

E AND R AMENDMENTS TO LB 994

Introduced by Wishart, 27, Chairman Enrollment and Review

1 1. Strike the original sections and all amendments thereto and
2 insert the following new 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 health
8 care providers, a representative of Nebraska postsecondary educational
9 institutions, and a representative of rural schools offering kindergarten
10 through grade twelve.

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

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

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

31 (b) Examine the role of the Nebraska Telecommunications Universal

1 Service Fund in bringing comparable and affordable broadband services to
2 rural residents and any effect of the fund in deterring or delaying
3 capital formation, broadband competition, and broadband deployment;

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

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

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

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

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

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

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

30 (6) For purposes of this section, broadband services means high-
31 speed telecommunications capability at a minimum download speed of

1 twenty-five megabits per second and a minimum upload speed of three
2 megabits per second, and that enables users to originate and receive
3 high-quality voice, data, and video telecommunications using any
4 technology.

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

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

26 The commission shall adopt and promulgate rules and regulations that
27 establish standards governing the withholding of funding from the
28 Nebraska Telecommunications Universal Service Fund from any recipient,
29 including the provision of notice and the right to a hearing prior to the
30 issuance of an order withdrawing such funding. If the commission
31 withdraws funding from the Nebraska Telecommunications Universal Service

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

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

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

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

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

23 Sec. 6. Section 77-2704.51, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 77-2704.51 Sales and use taxes shall not be imposed on the gross
26 receipts from the sale, lease, or rental of and the storage, use, or
27 other consumption in this state of:

28 (1) Telecommunications sales of telecommunications service between
29 telecommunications companies, including division of revenue, settlements,
30 or carrier access charges; or -

31 (2) Dark fiber as defined in section 86-574 between

1 telecommunications companies.

2 Sec. 7. Section 86-579, Reissue Revised Statutes of Nebraska, is
3 amended to read:

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

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. 8. Sections 1, 2, 3, 4, 5, 7, and 9 of this act become
29 operative on July 1, 2018. Sections 6 and 10 of this act become operative
30 on October 1, 2018. The other sections of this act become operative on
31 their effective date.

1 Sec. 9. Original section 86-579, Reissue Revised Statutes of
2 Nebraska, is repealed.

3 Sec. 10. Original section 77-2704.51, Reissue Revised Statutes of
4 Nebraska, is repealed.

5 Sec. 11. Since an emergency exists, this act takes effect when
6 passed and approved according to law.

7 2. On page 1, strike lines 2 through 10 and insert "sections
8 77-2704.51 and 86-579, Reissue Revised Statutes of Nebraska; to state
9 intent; to create the Rural Broadband Task Force; to provide powers and
10 duties; to create the Rural Broadband Task Force Fund; to provide powers
11 and duties for the Public Service Commission; to exempt dark fiber from
12 sales and use taxes as prescribed; to provide for a transfer from the
13 Nebraska Internet Enhancement Fund; to provide operative dates; to repeal
14 the original sections; and to declare an emergency."