

LEGISLATIVE BILL 692

Approved by the Governor March 28, 2014

Introduced by Sullivan, 41; Seiler, 33.

FOR AN ACT relating to the Nebraska Educational Telecommunications Act; to amend sections 79-1312, 79-1313, 79-1314, 79-1317, and 79-1319, Reissue Revised Statutes of Nebraska, and section 79-1316, Revised Statutes Cumulative Supplement, 2012; to redefine terms; to change provisions relating to broadcast and delivery, powers and duties of a commission, and fees; to eliminate a fund, powers and duties of the State Department of Education, and a director; to harmonize provisions; to repeal the original sections; and to outright repeal sections 79-1321, 79-1323, 79-1324, and 79-1325, Reissue Revised Statutes of Nebraska.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 79-1312, Reissue Revised Statutes of Nebraska, is amended to read:

79-1312 Sections 79-1312 to ~~79-1325~~ 79-1322 shall be known and may be cited as the Nebraska Educational Telecommunications Act.

Sec. 2. Section 79-1313, Reissue Revised Statutes of Nebraska, is amended to read:

79-1313 The Nebraska Educational Telecommunications Act creates the Nebraska Educational Telecommunications Commission for the purpose of (1) promoting and establishing noncommercial educational telecommunications facilities within the State of Nebraska, (2) providing noncommercial educational telecommunications programs throughout the State of Nebraska by ~~standard~~ digital broadcast, by closed-circuit transmission, by Internet-based delivery, or by other telecommunications technology distribution systems, and (3) operating statewide educational and public radio and television networks, facilities, and services. The commission shall seek funding from federal, state, foundation, and private sources for capital construction and annual operations.

Sec. 3. Section 79-1314, Reissue Revised Statutes of Nebraska, is amended to read:

79-1314 For purposes of the Nebraska Educational Telecommunications Act, unless the context otherwise requires:

(1) Telecommunications includes statewide ~~standard~~ digital public television and public radio transmissions and other telecommunications technology distribution systems; and

(2) ~~Instructional~~ Educational telecommunications means the organization and use of programs, technologies, and devices to store, archive, retrieve, process, display, receive, or transmit, by any means, information for the purpose of carrying out educational or other governmental entities' objectives.

Sec. 4. Section 79-1316, Revised Statutes Cumulative Supplement, 2012, is amended to read:

79-1316 The powers and duties of the Nebraska Educational Telecommunications Commission are:

(1) To promote and sponsor a noncommercial educational television network to serve a series of interconnecting units throughout the State of Nebraska;

(2) To promote and support locally operated or state-operated noncommercial educational radio stations with satellite receiving capabilities and improved transmitter coverage;

(3) To apply for and to receive and hold such authorizations, licenses, and assignments of channels from the Federal Communications Commission as may be necessary to conduct such educational telecommunications programs by standard radio and television broadcast or by other telecommunications technology broadcast systems and to prepare, file, and prosecute before the Federal Communications Commission all applications, reports, or other documents or requests for authorization of any kind necessary or appropriate to achieve the purposes set forth in the Nebraska Educational Telecommunications Act;

(4) To receive gifts and contributions from public and private sources to be expended in providing educational telecommunications facilities and programs;

(5) To acquire real estate and other property as an agency of the State of Nebraska and to hold and use the same for educational telecommunications purposes;

(6) To contract for the construction, repair, maintenance, and operation of telecommunications facilities;

(7) To contract with common carriers, qualified under the laws of the State of Nebraska, to provide interconnecting channels or satellite facilities in support of radio, television, and other telecommunications technology services unless it is first determined by the Nebraska Educational Telecommunications Commission that state-owned interconnecting channels can be constructed and operated that would furnish a comparable quality of service at a cost to the state that would be less than if such channels were provided by qualified common carriers;

(8) To provide for programming for the visually impaired, other print-handicapped persons, and the deaf and hard of hearing as authorized by the Federal Communications Commission under subsidiary communications authority rules, through contracts with appropriate nonprofit corporations or organizations which have been created for such purpose;

(9) To arrange for the operation of statewide educational telecommunications networks, as directed by the Nebraska Educational Telecommunications Commission, consistent with the provisions of the federal Communications Act of 1934, as amended, and applicable rules and regulations, with policies of the Federal Communications Commission, in cooperation with the State Board of Education insofar as elementary and secondary education programs are concerned, and in cooperation with the Coordinating Commission for Postsecondary Education insofar as postsecondary education programs are concerned;

(10) After taking into consideration the needs of the entire state, to establish and maintain general policies relating to the nature and character of educational telecommunications broadcasts or transmissions;

(11) To review, or cause to be reviewed by a person designated by the commission, all programs presented on the network prior to broadcast or transmission to insure that the programs are suitable for viewing and listening. Such suitability shall be determined by evaluating the content of the program, and screening the programs if necessary, as to their educational value and whether they enhance the cultural appreciation of the viewer and listener and do not appeal to his or her prurient interest. When it is obvious from an examination of the descriptive program materials that a program is suitable for presenting on the network, no further review shall be required;

(12) To cooperate with ~~the United States Secretary of Commerce and other~~ federal or state agencies for the purpose of obtaining matching federal or state funds and providing educational telecommunications facilities of all types throughout the state and to make such reports as may be required of recipients of matching funds;

(13) To arrange for and provide standard digital radio and television broadcast and other telecommunications technology transmissions of noncommercial educational telecommunications programs to Nebraska citizens and institutions, but no tax funds shall be used for program advertising which may only be financed out of funds received from foundations or individual gifts;

(14) To coordinate with Nebraska agencies that deal with telecommunications activities and are supported in whole or in part by public funds, ~~providing program material for the Nebraska educational telecommunications network;~~

(15) To adopt bylaws for the conduct of its affairs;

(16) To make certain that the facilities are not used for any purpose which is contrary to the United States Constitution or the Constitution of Nebraska or for broadcasting propaganda or attempting to influence legislation;

(17) To publish such informational material as it deems necessary and it may, at its discretion, charge appropriate fees therefor. The proceeds of all such fees shall be remitted to the State Treasurer for credit to the State Educational Telecommunications Fund and shall be used by the commission solely for publishing such informational material. The commission shall provide to newspapers, radio stations, and other news media program schedules informing the public of programs approved by the commission; and

(18) To maintain a library of films and videotapes which depict persons who appear to be digital archive of programs and educational content containing stories, events, individuals, and performances which are significant or prominent in Nebraska history.

Sec. 5. Section 79-1317, Reissue Revised Statutes of Nebraska, is amended to read:

79-1317 The Nebraska Educational Telecommunications Commission, in consultation with users of its ~~distance learning~~ and telecommunications facilities, networks, and equipment, may establish user fees, penalty fees, or other fees as necessary for and consistent with the efficient and orderly use

of its facilities, networks, and equipment.

Sec. 6. Section 79-1319, Reissue Revised Statutes of Nebraska, is amended to read:

79-1319 All telecommunications facilities operated or supervised by the Nebraska Educational Telecommunications Commission shall be operated at all times on a noncommercial basis, except that revenue may be generated from other nonprofit or commercial sources through contractual arrangements involving ~~excess transponder capacity~~, excess transmission spectrum, or transmission and production facilities. All contractual arrangements shall be based on sound business principles that are made in the best interest of the State of Nebraska. The commission may also enter into partnerships with public or private entities for the purpose of jointly building and operating tower and other transmission structures. All telecommunications facilities operated or supervised by the commission shall not produce or be involved in the production of commercials and shall not be involved in the distribution or retransmission of national commercial and subscription television channels.

Operational and administrative service pertinent to the production and utilization of ~~inclass~~ educational telecommunications ~~instruction~~ services shall be made available to all schools and colleges of Nebraska on the basis of the actual cost of production exclusive of general overhead expense.

Sec. 7. Original sections 79-1312, 79-1313, 79-1314, 79-1317, and 79-1319, Reissue Revised Statutes of Nebraska, and section 79-1316, Revised Statutes Cumulative Supplement, 2012, are repealed.

Sec. 8. The following sections are outright repealed: Sections 79-1321, 79-1323, 79-1324, and 79-1325, Reissue Revised Statutes of Nebraska.