

AMENDMENTS TO LB388

Introduced by Transportation and Telecommunications.

1           1. Strike the original sections and insert the following new  
2 sections:

3           Section 1. Sections 1 to 10 of this act shall be known and may be  
4 cited as the Nebraska Broadband Bridge Act.

5           Sec. 2. For purposes of the Nebraska Broadband Bridge Act:

6           (1) Commission means the Public Service Commission;

7           (2) Development costs means the amount paid for project planning,  
8 obtaining construction permits, construction of facilities including both  
9 middle-mile and last-mile infrastructure, equipment, and installation and  
10 testing of the broadband Internet service;

11           (3) Digital inclusion means access to and use of information and  
12 communication technologies by all individuals and communities, including  
13 the most disadvantaged individuals and communities;

14           (4) Eligible telecommunications carrier means an eligible  
15 telecommunications carrier as designated under 47 U.S.C. 214(e), as such  
16 section existed on January 1, 2021;

17           (5) Grant means money provided to an applicant for purposes of a  
18 project under the act;

19           (6) Program means the Broadband Bridge Program created under the  
20 act;

21           (7) Project means the development of a broadband network in an  
22 unserved or underserved area;

23           (8) Project area means the geographical area in which a broadband  
24 network is to be developed pursuant to a grant;

25           (9) Provider means a broadband Internet service provider, including  
26 any telecommunications company, cable television company, or wireless  
27 network provider that provides broadband Internet service;

1        (10) Speed test means a measurement of download and upload speeds  
2 for access to broadband Internet service between a specific consumer  
3 location and a specific remote server location that meets the  
4 specifications of the commission;

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

9        (12) Unserved area means a geographical area of the state which  
10 lacks broadband Internet service providing access to the Internet at  
11 speeds of at least twenty-five megabits per second for downloading and  
12 three megabits per second for uploading.

13        Sec. 3. The Broadband Bridge Program is created. The purpose of the  
14 program is to facilitate and fund the development of broadband networks  
15 in unserved and underserved areas in addition to the reverse auction  
16 program available pursuant to section 86-330. The commission shall  
17 administer the program. It is the intent of the Legislature to  
18 appropriate twenty million dollars annually beginning with fiscal year  
19 2021-22 to the commission to be distributed as grants through the  
20 program.

21        Sec. 4. (1)(a) A provider, a cooperative, a political subdivision,  
22 or an Indian tribe may apply to the commission for a grant on forms  
23 provided by the commission. The grant shall only be used for development  
24 costs for a qualifying project. The application shall indicate the  
25 project area. The applicant shall provide matching funds equal to fifty  
26 percent of the total development costs of the project. In order to  
27 qualify, the project is required to provide broadband Internet service  
28 scalable to one hundred megabits per second for downloading and one  
29 hundred megabits per second for uploading, or greater. Applications shall  
30 be submitted on or before October 1, 2021, for fiscal year 2021-22, and  
31 on or before July 1 for each fiscal year thereafter.

1       (b) An application from a political subdivision or an Indian tribe  
2 shall be made as part of a public-private partnership with a provider.

3       (2)(a) As part of the application, the applicant shall agree to  
4 complete the project within eighteen months after the date the grant is  
5 awarded. The commission may permit one extension of up to six months upon  
6 request and for good cause shown.

7       (b) If a grant recipient fails to complete the project by the agreed  
8 or extended deadline, as the case may be, the recipient shall repay the  
9 grant as provided in this subdivision. If no extension is permitted, ten  
10 percent of the grant shall be repaid for each month that the project is  
11 not complete after the eighteen-month period, up to one hundred percent  
12 of the grant. If an extension is permitted, twenty percent of the grant  
13 shall be repaid for each month that the project is not complete after the  
14 twenty-four-month period, up to one hundred percent of the grant.

15       (3)(a) As part of the application, the applicant shall agree to  
16 submit the broadband network completed as a result of the grant to speed  
17 tests as determined by the commission. The grant recipient shall conduct  
18 the speed tests and submit the results to the commission. The speed tests  
19 shall be conducted for one week using a random sample of locations of  
20 consumers who subscribe to the network completed as a result of the  
21 grant.

22       (b) If the broadband network does not provide service at the speeds  
23 required pursuant to subdivision (1)(a) of this section according to the  
24 speed tests under subdivision (3)(a) of this section, the grant recipient  
25 shall be allowed a reasonable time to address the speed deficiencies and  
26 conduct a second set of speed tests as described in subdivision (3)(a) of  
27 this section. If the broadband network does not provide service at the  
28 speeds required pursuant to subdivision (1)(a) of this section according  
29 to the second set of speed tests, the grant recipient shall repay the  
30 grant.

31       Sec. 5. The commission shall distribute grants based on priority as

1 follows:

2 (1) The first priority is a project in a project area that is an  
3 unserved area which the commission has determined pursuant to section  
4 75-160 or 86-166 needs further support but has not received public  
5 assistance for development of a broadband network;

6 (2) The second priority is a project that is in an unserved area,  
7 that has received federal support for development of a broadband network,  
8 and that will not be completed within twenty-four months after the grant  
9 application deadline if the commission determines that a grant under the  
10 program will accelerate the deployment of the broadband network; and

11 (3) The third priority is a project in a project area that is an  
12 underserved area and that the commission determines has a digital  
13 inclusion plan.

14 Sec. 6. (1) The commission shall establish a weighted scoring  
15 system to evaluate and rank the applications received each fiscal year.

16 (2) In each fiscal year, at least thirty days prior to the first day  
17 that applications may be submitted, the commission shall publish on the  
18 commission's web site the specific criteria and the quantitative weighted  
19 scoring system the commission will use to evaluate and rank applications  
20 and award grants pursuant to the program. Such weighted scoring system  
21 shall consider, at a minimum:

22 (a) The financial, technical, and legal capability of the applicant  
23 to deploy and operate broadband Internet service;

24 (b) Whether the provider is designated as an eligible  
25 telecommunications carrier or will be so designated prior to the project  
26 completion date;

27 (c) The ability of an applicant to offer rates in the project area  
28 that are comparable to the rates offered by the applicant outside the  
29 project area;

30 (d) The available minimum broadband speeds, with higher scores for  
31 faster speeds, except that no grant shall be awarded based on speeds less

1 than those scalable to one hundred megabits per second for downloading  
2 and one hundred megabits per second for uploading, or greater;

3 (e) The ability of the broadband infrastructure to be scalable to  
4 higher broadband Internet speeds in the future; and

5 (f) whether the applicant has committed to fund more than fifty  
6 percent of the total development costs of the project from sources other  
7 than grants under the program, with higher scores for higher amounts of  
8 matching funds.

9 Sec. 7. (1) Within three business days after the application  
10 deadline described in subdivision (1)(a) of section 4 of this act, the  
11 commission shall publish on its web site the proposed projects, project  
12 areas, and broadband Internet service speeds for each application  
13 submitted.

14 (2) Any provider may, within thirty days after the publication under  
15 subsection (1) of this section, submit to the commission, on forms  
16 provided by the commission, a challenge to an application. Such challenge  
17 shall contain information demonstrating that, at the time of submitting  
18 the challenge, (a) the provider provides or has begun construction to  
19 provide a broadband network in the proposed project area with access to  
20 the Internet at speeds equal to or greater than one hundred megabits per  
21 second for downloading and twenty megabits per second for uploading or  
22 (b) the provider provides broadband service through a broadband network  
23 in or proximate to the proposed project area and the provider commits to  
24 complete construction of broadband infrastructure and provide a broadband  
25 network to the proposed project area with access to the Internet at  
26 speeds equal to or greater than one hundred megabits per second for  
27 downloading and twenty megabits per second for uploading, no later than  
28 eighteen months after the date grant awards are made under the program.

29 (3) Within three business days after the submission of a challenge  
30 as provided in subsection (2) of this section, the commission shall  
31 notify the applicant of such challenge. The applicant shall have ten

1 business days after receipt of such notification to provide any  
2 supplemental information regarding the challenged application to the  
3 commission.

4 (4) The commission shall evaluate the information submitted in a  
5 challenge and shall not award a grant if the information submitted under  
6 subsection (2) of this section is credible and if the provider submitting  
7 the challenge agrees to submit documentation no later than eighteen  
8 months after the date grant awards are made for the then-current fiscal  
9 year under the program substantiating that the provider submitting the  
10 challenge has fulfilled its commitment to deploy broadband Internet  
11 service with access to the Internet at the stated speeds in the proposed  
12 project area.

13 (5) If the commission denies an application for a grant based on a  
14 challenge and the provider which submitted the challenge does not provide  
15 broadband Internet service to the proposed project area within eighteen  
16 months, the provider shall not challenge any grant for the following two  
17 fiscal years unless the failure is due to factors beyond the provider's  
18 control.

19 Sec. 8. (1) For each fiscal year, the commission shall approve  
20 grant funding for all qualified applicants within the limits of available  
21 appropriations.

22 (2) As a condition of accepting a grant under the program, the  
23 applicant shall agree to provide broadband Internet service in the  
24 project area until released from the applicant's commitment by the  
25 commission.

26 (3) The commission shall not add to the obligations required of a  
27 grant recipient after the grant is awarded without the consent of the  
28 grant recipient.

29 (4) The maximum grant amount awarded under the program with respect  
30 to any single project shall be five million dollars.

31 Sec. 9. (1) The Nebraska Broadband Bridge Fund is created. The fund

1 shall consist of money appropriated by the Legislature and federal funds  
2 received for broadband enhancement purposes. The commission shall  
3 administer the fund and use the fund to finance grants for qualifying  
4 projects under the Nebraska Broadband Bridge Act and for expenses of the  
5 commission as appropriated by the Legislature for administering the fund.  
6 Any federal funds which are used for purposes of the act shall be in  
7 addition to the state General Funds appropriated for purposes of the act.  
8 Such federal funds shall not be used as a substitution for any such state  
9 General Funds.

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

14 Sec. 10. The commission may adopt and promulgate rules and  
15 regulations to carry out the Nebraska Broadband Bridge Act.

16 Sec. 11. Since an emergency exists, this act takes effect when  
17 passed and approved according to law.