

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1144

Introduced by Friesen, 34.

Read first time January 19, 2022

Committee: Transportation and Telecommunications

1 A BILL FOR AN ACT relating to telecommunications; to amend section
2 86-134, Reissue Revised Statutes of Nebraska, and sections 86-1304
3 and 86-1306, Revised Statutes Supplement, 2021; to change
4 discontinuance of service provisions under the Nebraska
5 Telecommunications Regulation Act; to define terms; to change
6 provisions of the Nebraska Broadband Bridge Act relating to grant
7 matching funds requirements, application and award deadlines,
8 project extensions, and application scoring; to harmonize
9 provisions; and to repeal the original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 86-134, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 86-134 (1) No telecommunications company which provides intrastate
4 interexchange service or basic local exchange service may abandon or
5 otherwise discontinue such service in or to a local exchange area which
6 it serves unless:

7 (a) (1) The commission finds upon application and hearing, if such
8 hearing is deemed necessary by the commission, that one or more other
9 telecommunications companies or communications providers (i) are
10 furnishing real-time voice communications comparable telecommunications
11 service to the subscribers in such local exchange area or (ii) have been
12 designated as eligible telecommunications carriers in such local exchange
13 area at the time of discontinuance or abandonment; and

14 (b) (2) The telecommunications company discontinuing
15 telecommunications service to such local exchange area:

16 (i) (a) Notifies its subscribers in the local exchange area in
17 writing of the abandonment, which notice shall be sent at least thirty
18 days prior to the effective date of such abandonment;

19 (ii) (b) Refunds any unused prepaid subscription charges or other
20 unused prepaid charges to each customer in the local exchange area prior
21 to the effective date of the abandonment; and

22 (iii) (c) Prior to the effective date of the abandonment, reimburses
23 its customers in the local exchange area for service charges which its
24 customers incur in obtaining substitute service from another
25 telecommunications company or communications provider or, in lieu
26 thereof, pays other telecommunications companies or communications
27 providers directly for such service charges on behalf of its customers
28 making changes in their telecommunications service as a result of the
29 abandonment.

30 (2) The process provided for in this section shall not be required
31 for any telecommunications company retiring copper facilities within a

1 portion of a local exchange area when approval of such copper retirement
2 and transfer of any impacted subscribers has been granted from the
3 Federal Communications Commission.

4 (3) For purposes of this section:

5 (a) Communications provider has the same meaning as in section
6 86-125; and

7 (b) Eligible telecommunications carrier means an eligible
8 telecommunications carrier as designated under 47 U.S.C. 214(e), as such
9 section existed on January 1, 2022.

10 Sec. 2. Section 86-1304, Revised Statutes Supplement, 2021, is
11 amended to read:

12 86-1304 (1)(a) A provider, a cooperative, a political subdivision,
13 or an Indian tribe may apply to the commission for a grant on forms
14 provided by the commission. The grant shall only be used for development
15 costs for a qualifying project. The application shall indicate the
16 project area. The applicant shall provide matching funds equal to fifty
17 percent of the total development costs of the project if located outside
18 a high-cost area, or twenty-five percent of the total development costs
19 of the project if located inside a high-cost area, as such areas are
20 determined by the commission. The matching funds requirement in this
21 subdivision shall not apply to any portion of a grant comprised of
22 federal funds. In order to qualify, the project is required to provide
23 broadband Internet service scalable to one hundred megabits per second
24 for downloading and one hundred megabits per second for uploading, or
25 greater. Applications shall be submitted on or before October 1, ~~2021,~~
26 ~~for fiscal year 2021-22, and on or before July 1 for each fiscal year and~~
27 grants awarded no later than the following January 31 thereafter.

28 (b) An application from a political subdivision or an Indian tribe
29 shall be made as part of a public-private partnership with a provider.

30 (2)(a) As part of the application, the applicant shall agree to
31 complete the project within eighteen months after the date the grant is

1 awarded. The commission may permit extensions ~~one extension of up to six~~
2 ~~months~~ upon request and for good cause shown.

3 (b) If a grant recipient fails to complete the project by the agreed
4 or extended deadline, as the case may be, the recipient shall repay the
5 grant as provided in this subdivision. If no extension is permitted, ten
6 percent of the grant shall be repaid for each month that the project is
7 not complete after the eighteen-month period, up to one hundred percent
8 of the grant. If an extension is permitted, twenty percent of the grant
9 shall be repaid for each month that the project is not complete after the
10 extension ~~twenty-four-month~~ period, up to one hundred percent of the
11 grant.

12 (3)(a) As part of the application, the applicant shall agree to
13 submit the broadband network completed as a result of the grant to speed
14 tests as determined by the commission. The grant recipient shall conduct
15 the speed tests and submit the results to the commission. The speed tests
16 shall be conducted for one week using a random sample of locations of
17 consumers who subscribe to the network completed as a result of the
18 grant.

19 (b) If the broadband network does not provide service at the speeds
20 required pursuant to subdivision (1)(a) of this section according to the
21 speed tests under subdivision (3)(a) of this section, the grant recipient
22 shall be allowed a reasonable time to address the speed deficiencies and
23 conduct a second set of speed tests as described in subdivision (3)(a) of
24 this section. If the broadband network does not provide service at the
25 speeds required pursuant to subdivision (1)(a) of this section according
26 to the second set of speed tests, the grant recipient shall repay the
27 grant.

28 Sec. 3. Section 86-1306, Revised Statutes Supplement, 2021, is
29 amended to read:

30 86-1306 (1) The commission shall establish a weighted scoring system
31 to evaluate and rank the applications received each fiscal year.

1 (2) In each fiscal year, at least thirty days prior to the first day
2 that applications may be submitted, the commission shall publish on the
3 commission's website the specific criteria and the quantitative weighted
4 scoring system the commission will use to evaluate and rank applications
5 and award grants pursuant to the program. Such weighted scoring system
6 shall consider, at a minimum:

7 (a) The financial, technical, and legal capability of the applicant
8 to deploy and operate broadband Internet service;

9 (b) Whether the provider is designated as an eligible
10 telecommunications carrier or will be so designated prior to the project
11 completion date;

12 (c) The ability of an applicant to offer rates in the project area
13 that are comparable to the rates offered by the applicant outside the
14 project area;

15 (d) The available minimum broadband speeds, with higher scores for
16 faster speeds, except that no grant shall be awarded based on speeds less
17 than those scalable to one hundred megabits per second for downloading
18 and one hundred megabits per second for uploading, or greater;

19 (e) The ability of the broadband infrastructure to be scalable to
20 higher broadband Internet speeds in the future; and

21 (f) Whether the applicant has committed to fund more than fifty
22 percent of the total development costs of the project if located outside
23 a high-cost area, or more than twenty-five percent of the total
24 development costs of the project if located inside a high-cost area, as
25 such areas are determined by the commission, from sources other than
26 grants under the program, with higher scores for higher amounts of
27 matching funds.

28 Sec. 4. Original section 86-134, Reissue Revised Statutes of
29 Nebraska, and sections 86-1304 and 86-1306, Revised Statutes Supplement,
30 2021, are repealed.