

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 992

Introduced by Friesen, 34; Bostelman, 23.

Read first time January 14, 2020

Committee: Transportation and Telecommunications

1 A BILL FOR AN ACT relating to telecommunications; to amend sections
2 75-109.01, 86-127, and 86-577, Reissue Revised Statutes of Nebraska,
3 and sections 86-579 and 86-1102, Revised Statutes Cumulative
4 Supplement, 2018; to adopt the Broadband Internet Service
5 Infrastructure Act; to state legislative intent; to provide for a
6 state broadband coordinator; to provide duties for the Public
7 Service Commission and Nebraska Library Commission as prescribed; to
8 create the Nebraska E-Rate Special Construction Matching Fund
9 Program; to change provisions relating to the lease of dark fiber;
10 to terminate a fund; to provide a term of service for certain Rural
11 Broadband Task Force members; to harmonize provisions; to repeal the
12 original sections; and to outright repeal section 86-580, Reissue
13 Revised Statutes of Nebraska.
14 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 5 of this act shall be known and may be
2 cited as the Broadband Internet Service Infrastructure Act.

3 Sec. 2. For purposes of the Broadband Internet Service
4 Infrastructure Act:

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

7 (a) Aboveground and attached to an electric utility's electric
8 service infrastructure; or

9 (b) Underground in an electric utility easement and existing before
10 the delivery of notice pursuant to section 3 of this act;

11 (2) Commercial broadband service means broadband service as such
12 term is defined in 7 U.S.C 950bb(b)(1), as such section existed on
13 January 1, 2020, or broadband Internet service;

14 (3)(a) Commercial broadband supplier means:

15 (i) A provider of commercial broadband services; or

16 (ii) A person that directly or indirectly sells, leases, or
17 otherwise transfers an attached facility or a right to install, operate,
18 maintain, or use an attached facility for another person's provision of
19 commercial broadband service or a person that intends to sell, lease, or
20 otherwise transfer an attached facility or a right to install, operate,
21 maintain, or use an attached facility; and

22 (b) Commercial broadband supplier does not include an electric
23 utility;

24 (4) Electric utility easement means a recorded or unrecorded
25 easement, right-of-way, or similar right in or to real property,
26 including prescriptive rights, no matter how acquired, held by an
27 electric utility for the siting of electric service infrastructure or for
28 the purpose of delivering electric service, regardless of whether:

29 (a) The easement or other right is exclusively for the provision of
30 electric service or for use in connection with commercial broadband
31 service, telecommunications service, or another purpose; or

1 (b) The electric utility or a commercial broadband supplier uses the
2 easement or other right to provide commercial broadband service;

3 (5) Electric utility means any entity defined in subdivision (8) of
4 section 70-601;

5 (6) Interest holder means a property owner or other person with an
6 interest in the real property upon which an electric utility easement is
7 located;

8 (7) Memorandum means a written instrument that includes, at a
9 minimum, the name and address of the electric utility, the date on which
10 the notice was mailed, and the information required to be included in a
11 notice;

12 (8) Notice means a written letter substantially complying with the
13 requirements set forth in subdivision (2)(b) of section 3 of this act,
14 which notice shall be deemed delivered on the date postmarked or
15 otherwise time stamped;

16 (9) Person means an individual, firm, partnership, company,
17 corporation, trust, limited liability company, association, joint
18 venture, or any other legal entity;

19 (10) Property owner means a person with a recorded interest in real
20 property upon which an electric utility easement is located; and

21 (11) Request for notice means a written instrument recorded by an
22 interest holder in compliance with the requirements set forth in
23 subdivision (2)(c) of section 3 of this act.

24 Sec. 3. (1) For real property subject to an electric utility
25 easement, if an electric utility, or any commercial broadband supplier
26 designated by the electric utility to act on its behalf, complies with
27 the notice and filing requirements set forth in subsection (2) of this
28 section, the electric utility holding the electric utility easement may,
29 subject to subsection (4) of this section and without the consent of an
30 interest holder in the real property subject to the electric utility
31 easement, take the following actions to the extent not already permitted

1 by the electric utility easement:

2 (a) Install, maintain, or own, or permit any commercial broadband
3 supplier to install, maintain, or own, an attached facility for operation
4 by a commercial broadband supplier in providing commercial broadband
5 service; and

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

9 (2)(a) At least thirty days before first exercising an action under
10 one or both of subdivision (1)(a) or (1)(b) of this section with respect
11 to an electric utility easement or portion of an electric utility
12 easement, an electric utility or its designated commercial broadband
13 supplier shall send notice to each property owner that holds an interest
14 in the real property subject to the electric utility easement and any
15 other interest holder that has recorded a request for notice and shall
16 record a memorandum in the office of the county clerk in each county in
17 which the electric utility is exercising action under subsection (1) of
18 this section. An electric utility or its designated commercial broadband
19 supplier may only commence an action under subsection (1) of this section
20 upon delivery of such notice.

21 (b) Notice pursuant to this subsection shall:

22 (i) Be sent by certified mail from or on behalf of the electric
23 utility to the property owner and any interest holder that has recorded a
24 request for notice at each of the following, as applicable:

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

27 (B) The address listed for the property owner in the records of the
28 office of the county assessor; and

29 (C) The address set forth in a request for notice;

30 (ii) Include the name, address, telephone number, and named point of
31 contact for the electric utility and, if delivered by a commercial

1 broadband supplier designated by the electric utility, the name, address,
2 telephone number, and named point of contact for the designated
3 commercial broadband supplier;

4 (iii) Include the property address, the recording number, if any, of
5 the electric utility easement or recorded memorandum of the electric
6 utility easement, a general description of any existing electric service
7 infrastructure currently located in the electric utility easement, and
8 the approximate location of the electric utility easement;

9 (iv) Include:

10 (A) A reference to the Broadband Internet Service Infrastructure
11 Act; and

12 (B) A copy of the language of subsection (1) of this section with an
13 indication of whether the electric utility is exercising action under one
14 or both of subdivision (1)(a) or (1)(b) of this section;

15 (v) Give an estimated time for the start of installation or
16 construction with regard to any new installation or construction that
17 will occur in connection with the exercise of action under subsection (1)
18 of this section;

19 (vi) Include a statement regarding the right and obligation of the
20 electric utility, or its designated commercial broadband supplier, to
21 record a memorandum; and

22 (vii) Include a statement regarding the statute of limitations for
23 the interest holder to file a claim with respect to the electric
24 utility's exercise of action.

25 (c) An interest holder that desires to obtain notice at a specific
26 address may file in the office of the county clerk for the county in
27 which the real property is located a request for notice that identifies
28 the interest holder's name and address, the instrument granting the
29 interest holder's interest in the property, and the recording number of
30 the instrument or a recorded memorandum of the instrument.

31 (3) Upon exercise of an action set forth in subsection (1) of this

1 section, such action runs with the land and is assignable by the electric
2 utility, subject to provisions of law.

3 (4) The terms and conditions of a written electric utility easement
4 apply to an electric utility's use of the electric utility easement set
5 forth in subsection (1) of this section, except for those terms and
6 conditions that would prohibit the electric utility's exercise of action
7 under subsection (1) of this section. A prohibition on aboveground
8 electric service infrastructure contained within a written electric
9 utility easement constitutes a prohibition on aboveground attached
10 facilities. In connection with the exercise of such action under
11 subsection (1) of this section, an electric utility or its designated
12 commercial broadband supplier shall comply with any notice requirements
13 contained in a written electric utility easement held by the electric
14 utility related to entering the real property subject to the electric
15 utility easement or commencing any construction or installation on the
16 real property.

17 (5) Nothing in this section requires an electric utility to comply
18 with subsection (2) of this section in order to take any action or
19 exercise any rights under an electric utility easement that is already
20 permitted within the scope of the electric utility easement. Unless
21 expressly prohibited by the terms of an electric utility easement, an
22 electric utility easement shall be deemed to allow an electric utility to
23 install, maintain, own, permit, lease, or provide, or allow a third party
24 to install, maintain, own, or provide for beneficial use by the electric
25 utility, telecommunications facilities and equipment for use in
26 connection with the electric utility's provision of electricity.

27 Sec. 4. (1)(a) No claim or cause of action against an electric
28 utility or a commercial broadband supplier concerning the electric
29 utility's or commercial broadband supplier's exercise of action under
30 section 3 of this act or any actions that the electric utility or
31 commercial broadband supplier takes before the effective date of this act

1 that, if taken after the effective date of this act, would be authorized
2 under subsection (1) of section 3 of this act may be brought by or on
3 behalf of an interest holder more than two years after the latest of:

4 (i) The effective date of this act;

5 (ii) The date of delivery of notice pursuant to subsection (2) of
6 section 3 of this act; or

7 (iii) The date of recording of a memorandum pursuant to subsection
8 (2) of section 3 of this act.

9 (b) Subdivision (1)(a) of this section does not apply to a claim or
10 cause of action based on:

11 (i) Physical damage to property;

12 (ii) Injury to natural persons; or

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

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

18 (2) A claim or cause of action to which subdivision (1)(a) of this
19 section applies shall not be brought by or on behalf of an interest
20 holder against a commercial broadband supplier for notice provided by the
21 commercial broadband supplier on behalf of an electric utility under
22 subsection (2) of section 3 of this act. Nothing in this subsection
23 prohibits an electric utility and a commercial broadband supplier from
24 contracting to allocate liability for notice required under subsection
25 (2) of section 3 of this act.

26 (3) If an interest holder brings a trespass claim, inverse
27 condemnation claim, or any other claim or cause of action to which
28 subdivision (1)(a) of this section applies for an electric utility's or
29 commercial broadband supplier's performance of actions described in
30 subdivision (1)(a) or (1)(b) of section 3 of this act, the following
31 applies to the claim or cause of action:

1 (a) The measure of damages for all claims or causes of action to
2 which subdivision (1)(a) of this section applies, taken together, is the
3 fair market value of the reduction in value of the interest holder's
4 interest in the real property. In determining or providing the fair
5 market value under this subdivision (a):

6 (i) The following shall not be used and are not admissible as
7 evidence in any proceeding:

8 (A) Profits, fees, or revenue derived from the attached facilities;
9 or

10 (B) The rental value of the real property interest or the electric
11 easement, including the rental value of any attached facilities or an
12 assembled broadband corridor; and

13 (ii) Consideration must be given to any increase in value to the
14 real property interest resulting from the availability of commercial
15 broadband service to the real property underlying the real property
16 interest that arises from the installation of attached facilities.

17 (b) The interest holder shall make reasonable accommodations for the
18 electric utility or commercial broadband supplier to perform an appraisal
19 or inspection of the real property within ninety days following any
20 written request for an appraisal or inspection. If an interest holder
21 fails to make such accommodations, the electric utility or commercial
22 broadband supplier has no further liability to the interest holder with
23 respect to such claim or cause of action. The electric utility or
24 commercial broadband supplier shall promptly provide to the interest
25 holder a copy of any appraisal performed pursuant to this subdivision
26 (b).

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

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

1 (ii) Shall not be deemed to continue, accrue, or accumulate.

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

4 (i) Except for an electric utility's or commercial broadband
5 supplier's failure to comply with subsection (2) of section 3 of this
6 act, negligence, or willful misconduct, or in accordance with the terms
7 and conditions of a written electric utility easement as such apply in
8 accordance with subsection (4) of section 3 of this act, an interest
9 holder is not entitled to reimbursement from an electric utility or
10 commercial broadband supplier for the cost of any appraisal, attorney
11 fees, or award for special, consequential, indirect, or punitive damages;
12 and

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

18 (4) By accepting a damage award for any claim or cause of action to
19 which subsection (1)(a) of this section applies, an interest holder shall
20 be deemed to have granted an increase in the scope of the electric
21 easement, equal in duration to the term of the electric utility easement
22 and subject to this section, to the extent of the interest holder's
23 rights in the real property, for all of the uses of the real property and
24 actions set forth in subsection (1) of section 3 of this act.

25 Sec. 5. (1) An electric utility that exercises any action under
26 subdivision (1)(a) or (1)(b) of section 3 of this act for the provision
27 of commercial broadband service shall:

28 (a) Not discriminate among commercial broadband suppliers in
29 offering or granting rights to install or attach any attached facilities;
30 or

31 (b) Charge fees that are nondiscriminatory among commercial

1 broadband suppliers for a substantially similar lease or use of the
2 capacity of attached facilities owned or controlled by the electric
3 utility, but only to the extent an electric utility chooses, in its sole
4 discretion, to offer the lease or use to a particular commercial
5 broadband supplier.

6 (2) Nothing in this section requires an electric utility to offer or
7 grant a right to access or use an electric utility easement or to use
8 attached facilities or electric service infrastructure owned or
9 controlled by the electric utility in a manner that would, in the
10 electric utility's reasonable discretion, materially interfere with the
11 electric utility's construction, maintenance, or use of any electric
12 utility infrastructure for the provision of electric service.

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

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

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

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

24 (d) Prevents the parties involved from filing a claim or cause of
25 action in any court of competent jurisdiction for any dispute arising
26 under the Broadband Internet Service Infrastructure Act.

27 Sec. 6. (1) It is the intent of the Legislature to encourage local
28 and regional broadband planning, and to encourage public-private
29 partnerships to enhance broadband services in unserved and underserved
30 areas of the state.

31 (2) The position of state broadband coordinator is created. The

1 position will be located in the office of the Chief Information Officer.

2 The coordinator shall:

3 (a) Encourage each county or region comprising a group of counties
4 to appoint a broadband coordinator to facilitate broadband planning and
5 coordination;

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

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

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

19 Sec. 7. (1) It is the intent of the Legislature to better utilize
20 public libraries in providing Internet and computer access to students
21 and the general public in unserved and underserved areas or in areas with
22 a high percentage of students who have limited or no access to the
23 Internet. The Legislature finds that the E-Rate Schools and Libraries
24 Program of the Universal Service Fund program for subsidized service to
25 public libraries is underutilized and that many public libraries need
26 support for technological services, upgrades, digital literacy training,
27 and E-Rate filings.

28 (2) The Nebraska Library Commission shall employ four regional
29 technicians who shall be employed by the commission. The technicians
30 shall provide technical support for public libraries across the state as
31 directed by the commission.

1 Sec. 8. (1) The Public Service Commission shall establish the
2 Nebraska E-Rate Special Construction Matching Fund Program. Beginning
3 July 1, 2021, the program shall receive funding from the Nebraska
4 Telecommunications Universal Service Fund to provide incentives for fiber
5 optic cable to be constructed to benefit public libraries.

6 (2) The commission shall establish criteria and priorities for
7 funding by establishing a support mechanism for eligible
8 telecommunications carriers to deploy fiber optic cable for the benefit
9 of public library access to E-Rate special construction matching funding.

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

13 Sec. 9. Section 75-109.01, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 75-109.01 Except as otherwise specifically provided by law, the
16 Public Service Commission shall have jurisdiction, as prescribed, over
17 the following subjects:

18 (1) Common carriers, generally, pursuant to sections 75-101 to
19 75-158;

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

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

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

26 (5) Motor carrier registration and safety pursuant to sections
27 75-301 to 75-343, 75-369.03, 75-370, and 75-371;

28 (6) Pipeline carriers and rights-of-way pursuant to the Major Oil
29 Pipeline Siting Act, the State Natural Gas Regulation Act, and sections
30 75-501 to 75-503. If the provisions of Chapter 75 are inconsistent with
31 the provisions of the Major Oil Pipeline Siting Act, the provisions of

1 the Major Oil Pipeline Siting Act control;

2 (7) Railroad carrier safety pursuant to sections 74-918, 74-919,
3 74-1323, and 75-401 to 75-430;

4 (8) Telecommunications carriers pursuant to the Automatic Dialing-
5 Announcing Devices Act, the Emergency Telephone Communications Systems
6 Act, the Enhanced Wireless 911 Services Act, the Intrastate Pay-Per-Call
7 Regulation Act, the Nebraska Telecommunications Regulation Act, the
8 Nebraska Telecommunications Universal Service Fund Act, the
9 Telecommunications Relay System Act, the Telephone Consumer Slamming
10 Prevention Act, and sections 86-574 to 86-579 ~~86-580~~;

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

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

14 (11) Jurisdictional utilities governed by the State Natural Gas
15 Regulation Act. If the provisions of Chapter 75 are inconsistent with the
16 provisions of the State Natural Gas Regulation Act, the provisions of the
17 State Natural Gas Regulation Act control.

18 Sec. 10. Section 86-127, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 86-127 (1) One of the goals of the federal Telecommunications Act of
21 1996, as such act existed on January 1, 2002, is to foster competition
22 among telephone companies. Section 271 of the federal act (a) establishes
23 specific incentives, procedures, and requirements for regional Bell
24 operating companies to offer inter-LATA interexchange service and (b)
25 requires the Public Service Commission to monitor the competitive
26 performance of a regional Bell operating company and to consult with the
27 Federal Communications Commission regarding such activities.

28 (2) The Nebraska Competitive Telephone Marketplace Fund is created.
29 The Public Service Commission may accept, and the fund shall consist of,
30 any voluntary performance payments received from a regional Bell
31 operating company. The fund shall be used by the commission for expenses

1 related to the monitoring of compliance with section 271 of the federal
2 act. If money in the fund exceeds thirty thousand dollars, the commission
3 shall remit such excess money to the State Treasurer for credit to the
4 Nebraska Telecommunications Universal Service Internet Enhancement Fund,
5 except that transfers may be made from the Nebraska Competitive Telephone
6 Marketplace Fund to the General Fund at the direction of the Legislature.
7 Any money in the Nebraska Competitive Telephone Marketplace Fund
8 available for investment shall be invested by the state investment
9 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
10 State Funds Investment Act.

11 Sec. 11. Section 86-577, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 86-577 Any agency or political subdivision of the state may lease
14 its dark fiber if:

15 (1) The lessee is a certificated telecommunications common carrier
16 or a permitted telecommunications contract carrier pursuant to section
17 86-128 or an Internet service provider;

18 (2) The lease price and profit distribution is approved by the
19 Public Service Commission as follows:

20 (a) The commission shall not approve any lease price which is less
21 than the market rate for leasing such fiber as determined by the
22 commission. The market rate is the price associated with similar
23 unbundled network elements that may be available from the incumbent local
24 exchange carrier or the price of any other private entity leasing dark
25 fiber optic facilities serving the same or similar territory where the
26 leased equipment is located. The commission shall establish a safe harbor
27 range of market rates for such leases using a competitive price
28 determination ~~Before entering into a lease, each agency or political~~
29 ~~subdivision shall file a request with the commission for a competitive~~
30 ~~price comparison to determine the market rate.~~ When conducting a
31 competitive price determination ~~comparison~~, the commission in its

1 discretion shall use rate schedules, interconnection agreements, or other
2 documents within its regulatory oversight and shall gather other market
3 rate information as deemed necessary;

4 (b) If the lease submitted utilizes rates within the safe harbor
5 range, the commission shall publish the application within five business
6 days of receipt and allow fourteen business days for any objection to be
7 filed. If no objection is filed within fourteen business days, the lease
8 shall be deemed approved. If an objection is filed, the commission shall
9 hold a hearing to determine whether the lease meets the market rate The
10 ~~commission shall not approve any lease price which is agreed upon by the~~
11 ~~agency or political subdivision and the lessee unless the lease requires~~
12 ~~that the agency or political subdivision be solely responsible for the~~
13 ~~maintenance of its dark fiber and that the lessee be responsible, on a~~
14 ~~pro rata basis, for any such maintenance costs; and~~

15 (c) The commission shall not approve any lease unless fifty percent
16 of the profit earned by the agency or political subdivision under the
17 lease is remitted to the Nebraska Telecommunications Universal Service
18 ~~Internet Enhancement~~ Fund. Profit earned by the agency or political
19 subdivision is the lease price less the cost of infrastructure
20 overbuilding. Before entering into a lease, each agency or political
21 subdivision shall file a request with the commission to determine the
22 cost of overbuilding its fiber optic infrastructure. For purposes of this
23 subdivision, cost of infrastructure overbuilding means the cost of each
24 leased optic fiber, including the cost, on a pro rata basis, associated
25 with the agency's or political subdivision's installation of such fiber;

26 (3) Any interconnection agreement subject to section 86-122 is
27 approved by the commission; and

28 (4) The lessee makes every reasonable effort to activate the maximum
29 amount of the leased fiber as is possible, within one year after entering
30 into the lease, unless good cause is shown.

31 Sec. 12. Section 86-579, Revised Statutes Cumulative Supplement,

1 2018, is amended to read:

2 86-579 The Nebraska Internet Enhancement Fund is created. The fund
3 shall be used to provide financial assistance to install and deliver
4 broadband or other advanced telecommunications infrastructure and service
5 throughout the state. It is the intent of the Legislature that two
6 hundred fifty thousand dollars shall be appropriated to the fund to be
7 used for startup costs and seed money for FY2001-02. The Public Service
8 Commission may receive gifts, contributions, property, and equipment from
9 public and private sources for purposes of the fund. The fund shall
10 consist of money appropriated by the Legislature, any money transferred
11 pursuant to section 86-127, and gifts, grants, or bequests from any
12 source, ~~including money remitted to the fund pursuant to section 86-577~~
13 ~~and any other federal, state, public, and private sources. Money in the~~
14 ~~fund shall be distributed by the commission pursuant to section 86-580.~~
15 Transfers from the fund to the General Fund may be made at the direction
16 of the Legislature. Any money in the Nebraska Internet Enhancement Fund
17 available for investment shall be invested by the state investment
18 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
19 State Funds Investment Act. The fund terminates on June 30, 2021, and the
20 State Treasurer shall transfer any unencumbered money in the fund on such
21 date to the Nebraska Telecommunications Universal Service Fund.

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

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

28 Sec. 13. Section 86-1102, Revised Statutes Cumulative Supplement,
29 2018, is amended to read:

30 86-1102 (1) The Rural Broadband Task Force is hereby created. Task
31 force members shall include the chairperson of the Transportation and

1 Telecommunications Committee of the Legislature and a member of the
2 Legislature selected by the Executive Board of the Legislative Council
3 who shall both serve as nonvoting, ex officio members, a member of the
4 Public Service Commission who shall be selected by the chairperson of
5 such commission, the chairperson of the Nebraska Information Technology
6 Commission or his or her designee who shall act as chairperson of the
7 task force, the Director of Economic Development or his or her designee,
8 the Director of Agriculture or his or her designee, and the following
9 members to be appointed by the Governor: A representative of the
10 agribusiness community, a representative of the Nebraska business
11 community, a representative of the regulated wireline telecommunications
12 industry, a representative of the wireless telecommunications industry, a
13 representative of the public power industry, a representative of health
14 care providers, a representative of Nebraska postsecondary educational
15 institutions, and a representative of rural schools offering kindergarten
16 through grade twelve. The members appointed by the Governor shall serve
17 for a term of two years and may be reappointed.

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

28 (3) The Nebraska Information Technology Commission shall provide
29 staff assistance to the task force in consultation with staff from the
30 Public Service Commission and other interested parties. The task force
31 may hire consultants to assist in carrying out its duties. The task force

1 shall review issues relating to availability, adoption, and affordability
2 of broadband services in rural areas of Nebraska. In particular, the task
3 force shall:

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

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

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

14 (d) Examine alternatives for deployment of broadband services to
15 areas that remain unserved or underserved, such as reverse auction
16 programs described in section 86-330, public-private partnerships,
17 funding for competitive deployment, and other measures, and make
18 recommendations to the Public Service Commission to encourage deployment
19 in such areas;

20 (e) Recommend state policies to effectively utilize state universal
21 service fund dollars to leverage federal universal service fund support
22 and other federal funding;

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

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

29 (4) Task force members shall serve on the task force without
30 compensation but shall be entitled to receive reimbursement for any
31 actual expenses incurred for such service as provided in sections 81-1174

1 to 81-1177.

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

7 (6) For purposes of this section, broadband services means high-
8 speed telecommunications capability at a minimum download speed of
9 twenty-five megabits per second and a minimum upload speed of three
10 megabits per second, and that enables users to originate and receive
11 high-quality voice, data, and video telecommunications using any
12 technology.

13 Sec. 14. Original sections 75-109.01, 86-127, and 86-577, Reissue
14 Revised Statutes of Nebraska, and sections 86-579 and 86-1102, Revised
15 Statutes Cumulative Supplement, 2018, are repealed.

16 Sec. 15. The following section is outright repealed: Section
17 86-580, Reissue Revised Statutes of Nebraska.