

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 26

Introduced by Wayne, 13.

Read first time January 05, 2023

Committee:

- 1 A BILL FOR AN ACT relating to municipalities; to amend section 86-594,
- 2 Revised Statutes Cumulative Supplement, 2022; to adopt the Rural
- 3 Municipal Broadband Access Act; to harmonize provisions; to provide
- 4 a duty for the Revisor of Statutes; and to repeal the original
- 5 section.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 9 of this act shall be known and may be
2 cited as the Rural Municipal Broadband Access Act.

3 Sec. 2. The Legislature finds that many rural municipalities lack
4 access to quality broadband services and Internet services, despite
5 significant private, local, state, and federal investment in the
6 development of broadband in Nebraska.

7 Sec. 3. For purposes of the Rural Municipal Broadband Access Act:

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

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

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

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

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

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

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

27 Sec. 4. (1) Beginning January 1, 2024, a municipality may provide
28 broadband services or Internet services on a retail or wholesale basis
29 within the corporate limits and extraterritorial zoning jurisdiction of
30 such municipality if such municipality is located in an underserved area
31 or unserved area and meets the requirements of the Rural Municipal

1 Broadband Access Act.

2 (2) A municipality may initiate the process of developing a
3 broadband network by conducting a feasibility study and ordering the
4 preparation of a resolution of intent to develop such broadband network
5 in accordance with section 5 of this act by a vote of the majority of the
6 members of the governing body of the municipality.

7 Sec. 5. (1) The proposed resolution of intent to develop a
8 broadband network described in section 4 of this act shall contain and
9 set forth the following:

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

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

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

18 (d) A comparison of the rates charged by existing providers for
19 broadband services or Internet services within the corporate limits or
20 extraterritorial zoning jurisdiction of the municipality to rates charged
21 in comparably sized municipalities in Nebraska and neighboring states;
22 and

23 (e) A description of any local, state, or federal funds known by the
24 municipality to have been received by any existing provider to expand or
25 supplement the provision of broadband services or Internet services,
26 including funds from the Nebraska Telecommunications Universal Service
27 Fund and funds under the Nebraska Broadband Bridge Act.

28 (2) If the resolution of intent contains any description as set
29 forth in subdivision (1)(c) of this section, the resolution of intent
30 shall describe the efforts by the municipality to inform any such
31 existing provider of the existing provider's acts and omissions and shall

1 describe the opportunities afforded the existing provider to remedy the
2 stated defects.

3 Sec. 6. (1) The feasibility study and proposed resolution of intent
4 to develop a broadband network shall be presented to the governing body
5 of the municipality at a regular meeting of such governing body. At that
6 meeting, the governing body may adopt the resolution of intent and, if it
7 does so, shall set a date for holding a public hearing, which shall be at
8 least forty-five days after the date of the meeting at which the
9 resolution of intent was adopted.

10 (2) Upon the adoption of a resolution of intent, the city clerk or
11 village clerk of the municipality shall transmit a copy of the
12 feasibility study and resolution of intent and notice of the date and
13 time of the public hearing to any existing providers by certified mail,
14 return receipt requested, within seven days after the meeting at which
15 the resolution of intent was adopted.

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

20 (4) At the public hearing, any existing provider shall be permitted
21 to respond to the contents of the feasibility study, the statements set
22 out in the resolution of intent, and any comments made at the public
23 hearing.

24 Sec. 7. After the public hearing held pursuant to section 6 of this
25 act, the governing body of the municipality may:

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

29 (2) By a majority vote of its members, submit the question of
30 whether to develop a broadband network within the corporate limits and
31 extraterritorial zoning jurisdiction of the municipality to the

1 registered voters of the municipality as provided in section 8 of this
2 act.

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

10 Shall the city or village of (name of city or village) develop a
11 broadband network under the Rural Municipal Broadband Access Act to
12 provide broadband services or Internet services on a retail or wholesale
13 basis within the corporate limits and extraterritorial zoning
14 jurisdiction of the city or village?

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

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

26 Sec. 9. (1) A municipality which develops a broadband network under
27 the Rural Municipal Broadband Access Act shall ensure that such broadband
28 network provides access to the Internet at speeds of one hundred megabits
29 per second or greater for downloading and one hundred megabits per second
30 or greater for uploading.

31 (2) A municipality shall not develop a broadband network under the

1 Rural Municipal Broadband Access Act on or after January 1, 2034, except
2 that a municipality may continue to provide broadband services or
3 Internet services after such date using any broadband network developed
4 by such municipality prior to January 1, 2034.

5 Sec. 10. Section 86-594, Revised Statutes Cumulative Supplement,
6 2022, is amended to read:

7 86-594 (1) Except as provided in the Educational Service Units Act,
8 the Rural Municipal Broadband Access Act, and sections 79-1319,
9 81-1120.01 to 81-1120.28, 85-401 to 85-411, 85-1501 to 85-1542, and
10 86-575, an agency or political subdivision of the state that is not a
11 public power supplier shall not provide on a retail or wholesale basis
12 any broadband services, Internet services, telecommunications services,
13 or video services.

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

17 Sec. 11. The Revisor of Statutes shall assign sections 1 to 9 of
18 this act to Chapter 19.

19 Sec. 12. Original section 86-594, Revised Statutes Cumulative
20 Supplement, 2022, is repealed.