

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 388

Introduced by Friesen, 34; at the request of the Governor; Hilgers, 21.

Read first time January 14, 2021

Committee: Transportation and Telecommunications

- 1 A BILL FOR AN ACT relating to telecommunications; to adopt the Nebraska
- 2 Broadband Bridge Act.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. This act shall be known and may be cited as the Nebraska
2 Broadband Bridge Act.

3 Sec. 2. For purposes of the Nebraska Broadband Bridge Act:

4 (1) Commission means the Public Service Commission;

5 (2) Development costs means the amount paid for project planning,
6 obtaining construction permits, construction of facilities including both
7 middle-mile and last-mile infrastructure, equipment, and installation and
8 testing of the broadband Internet service;

9 (3) Grant means money provided to an applicant for purposes of a
10 project under the act;

11 (4) Program means the Broadband Bridge Program created under the
12 act;

13 (5) Project means the development of a broadband network in an
14 unserved or underserved area;

15 (6) Project area means the geographical area in which a broadband
16 network is to be developed pursuant to a grant;

17 (7) Provider means a broadband Internet service provider, including
18 any telecommunications company, cable television company, or wireless
19 network provider that provides broadband Internet service;

20 (8) Speed test means a measurement of download and upload speeds for
21 access to broadband Internet service between a specific consumer location
22 and a specific remote server location that meets the specifications of
23 the commission;

24 (9) Underserved area means a geographical area of the state which
25 lacks broadband Internet service providing access to the Internet at
26 speeds of at least one hundred megabits per second for downloading and
27 twenty megabits per second for uploading; and

28 (10) Unserved area means a geographical area of the state which
29 lacks broadband Internet service providing access to the Internet at
30 speeds of at least twenty-five megabits per second for downloading and
31 three megabits per second for uploading.

1 Sec. 3. The Broadband Bridge Program is created. The purpose of the
2 program is to facilitate and fund the development of broadband networks
3 in unserved and underserved areas in addition to the reverse auction
4 program available pursuant to section 86-330. The commission shall
5 administer the program. It is the intent of the Legislature to
6 appropriate twenty million dollars annually beginning with fiscal year
7 2021-22 to the commission to be distributed as grants through the
8 program.

9 Sec. 4. (1)(a) A provider, a cooperative, or a political
10 subdivision may apply to the commission for a grant on forms provided by
11 the commission. The grant shall only be used for development costs for a
12 qualifying project. The application shall indicate the project area. In
13 order to qualify, the project is required to provide broadband Internet
14 service scalable to one hundred megabits per second for downloading and
15 one hundred megabits per second for uploading, or greater. Applications
16 shall be submitted on or before October 1, 2021, for fiscal year 2021-22,
17 and on or before July 1 for each fiscal year thereafter.

18 (b) An application from a political subdivision shall be made as
19 part of a public-private partnership with a provider. For each
20 application, matching funds equal to fifty percent of the total
21 development costs shall be required.

22 (2)(a) As part of the application, the applicant shall agree to
23 complete the project within eighteen months after the date the grant is
24 awarded. The commission may permit one extension of up to six months upon
25 request and for good cause shown.

26 (b) If a grant recipient fails to complete the project by the agreed
27 or extended deadline, as the case may be, the recipient shall repay the
28 grant as provided in this subsection. If no extension is permitted, ten
29 percent of the grant shall be repaid for each month that the project is
30 not complete after the eighteen-month period, up to one hundred percent
31 of the grant. If an extension is permitted, twenty percent of the grant

1 shall be repaid for each month that the project is not complete after the
2 twenty-four-month period, up to one hundred percent of the grant.

3 (3)(a) As part of the application, the applicant shall agree to
4 submit the broadband network completed as a result of the grant to speed
5 tests as determined by the commission. The grant recipient shall conduct
6 the speed tests and submit the results to the commission. The speed tests
7 shall be conducted for one week using a random sample of locations of
8 consumers who subscribe to the network completed as a result of the
9 grant.

10 (b) If the broadband network does not provide service at the speeds
11 required pursuant to subdivision (1)(a) of this section according to the
12 speed tests under subdivision (3)(a) of this section, the grant recipient
13 shall repay the grant.

14 Sec. 5. The commission shall distribute grants based on priority as
15 follows:

16 (1) The first priority is a project in a project area that is an
17 unserved area which the commission has determined pursuant to section
18 75-160 or 86-166 needs further support but has not received public
19 assistance for development of a broadband network;

20 (2) The second priority is a project that is in an unserved area,
21 that has received federal support for development of a broadband network,
22 and that will not be completed within twenty-four months after the grant
23 application deadline if the commission determines that a grant under the
24 program will accelerate the deployment of the network; and

25 (3) The third priority is a project in a project area that is an
26 underserved area and that the commission determines has a broadband and
27 digital inclusion plan.

28 Sec. 6. (1) Within three business days after the application
29 deadline described in subdivision (1)(a) of section 3 of this act, the
30 commission shall publish on its web site the proposed projects, project
31 areas, and broadband Internet service speeds for each application

1 submitted.

2 (2) Any provider may, within thirty days after the publication under
3 subsection (1) of this section, submit to the commission, on forms
4 provided by the commission, a challenge to an application. Such challenge
5 shall contain information demonstrating that, at the time of submitting
6 the challenge, (a) the provider provides or has begun construction to
7 provide a broadband network in the proposed project area with access to
8 the Internet at speeds equal to or greater than one hundred megabits per
9 second for downloading and twenty megabits per second for uploading or
10 (b) the provider provides broadband service through a broadband network
11 in or proximate to the proposed project area and the provider commits to
12 complete construction of broadband infrastructure and provide a broadband
13 network to the proposed project area with access to the Internet at
14 speeds equal to or greater than one hundred megabits per second for
15 downloading and twenty megabits per second for uploading, no later than
16 eighteen months after the date grant awards are made under the program.

17 (3) The commission shall evaluate the information submitted in a
18 challenge and shall not award a grant if the information is credible and
19 if the provider submitting the challenge agrees to submit documentation
20 no later than eighteen months after the date grant awards are made for
21 the then-current fiscal year under the program substantiating that the
22 provider submitting the challenge has fulfilled its commitment to deploy
23 broadband Internet service with access to the Internet at the stated
24 speeds in the proposed project area.

25 (4) If the commission denies an application for a grant based on a
26 challenge and the provider which submitted the challenge does not provide
27 broadband Internet service to the proposed project area within eighteen
28 months, the provider shall not challenge any grant for the following two
29 fiscal years unless the failure is due to factors beyond the provider's
30 control.

31 Sec. 7. The commission may adopt and promulgate rules and

1 regulations to carry out the Nebraska Broadband Bridge Act.