

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 994

Introduced by Friesen, 34.

Read first time January 11, 2018

Committee: Transportation and Telecommunications

1 A BILL FOR AN ACT relating to telecommunications and technology; to amend
2 section 86-324, Revised Statutes Supplement, 2017; to state
3 legislative findings and intent relating to rural broadband
4 telecommunications service; to create the Rural Broadband Study Task
5 Force; to provide for reports; to change powers of the Public
6 Service Commission relating to the Nebraska Telecommunications
7 Universal Service Fund; to define a term; to provide for
8 implementation and operation of a reverse auction program and
9 establishment of a complaint registry by the Public Service
10 Commission as prescribed; and to repeal the original section.

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

1 Section 1. The Legislature finds and declares that:

2 (1) The availability, quality, and affordability of broadband
3 telecommunications service is important to the residents of Nebraska; and

4 (2) Because availability, quality, and affordability of broadband
5 telecommunications service is lacking in certain rural areas in Nebraska,
6 combined with greater investment in urban areas, the state may be facing
7 a digital divide.

8 It is the intent of the Legislature that broadband
9 telecommunications service in rural areas of the state should be
10 comparable in download and upload speed and price to urban areas in the
11 state where possible, and that state resources should be utilized to
12 ensure that the rural residents of the state should not be penalized
13 simply because of their rural residence. It is further the intent of the
14 Legislature that the residents of this state should have access to
15 broadband telecommunications service at a minimum download speed of
16 twenty-five megabits per second, and a minimum upload speed of three
17 megabits per second.

18 Sec. 2. (1) The Rural Broadband Study Task Force is hereby created.
19 Task force members shall include the chairperson of the Transportation
20 and Telecommunications Committee of the Legislature who shall act as
21 chairperson of the task force, another member of the Legislature who
22 shall be selected by the Executive Board of the Legislative Council, a
23 member of the Public Service Commission who shall be selected by the
24 chairperson of such commission, the chairperson of the Nebraska
25 Information Technology Commission or his or her designee, the director of
26 the Department of Economic Development or his or her designee, the
27 Director of Agriculture or his or her designee, and the following members
28 to be appointed by the Governor: A representative of the agribusiness
29 community, a representative of the Nebraska business community, a
30 representative of the telecommunications industry, a representative of
31 the public power industry, a representative of Nebraska postsecondary

1 educational institutions, and a representative of rural K through 12
2 schools.

3 (2) The Nebraska Information Technology Commission shall provide
4 staff assistance to the task force in consultation with staff from the
5 Public Service Commission and other interested parties. The task force
6 shall review issues relating to availability, adoption, and affordability
7 of broadband services in rural areas of Nebraska. In particular, the task
8 force shall:

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

12 (b) Determine whether the Nebraska Telecommunications Universal
13 Service Fund and its implementing strategies are effective in bringing
14 comparable and affordable broadband services to rural residents;

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

18 (d) Recommend state policies to effectively leverage state universal
19 service fund dollars with federal universal service fund support;

20 (e) Make recommendations to the Governor and Legislature as to the
21 most effective and efficient ways that federal broadband rural
22 infrastructure funds should be expended if such funds become available;
23 and

24 (f) Determine other issues that may be pertinent to the purpose of
25 the task force.

26 (3) Task force members shall serve on the task force without
27 compensation but shall be entitled to receive reimbursement for any
28 actual expenses incurred for such service as provided in sections 81-1174
29 to 81-1177.

30 (4) The task force shall meet at the call of the chairperson and
31 shall present its findings in a report to the Executive Board of the

1 Legislative Council no later than December 1, 2019, and by December 1
2 every odd-numbered year thereafter. The report shall be submitted
3 electronically.

4 (5) For purposes of this section, broadband services has the same
5 meaning as in section 86-593.

6 Sec. 3. Section 86-324, Revised Statutes Supplement, 2017, is
7 amended to read:

8 86-324 (1) The Nebraska Telecommunications Universal Service Fund is
9 hereby created. The fund shall provide the assistance necessary to make
10 universal access to telecommunications services available to all persons
11 in the state consistent with the policies set forth in the Nebraska
12 Telecommunications Universal Service Fund Act. Only eligible
13 telecommunications companies designated by the commission shall be
14 eligible to receive support to serve high-cost areas from the fund. A
15 telecommunications company that receives such support shall use that
16 support only for the provision, maintenance, and upgrading of facilities
17 and services for which the support is intended. Any such support should
18 be explicit and sufficient to achieve the purpose of the act.

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

22 (a) Shall have authority and power to subject eligible
23 telecommunications companies to service quality, customer service, and
24 billing regulations. Such regulations shall apply only to the extent of
25 any telecommunications services or offerings made by an eligible
26 telecommunications company which are eligible for support by the fund.
27 The commission shall be reimbursed from the fund for all costs related to
28 drafting, implementing, and enforcing the regulations and any other
29 services provided on behalf of customers pursuant to this subdivision;

30 (b) Shall have authority and power to issue orders carrying out its
31 responsibilities and to review the compliance of any eligible

1 telecommunications company receiving support for continued compliance
2 with any such orders or regulations adopted pursuant to the act;

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

6 (d) Shall require every telecommunications company to contribute to
7 any universal service mechanism established by the commission pursuant to
8 state law which may include a connections methodology. The commission
9 shall require, as reasonably necessary, an annual audit of any
10 telecommunications company to be performed by a third-party certified
11 public accountant to insure the billing, collection, and remittance of a
12 surcharge for universal service. The costs of any audit required pursuant
13 to this subdivision shall be paid by the telecommunications company being
14 audited. For purposes of this subdivision (d), connections methodology
15 means an assessment mechanism which is calculated using a flat fee or per
16 unit charge on facilities used to provide end users with access to any
17 assessable service whether circuit switched, packet switched, wireline,
18 wireless, leased line, or a functional equivalent;

19 (e) Shall require an audit of information provided by a
20 telecommunications company to be performed by a third-party certified
21 public accountant for purposes of calculating universal service fund
22 payments to such telecommunications company. The costs of any audit
23 required pursuant to this subdivision shall be paid by the
24 telecommunications company being audited; and

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

27 (3) Any money in the fund available for investment shall be invested
28 by the state investment officer pursuant to the Nebraska Capital
29 Expansion Act and the Nebraska State Funds Investment Act, and for the
30 period July 1, 2017, through June 30, 2019, any interest earned by the
31 fund shall be credited to the General Fund.

1 Sec. 4. Based on consumer complaints or upon its own motion, the
2 Public Service Commission may open a docket to consider the
3 implementation and operation of a reverse auction program that awards
4 funding to broadband Internet service providers to support high-speed
5 Internet infrastructure deployment projects in unserved or underserved
6 exchanges within the State of Nebraska. The commission may, in its
7 discretion, withhold Nebraska Telecommunications Universal Service Funds
8 from telecommunications companies which have not served, to the
9 commission's satisfaction, those areas with service that meets the
10 criteria for successful investment of Nebraska Telecommunications
11 Universal Service Funds and instead use such funds to implement and
12 operate a reverse auction program. The commission shall have wide
13 discretion in the design, implementation, and operation of a reverse
14 auction program, but may use as a guide the program designed by the
15 Federal Communications Commission in its Connect America Fund Phase II
16 Auction process.

17 Sec. 5. (1) The Public Service Commission shall establish and
18 maintain a registry of locations within the State of Nebraska for
19 complaints made to the commission regarding the lack of coverage for
20 wireless telecommunications service.

21 (2) The commission shall annually prepare and make publicly
22 available a report describing the areas of the state which fail to
23 receive adequate wireless telecommunications service.

24 (3) The commission may utilize the information maintained in the
25 registry in making any determination related to the granting of funds
26 through any program administered by the commission to support the
27 construction of wireless telecommunications service facilities.

28 (4) For purposes of this section, lack of appropriate coverage means
29 a geographic area where a wireless device is not able to receive a signal
30 from the wireless service provider's network whereby an individual is
31 unable to use a wireless device.

1 (5) The commission shall adopt and promulgate any rules and
2 regulations required to carry out this section.

3 Sec. 6. Original section 86-324, Revised Statutes Supplement, 2017,
4 is repealed.