

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 994

FINAL READING

Introduced by Friesen, 34; Brewer, 43; Wayne, 13.

Read first time January 11, 2018

Committee: Transportation and Telecommunications

1 A BILL FOR AN ACT relating to telecommunications and technology; to amend
2 sections 77-2704.51 and 86-579, Reissue Revised Statutes of
3 Nebraska; to state intent; to create the Rural Broadband Task Force;
4 to provide powers and duties; to create the Rural Broadband Task
5 Force Fund; to provide powers and duties for the Public Service
6 Commission; to exempt dark fiber from sales and use taxes as
7 prescribed; to provide for a transfer from the Nebraska Internet
8 Enhancement Fund; to provide operative dates; to repeal the original
9 sections; and to declare an emergency.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. The Legislature finds and declares that:

2 (1) The availability, quality, and affordability of broadband
3 telecommunications service is important to the residents of Nebraska; and

4 (2) Because availability, quality, and affordability of broadband
5 telecommunications service is lacking in certain rural areas in Nebraska,
6 combined with greater investment in urban areas, the state may be facing
7 a digital divide.

8 It is the intent of the Legislature that broadband
9 telecommunications service in rural areas of the state should be
10 comparable in download and upload speed and price to urban areas in the
11 state where possible and that state resources should be utilized to
12 ensure that the rural residents of the state should not be penalized
13 simply because of their rural residence. It is further the intent of the
14 Legislature that the residents of this state should have access to
15 broadband telecommunications service at a minimum download speed of
16 twenty-five megabits per second and a minimum upload speed of three
17 megabits per second.

18 Sec. 2. (1) The Rural Broadband Task Force is hereby created. Task
19 force members shall include the chairperson of the Transportation and
20 Telecommunications Committee of the Legislature and a member of the
21 Legislature selected by the Executive Board of the Legislative Council
22 who shall both serve as nonvoting, ex officio members, a member of the
23 Public Service Commission who shall be selected by the chairperson of
24 such commission, the chairperson of the Nebraska Information Technology
25 Commission or his or her designee who shall act as chairperson of the
26 task force, the Director of Economic Development or his or her designee,
27 the Director of Agriculture or his or her designee, and the following
28 members to be appointed by the Governor: A representative of the
29 agribusiness community, a representative of the Nebraska business
30 community, a representative of the regulated wireline telecommunications
31 industry, a representative of the wireless telecommunications industry, a

1 representative of the public power industry, a representative of health
2 care providers, a representative of Nebraska postsecondary educational
3 institutions, and a representative of rural schools offering kindergarten
4 through grade twelve.

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

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

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

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

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

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

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

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

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

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

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

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

31 Sec. 3. The Rural Broadband Task Force Fund is created. The fund

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

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

21 The commission shall adopt and promulgate rules and regulations that
22 establish standards governing the withholding of funding from the
23 Nebraska Telecommunications Universal Service Fund from any recipient,
24 including the provision of notice and the right to a hearing prior to the
25 issuance of an order withdrawing such funding. If the commission
26 withdraws funding from the Nebraska Telecommunications Universal Service
27 Fund from any telecommunications company, the commission may use the
28 funding that is withdrawn to implement and operate a reverse auction
29 program, except that any funding that is withdrawn shall be utilized in
30 the exchange area for which the funding was originally granted. The
31 commission shall have wide discretion in the design, implementation, and

1 operation of a reverse auction program but may use as a guide the program
2 designed by the Federal Communications Commission in its Connect America
3 Fund Phase II Auction process.

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

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

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

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

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

20 77-2704.51 Sales and use taxes shall not be imposed on the gross
21 receipts from the sale, lease, or rental of and the storage, use, or
22 other consumption in this state of:

23 (1) Telecommunications sales of telecommunications service between
24 telecommunications companies, including division of revenue, settlements,
25 or carrier access charges; or -

26 (2) Dark fiber as defined in section 86-574 between
27 telecommunications companies.

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

30 86-579 The Nebraska Internet Enhancement Fund is created. The fund
31 shall be used to provide financial assistance to install and deliver

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

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

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

23 Sec. 8. Sections 1, 2, 3, 4, 5, 7, and 9 of this act become
24 operative on July 1, 2018. Sections 6 and 10 of this act become operative
25 on October 1, 2018. The other sections of this act become operative on
26 their effective date.

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

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

31 Sec. 11. Since an emergency exists, this act takes effect when

1 passed and approved according to law.