31 the following subjects:

1 (1) Common carriers, generally, pursuant to sections 75-101 to
2 75-158;

3 (2) Grain pursuant to the Grain Dealer Act and the Grain Warehouse
4 Act and sections 89-1,104 to 89-1,108;

5 (3) Manufactured homes and recreational vehicles pursuant to the
6 Uniform Standard Code for Manufactured Homes and Recreational Vehicles;

7 (4) Modular housing units pursuant to the Nebraska Uniform Standards
8 for Modular Housing Units Act;

9 (5) Motor carrier registration and safety pursuant to sections
10 75-301 to 75-343, 75-369.03, 75-370, and 75-371;

11 (6) Pipeline carriers and rights-of-way pursuant to the Major Oil
12 Pipeline Siting Act, the State Natural Gas Regulation Act, and sections
13 75-501 to 75-503. If the provisions of Chapter 75 are inconsistent with
14 the provisions of the Major Oil Pipeline Siting Act, the provisions of
15 the Major Oil Pipeline Siting Act control;

16 (7) Railroad carrier safety pursuant to sections 74-918, 74-919,
17 74-1323, and 75-401 to 75-430;

18 (8) Telecommunications carriers pursuant to the Automatic Dialing-
19 Announcing Devices Act, the Emergency Telephone Communications Systems
20 Act, the Enhanced Wireless 911 Services Act, the Intrastate Pay-Per-Call
21 Regulation Act, the Nebraska Telecommunications Regulation Act, the
22 Nebraska Telecommunications Universal Service Fund Act, the
23 Telecommunications Relay System Act, the Telephone Consumer Slamming
24 Prevention Act, and sections 86-574 to 86-579 ~~86-580~~;

25 (9) Transmission lines and rights-of-way pursuant to sections 70-301
26 and 75-702 to 75-724;

27 (10) Water service pursuant to the Water Service Regulation Act; and

28 (11) Jurisdictional utilities governed by the State Natural Gas
29 Regulation Act. If the provisions of Chapter 75 are inconsistent with the
30 provisions of the State Natural Gas Regulation Act, the provisions of the
31 State Natural Gas Regulation Act control.

1 Sec. 11. Section 86-127, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 86-127 (1) One of the goals of the federal Telecommunications Act of
4 1996, as such act existed on January 1, 2002, is to foster competition
5 among telephone companies. Section 271 of the federal act (a) establishes
6 specific incentives, procedures, and requirements for regional Bell
7 operating companies to offer inter-LATA interexchange service and (b)
8 requires the Public Service Commission to monitor the competitive
9 performance of a regional Bell operating company and to consult with the
10 Federal Communications Commission regarding such activities.

11 (2) The Nebraska Competitive Telephone Marketplace Fund is created.
12 The Public Service Commission may accept, and the fund shall consist of,
13 any voluntary performance payments received from a regional Bell
14 operating company. The fund shall be used by the commission for expenses
15 related to the monitoring of compliance with section 271 of the federal
16 act. If money in the fund exceeds thirty thousand dollars, the commission
17 shall remit such excess money to the State Treasurer for credit to the
18 Nebraska Telecommunications Universal Service Internet Enhancement Fund,
19 except that transfers may be made from the Nebraska Competitive Telephone
20 Marketplace Fund to the General Fund at the direction of the Legislature.
21 Any money in the Nebraska Competitive Telephone Marketplace Fund
22 available for investment shall be invested by the state investment
23 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
24 State Funds Investment Act.

25 Sec. 12. Section 86-577, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 86-577 (1) For purposes of this section:

28 (a) Served location means a location receiving, or at the time the
29 lease is filed with the Public Service Commission able to receive,
30 communications service at a minimum download speed of twenty-five
31 megabits per second and a minimum upload speed of three megabits per

1 second or higher speeds, as determined by the Public Service Commission;
2 and

3 (b) Unserved location means a location not receiving, and at the
4 time the lease is filed with the Public Service Commission not able to
5 receive, communications service at a minimum download speed of twenty-
6 five megabits per second and a minimum upload speed of three megabits per
7 second or higher speeds, as determined by the Public Service Commission.

8 (2) Any agency or political subdivision of the state may lease its
9 dark fiber if:

10 (a) ~~(1)~~ The lessee is a certificated telecommunications common
11 carrier or a permitted telecommunications contract carrier pursuant to
12 section 86-128 or an Internet service provider;

13 (b) The lease terms are fair, reasonable, and nondiscriminatory; and

14 (c) The lease complies with this section.

15 (3)(a) Before a lease of dark fiber under this section becomes
16 effective, it shall be filed with the commission which shall
17 expeditiously cause notice of the lease, including lease rates, to be
18 published.

19 (b)(i) The lease shall become effective fourteen business days after
20 the date of the published notice unless a protest is filed with the
21 commission, in which event the commission shall consider the lease as a
22 contested matter and consider the contested lease according to the
23 commission's rules of procedure.

24 (ii) If the allocation of served location and unserved location in
25 the lease is contested, the commission shall determine such allocation
26 under the lease as a contested matter and consider the contested lease
27 according to the commission's rules of procedure.

28 (4) For the lease of dark fiber:

29 (a) The commission shall establish a safe harbor range of market
30 rates for all dark fiber leases using a competitive price determination
31 comparison. When conducting a competitive price determination comparison,

1 the commission, in its discretion, shall use rate schedules,
2 interconnection agreements, or other documents within its regulatory
3 oversight and shall gather other market rate information as deemed
4 necessary. If a lease utilizes rates within the safe harbor range, such
5 rates shall be deemed approved. Any other term of the lease may be
6 contested pursuant to subdivision (3)(b) of this section; and

7 (b) Fifty percent of the profit earned by the agency or political
8 subdivision under a lease of dark fiber leased to serve a served location
9 shall be remitted to the State Treasurer for credit to the Nebraska
10 Telecommunications Universal Service Fund. For purposes of this
11 subdivision, profit earned by the agency or political subdivision means
12 the lease price less the cost of infrastructure deployment. This
13 subdivision does not apply to a lease of dark fiber leased to serve
14 unserved locations.

15 ~~(2) The lease price and profit distribution is approved by the~~
16 ~~Public Service Commission as follows:~~

17 ~~(a) The commission shall not approve any lease price which is less~~
18 ~~than the market rate for leasing such fiber as determined by the~~
19 ~~commission. The market rate is the price associated with similar~~
20 ~~unbundled network elements that may be available from the incumbent local~~
21 ~~exchange carrier or the price of any other private entity leasing dark~~
22 ~~fiber optic facilities serving the same or similar territory where the~~
23 ~~leased equipment is located. Before entering into a lease, each agency or~~
24 ~~political subdivision shall file a request with the commission for a~~
25 ~~competitive price comparison to determine the market rate. When~~
26 ~~conducting a competitive price comparison, the commission in its~~
27 ~~discretion shall use rate schedules, interconnection agreements, or other~~
28 ~~documents within its regulatory oversight and shall gather other market~~
29 ~~rate information as deemed necessary;~~

30 ~~(b) The commission shall not approve any lease price which is agreed~~
31 ~~upon by the agency or political subdivision and the lessee unless the~~

1 ~~lease requires that the agency or political subdivision be solely~~
2 ~~responsible for the maintenance of its dark fiber and that the lessee be~~
3 ~~responsible, on a pro rata basis, for any such maintenance costs; and~~

4 ~~(c) The commission shall not approve any lease unless fifty percent~~
5 ~~of the profit earned by the agency or political subdivision under the~~
6 ~~lease is remitted to the Nebraska Internet Enhancement Fund. Profit~~
7 ~~earned by the agency or political subdivision is the lease price less the~~
8 ~~cost of infrastructure overbuilding. Before entering into a lease, each~~
9 ~~agency or political subdivision shall file a request with the commission~~
10 ~~to determine the cost of overbuilding its fiber optic infrastructure. For~~
11 ~~purposes of this subdivision, cost of infrastructure overbuilding means~~
12 ~~the cost of each leased optic fiber, including the cost, on a pro rata~~
13 ~~basis, associated with the agency's or political subdivision's~~
14 ~~installation of such fiber;~~

15 ~~(3) Any interconnection agreement subject to section 86-122 is~~
16 ~~approved by the commission; and~~

17 ~~(5) (4) The lessee shall make~~ makes every reasonable effort to
18 activate the maximum amount of the leased fiber as is possible, within
19 one year after entering into the lease, unless good cause is shown.

20 Sec. 13. Section 86-579, Revised Statutes Cumulative Supplement,
21 2018, is amended to read:

22 86-579 The Nebraska Internet Enhancement Fund is created. The fund
23 shall be used to provide financial assistance to install and deliver
24 broadband or other advanced telecommunications infrastructure and service
25 throughout the state. It is the intent of the Legislature that two
26 hundred fifty thousand dollars shall be appropriated to the fund to be
27 used for startup costs and seed money for FY2001-02. The Public Service
28 Commission may receive gifts, contributions, property, and equipment from
29 public and private sources for purposes of the fund. The fund shall
30 consist of money appropriated by the Legislature, any money transferred
31 pursuant to section 86-127, and gifts, grants, or bequests from any

1 source, including ~~money remitted to the fund pursuant to section 86-577~~
2 ~~and any other federal, state, public, and private sources. Money in the~~
3 ~~fund shall be distributed by the commission pursuant to section 86-580.~~
4 Transfers from the fund to the General Fund may be made at the direction
5 of the Legislature. Any money in the Nebraska Internet Enhancement Fund
6 available for investment shall be invested by the state investment
7 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
8 State Funds Investment Act. The fund terminates on June 30, 2021, and the
9 State Treasurer shall transfer any unencumbered money in the fund on such
10 date to the Nebraska Telecommunications Universal Service Fund.

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

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

17 Sec. 14. Section 86-1102, Revised Statutes Cumulative Supplement,
18 2018, is amended to read:

19 86-1102 (1) The Rural Broadband Task Force is hereby created. Task
20 force members shall include the chairperson of the Transportation and
21 Telecommunications Committee of the Legislature and a member of the
22 Legislature selected by the Executive Board of the Legislative Council
23 who shall both serve as nonvoting, ex officio members, a member of the
24 Public Service Commission who shall be selected by the chairperson of
25 such commission, the chairperson of the Nebraska Information Technology
26 Commission or his or her designee who shall act as chairperson of the
27 task force, the Director of Economic Development or his or her designee,
28 the Director of Agriculture or his or her designee, and the following
29 members to be appointed by the Governor: A representative of the
30 agribusiness community, a representative of the Nebraska business
31 community, a representative of the regulated wireline telecommunications

1 industry, a representative of the wireless telecommunications industry, a
2 representative of the public power industry, a representative of health
3 care providers, a representative of Nebraska postsecondary educational
4 institutions, and a representative of rural schools offering kindergarten
5 through grade twelve. The members appointed by the Governor shall serve
6 for a term of two years and may be reappointed.

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

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

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

27 (b) Examine the role of the Nebraska Telecommunications Universal
28 Service Fund in bringing comparable and affordable broadband services to
29 rural residents and any effect of the fund in deterring or delaying
30 capital formation, broadband competition, and broadband deployment;

31 (c) Review the feasibility of alternative technologies and providers

1 in accelerating access to faster and more reliable broadband service for
2 rural residents;

3 (d) Examine alternatives for deployment of broadband services to
4 areas that remain unserved or underserved, such as reverse auction
5 programs described in section 86-330, public-private partnerships,
6 funding for competitive deployment, and other measures, and make
7 recommendations to the Public Service Commission to encourage deployment
8 in such areas;

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

12 (f) Make recommendations to the Governor and Legislature as to the
13 most effective and efficient ways that federal broadband rural
14 infrastructure funds received after July 1, 2018, should be expended if
15 such funds become available; and

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

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

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

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

1 technology.

2 Sec. 15. Section 8 of this act becomes operative on July 1, 2022.

3 The other sections of this act become operative on their effective date.

4 Sec. 16. Original sections 75-109.01, 86-127, and 86-577, Reissue
5 Revised Statutes of Nebraska, and sections 86-579 and 86-1102, Revised
6 Statutes Cumulative Supplement, 2018, are repealed.

7 Sec. 17. The following section is outright repealed: Section
8 86-580, Reissue Revised Statutes of Nebraska.