

AMENDMENTS TO LB388

(Amendments to Standing Committee amendments, AM530)

Introduced by Wayne, 13.

1 1. Insert the following new sections:

2 Sec. 11. Sections 11 to 19 of this act shall be known and may be
3 cited as the Rural Municipal Broadband Access Act.

4 Sec. 12. The Legislature finds that many rural municipalities lack
5 access to quality broadband services and Internet services, despite
6 significant private, local, state, and federal investment in the
7 development of broadband in Nebraska.

8 Sec. 13. For purposes of the Rural Municipal Broadband Access Act:

9 (1) Broadband services has the same meaning as in section 86-593;

10 (2) Existing provider means a broadband Internet service provider,
11 including any telecommunications company, cable television company, or
12 wireless network provider that provides broadband services or Internet
13 services within the corporate limits and extraterritorial zoning
14 jurisdiction of a municipality;

15 (3) Governing body means the city council of a city of the first
16 class or city of the second class or the board of trustees of a village;

17 (4) Internet services has the same meaning as in section 86-593;

18 (5) Municipality means any city of the first class, city of the
19 second class, or village;

20 (6) Underserved area means a geographical area of the state which
21 lacks broadband Internet service providing access to the Internet at
22 speeds of at least one hundred megabits per second for downloading and
23 twenty megabits per second for uploading; and

24 (7) Unserved area means a geographical area of the state which lacks
25 broadband Internet service providing access to the Internet at speeds of
26 at least twenty-five megabits per second for downloading and three

1 megabits per second for uploading.

2 Sec. 14. (1) Beginning January 1, 2024, a municipality may provide
3 broadband services or Internet services on a retail or wholesale basis
4 within the corporate limits and extraterritorial zoning jurisdiction of
5 such municipality if such municipality is located in an underserved or
6 unserved area and meets the requirements of the Rural Municipal Broadband
7 Access Act.

8 (2) A municipality may initiate the process of developing a
9 broadband network by conducting a feasibility study and ordering the
10 preparation of a resolution of intent to develop such broadband network
11 in accordance with section 15 of this act by a vote of the majority of
12 the members of the governing body of the municipality.

13 Sec. 15. (1) The proposed resolution of intent to develop a
14 broadband network described in section 14 of this act shall contain and
15 set forth the following:

16 (a) A declaration that the municipality is located in either an
17 underserved area or unserved area;

18 (b) A list of all existing providers that currently provide
19 broadband services or Internet services within the corporate limits and
20 extraterritorial zoning jurisdiction of the municipality;

21 (c) A description of any acts or omissions of any existing provider
22 that have resulted in the municipality being located in an underserved
23 area or unserved area;

24 (d) A comparison of the rates charged by existing providers for
25 broadband services or Internet services within the corporate limits or
26 extraterritorial zoning jurisdiction of the municipality to rates charged
27 in comparably sized municipalities in Nebraska and neighboring states;
28 and

29 (e) A description of any local, state, or federal funds known by the
30 municipality to have been received by any existing provider to expand or
31 supplement the provision of broadband services or Internet services,

1 including funds from the Nebraska Telecommunications Universal Service
2 Fund and funds under the Nebraska Broadband Bridge Act.

3 (2) If the resolution of intent contains any description as set
4 forth in subdivision (1)(c) of this section, the resolution of intent
5 shall describe the efforts by the municipality to inform any such
6 existing provider of the existing provider's acts and omissions and shall
7 describe the opportunities afforded the existing provider to remedy the
8 stated defects.

9 Sec. 16. (1) The feasibility study and proposed resolution of intent
10 to develop a broadband network shall be presented to the governing body
11 of the municipality at a regular meeting of such governing body. At that
12 meeting, the governing body may adopt the resolution of intent and, if it
13 does so, shall set a date for holding a public hearing, which shall be at
14 least forty-five days after the date of the meeting at which the
15 resolution of intent was adopted.

16 (2) Upon the adoption of a resolution of intent, the city clerk or
17 village clerk of the municipality shall transmit a copy of the
18 feasibility study and resolution of intent and notice of the date and
19 time of the public hearing to any existing providers by certified mail,
20 return receipt requested, within seven days after the meeting at which
21 the resolution of intent was adopted.

22 (3) At least thirty days prior to the public hearing, the
23 municipality shall publish notice of the time and place of the public
24 hearing and a summary of the resolution of intent in a legal newspaper
25 published in or of general circulation in the municipality.

26 (4) At the public hearing, any existing provider shall be permitted
27 to respond to the contents of the feasibility study, the statements set
28 out in the resolution of intent, and any comments made at the public
29 hearing.

30 Sec. 17. After the public hearing held pursuant to section 16 of
31 this act, the governing body of the municipality may:

1 (1) By a two-thirds vote of its members, vote to develop a broadband
2 network within the corporate limits and extraterritorial zoning
3 jurisdiction of the municipality; or

4 (2) By a majority vote of its members, submit the question of
5 whether to develop a broadband network within the corporate limits and
6 extraterritorial zoning jurisdiction of the municipality to the
7 registered voters of the city as provided in section 18 of this act.

8 Sec. 18. (1) After conducting a feasibility study and holding a
9 public hearing on a resolution of intent as provided in the Rural
10 Municipal Broadband Access Act, the governing body of a municipality may
11 submit to the registered voters of the municipality at any general or
12 special municipal election the question of whether the municipality
13 should develop a broadband network under the act. The ballot language
14 shall be in the following form:

15 Shall the city or village of (name of city or village) develop a
16 broadband network under the Rural Municipal Broadband Access Act to
17 provide broadband services or Internet services on a retail or wholesale
18 basis within the corporate limits and extraterritorial zoning
19 jurisdiction of the city or village?

20 (2) The municipality shall submit the question to the registered
21 voters in the manner prescribed in the Election Act. The question may be
22 placed before the registered voters of the municipality at any general or
23 special municipal election called for the purpose and may be submitted in
24 connection with any municipal special election called for any other
25 purpose. The votes cast on the question shall be canvassed and the result
26 found and declared as prescribed in the Election Act.

27 (3) If a majority of the votes cast upon the question are in favor,
28 then the municipality shall be authorized to provide broadband services
29 or Internet services on a retail or wholesale basis within the corporate
30 limits and extraterritorial zoning jurisdiction of such municipality.

31 Sec. 19. (1) A municipality which develops a broadband network under

1 the Rural Municipal Broadband Access Act shall ensure that such broadband
2 network provides access to the Internet at speeds of one hundred megabits
3 per second or greater for downloading and one hundred megabits per second
4 or greater for uploading.

5 (2) A municipality shall not develop a broadband network under the
6 Rural Municipal Broadband Access Act on or after January 1, 2034, except
7 that a municipality may continue to provide broadband services or
8 Internet services after such date using any broadband network developed
9 by such municipality prior to January 1, 2034.

10 Sec. 20. Section 86-594, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 86-594 (1) Except as provided in the Educational Service Units Act,
13 the Rural Municipal Broadband Access Act, and sections 79-1319,
14 81-1120.01 to 81-1120.28, 85-401 to 85-418, 85-1501 to 85-1542, and
15 86-575, an agency or political subdivision of the state that is not a
16 public power supplier shall not provide on a retail or wholesale basis
17 any broadband services, Internet services, telecommunications services,
18 or video services.

19 (2) The provisions of subsection (1) of this section shall not apply
20 to services which an agency or political subdivision of the state was
21 authorized to provide and was providing prior to January 1, 2005.

22 Sec. 21. The Revisor of Statutes shall assign sections 11 to 19 of
23 this act to Chapter 19.

24 Sec. 22. Original section 86-594, Reissue Revised Statutes of
25 Nebraska, is repealed.

26 2. Renumber the remaining section accordingly.