

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 63

Introduced by Bostar, 29.

Read first time January 05, 2023

Committee: Transportation and Telecommunications

- 1 A BILL FOR AN ACT relating to the Nebraska Telecommunications Universal
- 2 Service Fund Act; to amend sections 86-324 and 86-328, Revised
- 3 Statutes Cumulative Supplement, 2022; to withhold universal service
- 4 support from telecommunications companies using certain equipment or
- 5 services identified as posing a national security threat as
- 6 prescribed; 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 86-324, Revised Statutes Cumulative Supplement,
2 2022, is amended to read:

3 86-324 (1) The Nebraska Telecommunications Universal Service Fund is
4 hereby created. The fund shall provide the assistance necessary to make
5 universal access to telecommunications services available to all persons
6 in the state consistent with the policies set forth in the Nebraska
7 Telecommunications Universal Service Fund Act. Only eligible
8 telecommunications companies designated by the commission shall be
9 eligible to receive support to serve high-cost areas from the fund. A
10 telecommunications company that receives such support shall use that
11 support only for the provision, maintenance, and upgrading of facilities
12 and services for which the support is intended. Any such support should
13 be explicit and sufficient to achieve the purpose of the act.

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

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

25 (b) Shall have authority and power to issue orders carrying out its
26 responsibilities and to review the compliance of any eligible
27 telecommunications company receiving support for continued compliance
28 with any such orders or regulations adopted pursuant to the act;

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

1 (d)(i) Beginning January 1, 2025, shall withhold support distributed
2 from the fund from any telecommunications company using or providing any
3 communications equipment or service deemed to pose a threat to national
4 security identified on the Covered List developed pursuant to 47 C.F.R.
5 1.50002, as such regulation existed on January 1, 2023, and published by
6 the Public Safety and Homeland Security Bureau of the Federal
7 Communications Commission pursuant to the federal Secure and Trusted
8 Communications Networks Act of 2019, 47 U.S.C. 1601(a), and the rules
9 adopted pursuant to such act by the Federal Communications Commission on
10 November 11, 2022, in its Report and Order FCC 22-84, as such act and
11 rules existed on January 1, 2023.

12 (ii) Any telecommunications company that removes, discontinues, or
13 replaces any communications equipment or service identified on the
14 Covered List described in subdivision (2)(d)(i) of this section in
15 compliance with federal law shall not be required to obtain any
16 additional permits or authorization from any state agency or political
17 subdivision in the removal, discontinuance, or replacement of such
18 communications equipment or service;

19 (e) ~~(d)~~ Shall require every telecommunications company to contribute
20 to any universal service mechanism established by the commission pursuant
21 to state law. The commission shall require, as reasonably necessary, an
22 annual audit of any telecommunications company to be performed by a
23 third-party certified public accountant to insure the billing,
24 collection, and remittance of a surcharge for universal service. The
25 costs of any audit required pursuant to this subdivision shall be paid by
26 the telecommunications company being audited;

27 (f) ~~(e)~~ Shall require an audit of information provided by a
28 telecommunications company to be performed by a third-party certified
29 public accountant for purposes of calculating universal service fund
30 payments to such telecommunications company. The costs of any audit
31 required pursuant to this subdivision shall be paid by the

1 telecommunications company being audited; and

2 (g) ~~(f)~~ May administratively fine pursuant to section 75-156 any
3 person who violates the Nebraska Telecommunications Universal Service
4 Fund Act.

5 (3) Any money in the fund available for investment shall be invested
6 by the state investment officer pursuant to the Nebraska Capital
7 Expansion Act and the Nebraska State Funds Investment Act.

8 (4) Transfers may be made from earnings on the Nebraska
9 Telecommunications Universal Service Fund to the 211 Cash Fund at the
10 direction of the Legislature. The State Treasurer shall transfer nine
11 hundred fifty-five thousand dollars on July 1 beginning in 2022 from the
12 earnings on the Nebraska Telecommunications Universal Service Fund to the
13 211 Cash Fund.

14 Sec. 2. Section 86-328, Revised Statutes Cumulative Supplement,
15 2022, is amended to read:

16 86-328 (1) Annually the commission shall hold a public hearing to
17 determine the level of the fund necessary to carry out the Nebraska
18 Telecommunications Universal Service Fund Act. The commission shall
19 publish notice of the hearing in at least one newspaper of general
20 circulation in the state at least once each week for two consecutive
21 weeks before the hearing. After the hearing, the commission shall
22 determine the amount of the fund for the following year, including a
23 reasonable reserve. In the initial year of the fund's operation, the
24 commission shall determine the amount of the fund to be equivalent to the
25 amount which, in the commission's judgment, after careful analysis, is
26 necessary to keep approximately ninety-six percent of Nebraska households
27 subscribed to local telecommunications service.

28 (2) In an emergency as determined by the commission, the commission
29 may adjust the level of the fund, but only after a public hearing for
30 such purpose.

31 (3) For purposes of service by a prepaid wireless telecommunications

1 service provider, universal service fund contribution and surcharge
2 obligations shall be governed by the Prepaid Wireless Surcharge Act,
3 except that a prepaid wireless telecommunications service provider shall
4 continue to be subject to the audit requirements in subdivision (2)(e)
5 ~~(2)(d)~~ of section 86-324.

6 Sec. 3. Original sections 86-324 and 86-328, Revised Statutes
7 Cumulative Supplement, 2022, are repealed.