

LEGISLATIVE BILL 686

Approved by the Governor June 3, 1997

Introduced by Kristensen, 37; Coordsen, 32; Elmer, 44; Matzke, 47;
Dw. Pedersen, 39; Robinson, 16

AN ACT relating to telecommunications; to amend section 86-804, Reissue Revised Statutes of Nebraska; to adopt the Nebraska Telecommunications Universal Service Fund Act; to harmonize provisions; and to repeal the original section.
Be it enacted by the people of the State of Nebraska,

Section 1. Sections 1 to 11 of this act shall be known and may be cited as the Nebraska Telecommunications Universal Service Fund Act.

Sec. 2. The purpose of the Nebraska Telecommunications Universal Service Fund Act is to authorize the commission to establish a funding mechanism which supplements federal universal service support mechanisms and ensures that all Nebraskans, without regard to their location, have comparable accessibility to telecommunications services at affordable prices.

Sec. 3. For purposes of the Nebraska Telecommunications Universal Service Fund Act:

(1) Commission means the Public Service Commission;

(2) Fund means the Nebraska Telecommunications Universal Service Fund;

(3) Telecommunications Act of 1996 means the federal telecommunications legislation enacted as Public Law 104-104; and

(4) Telecommunications company means any person, firm, partnership, limited liability company, corporation, or association offering telecommunications services to the public for hire in Nebraska intrastate commerce.

Sec. 4. The Legislature declares that it is the policy of the state to preserve and advance universal service based on the following principles:

(1) Quality telecommunications and information services should be available at just, reasonable, and affordable rates;

(2) Access to advanced telecommunications and information services should be provided in all regions of the state;

(3) Consumers in all regions of the state, including low-income consumers and those in rural and high-cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas;

(4) All providers of telecommunications services should make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service;

(5) There should be specific, predictable, sufficient, and competitively neutral mechanisms to preserve and advance universal service. Funds for the support of high-cost service areas will be available only to the designated eligible telecommunications companies providing service to such areas. Funds for the support of low-income customers, schools, libraries, and providers of health care to rural areas will be available to any entity providing telecommunications services, maintenance, and upgrading of facilities. The distribution of universal service funds should encourage the continued development and maintenance of telecommunications infrastructure;

(6) Elementary and secondary schools, libraries, and providers of health care to rural areas should have access to advanced telecommunications services as described in the Telecommunications Act of 1996. To promote the efficient use of facilities in rural areas, universal service rules should not preclude the sharing of facilities supported by universal service funds with other local users, if such ineligible users pay appropriate retail usage rates to the telecommunications company;

(7) The implicit support mechanisms in intrastate access rates throughout the state may be replaced while ensuring that local service rates in all areas of the state remain affordable; and

(8) The costs of administration of the Nebraska Telecommunications Universal Service Fund should be kept to a minimum.

Sec. 5. The Nebraska Telecommunications Universal Service Fund is hereby created. The fund shall provide the assistance necessary to make universal access to telecommunications services available to all persons in

the state consistent with the policies set forth in the Nebraska Telecommunications Universal Service Fund Act. Only eligible telecommunications companies designated by the commission pursuant to 47 U.S.C. 214(e) and in substantial compliance with the law and commission orders shall be eligible to receive support to serve high-cost areas from the fund. A telecommunications company that receives such support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Any such support should be explicit and sufficient to achieve the purpose of the Nebraska Telecommunications Universal Service Fund Act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 6. The commission shall determine the standards and procedures reasonably necessary, adopt and promulgate rules and regulations as reasonably required, and enter into such contracts with other agencies or private organizations or entities as may be reasonably necessary to efficiently develop, implement, and operate the fund.

Sec. 7. The fund may be administered by a neutral third-party administrator. The commission shall oversee the preparation and selection process of the administrator through a request for proposal process established by the commission. If a third-party administrator is selected, the administrator shall serve at the will of the commission. The administrator shall: Gather the necessary data to estimate fund obligations; notify telecommunications companies of their obligations to the fund; collect and distribute money from the fund in accordance with the Nebraska Telecommunications Universal Service Fund Act and the rules and regulations established by the commission; and notify the commission of any violations of the act and rules and regulations by telecommunications companies with respect to the fund. The commission shall audit the administrator to ensure the duties are being performed in accordance with the act and its rules and regulations. Any telecommunications company not meeting its obligation to the fund shall not be eligible to receive payments from the fund, shall be subject to administrative penalties to be determined by the commission, and shall be subject to the revocation of any certificate issued pursuant to section 75-604 or any predecessor statute.

Sec. 8. The commission shall oversee and the administrator, if a third-party administrator is selected, shall administer the fund with the advice of an advisory board appointed by the commission. The number of members on such advisory board shall be not less than seven nor more than nine members. The composition of the membership of the advisory board shall be determined by the commission and shall include the following representatives: One member shall represent the commission; one member shall represent elementary and secondary schools; one member shall represent libraries; one member shall represent rural health care providers; two members, but not more than three members, shall represent telecommunications companies; and one member, but not more than two members, shall represent the public. The advisory board shall provide recommendations to the commission at the public hearing held pursuant to section 84-1408. The advisory board shall also, on an annual basis, recommend the services to be supported by the fund.

Sec. 9. (1) Annually the commission shall hold a public hearing to determine the level of the fund necessary to carry out the Nebraska Telecommunications Universal Service Fund Act. The commission shall publish notice of the hearing in at least one newspaper of general circulation in the state at least once each week for two consecutive weeks before the hearing. After the hearing, the commission shall determine the amount of the fund for the following year, including a reasonable reserve. In the initial year of the fund's operation, the commission shall determine the amount of the fund to be equivalent to the amount which, in the commission's judgment, after careful analysis, is necessary to keep approximately ninety-six percent of Nebraska households subscribed to local telecommunications service.

(2) In an emergency as determined by the commission, the commission may adjust the level of the fund, but only after a public hearing for such purpose.

Sec. 10. The commission shall establish the Nebraska Lifeline Service Program. The purpose of the Nebraska Lifeline Service Program shall be to promote the provision of universal service to low-income households by local exchange carriers. Support provided by the program shall be specifically targeted to maintain affordable rates for residential basic local exchange services supported by federal and state universal service mechanisms. The commission shall establish means-tested eligibility guidelines and standards for the provision of support from the Nebraska Lifeline Service Program which are consistent with section 254 of the Telecommunications Act of

1996 and any rules and regulations adopted and promulgated by the Federal Communications Commission.

Any local exchange carrier receiving state universal service support shall be prohibited from disconnecting the basic local exchange service of any customer receiving low-income support from the Nebraska Lifeline Service Program for the nonpayment of any interexchange toll service charges. The Public Service Commission may grant limited waivers of this requirement in a manner consistent with applicable rules and regulations adopted and promulgated by the Federal Communications Commission.

Sec. 11. The Nebraska Telecommunications Universal Service Fund Act terminates on June 30, 1999.

Sec. 12. Section 86-804, Reissue Revised Statutes of Nebraska, is amended to read:

86-804. The commission shall provide the Legislature with an annual report on or before September 30 of each year on the status of the Nebraska telecommunications industry. The report shall describe: (1) The quality of telecommunications services being provided to the citizens of Nebraska; (2) the availability of diverse and affordable telecommunications services to all of the people of Nebraska; and (3) the level of rates of local exchange companies and interexchange telecommunications companies; and (4) the level of the Nebraska Telecommunications Universal Service Fund as determined by section 9 of this act. The report also shall address the question of the need for further legislation to achieve the purposes of sections 86-801 to 86-811.

Sec. 13. Original section 86-804, Reissue Revised Statutes of Nebraska, is repealed.