

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIFTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 994**

Introduced by Friesen, 34.

Read first time January 11, 2018

Committee:

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

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

1           Section 1. The Legislature finds and declares that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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