

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 795

Introduced by Harr, 8.

Read first time January 07, 2016

Committee: Transportation and Telecommunications

1 A BILL FOR AN ACT relating to telecommunications; to amend sections
2 86-316, 86-318, 86-323, and 86-324, Reissue Revised Statutes of
3 Nebraska; to change provisions of the Nebraska Telecommunications
4 Universal Service Fund Act; to define a term; to eliminate obsolete
5 provisions; to establish the Wireless in Nebraska Program; to
6 harmonize provisions; and to repeal the original sections.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 86-316, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 86-316 Sections 86-316 to 86-329 and sections 3 and 6 of this act
4 shall be known and may be cited as the Nebraska Telecommunications
5 Universal Service Fund Act.

6 Sec. 2. Section 86-318, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 86-318 For purposes of the Nebraska Telecommunications Universal
9 Service Fund Act, the definitions found in sections 86-319 to 86-322 and
10 section 3 of this act apply.

11 Sec. 3. Wireless carrier means a telecommunications company
12 providing mobile radio service, radio paging service, or wireless
13 telecommunications service for a fee in Nebraska intrastate commerce.

14 Sec. 4. Section 86-323, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 86-323 The Legislature declares that it is the policy of the state
17 to preserve and advance universal service based on the following
18 principles:

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

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

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

31 (4) All providers of telecommunications should make an equitable and

1 nondiscriminatory contribution to the preservation and advancement of
2 universal service;

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

13 (6) Elementary and secondary schools, libraries, and providers of
14 health care to rural areas should have access to advanced
15 telecommunications services as described in the Telecommunications Act of
16 1996. To promote the efficient use of facilities in rural areas,
17 universal service rules should not preclude the sharing of facilities
18 supported by universal service funds with other local users, if such
19 ineligible users pay appropriate retail usage rates to the
20 telecommunications company;

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

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

26 Sec. 5. Section 86-324, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 86-324 (1) The Nebraska Telecommunications Universal Service Fund is
29 hereby created. The fund shall provide the assistance necessary to make
30 universal access to telecommunications services available to all persons
31 in the state consistent with the policies set forth in the Nebraska

1 Telecommunications Universal Service Fund Act. Only eligible
2 telecommunications companies designated by the commission shall be
3 eligible to receive support to serve high-cost areas from the fund. A
4 telecommunications company that receives such support shall use that
5 support only for the provision, maintenance, and upgrading of facilities
6 and services for which the support is intended. Any such support should
7 be explicit and sufficient to achieve the purpose of the act.

8 (2) Notwithstanding the provisions of section 86-124, in addition to
9 other provisions of the act, and to the extent not prohibited by federal
10 law, the commission:

11 (a) Shall have authority and power to subject eligible
12 telecommunications companies to service quality, customer service, and
13 billing regulations. Such regulations shall apply only to the extent of
14 any telecommunications services or offerings made by an eligible
15 telecommunications company which are eligible for support by the fund.
16 The commission shall be reimbursed from the fund for all costs related to
17 drafting, implementing, and enforcing the regulations and any other
18 services provided on behalf of customers pursuant to this subdivision;

19 (b) Shall have authority and power to issue orders carrying out its
20 responsibilities and to review the compliance of any eligible
21 telecommunications company receiving support for continued compliance
22 with any such orders or regulations adopted pursuant to the act;

23 (c) May withhold all or a portion of the funds to be distributed
24 from any telecommunications company failing to continue compliance with
25 the commission's orders or regulations;

26 (d) Shall require every telecommunications company to contribute to
27 any universal service mechanism established by the commission pursuant to
28 state law. The commission shall require, as reasonably necessary, an
29 annual audit of any telecommunications company to be performed by a
30 third-party certified public accountant to insure the billing,
31 collection, and remittance of a surcharge for universal service. The

1 costs of any audit required pursuant to this subdivision shall be paid by
2 the telecommunications company being audited;

3 (e) Shall require an audit of information provided by a
4 telecommunications company to be performed by a third-party certified
5 public accountant for purposes of calculating universal service fund
6 payments to such telecommunications company. The costs of any audit
7 required pursuant to this subdivision shall be paid by the
8 telecommunications company being audited; and

9 (f) May administratively fine pursuant to section 75-156 any person
10 who violates the Nebraska Telecommunications Universal Service Fund Act.

11 (3) Any money in the fund available for investment shall be invested
12 by the state investment officer pursuant to the Nebraska Capital
13 Expansion Act and the Nebraska State Funds Investment Act.

14 ~~(4)(a) The State Treasurer shall transfer funds from the Nebraska~~
15 ~~Telecommunications Universal Service Fund to the General Fund upon~~
16 ~~certification by the Director of Administrative Services that the current~~
17 ~~cash balances in the General Fund and the Cash Reserve Fund are~~
18 ~~inadequate to meet current obligations. Such certification shall include~~
19 ~~the dollar amount to be transferred which shall not exceed the amount by~~
20 ~~which the General Fund and Cash Reserve Fund are inadequate to meet~~
21 ~~current obligations. The total of such transfers shall not reduce the~~
22 ~~Nebraska Telecommunications Universal Service Fund balance below an~~
23 ~~amount sufficient to meet the obligations on the fund for the next sixty~~
24 ~~days. Any transfers made pursuant to this subsection shall be reversed~~
25 ~~upon notification by the Director of Administrative Services that~~
26 ~~sufficient funds are available or on June 30, 2007, whichever occurs~~
27 ~~first.~~

28 ~~(b) Any transfer under this subsection not reversed within thirty~~
29 ~~days after the initial transfer shall accrue interest in the amount of~~
30 ~~five percent annually. Interest shall be calculated beginning on the~~
31 ~~thirty-first day after the initial transfer and continue until the~~

1 ~~transfer is completely reversed. The interest calculated shall be~~
2 ~~credited to the Nebraska Telecommunications Universal Service Fund.~~

3 ~~(c) Any transfer of funds which has not been reversed as provided in~~
4 ~~this subsection, with accrued interest, shall be considered an~~
5 ~~encumbrance against the General Fund.~~

6 ~~(d) This subsection terminates on June 30, 2007.~~

7 Sec. 6. (1) The commission shall establish the Wireless in Nebraska
8 Program. The purpose of the Wireless in Nebraska Program is to promote
9 the provision of universal wireless telecommunications services
10 throughout the state by providing assistance from the Nebraska
11 Telecommunications Universal Service Fund to eligible wireless carriers
12 for the construction of cellular sites and wireless communications
13 towers. Eligibility for the program shall be determined by commission
14 order upon written application by a wireless carrier and based on
15 available funding.

16 (2) A wireless carrier that receives funding for the program shall
17 file a report with the commission by June 1 of each year which includes
18 information on investments for the previous year, prospective investments
19 for the next year, and the use of any high-cost funding received from the
20 federal Universal Service Fund.

21 Sec. 7. Original sections 86-316, 86-318, 86-323, and 86-324,
22 Reissue Revised Statutes of Nebraska, are repealed.