

## LEGISLATIVE BILL 683

Approved by the Governor May 26, 2023

Introduced by Transportation and Telecommunications Committee: Geist, 25,  
Chairperson; Bostelman, 23; Brandt, 32; DeKay, 40; Moser, 22.

A BILL FOR AN ACT relating to infrastructure; to amend sections 39-2805, 66-4,100, 81-502.03, and 86-125, Reissue Revised Statutes of Nebraska, and sections 76-2301, 76-2303, 76-2323, 76-2325, 86-324, 86-328, 86-331, 86-333, 86-1103, 86-1241, 86-1304, 86-1309, and 86-1312, Revised Statutes Cumulative Supplement, 2022; to change provisions relating to the County Bridge Match Program, the Highway Cash Fund, and the Roads Operation Cash Fund; to provide duties for the Department of Transportation; to define terms; to change provisions of the One-Call Notification System Act and provide duties for the State Fire Marshal; to create the Underground Excavation Safety Committee; to provide for a civil penalty; to adopt the Rural Communications Sustainability Act; to change provisions relating to a registration filed by a communications provider and the Nebraska Telecommunications Universal Service Fund; to create the Nebraska Broadband Office and provide duties; to require a report; to change provisions relating to a broadband access map, the state broadband coordinator, the Nebraska Broadband Bridge Act, and the Small Wireless Facilities Deployment Act; to eliminate a report; to harmonize provisions; to repeal the original sections; to outright repeal section 76-2325.02, Revised Statutes Cumulative Supplement, 2022; and to declare an emergency.  
Be it enacted by the people of the State of Nebraska,

Section 1. Section 39-2805, Reissue Revised Statutes of Nebraska, is amended to read:

39-2805 (1) The County Bridge Match Program is created. The department shall administer the program using funds from the Transportation Infrastructure Bank Fund, except that no more than forty million dollars shall be expended for this program. The purpose of the program is to promote innovative solutions and provide additional funding to accelerate the repair and replacement of deficient bridges on the county road system. The department shall develop the program, including participation criteria and matching fund requirements for counties, in consultation with a statewide association representing county officials. Participation by counties in the program shall be voluntary. ~~The details of the program shall be presented to the Appropriations Committee and the Transportation and Telecommunications Committee of the Legislature on or before December 1, 2016.~~

(2) The County Bridge Match Program terminates on June 30, ~~2029~~ 2023.

Sec. 2. Section 66-4,100, Reissue Revised Statutes of Nebraska, is amended to read:

66-4,100 The Highway Cash Fund and the Roads Operations Cash Fund are hereby created. If bonds are issued pursuant to subsection (2) of section 39-2223, the balance of the share of the Highway Trust Fund allocated to the Department of Transportation and deposited into the Highway Restoration and Improvement Bond Fund as provided in subsection (6) of section 39-2215 and the balance of the money deposited in the Highway Restoration and Improvement Bond Fund as provided in section 39-2215.01 shall be transferred by the State Treasurer, on or before the last day of each month, to the Highway Cash Fund. If no bonds are issued pursuant to subsection (2) of section 39-2223, the share of the Highway Trust Fund allocated to the Department of Transportation shall be transferred by the State Treasurer on or before the last day of each month to the Highway Cash Fund.

The Legislature may direct the State Treasurer to transfer funds from the Highway Cash Fund to the Roads Operations Cash Fund. Both funds shall be expended by the department (1) for acquiring real estate, road materials, equipment, and supplies to be used in the construction, reconstruction, improvement, and maintenance of state highways, (2) for the construction, reconstruction, improvement, and maintenance of state highways, including grading, drainage, structures, surfacing, roadside development, landscaping, and other incidentals necessary for proper completion and protection of state highways as the department shall, after investigation, find and determine shall be for the best interests of the highway system of the state, either independent of or in conjunction with federal-aid money for highway purposes, (3) for the share of the department of the cost of maintenance of state aid bridges, (4) for planning studies in conjunction with federal highway funds for the purpose of analyzing traffic problems and financial conditions and problems relating to state, county, township, municipal, federal, and all other roads in the state and for incidental costs in connection with the federal-aid grade crossing program for roads not on state highways, (5) for tests and research by the department or proportionate costs of membership, tests, and research of highway organizations when participated in by the highway departments of other states, (6) for the payment of expenses and costs of the Board of Examiners for County Highway and City Street Superintendents as set forth in section 39-2310, (7) for support of the public transportation assistance program established

under section 13-1209 and the intercity bus system assistance program established under section 13-1213, ~~and~~ (8) for purchasing from political or governmental subdivisions or public corporations, pursuant to section 39-1307, any federal-aid transportation funds available to such entities, and (9) for furnishing the Nebraska Broadband Office with necessary office space, furniture, equipment, and supplies as well as providing administrative and budgetary support, including salaries for professional, technical, and clerical assistants, as provided in section 3 of this act.

Any money in the Highway Cash Fund and the Roads Operations Cash Fund not needed for current operations of the department shall, as directed by the Director-State Engineer to the State Treasurer, be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act, subject to approval by the board of each investment. All income received as a result of such investment shall be placed in the Highway Cash Fund.

Transfers may be made from the Roads Operations Cash Fund to the General Fund at the direction of the Legislature through June 30, 2019. The State Treasurer shall transfer seven million five hundred thousand dollars from the Roads Operations Cash Fund to the General Fund on or before June 30, 2018, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services. The State Treasurer shall transfer seven million five hundred thousand dollars from the Roads Operations Cash Fund to the General Fund on or after July 1, 2018, but on or before June 30, 2019, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services.

Sec. 3. (1) The Department of Transportation shall furnish the Nebraska Broadband Office with necessary office space, furniture, equipment, and supplies along with administrative and budgetary support, including salaries for professional, technical, and clerical assistants, except as limited in subsection (2) of this section. The Department of Transportation and the Nebraska Broadband Office shall, whenever practicable, seek reimbursement of such costs from federal-aid funds to the extent such costs are eligible for reimbursement.

(2) Broadband installation, operation, or maintenance projects of the Nebraska Broadband Office shall not be funded by the Department of Transportation, except as provided in subsection (3) of this section. Such restriction shall not apply to any fund or appropriation of the Legislature that has been specifically designated for projects of the Nebraska Broadband Office.

(3) The Department of Transportation may use state highway funds for projects to install, operate, and maintain fiber optic, broadband, or other similar technology infrastructure on state highway property solely to meet the state's present and future transportation technology needs along the state highway system. The department is further authorized to enter into public-private partnerships or to use other alternative project delivery methods set out in the Transportation Innovation Act. The department is authorized to work with the Nebraska Broadband Office for such projects and to seek or solicit the use of eligible federal highway funds to pay some or all of the state's costs for such projects. Nothing in this subsection authorizes the department to own, operate, manage, construct, or maintain fiber optic, broadband, or other similar technology outside of state highway property.

Sec. 4. Section 76-2301, Revised Statutes Cumulative Supplement, 2022, is amended to read:

76-2301 Sections 76-2301 to 76-2332 and sections 6, 8, and 10 of this act shall be known and may be cited as the One-Call Notification System Act.

Sec. 5. Section 76-2303, Revised Statutes Cumulative Supplement, 2022, is amended to read:

76-2303 For purposes of the One-Call Notification System Act, the definitions found in sections 76-2303.01 to 76-2317 and section 6 of this act shall be used.

Sec. 6. Committee means the Underground Excavation Safety Committee.

Sec. 7. Section 76-2323, Revised Statutes Cumulative Supplement, 2022, is amended to read:

76-2323 (1) Upon receipt of the information contained in the notice pursuant to section 76-2321, an operator shall advise the excavator of the approximate location of underground facilities in the area of the proposed excavation by marking or identifying the location of the underground facilities with stakes, flags, paint, or any other clearly identifiable marking or reference point and shall indicate if the underground facilities are subject to section 76-2331. The location of the underground facility given by the operator shall be within a strip of land eighteen inches on either side of the marking or identification plus one-half of the width of the underground facility. If in the opinion of the operator the precise location of a facility cannot be determined and marked as required, the operator shall provide all pertinent information and field locating assistance to the excavator at a mutually agreed to time. The location shall be marked or identified using color standards prescribed by the center. The operator shall respond no later than two business days after receipt of the information in the notice or at a time mutually agreed to by the parties.

(2) The marking or identification shall be done in a manner that will last for a minimum of five business days on any nonpermanent surface and a minimum of ten business days on any permanent surface. If the excavation will continue for longer than five business days, the operator shall remark or reidentify the

location of the underground facility upon the request of the excavator. The request for remarking or reidentification shall be made through the center.

(3)(a) Beginning September 1, 2024, it shall be a violation of the One-Call Notification System Act for an excavator to (i) serve notice of intent to excavate upon the center for an area in which the excavation cannot be reasonably commenced within seventeen calendar days after the excavation start date indicated pursuant to section 76-2321 or (ii) request remarking or reidentification for any area in which the excavation cannot be reasonably commenced or continued within fourteen calendar days after the date remarking or reidentification is completed.

(b) After receiving notice of any alleged violation of this subsection pursuant to subsection (2) of section 76-2325, the excavator shall in its answer describe the circumstances which prevented the commencement or continuation of excavation within the timeframes set forth in this subsection.

(4) ~~(3)~~ An operator who determines that such operator does not have any underground facility located in the area of the proposed excavation shall notify the center of the determination prior to the date of commencement of the excavation, or prior to two full business days after transmittal of the ticket, whichever occurs sooner. All ticket responses made under this subsection shall be transmitted to the operator and excavator by the center.

Sec. 8. (1) Beginning September 1, 2024, the Underground Excavation Safety Committee is created. The committee shall consist of the following members: (a) The State Fire Marshal or the State Fire Marshal's designee, (b) three representatives of operators, (c) three representatives of excavators, and (d) one alternate representative of operators and one alternate representative of excavators. An alternate representative described in subdivision (d) of this subsection shall only participate in a committee meeting if a corresponding representative described in subdivision (b) or (c) of this subsection has declared a conflict of interest and recused himself or herself from participation in a matter before the committee or is otherwise unavailable for a committee meeting. In such instance, the chairperson shall notify the alternate representative to serve in the place of the recused or absent representative for any meeting related to such particular conflict or for the duration of such absence.

(2) The representative members shall be appointed by the Governor. The Governor shall appoint one of the three initial representatives of operators described in subdivision (1)(b) of this section, one of the three initial representatives of excavators described in subdivision (1)(c) of this section, and both alternate representatives described in subdivision (1)(d) of this section for two-year terms. The other initial representatives shall be appointed for four-year terms. All succeeding terms shall be for four years. A representative member may be reappointed at the end of such member's term. If there is a vacancy on the committee, the Governor shall appoint a member to serve the remainder of the unexpired term of the vacating member. All representative members shall be subject to approval by the Legislature.

(3) The committee shall select from among its members a chairperson. The committee shall not select an alternate representative to serve as chairperson. The committee shall govern its procedures pursuant to rules and regulations adopted and promulgated by the State Fire Marshal. No representative member shall receive any compensation for services rendered as a member of the committee but may be reimbursed for expenses as provided in sections 81-1174 to 81-1177.

(4) The committee shall meet not less than monthly and also at such other times and at such places as may be established by the chairperson. The committee may meet by videoconference with approval of a majority of the committee members. Any action taken by the committee shall require a majority vote of the members.

(5)(a) The committee shall (i) review investigations completed pursuant to subdivision (2)(a) of section 76-2325, (ii) determine based on such review whether any person has committed any violation described in subdivision (2)(b) of section 76-2325, and (iii) determine the appropriate civil penalty, if any, to be assessed for such violation consistent with subdivision (2)(b)(ii) of section 76-2325.

(b) No member of the committee who participated in an investigation conducted under subdivision (2)(a) of section 76-2325 shall participate in a hearing upon any question in which such member or any business with which such member is associated is a party.

Sec. 9. Section 76-2325, Revised Statutes Cumulative Supplement, 2022, is amended to read:

76-2325 (1) Until September 1, 2024:

(a) Any person who violates section 76-2320, 76-2320.01, 76-2320.02, 76-2321, 76-2322, 76-2323, 76-2326, 76-2330, or 76-2331 shall be subject to a civil penalty as follows:

(i) ~~(a)~~ For a violation by an excavator or an operator related to a gas or hazardous liquid underground pipeline facility or a fiber optic telecommunications facility, an amount not to exceed ten thousand dollars for each violation for each day the violation persists, up to a maximum of five hundred thousand dollars; and

(ii) ~~(b)~~ For a violation by an excavator or an operator related to any other underground facility, an amount not to exceed five thousand dollars for each day the violation persists, up to a maximum of fifty thousand dollars; and

(b) ~~(2)~~ An action to recover a civil penalty shall be brought by the

Attorney General or a prosecuting attorney on behalf of the State of Nebraska in any court of competent jurisdiction of this state. The trial shall be before the court, which shall consider the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, the absence or existence of prior violations, whether the violation was a willful act, any good faith attempt to achieve compliance, and such other matters as justice may require in determining the amount of penalty imposed. All penalties shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

(2) Beginning September 1, 2024:

(a)(i) When the State Fire Marshal has reason to believe that any person has committed any violation described in subdivision (b) of this subsection, the State Fire Marshal may conduct an investigation to determine the facts and circumstances of such alleged violation and, if conducted, shall give prior notice of such investigation by first-class mail or electronic mail to such person.

(ii) When any person other than the State Fire Marshal has reason to believe that any violation described in subdivision (b) of this subsection has occurred, such person may submit information to the State Fire Marshal regarding such violation on a form prescribed by the State Fire Marshal. Upon receipt of such information, the State Fire Marshal may conduct an investigation to determine the facts and circumstances of such alleged violation and, if conducted, shall give prior notice of such investigation by first-class mail or electronic mail to both the person being investigated and the person who submitted the information to the State Fire Marshal.

(iii) The State Fire Marshal shall refer the findings of the investigation to the committee for its determination. Except as otherwise provided in subdivision (2)(a)(iv) of this section, the committee shall issue a written determination stating findings of fact, conclusions of law, and the civil penalty, if any, to be assessed for such violation and serve a copy of the written determination by personal service or by certified mail, return receipt requested, upon such person. If the State Fire Marshal's investigation was commenced based on information provided pursuant to subdivision (2)(a)(ii) of this section, a copy of the written determination shall also be delivered by first-class mail to the person providing such information.

(iv) If the committee determines that the civil penalty to be assessed for any violation exceeds the amount described in subdivision (2)(b)(iv) of this section, the committee shall refer the matter, together with the State Fire Marshal's findings and the committee's written determination, to the Attorney General for prosecution pursuant to subdivision (2)(b)(v) of this section.

(v) Not later than thirty days after receipt of the committee's written determination, any party may submit a written request to the State Fire Marshal for a hearing on the matter. The committee shall then appoint a hearing officer to conduct such hearing and set a hearing date and provide written notice of hearing to the parties at least thirty days prior to the date of the hearing. Such notice shall contain the name, address, and telephone number of the hearing officer, a copy of the written determination upon which the hearing shall be held, and the date, time, and place of hearing. The notice of hearing may be served by personal service or by certified mail. If no hearing is requested in answer to the written determination by the person found to have committed any violation as described in subdivision (b) of this subsection, or if a request for a hearing is withdrawn, such person shall pay any civil penalty assessed within thirty days after receipt of the written determination or within thirty days after cancellation of the hearing, whichever is applicable.

(vi) In the preparation and conduct of the hearing, the hearing officer shall have the power, on the hearing officer's own motion or upon the request of any party, to compel the attendance of any witness and the production of any documents by subpoena to ensure a fair hearing. The hearing officer may administer oaths and examine witnesses and receive any evidence pertinent to the determination of the matter. Any witnesses so subpoenaed shall be entitled to the same fees as prescribed by law in judicial proceedings in the district court of this state in a civil action and mileage at the same rate provided in section 81-1176 for state employees.

(vii) A party may appear at the hearing with or without the assistance of counsel to present testimony, examine witnesses, and offer evidence. A stenographic record of all testimony and other evidence received at the hearing shall be made and preserved pending final disposition of the matter.

(viii) Unless all requests for hearing are withdrawn prior to the hearing, following the hearing the hearing officer shall prepare written findings of fact and conclusions of law, and based on such findings of fact and conclusions of law, the committee shall affirm, modify, or reverse the written determination issued under subdivision (2)(a)(iii) of this section and issue a final order. The committee's final order may include an assessment of costs incurred in conducting the hearing, including the costs of the hearing officer and compelling the attendance of witnesses, and assess such costs against the parties. Any party aggrieved by the final order of the committee may appeal the decision, and such appeal shall be in accordance with the Administrative Procedure Act; and

(b)(i) Except as provided in subdivision (2)(b)(ii) of this section, any person who violates section 76-2320, 76-2320.01, 76-2320.02, 76-2321, 76-2322, 76-2323, 76-2326, 76-2330, or 76-2331 or any rule or regulation adopted and

promulgated by the State Fire Marshal pursuant to section 76-2319 shall be subject to a civil penalty as follows:

(A) For a violation by an excavator or an operator related to a gas or hazardous liquid underground pipeline facility or a fiber optic telecommunications facility, an amount not to exceed ten thousand dollars for each violation for each day the violation persists, up to a maximum of five hundred thousand dollars; and

(B) For a violation by an excavator or an operator related to any other underground facility, an amount not to exceed five thousand dollars for each day the violation persists, up to a maximum of fifty thousand dollars.

(ii) In addition to or in lieu of assessing a civil penalty as provided in subdivision (i) of this subsection, the committee may order that a violator take and complete continuing education regarding compliance with the One-Call Notification System Act. Such continuing education shall be approved by the State Fire Marshal.

(iii) When imposing a civil penalty, the committee shall consider the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, the absence or existence of prior violations, whether the violation was a willful act, any good faith attempt to achieve compliance, and such other matters as justice may require.

(iv) The committee shall not assess a civil penalty that is more than ten thousand dollars per violation. The violator shall pay the costs of the investigation as billed by the State Fire Marshal. The State Fire Marshal shall remit such paid costs to the State Treasurer for credit to the fund from which the costs were expended.

(v) As provided in subdivision (2)(a)(iv) of this section, for any investigation in which a civil penalty in excess of the amount described in subdivision (2)(b)(iv) of this section is deemed justified by the committee, the committee shall refer such matter to the Attorney General or a prosecuting attorney who shall bring an action on behalf of the State of Nebraska to recover such penalty in any court of competent jurisdiction of this state. The trial shall be before the court, which shall consider the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, the absence or existence of prior violations, whether the violation was a willful act, any good faith attempt to achieve compliance, and such other matters as justice may require in determining the amount of penalty imposed.

(vi) Costs incurred by the investigation conducted pursuant to subdivision (2)(a) of this section may be sought as part of any judgment against a violator. The State Fire Marshal shall remit any such recovered costs to the State Treasurer for credit to the fund from which the costs were expended.

(vii) All civil penalties collected pursuant to this subsection shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Sec. 10. The State Fire Marshal shall adopt and promulgate rules and regulations to carry out section 8 of this act and subsection (2) of section 76-2325, including general rules of practice and procedure relating to the committee, training requirements for investigators, and rules governing the investigation process.

Sec. 11. Section 81-502.03, Reissue Revised Statutes of Nebraska, is amended to read:

81-502.03 (1) In case of disagreement concerning the propriety of any action taken or proposed to be taken by the State Fire Marshal or the application of any statute, rule, or regulation under the jurisdiction of the of his or her office with respect to any establishment or installation, the State Fire Marshal may, and upon application of any party in interest, shall provide for a hearing before the Nebraska Fire Safety Appeals Board in the county of the establishment or installation which is the subject of the disagreement. At least ten days' written notice shall be given to the governing body responsible for the establishment or installation involved and to any public official having jurisdiction. The board shall make a decision based upon the evidence brought forth in the hearing and issue its order accordingly. Prior to ordering any political or governmental subdivision of the State of Nebraska to make any modification in the design or construction of any public building or any modification in the location, installation, or operation of any existing equipment in any public building or to replace such equipment, the State Fire Marshal, his or her first assistant, or one of his or her deputies shall personally appear at a regular meeting of the governing board of such subdivision and present a written report stating the condition of such building or equipment and the reason why such building should be modified or such equipment should be modified or replaced, and a copy of such report shall be attached to the order. Nothing in this section shall prevent the State Fire Marshal from ordering necessary repairs, and nothing in sections 81-502.01 to 81-502.03 shall prevent the State Fire Marshal, when actual and immediate danger to life exists, from ordering and requiring the occupants to vacate a building or structure subject to his or her jurisdiction.

(2) This section shall not apply to any decision, determination, or other action taken or made by the State Fire Marshal or the Underground Excavation Safety Committee under the One-Call Notification System Act.

Sec. 12. Sections 12 to 18 of this act shall be known and may be cited as the Rural Communications Sustainability Act.

Sec. 13. It is hereby declared to be the policy of this state to ensure

that all Nebraskans have access to affordable and reliable communications services in rural high-cost areas, and to ensure the long-term sustainability of infrastructure necessary to preserve such access.

Sec. 14. For purposes of the Rural Communications Sustainability Act:

(1) Broadband deployment program means a federal or state program authorizing payment of public funds for the purpose of deployment of communications infrastructure;

(2) Commission means the Public Service Commission;

(3) Communications infrastructure means infrastructure, facilities, and equipment capable of providing broadband or telecommunications services;

(4) Competitive provider means a communications provider as defined in section 86-125, including, but not limited to, lawfully franchised cable providers and competitive local exchange carriers in a local exchange area;

(5) Deployment project area means a contiguous geographic area consisting of locations serviceable by broadband or telecommunications services determined by the granting agency for a project funded under a broadband deployment program. A deployment project area may consist of geographical areas in more than one local exchange area;

(6) Eligible telecommunications carrier has the same meaning as in section 86-134;

(7) Granting agency means any state agency or political subdivision of the state which has authority to award, grant, direct, or redirect public funds under a broadband deployment program;

(8) Incumbent carrier means an incumbent carrier in a local exchange area as defined by rules and regulations adopted and promulgated by the commission; and

(9) Local exchange area has the same meaning as in section 86-115.

Sec. 15. When determining a deployment project area, the granting agency shall collaborate with the Nebraska Broadband Office and the commission to ensure compliance with the Rural Communications Sustainability Act.

Sec. 16. After a granting agency makes final payment of public funds under a broadband deployment program to a competitive provider in a deployment project area that is part of a local exchange area served by an incumbent carrier, upon request by the incumbent carrier the commission shall:

(1) Upon finding that the granting agency has determined the competitive provider is in compliance with all requirements of the broadband deployment program, relieve the incumbent carrier of eligible telecommunications carrier obligations and carrier of last resort obligations in the deployment project area;

(2) Consistent with rules of procedure adopted and promulgated by the commission, make determinations related to allocations and distributions of support from the Nebraska Telecommunications Universal Service Fund for the deployment project area; and

(3) In coordination with the Federal Communications Commission, and in consultation with the incumbent carrier and the competitive provider, determine whether eligible telecommunications carrier and carrier of last resort obligations corresponding with support from the Nebraska Telecommunications Universal Service Fund in the deployment project area should be transferred to the competitive provider.

Sec. 17. In carrying out the Rural Communications Sustainability Act, the commission shall not:

(1) Require a competitive provider to accept or receive support from the Nebraska Telecommunications Universal Service Fund;

(2) Impose eligible telecommunications carrier responsibilities or carrier of last resort obligations relating to the Nebraska Telecommunications Universal Service Fund Act on a competitive provider in any deployment project area where the incumbent carrier or competitive provider is not actually receiving support from the Nebraska Telecommunications Universal Service Fund; or

(3) Impose eligible telecommunications carrier responsibilities or carrier of last resort obligations on an incumbent carrier that are not in existence as of the date of final payment made pursuant to section 16 of this act.

Sec. 18. The commission may adopt and promulgate rules and regulations as necessary to carry out the Rural Communications Sustainability Act.

Sec. 19. Section 86-125, Reissue Revised Statutes of Nebraska, is amended to read:

86-125 Notwithstanding the provisions of section 86-124:

(1) Any ~~All~~ communications provider ~~providers~~ providing service in Nebraska shall file a registration form with and pay a registration fee to the Public Service Commission. ~~A communications provider which provides such service prior to August 1, 2007, and which continues to provide such service on and after August 1, 2007, shall register with the commission no later than January 1, 2008.~~ Any communications provider which begins to provide service in Nebraska on or after August 1, 2007, shall register with the commission prior to providing such service. The commission shall prescribe the registration form to be filed pursuant to this section;

(2) A communications provider providing the services described in The commission shall prescribe the registration form to be filed pursuant to this section. Communications providers as defined in subdivision (7)(a) ~~(8)(a)~~ of this section shall provide the commission with the ~~:-~~ (a) The name, address, telephone number, and email address of a contact person concerning:

(a) The ~~the~~ Nebraska Telecommunications Universal Service Fund Act and related surcharges, if applicable;

~~(b) The name, address, telephone number, and email address of a contact person concerning the Telecommunications Relay System Act and related surcharges, if applicable;~~

~~(c) The name, address, telephone number, and email address of a contact person concerning the Enhanced Wireless 911 Services Act and related surcharges, if applicable; and~~

~~(d) Consumer The name, address, telephone number, and email address of a contact person concerning consumer complaints and inquiries;~~

~~(3) A communications provider providing the services described in Communications providers as defined in subdivision (7)(b) (8)(b) of this section shall provide the commission with the name, address, telephone number, and email address of a person with managerial responsibility for Nebraska operations;~~

~~(4) A The communications provider shall:~~

~~(a) Submit submit a registration fee at the time of submission of the registration form. The commission shall set the fee in an amount sufficient to cover the costs of administering the registration process but not to exceed fifty dollars;~~

~~(b) Keep (5) The communications provider shall keep the information required by this section current and shall notify the commission of any changes to such information within sixty days after the change; and~~

~~(c) Certify to the commission by January 1 each year that such communications provider does not use or provide any communications equipment or service deemed to pose a threat to national security identified on the Covered List developed pursuant to 47 C.F.R. 1.50002, as such regulation existed on January 1, 2023, and published by the Public Safety and Homeland Security Bureau of the Federal Communications Commission pursuant to the federal Secure and Trusted Communications Networks Act of 2019, 47 U.S.C. 1601 et seq., as such act existed on January 1, 2023, and the rules adopted pursuant to such act by the Federal Communications Commission on November 11, 2022, in its Report and Order FCC 22-84;~~

~~(5) (6) The commission may, pursuant to section 75-156, administratively fine pursuant to section 75-156 any communications provider which violates this section;~~

~~(6) (7) This section applies to all communications providers providing service in Nebraska except for those communications providers otherwise regulated under the Nebraska Telecommunications Regulation Act; and~~

~~(7) (8) For purposes of this section, communications provider means any entity that:~~

~~(a) Uses telephone numbers or Internet protocol addresses or their functional equivalents or successors to provide information of a user's choosing by aid of wire, cable, wireless, satellite, or other like connection, whether part of a bundle of services or offered separately, (i) which provides or enables real-time or interactive voice communications and (ii) in which the voice component is the primary function; or~~

~~(b) Provides any service, whether part of a bundle of services or offered separately, used for transmission of information of a user's choosing regardless of the transmission medium or technology employed, that connects to a network that permits the end user to engage in electronic communications, including, but not limited to, service provided directly (i) to the public or (ii) to such classes of users as to be effectively available directly to the public.~~

Sec. 20. Section 86-324, Revised Statutes Cumulative Supplement, 2022, is amended to read:

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

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

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

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

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

(d) Shall withhold support distributed from the fund from any telecommunications company using or providing any communications equipment or service deemed to pose a threat to national security identified on the Covered List developed pursuant to 47 C.F.R. 1.50002, as such regulation existed on January 1, 2023, and published by the Public Safety and Homeland Security Bureau of the Federal Communications Commission pursuant to the federal Secure and Trusted Communications Networks Act of 2019, 47 U.S.C. 1601 et seq., as such act existed on January 1, 2023, and the rules adopted pursuant to such act by the Federal Communications Commission on November 11, 2022, in its Report and Order FCC 22-84. Any telecommunications company that removes, discontinues, or replaces any communications equipment or service identified on the Covered List described in this subdivision in compliance with federal law shall not be required to obtain any additional permits from any state agency or political subdivision in the removal, discontinuance, or replacement of such communications equipment or service as long as the state agency or political subdivision is properly notified of the necessary replacements and the replacement of any communications equipment is similar to the existing communications equipment;

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

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

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

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

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

Sec. 21. Section 86-328, Revised Statutes Cumulative Supplement, 2022, is amended to read:

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

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

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

Sec. 22. Section 86-331, Revised Statutes Cumulative Supplement, 2022, is amended to read:

86-331 (1) It is the intent of the Legislature to ensure that all federal, state, and local government funding for broadband infrastructure and services in Nebraska be leveraged strategically to ensure that all Nebraskans have access to affordable, reliable broadband services before January 1, 2028. To accomplish this intent, the Nebraska Broadband Office is created. The office shall be headed by the Director of Broadband. The director shall be appointed by and serve at the pleasure of the Governor with the approval of a majority of the Legislature. For administrative and budgetary purposes, the Nebraska Broadband Office shall be located in the Department of Transportation. All administrative and budgetary decisions for the Nebraska Broadband Office shall be made by the Director of Broadband.

(2) The Nebraska Broadband Office shall:

(a) Through active outreach, collaborate with officials at all levels of government and with stakeholders, which may include, but not be limited to, businesses and industries, community foundations, local governments, local or regional economic development organizations, schools, colleges, other educational entities, public libraries, health care institutions, financial institutions, agricultural producers, telecommunications providers, public power districts, electric cooperatives, nonprofit organizations, and other interested entities;

(b) Through such collaboration, develop a strategic plan that maximizes



the use of public and private resources and encourages innovative models for ownership of infrastructure that is used for both private and public purposes;

(c) Direct the coordination among state agencies, boards, and commissions on policy matters affecting use of federal or state funding for broadband infrastructure deployment, operation, and maintenance;

(d) Conduct state advocacy on broadband issues at the federal level, including the accuracy of federal mapping and speed data;

(e) Ensure that all governmental funding is utilized in a cost-effective and accountable manner for Nebraska broadband projects;

(f) Oversee the coordination of programs for broadband users, such as libraries and schools, and digital equity and inclusion projects;

(g) Provide resources and assistance for local and regional broadband planning; and

(h) Provide resources and information to the public through a website and other communication modes.

(3) If any final decision of the Nebraska Broadband Office relating to funding for broadband projects is appealed to district court, the appeal shall take precedence on the trial docket over all other cases and shall be assigned for hearing, trial, or argument at the earliest practicable date and expedited in every way.

(4)(a) On or before December 1 of each year, the Nebraska Broadband Office shall file with the Clerk of the Legislature an annual report on the status of broadband within the State of Nebraska. The report shall:

(i) Describe the status of all publicly administered broadband deployment programs, including the number of projects funded through October of the report year;

(ii) Describe the quality of broadband service being provided to Nebraska residents;

(iii) Provide any updates to the strategic plan developed under subdivision (2)(b) of this section;

(iv) Summarize the Nebraska Broadband Office's outreach efforts and collaboration with all interested stakeholders;

(v) Provide an update on efforts to promote digital equity and inclusion on behalf of Nebraska residents; and

(vi) Provide an update on state advocacy on broadband issues being conducted at the federal level.

(b) Upon receipt of such report, the Transportation and Telecommunications Committee of the Legislature shall hold a public hearing to allow an opportunity for public comment on the report.

~~(1) It is the intent of the Legislature to encourage local and regional broadband planning and to encourage public-private partnerships to enhance broadband services in unserved and underserved areas of the state.~~

~~(2) The position of state broadband coordinator is created. The position shall be located in the office of Chief Information Officer. The coordinator shall:~~

~~(a) Encourage each county or region comprising a group of counties to appoint a broadband coordinator to facilitate broadband planning and coordination;~~

~~(b) Encourage each county or region to work with groups of stakeholders, which may include, but not be limited to, businesses and industries, community foundations, local governments, local or regional economic development organizations, schools, colleges, other educational entities, public libraries, health care institutions, financial institutions, telecommunications providers, public power districts, electric cooperatives, nonprofit organizations, and other interested entities;~~

~~(c) Assist such counties, regions, and stakeholders in determining what broadband assets are available, the areas for improvement, and strategies to improve broadband availability and use; and~~

~~(d) Explore the creation of broadband cooperatives in unserved or underserved areas of the state.~~

Sec. 23. Section 86-333, Revised Statutes Cumulative Supplement, 2022, is amended to read:

86-333 (1) ~~The Nebraska Broadband Office Public Service Commission~~ may create and maintain an official Nebraska location fabric broadband access map showing broadband availability and quality of service for all serviceable locations in Nebraska utilizing any federal funding that is made available for such purpose. For purposes of this section, serviceable location means any residence, dwelling, business, or building where an entity provides or may provide broadband services.

(2) ~~The Nebraska Broadband Office Public Service Commission~~ may contract with private parties to create, improve, and maintain the map. When contracting with private parties, the ~~office Public Service Commission~~ shall give preference to contractors providing mapping services to the Federal Communications Commission. The ~~office Public Service Commission~~ may collect from providers of broadband services any information necessary to establish and update the map. Any information provided to the ~~office Public Service Commission~~ by a provider of broadband services pursuant to this section that is confidential, proprietary, or a trade secret as defined in section 87-502 shall be treated as such by the ~~office Public Service Commission~~.

(3) Any recipient of support from the Nebraska Telecommunications Universal Service Fund shall comply with the provisions of this section. Any grant recipient under the Nebraska Broadband Bridge Act, including any entity that operates as an eligible telecommunications carrier in Nebraska as defined

in section 86-1302 that wishes to participate in the Broadband Bridge Program created under section 86-1303, either directly or as a challenging party under section 86-1307, shall comply with the provisions of this section. Any grant recipient of federal broadband funding administered by the Nebraska Broadband Office Public Service Commission shall comply with the provisions of this section.

(4) After the Federal Communications Commission completes the national Broadband Serviceable Location Fabric and accompanying National Broadband Availability Map, the Nebraska Broadband Office Public Service Commission shall annually evaluate whether the continued maintenance of any annually updated Nebraska location fabric broadband access map created and maintained in accordance with this section is necessary. The office Public Service Commission shall report its annual findings pursuant to this subsection to the Transportation and Telecommunications Committee of the Legislature.

(5) The Nebraska Broadband Office Public Service Commission shall utilize funding provided by the federal Broadband Equity, Access, and Deployment Program authorized under the federal Infrastructure Investment and Jobs Act, Public Law 117-58, to carry out this section.

Sec. 24. Section 86-1103, Revised Statutes Cumulative Supplement, 2022, is amended to read:

86-1103 The Rural Broadband Task Force Fund is created. The fund shall be used to carry out the purposes of the Rural Broadband Task Force as described in section 86-1102 ~~and to provide for a state broadband coordinator~~. For administrative purposes, the fund shall be located in the Nebraska Information Technology Commission. The fund shall consist of money appropriated or transferred by the Legislature and gifts, grants, or bequests from any source, including federal, state, public, and private sources. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 25. Section 86-1241, Revised Statutes Cumulative Supplement, 2022, is amended to read:

86-1241 (1) Except as provided by the Small Wireless Facilities Deployment Act or applicable federal law, an authority shall continue to exercise zoning, land-use, planning, and permit-granting authority within its territorial boundaries, including with respect to wireless support structures and utility poles, except that no authority shall have or exercise any jurisdiction or authority over the design, engineering, construction, installation, or operation of any small wireless facility located in an interior structure or upon the site of any college or university campus, stadium, or athletic facility not owned or controlled by the authority, other than to comply with applicable codes. An authority shall evaluate the structure classification for wireless support structures under the standard of the American National Standards Institute found in ANSI/TIA-222, as such standard existed on January 1, 2019. Nothing in the Small Wireless Facilities Deployment Act shall authorize the State of Nebraska or any agency or political subdivision thereof, including an authority, to require wireless facility deployment or to regulate wireless services.

(2) Except as provided in the Small Wireless Facilities Deployment Act or as otherwise specifically authorized by state or federal law, an authority may not impose or collect a tax, fee, or rate on a communications service provider authorized to operate in a right-of-way by federal, state, or local law for the provision of communications service over the communications service provider's communications facilities in the right-of-way, adopt or enforce any regulations or requirements on the placement or operation of communications facilities in the right-of-way by the communications service provider, or regulate any communications services. This subsection does not apply to the activities of a communications service provider that are outside the scope of the Small Wireless Facilities Deployment Act.

Sec. 26. Section 86-1304, Revised Statutes Cumulative Supplement, 2022, is amended to read:

86-1304 (1)(a) A provider, a cooperative, a political subdivision, or an Indian tribe may apply to the commission for a grant on forms provided by the commission. The grant shall only be used for development costs for a qualifying project. The application shall indicate the project area. The applicant shall provide matching funds equal to fifty percent of the total development costs of the project if located outside a high-cost area, or twenty-five percent of the total development costs of the project if located inside a high-cost area, as such areas are determined by the commission. The matching funds requirement in this subdivision shall not apply to any portion of a grant comprised of federal funds. In order to qualify, the project is required to provide broadband Internet service scalable to one hundred megabits per second for downloading and one hundred megabits per second for uploading, or greater. The commission shall establish deadlines for applications and publish notice of the deadlines on the commission's website Applications shall be submitted on or before July 1 for each fiscal year.

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

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

(b) If a grant recipient fails to complete the project by the agreed or extended deadline, as the case may be, the recipient shall repay the grant as

provided in this subdivision. If no extension is permitted, ten percent of the grant shall be repaid for each month that the project is not complete after the eighteen-month period, up to one hundred percent of the grant. If an extension is permitted, twenty percent of the grant shall be repaid for each month that the project is not complete after the extension period, up to one hundred percent of the grant.

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

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

(4) No applicant shall be eligible to receive a grant if such applicant uses or provides any communications equipment or service deemed to pose a threat to national security identified on the Covered List developed pursuant to 47 C.F.R. 1.50002, as such regulation existed on January 1, 2023, and published by the Public Safety and Homeland Security Bureau of the Federal Communications Commission pursuant to the federal Secure and Trusted Communications Networks Act of 2019, 47 U.S.C. 1601 et seq., as such act existed on January 1, 2023, and the rules adopted pursuant to such act by the Federal Communications Commission on November 11, 2022, in its Report and Order FCC 22-84.

Sec. 27. Section 86-1309, Revised Statutes Cumulative Supplement, 2022, is amended to read:

86-1309 (1) The Nebraska Broadband Bridge Fund is created. The fund shall consist of money appropriated by the Legislature and federal funds designated by the Governor received for broadband enhancement purposes. The commission shall administer the fund and use the fund to finance grants for qualifying projects under the Nebraska Broadband Bridge Act and for expenses of the commission as appropriated by the Legislature for administering the fund. ~~Any federal funds which are used for purposes of the act shall be in addition to the state General Funds appropriated for purposes of the act. Such federal funds shall not be used as a substitution for any such state General Funds.~~

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

Sec. 28. Section 86-1312, Revised Statutes Cumulative Supplement, 2022, is amended to read:

86-1312 (1) Any political subdivision of the state that allocates funds received under the federal American Rescue Plan Act of 2021 for eligible broadband infrastructure projects may coordinate with the commission by mutual consent to administer such federal funds in a manner consistent with the Nebraska Broadband Bridge Act.

(2) In administering federal funds pursuant to subsection (1) of this section, the commission may allocate such funds received for eligible projects awarded grants under subdivision (1)(c) of section 81-12,245 to any portion of a local exchange area containing a city of the second class or village.

Sec. 29. Original sections 39-2805, 66-4,100, 81-502.03, and 86-125, Reissue Revised Statutes of Nebraska, and sections 76-2301, 76-2303, 76-2323, 76-2325, 86-324, 86-328, 86-331, 86-333, 86-1103, 86-1241, 86-1304, 86-1309, and 86-1312, Revised Statutes Cumulative Supplement, 2022, are repealed.

Sec. 30. The following section is outright repealed: Section 76-2325.02, Revised Statutes Cumulative Supplement, 2022.

Sec. 31. Since an emergency exists, this act takes effect when passed and approved according to law.