

One Hundred Seventh Legislature - First Session - 2021

Introducer's Statement of Intent

LB604

Chairperson: Senator Curt Friesen

Committee: Transportation and Telecommunications

Date of Hearing: February 08, 2021

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

LB604 is intended to encourage broadband investment and infrastructure development by private companies. Development can be achieved through private capital, while also seeking to enhance and grow the competitive broadband environment, while recognizing the differences in need across Nebraska. This is accomplished via core foundations: Expanding the existing broadband grant program; Open competition; Transparency; Ensuring commitment follows funding; and Remove duplicative requirements.

A breakdown of the sections of LB604 is as follows:

Section 1 – Title

- Nebraska Accelerated Broadband Deployment Grant Program Act

Section 2 – Legislative Intent & Purpose

The Legislature finds and declares that the State of Nebraska should encourage private investment in broadband Internet service and aggressive competition between providers of such service, and any initiative to improve broadband Internet service in rural areas of this state should be done in a manner that does not unintentionally disrupt or hamper the highly competitive broadband marketplace.

The purpose of the Nebraska Accelerated Broadband Deployment Grant Program Act is to establish a competitive grant program to award grants directly to Internet service providers that seek to expand access to broadband Internet service in the state, particularly in unserved or underserved areas of the state.

Section 3 – Definitions

- Minimum Broadband Speed – 50/50 (50 meg download / 50 meg upload)
- All others are standard definitions.

Section 4 – Program Creation & Project Applications

- The Nebraska Accelerated Broadband Deployment Grant Program is created;
- Department of Economic Development (DED) to administer; and
- DED shall accept applications from providers for broadband projects based on rules adopted by the department.

Section 5 – Project Application Scoring & Transparency

- DED shall establish a weighting/scoring system to evaluate and rank the applications;
- DED shall publish via website its weighting/scoring system at least 30 days prior to deadline to allow for industry transparency;
- Items to consider in the weighting/scoring system include, at a minimum: (a) financial, technical, and legal capability of the applicant, (b) number of locations served with higher scores for a higher number of homes served, (c) minimum broadband speeds with higher scores for faster speeds, (d) scalability to higher broadband Internet speeds in the future, (e) company match commitment with higher scores for higher amounts of matching funds, (f) others as deemed appropriate by DED;
- An independent panel shall score each application (possible to remove or delay); and
- If a company has previously been vetted by FCC or NPSC, that should suffice.

Section 6 – Target Deployment Areas

- Cities under 5000 in population with less than 50% able to receive minimum speed (the intent was to start with smaller cities and raise this threshold over time); and
- No funding for areas that already have public assistance (NUSF, DED, FCC) unless such funding is for incremental speeds (prevents double dipping).

Section 7 – Challenge Process to Prevent/Limit Overbuilding

- DED shall publish list of all applications via website within 15 days of application deadline;
- Existing broadband providers have 45 days to challenge that the application for state assistance is not served by the minimum speeds (50% of project scope);
- A rebuttal challenge is allowed;
- DED shall allow or deny such challenges.

Section 8 – Commitments Follow Funding

- Winning companies must provide voice and broadband all requesting households and businesses within the census blocks which make up the project supported area;
- Winning companies must become an ETC (Eligible Telecommunications Carrier as defined by the FCC);
- Wining companies must offer rates in the supported area that are no greater than the rates offered outside of the supported area; and
- Winning companies must provide both supported voice services and broadband services in the supported area for a minimum of five years.

Section 9 – Other Program Requirements

- DED shall establish reasonable deployment timelines based on the scope of the project and extensions for good cause may be granted;
- DED shall award grants in all areas of the state;
- The winning company designs, engineers and owns the network;
- The maximum dollar amount for a single project is \$(TBD) to prevent one or two large projects from depleting the fund.

Section 10 – Rule Promulgation

- DED may promulgate any necessary rules

Section 11 - 14 – Renumbering & Additional Definitions

- Eligible Telecommunications Carrier (ETC) – same as FCC definition; and
- Supported Area –the census blocks within a local exchange area for which the PSC designates an ETC to receive high-cost support from the NUSF or any census block for which a company receives funding from a state of federal program to provide broadband services.

Section 15 – Changes to Existing Law Regarding Quality-of-Service Regulation by the PSC

- Modifies the quality-of-service section to only apply to a telecommunications company designated as an ETC and only in supported areas.

Section 16 – Changes to Existing Law Regarding What is Not Regulated by the PSC

- In addition to the PSC not regulating (a) cable TV, (b) wireless, (c) long distance and (d) internet including VoIP, this section also adds (e) telecommunications service by any telecommunications company not designated as the ETC for the relevant supported area

Section 17 – Changes to Existing Law Regarding Abandonment of Services

- Modifies exiting Abandonment Requirements to allow for areas smaller than an entire exchange while keeping all other statutory protections.

Section 18 -- Changes to Existing Law Regarding NUSF Supported Areas

- The PSC may designate only one ETC for each supported area to receive NUSF support;
- The PSC shall not designate an ETC to receive support from the NUSF in any supported area that has one or more companies providing advanced telecommunications services; and
- Any ETC opting not to receive support from the fund for a supported area shall notify the commission, and the commission shall initiate a proceeding within 90 days to determine if any other provide is willing to become the ETC for the area

Principal Introducer: _____

Senator Suzanne Geist