

AMENDMENTS TO LB338

(Amendments to Standing Committee amendments, AM110)

Introduced by Bostelman, 23.

1 1. Strike amendment 1 and insert the following new amendment:

2 1. Strike the original sections and insert the following new
3 sections:

4 Section 1. Section 86-103, Revised Statutes Cumulative Supplement,
5 2020, is amended to read:

6 86-103 For purposes of the Nebraska Telecommunications Regulation
7 Act, unless the context otherwise requires, the definitions found in
8 sections ~~86-104 86-103.01~~ to 86-121.01 apply.

9 Sec. 2. Section 86-135, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 86-135 (1) For purposes of sections 86-135 to 86-138, advanced
12 telecommunications capability service means high-speed, broadband service
13 at a minimum download speed of one hundred megabits per second and a
14 minimum upload speed of twenty megabits per second provided by a local
15 exchange carrier that enables users to originate and receive high-quality
16 voice, data, graphics, and video communications using any technology.

17 (2) (1) Any person may file an application with the commission to
18 obtain advanced telecommunications capability service furnished by a
19 telecommunications company in the local exchange area adjacent to the
20 local exchange area in which the applicant resides.

21 (3) (2) The commission shall serve upon each telecommunications
22 company directly affected a copy of the application and notice of the
23 hearing at least thirty days prior to the hearing on the application,
24 which shall be held if all of the telecommunications companies involved
25 do not consent to the application.

26 (4) (3) If an application for the revision of an exchange service

1 area includes more than one customer in a particular exchange, the
2 commission shall consider the circumstances of each customer and the
3 impact to the obligations of any affected telecommunications company
4 which has not consented to the application.

5 Sec. 3. Section 86-316, Revised Statutes Cumulative Supplement,
6 2020, is amended to read:

7 86-316 Sections 86-316 to 86-329 and sections 4 and 5 of this act
8 shall be known and may be cited as the Nebraska Telecommunications
9 Universal Service Fund Act.

10 Sec. 4. Beginning on January 1, 2022, the commission shall ensure
11 that funds distributed from the Nebraska Telecommunications Universal
12 Service Fund for construction of new broadband infrastructure shall go to
13 projects that provide broadband service scalable to one hundred megabits
14 per second or greater for downloading and one hundred megabits per second
15 or greater for uploading.

16 Sec. 5. Any recipient of ongoing high-cost support from the
17 Nebraska Telecommunications Universal Service Fund shall agree to submit
18 to speed tests as determined by the commission. Upon the commission's
19 request, such recipient shall conduct the speed tests and submit the
20 results to the commission. The speed tests shall be conducted for one
21 week using a random sample of locations of consumers who subscribe to
22 services provided over infrastructure for which ongoing high-cost support
23 is received.

24 Sec. 6. Section 86-330, Revised Statutes Cumulative Supplement,
25 2020, is amended to read:

26 86-330 (1) Based on consumer complaints or upon its own motion, the
27 Public Service Commission may open a docket to consider the
28 implementation and operation of a funding redirection ~~reverse auction~~
29 program that awards funding to broadband Internet service providers to
30 support high-speed Internet infrastructure deployment projects in
31 unserved or underserved exchanges within the State of Nebraska. The

1 commission may, in its discretion, withhold funding from the Nebraska
2 Telecommunications Universal Service Fund to any telecommunications
3 company that has not served, to the commission's satisfaction, those
4 areas with service that meets the criteria for successful investment of
5 funding from the Nebraska Telecommunications Universal Service Fund.

6 (2) The commission shall adopt and promulgate rules and regulations
7 that establish standards governing the withholding of funding from the
8 Nebraska Telecommunications Universal Service Fund from any recipient,
9 including the provision of notice and the right to a hearing prior to the
10 issuance of an order withdrawing such funding. If the commission
11 withdraws funding from the Nebraska Telecommunications Universal Service
12 Fund from any telecommunications company, the commission may redirect the
13 withdrawn funding through a reverse auction or rural-based plan to
14 another eligible telecommunications company use the funding that is
15 withdrawn to implement and operate a reverse auction program, except that
16 any funding that is withdrawn shall be utilized in the exchange area for
17 which the funding was originally granted. The commission shall have wide
18 discretion in the design, implementation, and operation of a funding
19 redirection ~~reverse auction~~ program but may use as a guide the reverse
20 auction program designed by the Federal Communications Commission in its
21 Connect America Fund Phase II Auction process.

22 (3)(a) In redirecting funding that has been withheld from an
23 eligible telecommunications company, the commission may consider rural-
24 based plans. To qualify for commission consideration, a rural-based plan
25 shall include an eligible telecommunications company.

26 (b) The commission shall consider rural-based plans based on the
27 following scoring criteria:

28 (i) The history of the participating eligible telecommunications
29 company in providing quality and affordable telecommunications and
30 broadband services in rural areas;

31 (ii) The capability of the eligible telecommunications company to

1 use the proposed technology to provide broadband services to every
2 location in the exchange area on a reasonably comparable basis;

3 (iii) The support of local businesses, hospitals, schools, colleges,
4 agricultural producers, and residents;

5 (iv) Other sources of funding;

6 (v) Partnerships and other cooperative arrangements with local
7 public power providers;

8 (vi) Partnerships and other cooperative arrangements with local
9 wireless Internet service providers; and

10 (vii) Cooperation by the incumbent local exchange carrier from which
11 funding has been withheld.

12 (c) In entering an order redirecting funding, the commission shall
13 establish a timeline for deployment that includes periodic milestones for
14 ensuring timely deployment and shall require the eligible
15 telecommunications company to file reports sufficient to assess
16 compliance with deployment milestones.

17 (d) The commission shall adopt and promulgate rules and regulations
18 to carry out this subsection.

19 (4) Funding support shall not be withheld from an eligible
20 telecommunications company for infrastructure found by the commission to
21 be capable of reliably providing broadband service at a minimum download
22 speed of one hundred megabits per second and a minimum upload speed of
23 twenty megabits per second that enables users to originate and receive
24 high-quality voice, data, graphics, and video communications using any
25 technology.

26 (5) For purposes of this section, rural-based plan means a proposal
27 for redirecting funding as described in this section which is made by
28 rural residential and business users of telecommunications and broadband
29 services in high-cost areas of the exchange.

30 Sec. 7. Section 86-1102, Revised Statutes Cumulative Supplement,
31 2020, is amended to read:

1 86-1102 (1) The Rural Broadband Task Force is hereby created. Task
2 force members shall include the chairperson of the Transportation and
3 Telecommunications Committee of the Legislature and a member of the
4 Legislature selected by the Executive Board of the Legislative Council
5 who shall both serve as nonvoting, ex officio members, a member of the
6 Public Service Commission who shall be selected by the chairperson of
7 such commission, the chairperson of the Nebraska Information Technology
8 Commission or his or her designee who shall act as chairperson of the
9 task force, the Director of Economic Development or his or her designee,
10 the Director of Agriculture or his or her designee, and the following
11 members to be appointed by the Governor: A representative of the
12 agribusiness community, a representative of the Nebraska business
13 community, a representative of the regulated wireline telecommunications
14 industry, a representative of the wireless telecommunications industry, a
15 representative of the public power industry, a representative of health
16 care providers, a representative of Nebraska postsecondary educational
17 institutions, and a representative of rural schools offering kindergarten
18 through grade twelve. The members appointed by the Governor shall serve
19 for a term of two years and may be reappointed.

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

30 (3) The Nebraska Information Technology Commission shall provide
31 staff assistance to the task force in consultation with staff from the

1 Public Service Commission and other interested parties. The task force
2 may hire consultants to assist in carrying out its duties. The task force
3 shall review issues relating to availability, adoption, and affordability
4 of broadband services in rural areas of Nebraska. In particular, the task
5 force shall:

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

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

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

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

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

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

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

31 (4) Task force members shall serve on the task force without

1 compensation but shall be entitled to receive reimbursement for expenses
2 incurred for such service as provided in sections 81-1174 to 81-1177.

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

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

14 Sec. 8. The Legislature declares that it is in the public interest
15 for the state, cities of all classes, villages, and counties to expend
16 federal funds received for the creation and expansion of high-speed
17 broadband services throughout the state. Except as provided in section
18 86-594, any political subdivision that directly receives federal funds
19 used for broadband service enhancement purposes shall construct any new
20 infrastructure to provide broadband service scalable to one hundred
21 megabits per second or greater for downloading and one hundred megabits
22 per second or greater for uploading.

23 Sec. 9. Original section 86-135, Reissue Revised Statutes of
24 Nebraska, and sections 86-103, 86-316, 86-330, and 86-1102, Revised
25 Statutes Cumulative Supplement, 2020, are repealed.

26 Sec. 10. The following section is outright repealed: Section
27 86-103.01, Reissue Revised Statutes of Nebraska.