

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 338

Introduced by Bostelman, 23.

Read first time January 13, 2021

Committee:

- 1 A BILL FOR AN ACT relating to telecommunications and technology; to amend
- 2 sections 86-330 and 86-1102, Revised Statutes Cumulative Supplement,
- 3 2020; to change provisions relating to universal service funding for
- 4 unserved or underserved exchanges; to provide for community-based
- 5 plans as prescribed; to provide duties for the Public Service
- 6 Commission; to harmonize provisions; and to repeal the original
- 7 sections.
- 8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 86-330, Revised Statutes Cumulative Supplement,
2 2020, is amended to read:

3 86-330 (1) Based on consumer complaints or upon its own motion, the
4 Public Service Commission may open a docket to consider the
5 implementation and operation of a funding redirection ~~reverse auction~~
6 program that awards funding to broadband Internet service providers to
7 support high-speed Internet infrastructure deployment projects in
8 unserved or underserved exchanges within the State of Nebraska. The
9 commission may, in its discretion, withhold funding from the Nebraska
10 Telecommunications Universal Service Fund to any telecommunications
11 company that has not served, to the commission's satisfaction, those
12 areas with service that meets the criteria for successful investment of
13 funding from the Nebraska Telecommunications Universal Service Fund.

14 (2) The commission shall adopt and promulgate rules and regulations
15 that establish standards governing the withholding of funding from the
16 Nebraska Telecommunications Universal Service Fund from any recipient,
17 including the provision of notice and the right to a hearing prior to the
18 issuance of an order withdrawing such funding. If the commission
19 withdraws funding from the Nebraska Telecommunications Universal Service
20 Fund from any telecommunications company, the commission may redirect ~~use~~
21 the funding that is withdrawn to another eligible telecommunications
22 company ~~implement and operate a reverse auction program~~, except that any
23 funding that is withdrawn shall be utilized in the exchange area for
24 which the funding was originally granted. The commission shall have wide
25 discretion in the design, implementation, and operation of a funding
26 redirection ~~reverse auction~~ program but may use as a guide the reverse
27 auction program designed by the Federal Communications Commission in its
28 Connect America Fund Phase II Auction process.

29 (3)(a) For purposes of this subsection, community-based plans means
30 a proposal for redirecting support under subsection (2) of this section
31 made by residential and business users of telecommunications and

1 broadband services in the exchange area.

2 (b) The commission may consider community-based plans for
3 redirection of support that has been withheld from an eligible
4 telecommunications company. To qualify for commission consideration, a
5 community-based plan shall include an eligible telecommunications
6 company.

7 (c) The commission shall consider community-based plans based on the
8 following scoring criteria:

9 (i) The history of the participating eligible telecommunications
10 company in providing quality and affordable telecommunications and
11 broadband services in rural areas;

12 (ii) The capability of the eligible telecommunications company to
13 use the proposed technology to provide broadband services to every
14 location in the exchange area on a reasonably comparable basis;

15 (iii) The support of local businesses, hospitals, schools, colleges,
16 agricultural producers, and residents;

17 (iv) Other sources of funding;

18 (v) Partnerships and other cooperative arrangements with local
19 public power providers;

20 (vi) Partnerships and other cooperative arrangements with local
21 wireless Internet service providers; and

22 (vii) Cooperation by the incumbent local exchange carrier from which
23 support has been withheld.

24 (d) In entering an order redirecting support, the commission shall
25 establish a timeline for deployment that includes periodic milestones for
26 ensuring timely deployment and shall require the eligible
27 telecommunications company to file reports sufficient to assess
28 compliance with deployment milestones.

29 (e) The commission shall adopt and promulgate rules and regulations
30 to carry out this subsection.

31 Sec. 2. Section 86-1102, Revised Statutes Cumulative Supplement,

1 2020, is amended to read:

2 86-1102 (1) The Rural Broadband Task Force is hereby created. Task
3 force members shall include the chairperson of the Transportation and
4 Telecommunications Committee of the Legislature and a member of the
5 Legislature selected by the Executive Board of the Legislative Council
6 who shall both serve as nonvoting, ex officio members, a member of the
7 Public Service Commission who shall be selected by the chairperson of
8 such commission, the chairperson of the Nebraska Information Technology
9 Commission or his or her designee who shall act as chairperson of the
10 task force, the Director of Economic Development or his or her designee,
11 the Director of Agriculture or his or her designee, and the following
12 members to be appointed by the Governor: A representative of the
13 agribusiness community, a representative of the Nebraska business
14 community, a representative of the regulated wireline telecommunications
15 industry, a representative of the wireless telecommunications industry, a
16 representative of the public power industry, a representative of health
17 care providers, a representative of Nebraska postsecondary educational
18 institutions, and a representative of rural schools offering kindergarten
19 through grade twelve. The members appointed by the Governor shall serve
20 for a term of two years and may be reappointed.

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

31 (3) The Nebraska Information Technology Commission shall provide

1 staff assistance to the task force in consultation with staff from the
2 Public Service Commission and other interested parties. The task force
3 may hire consultants to assist in carrying out its duties. The task force
4 shall review issues relating to availability, adoption, and affordability
5 of broadband services in rural areas of Nebraska. In particular, the task
6 force shall:

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

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

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

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

23 (e) Recommend state policies to effectively utilize state universal
24 service fund dollars to leverage federal universal service fund support
25 and other federal funding;

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

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

1 (4) Task force members shall serve on the task force without
2 compensation but shall be entitled to receive reimbursement for expenses
3 incurred for such service as provided in sections 81-1174 to 81-1177.

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

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

15 Sec. 3. Original sections 86-330 and 86-1102, Revised Statutes
16 Cumulative Supplement, 2020, are repealed.