

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 992

FINAL READING

Introduced by Friesen, 34; Bostelman, 23; Brewer, 43.

Read first time January 14, 2020

Committee: Transportation and Telecommunications

1 A BILL FOR AN ACT relating to telecommunications; to amend sections
2 75-109.01, 86-127, and 86-577, Reissue Revised Statutes of Nebraska,
3 and sections 86-579 and 86-1102, Revised Statutes Cumulative
4 Supplement, 2018; to adopt the Broadband Internet Service
5 Infrastructure Act; to state intent; to provide for a state
6 broadband coordinator; to provide duties for the Public Service
7 Commission as prescribed; to create the Nebraska E-Rate Special
8 Construction Matching Fund Program; to change the distribution of
9 certain performance payments; to change provisions relating to the
10 lease of dark fiber; to terminate a fund; to eliminate a financial
11 assistance program; to provide a term of service for certain Rural
12 Broadband Task Force members; to harmonize provisions; to provide
13 operative dates; to repeal the original sections; and to outright
14 repeal section 86-580, Reissue Revised Statutes of Nebraska.
15 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 7 of this act shall be known and may be
2 cited as the Broadband Internet Service Infrastructure Act.

3 Sec. 2. The Legislature finds and declares that (1) it is in the
4 public interest for commercial broadband suppliers and electric utilities
5 to enter into broadband facility agreements and (2) the use of electric
6 utility easements and electric utility infrastructure for commercial
7 broadband facilities pursuant to a broadband facility agreement does not
8 diminish the value of underlying real estate.

9 Sec. 3. For purposes of the Broadband Internet Service
10 Infrastructure Act:

11 (1) Attached facility means a broadband facility or a broadband
12 network, or any portion of a broadband network, located substantially:

13 (a) Aboveground and attached to an electric utility's electric
14 utility infrastructure; or

15 (b) Underground in an electric utility easement;

16 (2) Broadband facility agreement means an agreement between an
17 electric utility and a commercial broadband supplier for the use of
18 electric utility infrastructure and electric utility easements for
19 attached facilities;

20 (3) Commercial broadband service means broadband service as such
21 term is defined in 7 U.S.C 950bb(b)(1), as such section existed on
22 January 1, 2020, or broadband Internet service;

23 (4)(a) Commercial broadband supplier means:

24 (i) A provider of commercial broadband service; or

25 (ii) A person that directly or indirectly sells, leases, or
26 otherwise transfers an attached facility or a right to install, operate,
27 maintain, or use an attached facility for another person's provision of
28 commercial broadband service or a person that intends to sell, lease, or
29 otherwise transfer an attached facility or a right to install, operate,
30 maintain, or use an attached facility; and

31 (b) Commercial broadband supplier does not include an electric

1 utility;

2 (5) Electric utility means any entity referred to in subdivision (8)
3 of section 70-601;

4 (6) Electric utility easement means a recorded or unrecorded
5 easement, right-of-way, or similar right in or to real property,
6 including prescriptive rights, no matter how acquired, held by an
7 electric utility for the siting of electric utility infrastructure or for
8 the purpose of delivering electric service;

9 (7) Electric utility infrastructure means electric utility poles,
10 structures, or other facilities used for the distribution of electric
11 service and street lighting, but does not include poles, structures, or
12 other facilities used for electric transmission service;

13 (8) Notice means a written letter substantially complying with the
14 requirements set forth in subdivision (2)(b) of section 4 of this act,
15 which notice shall be deemed delivered on the date postmarked or
16 otherwise time stamped;

17 (9) Person means an individual, a firm, a partnership, a company, a
18 corporation, a trust, a limited liability company, an association, a
19 joint venture, or any other legal entity; and

20 (10) Property owner means a person with a recorded interest in real
21 property upon which an electric utility easement is located.

22 Sec. 4. (1) An electric utility and a commercial broadband supplier
23 may enter into a broadband facility agreement for the use of an electric
24 utility easement or electric utility infrastructure, or both, to:

25 (a) Install, maintain, or own, or permit any commercial broadband
26 supplier to install, maintain, or own, an attached facility for operation
27 by a commercial broadband supplier in providing commercial broadband
28 service; and

29 (b) Lease or otherwise provide to a commercial broadband supplier
30 any excess capacity of attached facilities for purposes of providing
31 commercial broadband service.

1 (2)(a) A broadband facility agreement shall contain one of the
2 following with respect to the use of any electric utility easement:

3 (i) A statement that the electric utility has the legal right to
4 authorize the use of the electric utility easement for commercial
5 broadband facilities;

6 (ii) A statement that the commercial broadband supplier has
7 compensated property owners for the use of the electric utility easement
8 for commercial broadband facilities pursuant to subsection (5) of this
9 section; or

10 (iii) A statement that the electric utility has given notice to
11 property owners pursuant to subdivision (2)(b) of this section and the
12 time for making a claim has expired.

13 (b) Notice pursuant to this subsection shall:

14 (i) Be sent by certified mail from or on behalf of the electric
15 utility to the property owner at each of the following, as applicable:

16 (A) The last-known address for the property owner based on the
17 electric utility's records; and

18 (B) The address listed for the property owner in the records of the
19 office of the county assessor;

20 (ii) Include the name, address, telephone number, and named point of
21 contact for the electric utility and, if delivered by a commercial
22 broadband supplier designated by the electric utility, the name, address,
23 telephone number, and named point of contact for the designated
24 commercial broadband supplier;

25 (iii) Include the recording number, if any, of the electric utility
26 easement or recorded memorandum of the electric utility easement;

27 (iv) Include:

28 (A) A reference to the Broadband Internet Service Infrastructure
29 Act; and

30 (B) A statement that the electric utility intends to enter into a
31 broadband facility agreement, within ninety days after the notice is

1 delivered, for the use of the electric utility easement with the
2 commercial broadband supplier named in the notice;

3 (v) Give an estimated time for the start of installation or
4 construction with regard to any new installation or construction that is
5 to occur in connection with the broadband facility agreement; and

6 (vi) Include a statement regarding the statute of limitations for
7 the property owner to file a claim with respect to the electric utility's
8 exercise of action.

9 (3) The terms and conditions of a written electric utility easement
10 apply to the use of the electric utility easement for commercial
11 broadband facilities pursuant to a broadband facility agreement. A
12 prohibition on aboveground electric utility infrastructure contained
13 within a written electric utility easement constitutes a prohibition on
14 aboveground attached facilities. An electric utility or its designated
15 commercial broadband supplier shall comply with any notice requirements
16 contained in a written electric utility easement held by the electric
17 utility relating to entering the real property subject to the electric
18 utility easement or commencing any construction or installation on the
19 real property.

20 (4) Nothing in this section requires an electric utility to comply
21 with subdivision (2)(b) of this section in order to take any action or
22 exercise any rights under an electric utility easement that is already
23 permitted within the scope of the electric utility easement. An electric
24 utility easement shall be liberally construed in favor of its use for
25 commercial broadband facilities pursuant to a broadband facility
26 agreement.

27 (5) If, within ninety days after a notice pursuant to this section
28 is sent by an electric utility or a designated commercial broadband
29 supplier acting on the electric utility's behalf, a property owner
30 submits a written claim for compensation relating to the use of an
31 electric utility easement in connection with a broadband facility

1 agreement, then the commercial broadband supplier, through communications
2 handled by the electric utility, shall be responsible for the payment of
3 compensation to the property owner for such claim, and the electric
4 utility shall cooperate with the commercial broadband supplier in
5 connection with the resolution of the claim.

6 (6) The electric utility shall not be required to enter into a
7 broadband facility agreement until one of the following events occurs:

8 (a) The time period set forth in subsection (5) of this section has
9 expired without a written claim from property owners of record;

10 (b) Any written claim for compensation by a property owner pursuant
11 to this subsection has been resolved by a written instrument that shall
12 be recorded with the register of deeds of the county where the electric
13 utility easement is located; or

14 (c) The statute of limitations set forth in section 5 of this act
15 has expired.

16 (7) This section shall not apply to railroad right-of-way or
17 electric utility easements in or to railroad right-of-way property.
18 Crossings of railroad rights-of-way by telecommunications carriers are
19 governed by section 86-164.

20 Sec. 5. (1)(a) No cause of action against an electric utility or a
21 commercial broadband supplier concerning the use of an electric utility
22 easement for commercial broadband facilities pursuant to a broadband
23 facility agreement may be brought by or on behalf of a property owner
24 more than two years after the later of:

25 (i) The operative date of this section; or

26 (ii) The date of mailing of notice by an electric utility or a
27 designated commercial broadband supplier acting on the electric utility's
28 behalf pursuant to subsection (5) of section 4 of this act.

29 (b) Subdivision (1)(a) of this section does not apply to a cause of
30 action based on:

31 (i) Physical damage to property;

1 (ii) Injury to natural persons; or
2 (iii) Breach of the terms and conditions of a written electric
3 easement as the terms and conditions apply in accordance with subsection
4 (3) of section 4 of this act.

5 (c) Nothing in this section extends the statute of limitations
6 applicable to a claim or revives an expired claim.

7 (2) A cause of action to which subdivision (1)(a) of this section
8 applies shall not be brought against a commercial broadband supplier for
9 notice provided by the commercial broadband supplier on behalf of an
10 electric utility under subdivision (2)(b) of section 4 of this act.
11 Nothing in this subsection prohibits an electric utility and a commercial
12 broadband supplier from contracting to allocate liability for notice
13 required under subdivision (2)(b) of section 4 of this act.

14 (3) If a property owner brings a trespass claim, inverse
15 condemnation claim, or any other claim or cause of action to which
16 subdivision (1)(a) of this section applies for an electric utility's or
17 commercial broadband supplier's performance of actions described in
18 subdivision (1)(a) or (1)(b) of section 4 of this act, the following
19 applies to the claim or cause of action:

20 (a) The measure of damages for all claims or causes of action to
21 which subdivision (1)(a) of this section applies, taken together, is the
22 fair market value of the reduction in value of the property owner's
23 interest in the real property. In determining or providing the fair
24 market value under this subdivision (a):

25 (i) The following shall not be used and are not admissible as
26 evidence in any proceeding:

27 (A) Profits, fees, or revenue derived from the attached facilities;
28 or

29 (B) The rental value of the real property interest or the electric
30 utility easement, including the rental value of any attached facilities
31 or an assembled broadband corridor; and

1 (ii) Consideration shall be given to any increase in value to the
2 real property interest resulting from the availability of commercial
3 broadband service to the real property underlying the real property
4 interest that arises from the installation of attached facilities;

5 (b) The property owner shall make reasonable accommodations for the
6 electric utility or commercial broadband supplier to perform an appraisal
7 or inspection of the real property within ninety days following any
8 written request for an appraisal or inspection. If a property owner fails
9 to make such accommodations, the electric utility or commercial broadband
10 supplier has no further liability to the property owner with respect to
11 such claim or cause of action. The electric utility or commercial
12 broadband supplier shall promptly provide to the property owner a copy of
13 any appraisal performed pursuant to this subdivision (b);

14 (c) Any damages for any claims or causes of action to which
15 subdivision (1)(a) of this section applies:

16 (i) Are limited to those damages that existed at the time the
17 electric utility or commercial broadband supplier first performed the
18 actions; and

19 (ii) Shall not be deemed to continue, accrue, or accumulate; and

20 (d) With regard to a claim or cause of action to which subdivision
21 (1)(a) of this section applies:

22 (i) A property owner is not entitled to reimbursement from an
23 electric utility or commercial broadband supplier for the cost of any
24 appraisal, attorney's fees, or award for special, consequential,
25 indirect, or punitive damages; and

26 (ii) For purposes of this subdivision (d), any action or failure to
27 act by an electric utility or a commercial broadband supplier in
28 furtherance of the electric utility's or commercial broadband supplier's
29 exercise of action set forth in subsection (1) of section 4 of this act
30 shall not be deemed negligence or willful misconduct.

31 (4) By accepting a damage award for any claim or cause of action to

1 which subdivision (1)(a) of this section applies, a property owner shall
2 be deemed to have granted an increase in the scope of the electric
3 utility easement, equal in duration to the term of the electric utility
4 easement and subject to this section, to the extent of the property
5 owner's rights in the real property, for all of the uses of the real
6 property and actions set forth in subsection (1) of section 4 of this
7 act.

8 Sec. 6. (1) In entering into a broadband facility agreement, an
9 electric utility shall:

10 (a) Not discriminate among commercial broadband suppliers in
11 offering or granting rights to install or attach any attached facilities;
12 or

13 (b) Charge fees that are nondiscriminatory among commercial
14 broadband suppliers for a substantially similar lease or use of the
15 capacity of attached facilities owned or controlled by the electric
16 utility, but only to the extent an electric utility chooses, in its sole
17 discretion, to offer the lease or use to a particular commercial
18 broadband supplier.

19 (2) Nothing in this section requires an electric utility to offer or
20 grant a right to access or use an electric utility easement or to use
21 attached facilities or electric utility infrastructure owned or
22 controlled by the electric utility in a manner that would, in the
23 electric utility's sole discretion, materially interfere with the
24 electric utility's construction, maintenance, or use of any electric
25 utility infrastructure for the provision of electric service.

26 (3) Nothing in the Broadband Internet Service Infrastructure Act:

27 (a) Is intended to subject an electric utility to regulation by the
28 Federal Communications Commission;

29 (b) Constitutes an exercise of, or an obligation or intention to
30 exercise, the right of the state under 47 U.S.C. 224 (c), as such section
31 existed on January 1, 2020, to regulate the rates, terms, and conditions

1 for pole attachments as defined in 47 U.S.C. 224 (a)(4), as such section
2 existed on January 1, 2020;

3 (c) Constitutes a certification, or an obligation or intention to
4 certify, to the Federal Communications Commission under 47 U.S.C. 224, as
5 such section existed on January 1, 2020;

6 (d) Prevents the parties involved from filing a claim or cause of
7 action in any court of competent jurisdiction for any dispute arising
8 under the Broadband Internet Service Infrastructure Act; or

9 (e) In any way affects the authority of electric utilities to enter
10 into agreements with any party, outside the requirements of the Broadband
11 Internet Service Infrastructure Act, relating to the use of its easements
12 or electric system facilities.

13 Sec. 7. The Broadband Internet Service Infrastructure Act does not
14 apply to railroad right-of-way or electric utility easements in or to
15 railroad right-of-way property. Crossings of railroad rights-of-way by
16 telecommunications carriers are governed by section 86-164.

17 Sec. 8. (1) It is the intent of the Legislature to encourage local
18 and regional broadband planning and to encourage public-private
19 partnerships to enhance broadband services in unserved and underserved
20 areas of the state.

21 (2) The position of state broadband coordinator is created. The
22 position shall be located in the office of Chief Information Officer. The
23 coordinator shall:

24 (a) Encourage each county or region comprising a group of counties
25 to appoint a broadband coordinator to facilitate broadband planning and
26 coordination;

27 (b) Encourage each county or region to work with groups of
28 stakeholders, which may include, but not be limited to, businesses and
29 industries, community foundations, local governments, local or regional
30 economic development organizations, schools, colleges, other educational
31 entities, public libraries, health care institutions, financial

1 institutions, telecommunications providers, public power districts,
2 electric cooperatives, nonprofit organizations, and other interested
3 entities;

4 (c) Assist such counties, regions, and stakeholders in determining
5 what broadband assets are available, the areas for improvement, and
6 strategies to improve broadband availability and use; and

7 (d) Explore the creation of broadband cooperatives in unserved or
8 underserved areas of the state.

9 Sec. 9. (1) The Public Service Commission shall establish the
10 Nebraska E-Rate Special Construction Matching Fund Program. Beginning
11 July 1, 2021, the program shall receive funding from the Nebraska
12 Telecommunications Universal Service Fund to provide incentives for fiber
13 optic cable to be constructed to benefit public libraries.

14 (2) The commission shall establish criteria and priorities for
15 funding by establishing a support mechanism to deploy fiber optic cable
16 for the benefit of public library access to E-Rate special construction
17 matching funding.

18 (3) The commission may use its discretion in determining the amount
19 of funding required to be contributed by any public library in order to
20 receive matching funds from the program.

21 Sec. 10. Section 75-109.01, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 75-109.01 Except as otherwise specifically provided by law, the
24 Public Service Commission shall have jurisdiction, as prescribed, over
25 the following subjects:

26 (1) Common carriers, generally, pursuant to sections 75-101 to
27 75-158;

28 (2) Grain pursuant to the Grain Dealer Act and the Grain Warehouse
29 Act and sections 89-1,104 to 89-1,108;

30 (3) Manufactured homes and recreational vehicles pursuant to the
31 Uniform Standard Code for Manufactured Homes and Recreational Vehicles;

1 (4) Modular housing units pursuant to the Nebraska Uniform Standards
2 for Modular Housing Units Act;

3 (5) Motor carrier registration and safety pursuant to sections
4 75-301 to 75-343, 75-369.03, 75-370, and 75-371;

5 (6) Pipeline carriers and rights-of-way pursuant to the Major Oil
6 Pipeline Siting Act, the State Natural Gas Regulation Act, and sections
7 75-501 to 75-503. If the provisions of Chapter 75 are inconsistent with
8 the provisions of the Major Oil Pipeline Siting Act, the provisions of
9 the Major Oil Pipeline Siting Act control;

10 (7) Railroad carrier safety pursuant to sections 74-918, 74-919,
11 74-1323, and 75-401 to 75-430;

12 (8) Telecommunications carriers pursuant to the Automatic Dialing-
13 Announcing Devices Act, the Emergency Telephone Communications Systems
14 Act, the Enhanced Wireless 911 Services Act, the Intrastate Pay-Per-Call
15 Regulation Act, the Nebraska Telecommunications Regulation Act, the
16 Nebraska Telecommunications Universal Service Fund Act, the
17 Telecommunications Relay System Act, the Telephone Consumer Slamming
18 Prevention Act, and sections 86-574 to 86-579 ~~86-580~~;

19 (9) Transmission lines and rights-of-way pursuant to sections 70-301
20 and 75-702 to 75-724;

21 (10) Water service pursuant to the Water Service Regulation Act; and

22 (11) Jurisdictional utilities governed by the State Natural Gas
23 Regulation Act. If the provisions of Chapter 75 are inconsistent with the
24 provisions of the State Natural Gas Regulation Act, the provisions of the
25 State Natural Gas Regulation Act control.

26 Sec. 11. Section 86-127, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 86-127 (1) One of the goals of the federal Telecommunications Act of
29 1996, as such act existed on January 1, 2002, is to foster competition
30 among telephone companies. Section 271 of the federal act (a) establishes
31 specific incentives, procedures, and requirements for regional Bell

1 operating companies to offer inter-LATA interexchange service and (b)
2 requires the Public Service Commission to monitor the competitive
3 performance of a regional Bell operating company and to consult with the
4 Federal Communications Commission regarding such activities.

5 (2) The Nebraska Competitive Telephone Marketplace Fund is created.
6 The Public Service Commission may accept, and the fund shall consist of,
7 any voluntary performance payments received from a regional Bell
8 operating company. The fund shall be used by the commission for expenses
9 related to the monitoring of compliance with section 271 of the federal
10 act. If money in the fund exceeds thirty thousand dollars, the commission
11 shall remit such excess money to the State Treasurer for credit to the
12 Nebraska Telecommunications Universal Service Internet Enhancement Fund,
13 except that transfers may be made from the Nebraska Competitive Telephone
14 Marketplace Fund to the General Fund at the direction of the Legislature.
15 Any money in the Nebraska Competitive Telephone Marketplace Fund
16 available for investment shall be invested by the state investment
17 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
18 State Funds Investment Act.

19 Sec. 12. Section 86-577, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 86-577 (1) For purposes of this section:

22 (a) Served location means a location receiving, or at the time the
23 lease is filed with the Public Service Commission able to receive,
24 communications service at a minimum download speed of twenty-five
25 megabits per second and a minimum upload speed of three megabits per
26 second or higher speeds, as determined by the Public Service Commission;
27 and

28 (b) Unserved location means a location not receiving, and at the
29 time the lease is filed with the Public Service Commission not able to
30 receive, communications service at a minimum download speed of twenty-
31 five megabits per second and a minimum upload speed of three megabits per

1 second or higher speeds, as determined by the Public Service Commission.

2 (2) Any agency or political subdivision of the state may lease its
3 dark fiber if:

4 (a) ~~(1)~~ The lessee is a certificated telecommunications common
5 carrier or a permitted telecommunications contract carrier pursuant to
6 section 86-128 or an Internet service provider;

7 (b) The lease terms are fair, reasonable, and nondiscriminatory; and

8 (c) The lease complies with this section.

9 (3)(a) Before a lease of dark fiber under this section becomes
10 effective, it shall be filed with the commission which shall
11 expeditiously cause notice of the lease, including lease rates, to be
12 published.

13 (b)(i) The lease shall become effective fourteen business days after
14 the date of the published notice unless a protest is filed with the
15 commission, in which event the commission shall consider the lease as a
16 contested matter and consider the contested lease according to the
17 commission's rules of procedure.

18 (ii) If the allocation of served location and unserved location in
19 the lease is contested, the commission shall determine such allocation
20 under the lease as a contested matter and consider the contested lease
21 according to the commission's rules of procedure.

22 (4) For the lease of dark fiber:

23 (a) The commission shall establish a safe harbor range of market
24 rates for all dark fiber leases using a competitive price determination
25 comparison. When conducting a competitive price determination comparison,
26 the commission, in its discretion, shall use rate schedules,
27 interconnection agreements, or other documents within its regulatory
28 oversight and shall gather other market rate information as deemed
29 necessary. If a lease utilizes rates within the safe harbor range, such
30 rates shall be deemed approved. Any other term of the lease may be
31 contested pursuant to subdivision (3)(b) of this section; and

1 (b) Fifty percent of the profit earned by the agency or political
2 subdivision under a lease of dark fiber leased to serve a served location
3 shall be remitted to the State Treasurer for credit to the Nebraska
4 Telecommunications Universal Service Fund. For purposes of this
5 subdivision, profit earned by the agency or political subdivision means
6 the lease price less the cost of infrastructure deployment. This
7 subdivision does not apply to a lease or portion of a lease of dark fiber
8 leased to exclusively serve unserved locations.

9 ~~(2) The lease price and profit distribution is approved by the~~
10 ~~Public Service Commission as follows:~~

11 ~~(a) The commission shall not approve any lease price which is less~~
12 ~~than the market rate for leasing such fiber as determined by the~~
13 ~~commission. The market rate is the price associated with similar~~
14 ~~unbundled network elements that may be available from the incumbent local~~
15 ~~exchange carrier or the price of any other private entity leasing dark~~
16 ~~fiber optic facilities serving the same or similar territory where the~~
17 ~~leased equipment is located. Before entering into a lease, each agency or~~
18 ~~political subdivision shall file a request with the commission for a~~
19 ~~competitive price comparison to determine the market rate. When~~
20 ~~conducting a competitive price comparison, the commission in its~~
21 ~~discretion shall use rate schedules, interconnection agreements, or other~~
22 ~~documents within its regulatory oversight and shall gather other market~~
23 ~~rate information as deemed necessary;~~

24 ~~(b) The commission shall not approve any lease price which is agreed~~
25 ~~upon by the agency or political subdivision and the lessee unless the~~
26 ~~lease requires that the agency or political subdivision be solely~~
27 ~~responsible for the maintenance of its dark fiber and that the lessee be~~
28 ~~responsible, on a pro rata basis, for any such maintenance costs; and~~

29 ~~(c) The commission shall not approve any lease unless fifty percent~~
30 ~~of the profit earned by the agency or political subdivision under the~~
31 ~~lease is remitted to the Nebraska Internet Enhancement Fund. Profit~~

1 ~~earned by the agency or political subdivision is the lease price less the~~
2 ~~cost of infrastructure overbuilding. Before entering into a lease, each~~
3 ~~agency or political subdivision shall file a request with the commission~~
4 ~~to determine the cost of overbuilding its fiber optic infrastructure. For~~
5 ~~purposes of this subdivision, cost of infrastructure overbuilding means~~
6 ~~the cost of each leased optic fiber, including the cost, on a pro rata~~
7 ~~basis, associated with the agency's or political subdivision's~~
8 ~~installation of such fiber;~~

9 ~~(3) Any interconnection agreement subject to section 86-122 is~~
10 ~~approved by the commission; and~~

11 ~~(5) (4) The lessee shall make~~ makes every reasonable effort to
12 activate the maximum amount of the leased fiber as is possible, within
13 one year after entering into the lease, unless good cause is shown.

14 Sec. 13. Section 86-579, Revised Statutes Cumulative Supplement,
15 2018, is amended to read:

16 86-579 The Nebraska Internet Enhancement Fund is created. The fund
17 shall be used to provide financial assistance to install and deliver
18 broadband or other advanced telecommunications infrastructure and service
19 throughout the state. It is the intent of the Legislature that two
20 hundred fifty thousand dollars shall be appropriated to the fund to be
21 used for startup costs and seed money for FY2001-02. The Public Service
22 Commission may receive gifts, contributions, property, and equipment from
23 public and private sources for purposes of the fund. The fund shall
24 consist of money appropriated by the Legislature, any money transferred
25 pursuant to section 86-127, and gifts, grants, or bequests from any
26 source, including ~~money remitted to the fund pursuant to section 86-577~~
27 ~~and~~ any other federal, state, public, and private sources. ~~Money in the~~
28 ~~fund shall be distributed by the commission pursuant to section 86-580.~~
29 Transfers from the fund to the General Fund may be made at the direction
30 of the Legislature. Any money in the Nebraska Internet Enhancement Fund
31 available for investment shall be invested by the state investment

1 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
2 State Funds Investment Act. The fund terminates on June 30, 2021, and the
3 State Treasurer shall transfer any unencumbered money in the fund on such
4 date to the Nebraska Telecommunications Universal Service Fund.

5 The State Treasurer shall transfer one hundred thousand dollars from
6 the Nebraska Internet Enhancement Fund to the General Fund on or before
7 July 15, 2003.

8 The State Treasurer shall transfer fifty thousand dollars from the
9 Nebraska Internet Enhancement Fund to the Rural Broadband Task Force Fund
10 on or before July 15, 2018.

11 Sec. 14. Section 86-1102, Revised Statutes Cumulative Supplement,
12 2018, is amended to read:

13 86-1102 (1) The Rural Broadband Task Force is hereby created. Task
14 force members shall include the chairperson of the Transportation and
15 Telecommunications Committee of the Legislature and a member of the
16 Legislature selected by the Executive Board of the Legislative Council
17 who shall both serve as nonvoting, ex officio members, a member of the
18 Public Service Commission who shall be selected by the chairperson of
19 such commission, the chairperson of the Nebraska Information Technology
20 Commission or his or her designee who shall act as chairperson of the
21 task force, the Director of Economic Development or his or her designee,
22 the Director of Agriculture or his or her designee, and the following
23 members to be appointed by the Governor: A representative of the
24 agribusiness community, a representative of the Nebraska business
25 community, a representative of the regulated wireline telecommunications
26 industry, a representative of the wireless telecommunications industry, a
27 representative of the public power industry, a representative of health
28 care providers, a representative of Nebraska postsecondary educational
29 institutions, and a representative of rural schools offering kindergarten
30 through grade twelve. The members appointed by the Governor shall serve
31 for a term of two years and may be reappointed.

1 (2) The task force may appoint advisory groups to assist the task
2 force in providing technical expertise and advice on any issue. The
3 advisory groups may be composed of representatives of stakeholder groups
4 which may include, but not necessarily be limited to, representatives
5 from small and large wireline companies, wireless companies, public power
6 districts, electric cooperative corporations, cable television companies,
7 Internet service providers, low-income telecommunications and electric
8 utility customers, health care providers, and representatives of
9 educational sectors. No compensation or expense reimbursement shall be
10 provided to any member of any advisory group appointed by the task force.

11 (3) The Nebraska Information Technology Commission shall provide
12 staff assistance to the task force in consultation with staff from the
13 Public Service Commission and other interested parties. The task force
14 may hire consultants to assist in carrying out its duties. The task force
15 shall review issues relating to availability, adoption, and affordability
16 of broadband services in rural areas of Nebraska. In particular, the task
17 force shall:

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

21 (b) Examine the role of the Nebraska Telecommunications Universal
22 Service Fund in bringing comparable and affordable broadband services to
23 rural residents and any effect of the fund in deterring or delaying
24 capital formation, broadband competition, and broadband deployment;

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

28 (d) Examine alternatives for deployment of broadband services to
29 areas that remain unserved or underserved, such as reverse auction
30 programs described in section 86-330, public-private partnerships,
31 funding for competitive deployment, and other measures, and make

1 recommendations to the Public Service Commission to encourage deployment
2 in such areas;

3 (e) Recommend state policies to effectively utilize state universal
4 service fund dollars to leverage federal universal service fund support
5 and other federal funding;

6 (f) Make recommendations to the Governor and Legislature as to the
7 most effective and efficient ways that federal broadband rural
8 infrastructure funds received after July 1, 2018, should be expended if
9 such funds become available; and

10 (g) Determine other issues that may be pertinent to the purpose of
11 the task force.

12 (4) Task force members shall serve on the task force without
13 compensation but shall be entitled to receive reimbursement for any
14 actual expenses incurred for such service as provided in sections 81-1174
15 to 81-1177.

16 (5) The task force shall meet at the call of the chairperson and
17 shall present its findings in a report to the Executive Board of the
18 Legislative Council no later than November 1, 2019, and by November 1
19 every odd-numbered year thereafter. The report shall be submitted
20 electronically.

21 (6) For purposes of this section, broadband services means high-
22 speed telecommunications capability at a minimum download speed of
23 twenty-five megabits per second and a minimum upload speed of three
24 megabits per second, and that enables users to originate and receive
25 high-quality voice, data, and video telecommunications using any
26 technology.

27 Sec. 15. Section 8 of this act becomes operative on July 1, 2022.
28 The other sections of this act become operative on their effective date.

29 Sec. 16. Original sections 75-109.01, 86-127, and 86-577, Reissue
30 Revised Statutes of Nebraska, and sections 86-579 and 86-1102, Revised
31 Statutes Cumulative Supplement, 2018, are repealed.

1 Sec. 17. The following section is outright repealed: Section
2 86-580, Reissue Revised Statutes of Nebraska.