

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SIXTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 992**

Introduced by Friesen, 34; Bostelman, 23.

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 legislative intent; to provide for a  
6 state broadband coordinator; to provide duties for the Public  
7 Service Commission and Nebraska Library Commission as prescribed; to  
8 create the Nebraska E-Rate Special Construction Matching Fund  
9 Program; to change provisions relating to the lease of dark fiber;  
10 to terminate a fund; to provide a term of service for certain Rural  
11 Broadband Task Force members; to harmonize provisions; to repeal the  
12 original sections; and to outright repeal section 86-580, Reissue  
13 Revised Statutes of Nebraska.  
14 Be it enacted by the people of the State of Nebraska,

1       Section 1. Sections 1 to 5 of this act shall be known and may be  
2 cited as the Broadband Internet Service Infrastructure Act.

3       Sec. 2. For purposes of the Broadband Internet Service  
4 Infrastructure Act:

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

7           (a) Aboveground and attached to an electric utility's electric  
8 service infrastructure; or

9           (b) Underground in an electric utility easement and existing before  
10 the delivery of notice pursuant to section 3 of this act;

11          (2) Commercial broadband service means broadband service as such  
12 term is defined in 7 U.S.C 950bb(b)(1), as such section existed on  
13 January 1, 2020, or broadband Internet service;

14          (3)(a) Commercial broadband supplier means:

15           (i) A provider of commercial broadband services; or

16           (ii) A person that directly or indirectly sells, leases, or  
17 otherwise transfers an attached facility or a right to install, operate,  
18 Maintain, or use an attached facility for another person's provision of  
19 commercial broadband service or a person that intends to sell, lease, or  
20 otherwise transfer an attached facility or a right to install, operate,  
21 Maintain, or use an attached facility; and

22          (b) Commercial broadband supplier does not include an electric  
23 utility;

24          (4) Electric utility easement means a recorded or unrecorded  
25 easement, right-of-way, or similar right in or to real property,  
26 including prescriptive rights, no matter how acquired, held by an  
27 electric utility for the siting of electric service infrastructure or for  
28 the purpose of delivering electric service, regardless of whether:

29           (a) The easement or other right is exclusively for the provision of  
30 electric service or for use in connection with commercial broadband  
31 service, telecommunications service, or another purpose; or

1       (b) The electric utility or a commercial broadband supplier uses the  
2 easement or other right to provide commercial broadband service;

3           (5) Electric utility means any entity defined in subdivision (8) of  
4 section 70-601;

5           (6) Interest holder means a property owner or other person with an  
6 interest in the real property upon which an electric utility easement is  
7 located;

8           (7) Memorandum means a written instrument that includes, at a  
9 minimum, the name and address of the electric utility, the date on which  
10 the notice was mailed, and the information required to be included in a  
11 notice;

12           (8) Notice means a written letter substantially complying with the  
13 requirements set forth in subdivision (2)(b) of section 3 of this act,  
14 which notice shall be deemed delivered on the date postmarked or  
15 otherwise time stamped;

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

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

21           (11) Request for notice means a written instrument recorded by an  
22 interest holder in compliance with the requirements set forth in  
23 subdivision (2)(c) of section 3 of this act.

24       Sec. 3. (1) For real property subject to an electric utility  
25 easement, if an electric utility, or any commercial broadband supplier  
26 designated by the electric utility to act on its behalf, complies with  
27 the notice and filing requirements set forth in subsection (2) of this  
28 section, the electric utility holding the electric utility easement may,  
29 subject to subsection (4) of this section and without the consent of an  
30 interest holder in the real property subject to the electric utility  
31 easement, take the following actions to the extent not already permitted

1    by the electric utility easement:

2        (a) Install, maintain, or own, or permit any commercial broadband  
3    supplier to install, maintain, or own, an attached facility for operation  
4    by a commercial broadband supplier in providing commercial broadband  
5    service; and

6        (b) Lease or otherwise provide to a commercial broadband supplier  
7    any excess capacity of attached facilities for purposes of providing  
8    commercial broadband service.

9            (2)(a) At least thirty days before first exercising an action under  
10    one or both of subdivision (1)(a) or (1)(b) of this section with respect  
11    to an electric utility easement or portion of an electric utility  
12    easement, an electric utility or its designated commercial broadband  
13    supplier shall send notice to each property owner that holds an interest  
14    in the real property subject to the electric utility easement and any  
15    other interest holder that has recorded a request for notice and shall  
16    record a memorandum in the office of the county clerk in each county in  
17    which the electric utility is exercising action under subsection (1) of  
18    this section. An electric utility or its designated commercial broadband  
19    supplier may only commence an action under subsection (1) of this section  
20    upon delivery of such notice.

21        (b) Notice pursuant to this subsection shall:

22            (i) Be sent by certified mail from or on behalf of the electric  
23    utility to the property owner and any interest holder that has recorded a  
24    request for notice at each of the following, as applicable:

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

27            (B) The address listed for the property owner in the records of the  
28    office of the county assessor; and

29            (C) The address set forth in a request for notice;

30            (ii) Include the name, address, telephone number, and named point of  
31    contact for the electric utility and, if delivered by a commercial

1   **broadband supplier designated by the electric utility, the name, address,**  
2   **telephone number, and named point of contact for the designated**  
3   **commercial broadband supplier;**

4       (iii) **Include the property address, the recording number, if any, of**  
5   **the electric utility easement or recorded memorandum of the electric**  
6   **utility easement, a general description of any existing electric service**  
7   **infrastructure currently located in the electric utility easement, and**  
8   **the approximate location of the electric utility easement;**

9       (iv) **Include:**

10      (A) **A reference to the Broadband Internet Service Infrastructure**  
11   **Act; and**

12      (B) **A copy of the language of subsection (1) of this section with an**  
13   **indication of whether the electric utility is exercising action under one**  
14   **or both of subdivision (1)(a) or (1)(b) of this section;**

15      (v) **Give an estimated time for the start of installation or**  
16   **construction with regard to any new installation or construction that**  
17   **will occur in connection with the exercise of action under subsection (1)**  
18   **of this section;**

19      (vi) **Include a statement regarding the right and obligation of the**  
20   **electric utility, or its designated commercial broadband supplier, to**  
21   **record a memorandum; and**

22      (vii) **Include a statement regarding the statute of limitations for**  
23   **the interest holder to file a claim with respect to the electric**  
24   **utility's exercise of action.**

25      (c) **An interest holder that desires to obtain notice at a specific**  
26   **address may file in the office of the county clerk for the county in**  
27   **which the real property is located a request for notice that identifies**  
28   **the interest holder's name and address, the instrument granting the**  
29   **interest holder's interest in the property, and the recording number of**  
30   **the instrument or a recorded memorandum of the instrument.**

31      (3) **Upon exercise of an action set forth in subsection (1) of this**

1   section, such action runs with the land and is assignable by the electric  
2   utility, subject to provisions of law.

3       (4) The terms and conditions of a written electric utility easement  
4   apply to an electric utility's use of the electric utility easement set  
5   forth in subsection (1) of this section, except for those terms and  
6   conditions that would prohibit the electric utility's exercise of action  
7   under subsection (1) of this section. A prohibition on aboveground  
8   electric service infrastructure contained within a written electric  
9   utility easement constitutes a prohibition on aboveground attached  
10   facilities. In connection with the exercise of such action under  
11   subsection (1) of this section, an electric utility or its designated  
12   commercial broadband supplier shall comply with any notice requirements  
13   contained in a written electric utility easement held by the electric  
14   utility related to entering the real property subject to the electric  
15   utility easement or commencing any construction or installation on the  
16   real property.

17       (5) Nothing in this section requires an electric utility to comply  
18   with subsection (2) of this section in order to take any action or  
19   exercise any rights under an electric utility easement that is already  
20   permitted within the scope of the electric utility easement. Unless  
21   expressly prohibited by the terms of an electric utility easement, an  
22   electric utility easement shall be deemed to allow an electric utility to  
23   install, maintain, own, permit, lease, or provide, or allow a third party  
24   to install, maintain, own, or provide for beneficial use by the electric  
25   utility, telecommunications facilities and equipment for use in  
26   connection with the electric utility's provision of electricity.

27       Sec. 4. (1)(a) No claim or cause of action against an electric  
28   utility or a commercial broadband supplier concerning the electric  
29   utility's or commercial broadband supplier's exercise of action under  
30   section 3 of this act or any actions that the electric utility or  
31   commercial broadband supplier takes before the effective date of this act

1   that, if taken after the effective date of this act, would be authorized  
2   under subsection (1) of section 3 of this act may be brought by or on  
3   behalf of an interest holder more than two years after the latest of:

4       (i) The effective date of this act;

5       (ii) The date of delivery of notice pursuant to subsection (2) of  
6   section 3 of this act; or

7       (iii) The date of recording of a memorandum pursuant to subsection  
8   (2) of section 3 of this act.

9       (b) Subdivision (1)(a) of this section does not apply to a claim or  
10   cause of action based on:

11       (i) Physical damage to property;

12       (ii) Injury to natural persons; or

13       (iii) Breach of the terms and conditions of a written electric  
14   easement as the terms and conditions apply in accordance with subsection  
15   (4) of section 3 of this act.

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

18       (2) A claim or cause of action to which subdivision (1)(a) of this  
19   section applies shall not be brought by or on behalf of an interest  
20   holder against a commercial broadband supplier for notice provided by the  
21   commercial broadband supplier on behalf of an electric utility under  
22   subsection (2) of section 3 of this act. Nothing in this subsection  
23   prohibits an electric utility and a commercial broadband supplier from  
24   contracting to allocate liability for notice required under subsection  
25   (2) of section 3 of this act.

26       (3) If an interest holder brings a trespass claim, inverse  
27   condemnation claim, or any other claim or cause of action to which  
28   subdivision (1)(a) of this section applies for an electric utility's or  
29   commercial broadband supplier's performance of actions described in  
30   subdivision (1)(a) or (1)(b) of section 3 of this act, the following  
31   applies to the claim or cause of action:

1       (a) The measure of damages for all claims or causes of action to  
2 which subdivision (1)(a) of this section applies, taken together, is the  
3 fair market value of the reduction in value of the interest holder's  
4 interest in the real property. In determining or providing the fair  
5 market value under this subdivision (a):

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

8           (A) Profits, fees, or revenue derived from the attached facilities;  
9 or

10          (B) The rental value of the real property interest or the electric  
11 easement, including the rental value of any attached facilities or an  
12 assembled broadband corridor; and

13           (ii) Consideration must be given to any increase in value to the  
14 real property interest resulting from the availability of commercial  
15 broadband service to the real property underlying the real property  
16 interest that arises from the installation of attached facilities.

17           (b) The interest holder shall make reasonable accommodations for the  
18 electric utility or commercial broadband supplier to perform an appraisal  
19 or inspection of the real property within ninety days following any  
20 written request for an appraisal or inspection. If an interest holder  
21 fails to make such accommodations, the electric utility or commercial  
22 broadband supplier has no further liability to the interest holder with  
23 respect to such claim or cause of action. The electric utility or  
24 commercial broadband supplier shall promptly provide to the interest  
25 holder a copy of any appraisal performed pursuant to this subdivision  
26 (b).

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

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

1       (ii) Shall not be deemed to continue, accrue, or accumulate.

2       (d) With regard to a claim or cause of action to which subdivision

3       (1)(a) of this section applies:

4           (i) Except for an electric utility's or commercial broadband

5       supplier's failure to comply with subsection (2) of section 3 of this

6       act, negligence, or willful misconduct, or in accordance with the terms

7       and conditions of a written electric utility easement as such apply in

8       accordance with subsection (4) of section 3 of this act, an interest

9       holder is not entitled to reimbursement from an electric utility or

10      commercial broadband supplier for the cost of any appraisal, attorney

11      fees, or award for special, consequential, indirect, or punitive damages;

12      and

13           (ii) For purposes of this subdivision (d), any action or failure to

14       act by an electric utility or commercial broadband supplier in

15       furtherance of the electric utility's or commercial broadband supplier's

16       exercise of action set forth in subsection (1) of section 3 of this act

17       shall not be deemed negligence or willful misconduct.

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

19       which subsection (1)(a) of this section applies, an interest holder shall

20       be deemed to have granted an increase in the scope of the electric

21       easement, equal in duration to the term of the electric utility easement

22       and subject to this section, to the extent of the interest holder's

23       rights in the real property, for all of the uses of the real property and

24       actions set forth in subsection (1) of section 3 of this act.

25       Sec. 5. (1) An electric utility that exercises any action under

26       subdivision (1)(a) or (1)(b) of section 3 of this act for the provision

27       of commercial broadband service shall:

28           (a) Not discriminate among commercial broadband suppliers in

29       offering or granting rights to install or attach any attached facilities;

30       or

31           (b) Charge fees that are nondiscriminatory among commercial

1   **broadband suppliers for a substantially similar lease or use of the**  
2   **capacity of attached facilities owned or controlled by the electric**  
3   **utility, but only to the extent an electric utility chooses, in its sole**  
4   **discretion, to offer the lease or use to a particular commercial**  
5   **broadband supplier.**

6       (2) Nothing in this section requires an electric utility to offer or  
7   grant a right to access or use an electric utility easement or to use  
8   attached facilities or electric service infrastructure owned or  
9   controlled by the electric utility in a manner that would, in the  
10   electric utility's reasonable discretion, materially interfere with the  
11   electric utility's construction, maintenance, or use of any electric  
12   utility infrastructure for the provision of electric service.

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

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

16           (b) Constitutes an exercise of, or an obligation or intention to  
17   exercise, the right of the state under 47 U.S.C. 224 (c), as such section  
18   existed on January 1, 2020, to regulate the rates, terms, and conditions  
19   for pole attachments as defined in 47 U.S.C. 224 (a)(4), as such section  
20   existed on January 1, 2020;

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

24           (d) Prevents the parties involved from filing a claim or cause of  
25   action in any court of competent jurisdiction for any dispute arising  
26   under the Broadband Internet Service Infrastructure Act.

27       Sec. 6. (1) It is the intent of the Legislature to encourage local  
28   and regional broadband planning, and to encourage public-private  
29   partnerships to enhance broadband services in unserved and underserved  
30   areas of the state.

31       (2) The position of state broadband coordinator is created. The

1     position will be located in the office of the Chief Information Officer.

2     The coordinator shall:

3         (a) Encourage each county or region comprising a group of counties  
4         to appoint a broadband coordinator to facilitate broadband planning and  
5         coordination;

6         (b) Encourage each county or region to work with groups of  
7         stakeholders, which may include, but not be limited to, businesses and  
8         industries, community foundations, local governments, local or regional  
9         economic development organizations, schools, colleges, other educational  
10         entities, public libraries, health care institutions, financial  
11         institutions, telecommunications providers, public power districts,  
12         electric cooperatives, nonprofit organizations, and other interested  
13         entities;

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

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

19         Sec. 7. (1) It is the intent of the Legislature to better utilize  
20         public libraries in providing Internet and computer access to students  
21         and the general public in unserved and underserved areas or in areas with  
22         a high percentage of students who have limited or no access to the  
23         Internet. The Legislature finds that the E-Rate Schools and Libraries  
24         Program of the Universal Service Fund program for subsidized service to  
25         public libraries is underutilized and that many public libraries need  
26         support for technological services, upgrades, digital literacy training,  
27         and E-Rate filings.

28         (2) The Nebraska Library Commission shall employ four regional  
29         technicians who shall be employed by the commission. The technicians  
30         shall provide technical support for public libraries across the state as  
31         directed by the commission.

1        Sec. 8. (1) The Public Service Commission shall establish the  
2        Nebraska E-Rate Special Construction Matching Fund Program. Beginning  
3        July 1, 2021, the program shall receive funding from the Nebraska  
4        Telecommunications Universal Service Fund to provide incentives for fiber  
5        optic cable to be constructed to benefit public libraries.

6        (2) The commission shall establish criteria and priorities for  
7        funding by establishing a support mechanism for eligible  
8        telecommunications carriers to deploy fiber optic cable for the benefit  
9        of public library access to E-Rate special construction matching funding.

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

13       Sec. 9. Section 75-109.01, Reissue Revised Statutes of Nebraska, is  
14       amended to read:

15       75-109.01 Except as otherwise specifically provided by law, the  
16       Public Service Commission shall have jurisdiction, as prescribed, over  
17       the following subjects:

18       (1) Common carriers, generally, pursuant to sections 75-101 to  
19       75-158;

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

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

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

26       (5) Motor carrier registration and safety pursuant to sections  
27       75-301 to 75-343, 75-369.03, 75-370, and 75-371;

28       (6) Pipeline carriers and rights-of-way pursuant to the Major Oil  
29       Pipeline Siting Act, the State Natural Gas Regulation Act, and sections  
30       75-501 to 75-503. If the provisions of Chapter 75 are inconsistent with  
31       the provisions of the Major Oil Pipeline Siting Act, the provisions of

1 the Major Oil Pipeline Siting Act control;

2 (7) Railroad carrier safety pursuant to sections 74-918, 74-919,  
3 74-1323, and 75-401 to 75-430;

4 (8) Telecommunications carriers pursuant to the Automatic Dialing-  
5 Announcing Devices Act, the Emergency Telephone Communications Systems  
6 Act, the Enhanced Wireless 911 Services Act, the Intrastate Pay-Per-Call  
7 Regulation Act, the Nebraska Telecommunications Regulation Act, the  
8 Nebraska Telecommunications Universal Service Fund Act, the  
9 Telecommunications Relay System Act, the Telephone Consumer Slamming  
10 Prevention Act, and sections 86-574 to 86-579 ~~86-580~~;

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

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

14 (11) Jurisdictional utilities governed by the State Natural Gas  
15 Regulation Act. If the provisions of Chapter 75 are inconsistent with the  
16 provisions of the State Natural Gas Regulation Act, the provisions of the  
17 State Natural Gas Regulation Act control.

18 Sec. 10. Section 86-127, Reissue Revised Statutes of Nebraska, is  
19 amended to read:

20 86-127 (1) One of the goals of the federal Telecommunications Act of  
21 1996, as such act existed on January 1, 2002, is to foster competition  
22 among telephone companies. Section 271 of the federal act (a) establishes  
23 specific incentives, procedures, and requirements for regional Bell  
24 operating companies to offer inter-LATA interexchange service and (b)  
25 requires the Public Service Commission to monitor the competitive  
26 performance of a regional Bell operating company and to consult with the  
27 Federal Communications Commission regarding such activities.

28 (2) The Nebraska Competitive Telephone Marketplace Fund is created.  
29 The Public Service Commission may accept, and the fund shall consist of,  
30 any voluntary performance payments received from a regional Bell  
31 operating company. The fund shall be used by the commission for expenses

1 related to the monitoring of compliance with section 271 of the federal  
2 act. If money in the fund exceeds thirty thousand dollars, the commission  
3 shall remit such excess money to the State Treasurer for credit to the  
4 Nebraska Telecommunications Universal Service Internet Enhancement Fund,  
5 except that transfers may be made from the Nebraska Competitive Telephone  
6 Marketplace Fund to the General Fund at the direction of the Legislature.  
7 Any money in the Nebraska Competitive Telephone Marketplace Fund  
8 available for investment shall be invested by the state investment  
9 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska  
10 State Funds Investment Act.

11 Sec. 11. Section 86-577, Reissue Revised Statutes of Nebraska, is  
12 amended to read:

13 86-577 Any agency or political subdivision of the state may lease  
14 its dark fiber if:

15 (1) The lessee is a certificated telecommunications common carrier  
16 or a permitted telecommunications contract carrier pursuant to section  
17 86-128 or an Internet service provider;

18 (2) The lease price and profit distribution is approved by the  
19 Public Service Commission as follows:

20 (a) The commission shall not approve any lease price which is less  
21 than the market rate for leasing such fiber as determined by the  
22 commission. The market rate is the price associated with similar  
23 unbundled network elements that may be available from the incumbent local  
24 exchange carrier or the price of any other private entity leasing dark  
25 fiber optic facilities serving the same or similar territory where the  
26 leased equipment is located. The commission shall establish a safe harbor  
27 range of market rates for such leases using a competitive price  
28 determination Before entering into a lease, each agency or political  
29 subdivision shall file a request with the commission for a competitive  
30 price comparison to determine the market rate. When conducting a  
31 competitive price determination comparison, the commission in its

1 discretion shall use rate schedules, interconnection agreements, or other  
2 documents within its regulatory oversight and shall gather other market  
3 rate information as deemed necessary;

4 (b) If the lease submitted utilizes rates within the safe harbor  
5 range, the commission shall publish the application within five business  
6 days of receipt and allow fourteen business days for any objection to be  
7 filed. If no objection is filed within fourteen business days, the lease  
8 shall be deemed approved. If an objection is filed, the commission shall  
9 hold a hearing to determine whether the lease meets the market rate. The  
10 commission shall not approve any lease price which is agreed upon by the  
11 agency or political subdivision and the lessee unless the lease requires  
12 that the agency or political subdivision be solely responsible for the  
13 maintenance of its dark fiber and that the lessee be responsible, on a  
14 pro rata basis, for any such maintenance costs; and

15 (c) The commission shall not approve any lease unless fifty percent  
16 of the profit earned by the agency or political subdivision under the  
17 lease is remitted to the Nebraska Telecommunications Universal Service  
18 Internet Enhancement Fund. Profit earned by the agency or political  
19 subdivision is the lease price less the cost of infrastructure  
20 overbuilding. Before entering into a lease, each agency or political  
21 subdivision shall file a request with the commission to determine the  
22 cost of overbuilding its fiber optic infrastructure. For purposes of this  
23 subdivision, cost of infrastructure overbuilding means the cost of each  
24 leased optic fiber, including the cost, on a pro rata basis, associated  
25 with the agency's or political subdivision's installation of such fiber;

26 (3) Any interconnection agreement subject to section 86-122 is  
27 approved by the commission; and

28 (4) The lessee makes every reasonable effort to activate the maximum  
29 amount of the leased fiber as is possible, within one year after entering  
30 into the lease, unless good cause is shown.

31 Sec. 12. Section 86-579, Revised Statutes Cumulative Supplement,

1 2018, is amended to read:

2 86-579 The Nebraska Internet Enhancement Fund is created. The fund  
3 shall be used to provide financial assistance to install and deliver  
4 broadband or other advanced telecommunications infrastructure and service  
5 throughout the state. It is the intent of the Legislature that two  
6 hundred fifty thousand dollars shall be appropriated to the fund to be  
7 used for startup costs and seed money for FY2001-02. The Public Service  
8 Commission may receive gifts, contributions, property, and equipment from  
9 public and private sources for purposes of the fund. The fund shall  
10 consist of money appropriated by the Legislature, any money transferred  
11 pursuant to section 86-127, and gifts, grants, or bequests from any  
12 source, including ~~money remitted to the fund pursuant to section 86-577~~  
13 and any other federal, state, public, and private sources. ~~Money in the~~  
14 ~~fund shall be distributed by the commission pursuant to section 86-580.~~  
15 Transfers from the fund to the General Fund may be made at the direction  
16 of the Legislature. Any money in the Nebraska Internet Enhancement Fund  
17 available for investment shall be invested by the state investment  
18 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska  
19 State Funds Investment Act. The fund terminates on June 30, 2021, and the  
20 State Treasurer shall transfer any unencumbered money in the fund on such  
21 date to the Nebraska Telecommunications Universal Service Fund.

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

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

28 Sec. 13. Section 86-1102, Revised Statutes Cumulative Supplement,  
29 2018, is amended to read:

30 86-1102 (1) The Rural Broadband Task Force is hereby created. Task  
31 force members shall include the chairperson of the Transportation and

1      Telecommunications Committee of the Legislature and a member of the  
2      Legislature selected by the Executive Board of the Legislative Council  
3      who shall both serve as nonvoting, ex officio members, a member of the  
4      Public Service Commission who shall be selected by the chairperson of  
5      such commission, the chairperson of the Nebraska Information Technology  
6      Commission or his or her designee who shall act as chairperson of the  
7      task force, the Director of Economic Development or his or her designee,  
8      the Director of Agriculture or his or her designee, and the following  
9      members to be appointed by the Governor: A representative of the  
10     agribusiness community, a representative of the Nebraska business  
11     community, a representative of the regulated wireline telecommunications  
12     industry, a representative of the wireless telecommunications industry, a  
13     representative of the public power industry, a representative of health  
14     care providers, a representative of Nebraska postsecondary educational  
15     institutions, and a representative of rural schools offering kindergarten  
16     through grade twelve. The members appointed by the Governor shall serve  
17     for a term of two years and may be reappointed.

18        (2) The task force may appoint advisory groups to assist the task  
19        force in providing technical expertise and advice on any issue. The  
20        advisory groups may be composed of representatives of stakeholder groups  
21        which may include, but not necessarily be limited to, representatives  
22        from small and large wireline companies, wireless companies, public power  
23        districts, electric cooperative corporations, cable television companies,  
24        Internet service providers, low-income telecommunications and electric  
25        utility customers, health care providers, and representatives of  
26        educational sectors. No compensation or expense reimbursement shall be  
27        provided to any member of any advisory group appointed by the task force.

28        (3) The Nebraska Information Technology Commission shall provide  
29        staff assistance to the task force in consultation with staff from the  
30        Public Service Commission and other interested parties. The task force  
31        may hire consultants to assist in carrying out its duties. The task force

1 shall review issues relating to availability, adoption, and affordability  
2 of broadband services in rural areas of Nebraska. In particular, the task  
3 force shall:

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

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

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

14 (d) Examine alternatives for deployment of broadband services to  
15 areas that remain unserved or underserved, such as reverse auction  
16 programs described in section 86-330, public-private partnerships,  
17 funding for competitive deployment, and other measures, and make  
18 recommendations to the Public Service Commission to encourage deployment  
19 in such areas;

20 (e) Recommend state policies to effectively utilize state universal  
21 service fund dollars to leverage federal universal service fund support  
22 and other federal funding;

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

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

29 (4) Task force members shall serve on the task force without  
30 compensation but shall be entitled to receive reimbursement for any  
31 actual expenses incurred for such service as provided in sections 81-1174

1 to 81-1177.

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

7 (6) For purposes of this section, broadband services means high-  
8 speed telecommunications capability at a minimum download speed of  
9 twenty-five megabits per second and a minimum upload speed of three  
10 megabits per second, and that enables users to originate and receive  
11 high-quality voice, data, and video telecommunications using any  
12 technology.

13 Sec. 14. Original sections 75-109.01, 86-127, and 86-577, Reissue  
14 Revised Statutes of Nebraska, and sections 86-579 and 86-1102, Revised  
15 Statutes Cumulative Supplement, 2018, are repealed.

16 Sec. 15. The following section is outright repealed: Section  
17 86-580, Reissue Revised Statutes of Nebraska.