

AMENDMENTS TO LB311

Introduced by Transportation and Telecommunications.

1 1. Strike the original sections and insert the following new
2 sections:

3 **Section 1.** Sections 1 to 11 of this act shall be known and may be
4 cited as the Telecommunications Exchange Deregulation Act.

5 **Sec. 2.** For purposes of the Telecommunications Exchange
6 Deregulation Act:

7 (1) Carrier of last resort means a facilities-based
8 telecommunications company, as determined by the commission, not
9 inconsistent with the federal Telecommunications Act of 1996, which
10 receives or has received high-cost support from the federal Universal
11 Service Fund or the Nebraska Telecommunications Universal Service Fund
12 and has the obligation to provide voice communications service, upon
13 reasonable request, to all residential and single-line business customers
14 within a defined service or geographic area;

15 (2) Commission means the Public Service Commission;

16 (3) Deregulated carrier means an electing local exchange carrier for
17 which all of such carrier's markets have been deregulated;

18 (4) Electing local exchange carrier means a telecommunications
19 company holding a certificate to offer local exchange telecommunications
20 services within Nebraska issued on or before February 8, 1996, or a
21 carrier that has received a certificate in conjunction with the
22 acquisition of a certificate issued on or before February 8, 1996;

23 (5) Transitioning carrier means an electing local exchange carrier
24 for which at least one, but not all, of such carrier's exchanges has been
25 deregulated; and

26 (6) Voice communications service means (a) the transmission,
27 conveyance, or routing of real-time, two-way voice communications to a

1 point or between or among points by or through any electronic, radio,
2 satellite, cable, optical, microwave, wireline, wireless, or other medium
3 or method, regardless of the protocol used, (b) the ability to receive
4 and terminate voice calls to and from the public switched telephone
5 network, or (c) voice over Internet protocol service as defined in
6 section 86-121.01.

7 **Sec. 3.** (1) The commission may require disclosure of information
8 from telecommunications carriers as necessary to implement and enforce
9 the Telecommunications Exchange Deregulation Act.

10 (2) The commission may maintain the confidentiality of any
11 information collected under the Telecommunications Exchange Deregulation
12 Act that is claimed to be confidential for containing proprietary or
13 commercial information and withhold such information from public
14 disclosure pursuant to subdivision (3) of section 84-712.05.

15 (3) The Telecommunications Exchange Deregulation Act shall not
16 affect or modify:

17 (a) The enforcement of criminal or civil laws, including, but not
18 limited to, laws concerning consumer protection and unfair or deceptive
19 trade practices which apply generally to the conduct of business;

20 (b) Any entity's obligations or rights or commission authority under
21 section 86-122 and under 47 U.S.C. 251 and 252, as such sections existed
22 on January 1, 2019, and any carrier-to-carrier tariff rates, wholesale
23 service quality standards, interconnection agreements, or other
24 obligations for which the commission has jurisdiction under state or
25 federal law;

26 (c) Any requirement to contribute to any fund administered by the
27 commission authorized by the 911 Service System Act, the
28 Telecommunications Relay System Act, or the Nebraska Telecommunications
29 Universal Service Fund Act;

30 (d) Any commission jurisdiction over intrastate switched access
31 rates, terms, and conditions, including the resolution of disputes

1 arising from, and implementation of federal and state law with respect
2 to, intercarrier compensation;

3 (e) The eligibility and requirements for the receipt of funds from
4 the Nebraska Telecommunications Universal Service Fund and the rules,
5 regulations, and orders under the Nebraska Telecommunications Universal
6 Service Fund Act or the receipt of funds from the federal Universal
7 Service Fund, regardless of the unregulated status of the provider's
8 service under the Telecommunications Exchange Deregulation Act;

9 (f) Any entity's rights and obligations with respect to (i)
10 registration under section 86-125, (ii) the use of public streets, roads,
11 highways, and rights-of-way, or (iii) a certificate of public convenience
12 and necessity or a permit;

13 (g) The commission's authority under the 911 Service System Act or
14 the Telecommunications Relay System Act;

15 (h) Any provision of the Rural Communications Sustainability Act;
16 and

17 (i) The commission's authority to apply or enforce statutory or
18 regulatory provisions against an incumbent local exchange carrier in a
19 deregulated exchange if such statutory or regulatory provisions could
20 otherwise be applicable to a competitive local exchange carrier.

21 **Sec. 4. (1)** Notwithstanding any other provisions of Chapters 75 and
22 86, only an electing local exchange carrier may initiate a proceeding to
23 deregulate one of such carrier's exchanges. The commission may hold a
24 hearing on the application and receive testimony from the applicant and
25 any other interested person. No later than one hundred twenty days after
26 the date the commission receives an application to initiate such
27 proceeding, the commission shall determine whether the regulated exchange
28 should be deregulated or remain regulated and issue a final order
29 classifying the exchange in accordance with this section. An electing
30 local exchange carrier may file an application with the commission to
31 deregulate an exchange of the carrier that the commission previously

1 determined should remain regulated upon a material change in the exchange
2 including the entrance of additional carriers providing voice
3 communications service by carriers previously operating in the exchange.
4 The commission may set an application fee at an amount to cover the
5 commission's cost of processing such application.

6 (2)(a) In making a determination under subsection (1) of this
7 section, the commission shall presume that an exchange is competitive and
8 that deregulation of the exchange is in the public interest if, in
9 addition to the electing local exchange carrier, there are at least two
10 other carriers, including one wireline or cable carrier, providing voice
11 communications service in at least ninety percent of the household
12 locations outside of tribal areas known at the time of application in the
13 exchange. The presumption may be rebutted by evidence sufficient to
14 determine that:

15 (i) More than ten percent of the household locations outside of
16 tribal areas known at the time of application in the exchange do not
17 have, in addition to the electing local exchange carrier, at least two
18 other carriers, including one wireline or cable carrier, providing voice
19 communications service; or

20 (ii) Household locations outside of tribal areas known at the time
21 of application in the exchange have no carrier other than the electing
22 local exchange carrier capable of providing voice communications service
23 to locations known at the time of application. For purposes of this
24 subdivision (2)(a)(ii), voice communications shall not include the
25 transmission, conveyance, or routing of real-time, two-way voice
26 communications to a point or between or among points by or through
27 satellite.

28 (b) In making a determination under subsection (1) of this section,
29 the commission may determine that an exchange should be deregulated if,
30 in addition to the electing local exchange carrier, at least two other
31 carriers are providing, or are capable of providing, voice communications

1 service in at least seventy-five percent of the household locations
2 outside of tribal areas known at the time of application in the exchange.

3 (c) In determining whether household locations are capable of being
4 provided voice communications services by a carrier other than the
5 electing local exchange carrier, the commission shall consider evidence
6 related to vacant locations, declination of service to the location, and
7 other evidence related to inaccuracies in the Federal Communications
8 Commission's Broadband Data Collection or other data related to service
9 capability for the location.

10 (d) For the purposes of this subsection, an electing local exchange
11 carrier may rely on data available to the carrier regarding the voice
12 communications service capability, including, but not limited to, data
13 from the Federal Communications Commission's Broadband Data Collection
14 that is available at the time of the application.

15 (e) If the commission deregulates an exchange under this section and
16 the deregulation results in a regulated carrier no longer regulated or a
17 transitioning carrier no longer meeting the definition of a transitioning
18 carrier, the commission shall issue an order reclassifying such carrier
19 as a deregulated carrier.

20 **Sec. 5. (1) A deregulated carrier is not required to:**

21 (a) Fulfill the obligations of a carrier of last resort;

22 (b) Comply with standards or reporting requirements related to
23 quality of retail service;

24 (c) Comply with restrictions on rates for retail telecommunications
25 services, including advanced telecommunications services, unless the
26 restrictions are a condition of receiving grant funds administered by the
27 commission or imposed for compliance with sections 86-139 to 86-157; or

28 (d) File an earnings report with the commission.

29 (2) The commission shall not provide a deregulated carrier with any
30 funds from the Nebraska Telecommunications Universal Service Fund.

31 (3) Notwithstanding any other provisions of Chapter 86, the

1 commission shall have only the authority over a deregulated carrier
2 provided under the Telecommunications Exchange Deregulation Act. If there
3 is a conflict between the Telecommunications Exchange Deregulation Act
4 and the other applicable provisions of Chapter 86, the Telecommunications
5 Exchange Deregulation Act shall control.

6 (4) Nothing in this section affects the continuing applicability of
7 sections 86-122 to 86-124.

8 (5) The commission may receive, mediate, and hear complaints filed
9 by any retail or wholesale customers against a deregulated carrier that
10 are in the scope of the commission's authority provided under Chapter 86.

11 (6) A telecommunications company or communications provider shall
12 not be required to fulfill the obligations of a carrier of last resort in
13 an exchange that has been deregulated, unless such telecommunications
14 company or communications provider consents to fulfilling such
15 obligations.

16 **Sec. 6.** Except as provided by section 7 of this act, a
17 transitioning carrier is governed by the Telecommunications Exchange
18 Deregulation Act and the provisions of Chapters 75 and 86 that applied to
19 the carrier immediately before the date the carrier was classified as a
20 transitioning carrier. If there is a conflict between the
21 Telecommunications Exchange Deregulation Act and other applicable
22 provisions of Chapter 86, the Telecommunications Exchange Deregulation
23 Act shall control.

24 **Sec. 7.** (1) A transitioning carrier is no longer required to do the
25 following in the deregulated exchange:

26 (a) Fulfill the obligations of a carrier of last resort;

27 (b) Comply with standards or reporting requirements related to
28 quality of retail service; or

29 (c) Comply with a pricing requirement for retail service unless the
30 requirement is a condition of receiving grant funds administered by the
31 commission.

1 (2) A transitioning carrier is not eligible to receive funds from
2 the Nebraska Telecommunications Universal Service Fund for deregulated
3 exchanges and the commission shall, to the extent feasible in the funding
4 formula, reduce a transitioning carrier's allocation of funds from the
5 Nebraska Telecommunications Universal Service Fund to account for
6 deregulated exchanges.

7 **Sec. 8.** In an exchange that remains regulated, a transitioning
8 carrier shall price the carrier's retail services in accordance with the
9 provisions that applied to that carrier immediately before the date the
10 carrier was classified by the commission as a transitioning carrier.

11 **Sec. 9.** Nothing in the Telecommunications Exchange Deregulation Act
12 shall relieve a telecommunications or communications provider from the
13 requirements in section 86-124.

14 **Sec. 10.** A telecommunications company seeking to discontinue
15 service in a deregulated exchange shall be exempt from subdivision (1)(a)
16 of section 86-134. A telecommunications company seeking to discontinue
17 service in a deregulated exchange shall be solely subject to subdivision
18 (1)(b) of section 86-134.

19 **Sec. 11.** The commission may adopt and promulgate rules and
20 regulations and conduct any proceedings necessary to administer and
21 enforce the Telecommunications Exchange Deregulation Act, including rules
22 and regulations to determine whether an exchange should remain regulated,
23 be deregulated, or be reregulated.

24 **Sec. 12.** (1) For purposes of this section:

25 (a) Action means any law, rule, regulation, ordinance, resolution,
26 or similar action by a governing entity;

27 (b) Governing entity means (i) a state agency acting in any capacity
28 and (ii) an agency, municipality, county, member of the public power
29 industry, or other political subdivision that has jurisdiction over any
30 portion of a public right-of-way or infrastructure;

31 (c) Infrastructure means any land, easements, conduits, poles,

1 towers, structures, and related facilities owned and managed by a
2 governing entity;

3 (d) Internet-protocol-enabled service has the same meaning as in
4 section 86-111.01;

5 (e) Provider means a provider of telecommunications service or
6 Internet-protocol-enabled service;

7 (f) Public power industry has the same meaning as in section 70-601;

8 (g) Public right-of-way means any right-of-way located in a highway
9 as defined in section 60-624;

10 (h) Telecommunications company has the same meaning as in section
11 86-119;

12 (i) Telecommunications service has the same meaning as in section
13 86-121; and

14 (j) Voice over Internet protocol service has the same meaning as in
15 section 86-121.01.

16 (2) No governing entity shall enact, adopt, or enforce any action
17 the effect of which would be to:

18 (a) Impose any regulation barred by subdivision (1)(d) of section
19 86-124, including by conditioning any contract or grant upon acceptance
20 of conditions constituting such regulation with respect to any service
21 not offered under such contract or grant;

22 (b) Impose any regulation on a provider that is preempted by federal
23 law or on a telecommunications company that is prohibited by subsection
24 (3) of section 86-123; or

25 (c) Condition access to infrastructure or a public right-of-way upon
26 any regulation of or acceptance of conditions regulating
27 telecommunications service, Internet-protocol-enabled service, voice over
28 Internet protocol service, rates, service, or service contract terms or
29 conditions or by providing requirements inconsistent with section 86-704.

30 (3) This section shall not affect or modify:

31 (a) Any matter excluded from the scope of section 86-124 by

1 subsection (2) thereof;

2 (b) Any entity's rights, privileges, duties, and obligations with
3 respect to the use of a public right-of-way or infrastructure;

4 (c) The authority of the Public Service Commission under the 911
5 Service System Act;

6 (d) Any authority delegated to the Public Service Commission or to
7 any state agency to administer a state or federal grant program under a
8 state or federal statute, rule, or order;

9 (e) The authority of a governing entity to enter into agreements or
10 contracts not in conflict with subsection (2) of this section; or

11 (f) Any agreement, contract, or rights to rent or lease conduit from
12 a conduit system owned and managed by a city of the primary class or a
13 county containing a city of the primary class, provided that such conduit
14 system was constructed and had at least one tenant before the operative
15 date of this section, including any conduit system repairs or relocations
16 subsequent to the operative date of this section.

17 **Sec. 13.** Section 75-109.01, Revised Statutes Cumulative Supplement,
18 2024, is amended to read:

19 75-109.01 Except as otherwise specifically provided by law, the
20 Public Service Commission shall have jurisdiction, as prescribed, over
21 the following subjects:

22 (1) Common carriers, generally, pursuant to sections 75-101 to
23 75-158;

24 (2) Grain pursuant to the Grain Dealer Act and the Grain Warehouse
25 Act and sections 89-1,104 to 89-1,108;

26 (3) Manufactured homes and recreational vehicles pursuant to the
27 Uniform Standard Code for Manufactured Homes and Recreational Vehicles;

28 (4) Modular housing units pursuant to the Nebraska Uniform Standards
29 for Modular Housing Units Act;

30 (5) Motor carrier registration, licensure, and safety pursuant to
31 sections 75-301 to 75-343, 75-369.03, 75-370, and 75-371;

1 (6) Pipeline carriers and rights-of-way pursuant to the Major Oil
2 Pipeline Siting Act, the State Natural Gas Regulation Act, and sections
3 75-501 to 75-503. If the provisions of Chapter 75 are inconsistent with
4 the provisions of the Major Oil Pipeline Siting Act, the provisions of
5 the Major Oil Pipeline Siting Act control;

6 (7) Railroad carrier safety pursuant to sections 74-918, 74-919,
7 74-1323, and 75-401 to 75-430;

8 (8) Telecommunications carriers pursuant to the Automatic Dialing-
9 Announcing Devices Act, the Emergency Telephone Communications Systems
10 Act, the Enhanced Wireless 911 Services Act, the 911 Service System Act,
11 the Intrastate Pay-Per-Call Regulation Act, the Nebraska
12 Telecommunications Regulation Act, the Nebraska Telecommunications
13 Universal Service Fund Act, the Telecommunications Exchange Deregulation
14 Act, the Telecommunications Relay System Act, the Telephone Consumer
15 Slamming Prevention Act, and sections 86-574 to 86-578, 86-1031, 86-1307,
16 and 86-1308;

17 (9) Transmission lines and rights-of-way pursuant to sections 70-301
18 and 75-702 to 75-724;

19 (10) Water service pursuant to the Water Service Regulation Act; and

20 (11) Jurisdictional utilities governed by the State Natural Gas
21 Regulation Act. If the provisions of Chapter 75 are inconsistent with the
22 provisions of the State Natural Gas Regulation Act, the provisions of the
23 State Natural Gas Regulation Act control.

24 **Sec. 14.** Section 75-311, Revised Statutes Cumulative Supplement,
25 2024, is amended to read:

26 75-311 (1)(a) ~~(1)~~ A certificate shall be issued to any qualified
27 applicant authorizing the whole or any part of the operations covered by
28 the application if it is found after notice and hearing that (i) ~~(a)~~ the
29 applicant is fit, willing, and able properly to perform the service
30 proposed and to conform to the provisions of sections 75-301 to 75-322
31 and the requirements, rules, and regulations of the commission under such

1 sections and (ii) ~~(b)~~ the proposed service, to the extent to be
2 authorized by the certificate, whether regular or irregular, is or will
3 be required by the present or future public convenience and necessity.
4 Otherwise the application shall be denied.

5 (b) The burden shall be on the applicant to show (i) that they are
6 fit, willing, and able properly to perform the service proposed and to
7 conform to the provisions of sections 75-301 to 75-322 and the
8 requirements, rules, and regulations of the commission and (ii) that the
9 proposed service will be responsive to a public demand or need.

10 (c) The burden shall be on any protestant to the application to show
11 that (i) existing carriers are currently meeting, or will meet, the
12 proposed need and (ii) that even if the applicant's service will be
13 responsive to a public demand or need, that applicant would not be able
14 to serve this need in a specified manner without endangering or impairing
15 the operations of existing carriers contrary to the public interest.

16 (2)(a) ~~(2)~~ A permit shall be issued to any qualified applicant
17 therefor authorizing in whole or in part the operations covered by the
18 application if it appears after notice and hearing from the application
19 or from any hearing held on the application that (i) ~~(a)~~ the applicant is
20 fit, willing, and able properly to perform the service of a contract
21 carrier by motor vehicle and to conform to the provisions of such
22 sections and the lawful requirements, rules, and regulations of the
23 commission under such sections and (ii) ~~(b)~~ the proposed operation, to
24 the extent authorized by the permit, will be consistent with the public
25 interest by providing services designed to meet the distinct needs of
26 each individual customer or a specifically designated class of customers
27 as defined in subdivision (7) of section 75-302. Otherwise the
28 application shall be denied.

29 (b) For a designation of authority to provide medicaid nonemergency
30 medical transportation services pursuant to a contract with (i) the
31 Department of Health and Human Services, (ii) a medicaid-managed care

1 organization under contract with the department, or (iii) another agent
2 working on the department's behalf as provided under section 75-303.01,
3 in determining whether the authorization will be consistent with the
4 public interest, the commission shall consult with the Director of
5 Medicaid and Long-Term Care of the Division of Medicaid and Long-Term
6 Care of the department or his or her designee.

7 (3)(a) (3) A designation of authority shall be issued to any
8 regulated motor carrier holding a certificate under subsection (1) of
9 this section or a permit under subsection (2) of this section authorizing
10 such carrier to provide medicaid nonemergency medical transportation
11 services pursuant to a contract with (i) the Department of Health and
12 Human Services, (ii) a medicaid-managed care organization under contract
13 with the department, or (iii) another agent working on the department's
14 behalf as provided under section 75-303.01, if it is found after notice
15 and hearing from the application or from any hearing held on the
16 application that the authorization is or will be required by the present
17 or future convenience and necessity to serve the distinct needs of
18 medicaid clients.

19 (b) The burden shall be on the applicant to show that the proposed
20 service will be responsive to a public demand or need. The burden shall
21 be on any protestant to the application to show that (i) existing
22 carriers are currently meeting, or will meet, the proposed need and (ii)
23 that even if the applicant's service will be responsive to a public
24 demand or need, that applicant would not be able to serve this need in a
25 specified manner without endangering or impairing the operations of
26 existing carriers contrary to the public interest.

27 (c) In determining whether the authorization is or will be required
28 by the present or future convenience and necessity to serve the distinct
29 needs of medicaid clients, the commission shall consult with the Director
30 of Medicaid and Long-Term Care of the Division of Medicaid and Long-Term
31 Care of the department or his or her designee.

1 ~~(4) Until July 1, 2021, no person shall at the same time hold a~~
2 ~~certificate as a common carrier and a permit as a contract carrier for~~
3 ~~transportation of household goods by motor vehicles over the same route~~
4 ~~or within the same territory unless the commission finds that it is~~
5 ~~consistent with the public interest and with the policy declared in~~
6 ~~section 75-301.~~

7 ~~(5) Until July 1, 2021, after the issuance of a certificate or~~
8 ~~permit, the commission shall review the operations of all common or~~
9 ~~contract carriers who hold authority from the commission to determine~~
10 ~~whether there are insufficient operations in the transportation of~~
11 ~~household goods to justify the commission's finding that such common or~~
12 ~~contract carrier has willfully failed to perform transportation under~~
13 ~~sections 75-301 to 75-322 and rules and regulations promulgated under~~
14 ~~such sections. If the commission determines that there are insufficient~~
15 ~~operations, then the commission shall commence proceedings under section~~
16 ~~75-315 to revoke the certificate or permit involved.~~

17 ~~(4) (6)~~ This section shall not apply to transportation network
18 companies holding a permit under section 75-324 or operations pursuant to
19 a contract authorized by sections 75-303.02 and 75-303.03.

20 **Sec. 15.** Section 75-342, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 75-342 No transportation network company or participating driver
23 shall provide transportation for any person under contract with the
24 Department of Health and Human Services or any contractors of the
25 Department of Health and Human Services without specific authorization
26 from the commission. The commission shall grant specific authorization to
27 a requesting transportation network company or participating driver,
28 unless a protestant shows that (1) existing carriers are currently
29 meeting, or will meet, the proposed need for the proposed service and (2)
30 that even if the applicant's service will be responsive to a public
31 demand or need, that applicant would not be able to serve this need in a

1 specified manner without endangering or impairing the operations of
2 existing carriers contrary to the public interest. In order to receive
3 such authorization, the transportation network company or participating
4 driver shall demonstrate that such service is or will be required by the
5 present or future public convenience and necessity.

6 **Sec. 16.** Section 76-2325.01, Reissue Revised Statutes of Nebraska,
7 is amended to read:

8 76-2325.01 Any person who willfully and maliciously breaks, injures,
9 destroys, or otherwise interferes with the poles, wires, or other
10 facilities of any telecommunications, broadband, communications, wireless
11 infrastructure, or railroad company or electric light and power company
12 in this state or who willfully and purposely interrupts or interferes
13 with the transmission of telecommunications, broadband, communications,
14 ~~messages or the transmission of~~ light, heat, or and power in this state
15 shall be subject to the action and penalty prescribed in section 28-519.

16 **Sec. 17.** Section 86-111.01, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 86-111.01 Internet-protocol-enabled service or IP-enabled service
19 means any service, capability, functionality, or application, including
20 broadband Internet access service as defined in 47 C.F.R. 8.1, as such
21 regulation existed on January 1, 2025, provided using Internet protocol,
22 or any successor protocol, that enables a service user to send or receive
23 a communication in Internet protocol format, including, but not limited
24 to, voice, data, or video.

25 **Sec. 18.** Section 86-124, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 86-124 (1) The commission shall not regulate the following:

28 (a) One-way broadcast or cable television transmission of television
29 or radio signals;

30 (b) Mobile radio services, radio paging services, and wireless
31 telecommunications service;

1 (c) Interexchange services; and

2 (d) Internet-protocol-enabled service and voice over Internet
3 protocol service, including rates, service or contract terms, conditions,
4 or requirements for entry for such service.

5 (2) This section shall not affect or modify:

6 (a) The enforcement of criminal or civil laws, including, but not
7 limited to, laws concerning consumer protection and unfair or deceptive
8 trade practices which apply generally to the conduct of business;

9 (b)(i) Any entity's obligations or rights or commission authority
10 under section 86-122 and under 47 U.S.C. 251 and 252, as such sections
11 existed on January 1, 2019, and (ii) any carrier-to-carrier tariff rates,
12 wholesale service quality standards, interconnection agreements, or other
13 obligations for which the commission has jurisdiction under state or
14 federal law;

15 (c) Any requirement to contribute to any fund administered by the
16 commission authorized by the Enhanced Wireless 911 Services Act or the
17 Nebraska Telecommunications Universal Service Fund Act;

18 (d) Any commission jurisdiction over intrastate switched access
19 rates, terms, and conditions, including the resolution of disputes
20 arising from, and implementation of federal and state law with respect
21 to, intercarrier compensation;

22 (e) The eligibility and requirements for the receipt of funds from
23 the Nebraska Telecommunications Universal Service Fund and the rules,
24 regulations, and orders under the Nebraska Telecommunications Universal
25 Service Fund Act or the receipt of funds from the federal Universal
26 Service Fund ~~universal service fund~~, regardless of the unregulated status
27 of the provider's service under this section;

28 (f) Any entity's rights and obligations with respect to (i)
29 registration under section 86-125, (ii) the use of public streets, roads,
30 highways, and rights-of-way, or (iii) a certificate of public convenience
31 and necessity or a permit; and

1 (g) The commission's authority under section 86-1029.04.

2 **Sec. 19.** Section 86-704, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 86-704 (1) Any telecommunications company, incorporated or qualified
5 to do business in this state, is granted the right to construct, operate,
6 and maintain telecommunications lines and related facilities along, upon,
7 across, and under the public highways of this state, and upon and under
8 lands in this state, whether state or privately owned, except that (a)
9 such lines and related facilities shall be so constructed and maintained
10 as not to interfere with the ordinary use of such lands or of such
11 highways by the public and (b) all aerial wires and cables shall be
12 placed at a height of not less than eighteen feet above all highway
13 crossings.

14 (2) Sections 86-701 to 86-707 shall not transfer the rights now
15 vested in governing entities ~~municipalities~~ in relation to the regulation
16 of the poles, wires, cables, and other appliances or authorize a
17 telecommunications company to erect any poles or construct any conduit,
18 cable, or other facilities along, upon, across, or under a public highway
19 ~~within a municipality~~ without first obtaining the consent of the
20 governing entity ~~body of the municipality~~. The governing entity
21 ~~municipality~~ shall not exercise any authority over any rights the
22 telecommunications company may have to deliver telecommunications
23 services as authorized by the Public Service Commission or the Federal
24 Communications Commission and shall not impose any requirement or
25 condition on Internet-protocol-enabled service and voice over Internet
26 protocol service, including rates, service, or service contract terms or
27 conditions.

28 (3) Consent from a governing entity ~~body~~ for the use of a public
29 highway ~~within a municipality~~ shall be based upon a lawful exercise of
30 the governing entity's ~~its~~ statutory and constitutional authority. Such
31 consent shall not be unreasonably withheld, and a preference or

1 disadvantage shall not be created through the granting or withholding of
2 such consent. A governing entity municipality shall not adopt an
3 ordinance, resolution, rule, or regulation that prohibits or has the
4 effect of prohibiting the ability of a telecommunications company to
5 provide telecommunications service.

6 (4)(a) A municipality shall not levy a tax, fee, or charge for any
7 right or privilege of engaging in a telecommunications business or for
8 the use by a telecommunications company of a public highway other than:

9 (i) An occupation tax authorized under section 14-109, 15-202,
10 15-203, 16-205, or 17-525 that meets the following requirements:

11 (A) The occupation tax shall be imposed only on the receipts from
12 the sale of telecommunications service as defined in subdivision (7)(aa)
13 of section 77-2703.04; and

14 (B) Except as provided in subsection (5) of this section, the
15 occupation tax shall not exceed:

16 (I) Before October 1, 2024, six and twenty-five hundredths percent;
17 and

18 (II) Beginning October 1, 2024, four percent; and

19 (ii) A public highway construction permit fee or charge to the
20 extent that the fee or charge applies to all persons seeking use of the
21 public highway in a substantially similar manner. All public highway
22 construction permit fees or charges shall be directly related to the
23 costs incurred by the municipality in providing services relating to the
24 granting or administration of permits. Any highway construction permit
25 fee or charge shall also be reasonably related in time to the occurrence
26 of such costs.

27 (b) Any tax, fee, or charge imposed by a municipality shall be
28 competitively neutral.

29 (5) A municipality may increase an occupation tax described in
30 subdivision (4)(a)(i) of this section to a rate that exceeds the limit
31 contained in subdivision (4)(a)(i)(B) of this section if the question of

1 whether to increase such rate has been submitted at a primary or general
2 election at which members of the governing body of the municipality are
3 nominated or elected or at a special election held within the
4 municipality and in which all registered voters shall be entitled to vote
5 on such question. A municipality may not increase its existing rate
6 pursuant to this subsection by more than twenty-five hundredths percent
7 at any one election. The officials of the municipality shall order the
8 submission of the question by submitting a certified copy of the
9 resolution proposing the rate increase to the election commissioner or
10 county clerk at least fifty days before the election. The election shall
11 be conducted in accordance with the Election Act. If a majority of the
12 votes cast upon such question are in favor of such rate increase, then
13 the governing body of such municipality shall be empowered to impose the
14 rate increase. If a majority of those voting on the question are opposed
15 to such rate increase, then the governing body of the municipality shall
16 not impose such rate increase.

17 (6) The changes made by Laws 1999, LB 496, shall not be construed to
18 affect the terms or conditions of any franchise, license, or permit
19 issued by a municipality prior to August 28, 1999, or to release any
20 party from any obligations thereunder. Such franchises, licenses, or
21 permits shall remain fully enforceable in accordance with their terms. A
22 municipality may lawfully enter into agreements with franchise holders,
23 licensees, or permittees to modify or terminate an existing franchise,
24 license, or agreement.

25 (7) Taxes or fees shall not be collected by a governing entity
26 ~~municipality~~ through the provision of in-kind services by a
27 telecommunications company, and a governing entity ~~municipality~~ shall not
28 require the provision of in-kind services as a condition of consent to
29 the use of a public highway.

30 (8) The terms of any agreement between a governing entity
31 ~~municipality~~ and a telecommunications company regarding use of public

1 highways shall be matters of public record and shall be made available to
2 any member of the public upon request, except that information submitted
3 to a governing entity municipality by a telecommunications company which
4 such telecommunications company determines to be proprietary shall be
5 deemed to be a trade secret pursuant to subdivision (3) of section
6 84-712.05 and shall be accorded full protection from disclosure to third
7 parties in a manner consistent with state law.

8 (9) For purposes of this section, unless the context otherwise
9 requires:

10 (a) Governing entity has the same meaning as in section 12 of this
11 act;

12 (b) Internet-protocol-enabled service has the same meaning as in
13 section 86-111.01;

14 (c) Telecommunications service has the same meaning as in section
15 86-121; and

16 (d) Voice over Internet protocol service has the same meaning as in
17 section 86-121.01.

18 **Sec. 20.** Section 86-1505, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 86-1505 After a granting agency makes final payment of public funds
21 under a broadband deployment program to a competitive provider in a
22 deployment project area that is part of a local exchange area served by
23 an incumbent carrier, upon request by the incumbent carrier or
24 competitive provider the commission expeditiously shall:

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

30 (2) Consistent with rules of procedure adopted and promulgated by
31 the commission, make determinations related to allocations and

1 distributions of support from the Nebraska Telecommunications Universal
2 Service Fund for the deployment project area; and

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

9 **Sec. 21.** Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15,
10 16, 18, 20, 23, and 24 of this act become operative three calendar months
11 after the adjournment of this legislative session. The other sections of
12 this act become operative on their effective date.

13 **Sec. 22.** Original sections 86-111.01 and 86-704, Reissue Revised
14 Statutes of Nebraska, are repealed.

15 **Sec. 23.** Original sections 75-342, 76-2325.01, 86-124, and 86-1505,
16 Reissue Revised Statutes of Nebraska, and sections 75-109.01 and 75-311,
17 Revised Statutes Cumulative Supplement, 2024, are repealed.

18 **Sec. 24.** The following section is outright repealed: Section
19 75-148, Reissue Revised Statutes of Nebraska.

20 **Sec. 25.** Since an emergency exists, this act takes effect when
21 passed and approved according to law.