

AMENDMENTS TO LB389

(Amendments to Standing Committee amendments, AM1456)

Introduced by Friesen, 34.

1 1. On page 4, line 13, strike "federal interstate highway" and
2 insert "freeway as defined in section 39-1302 or the National System of
3 Interstate and Defense Highways".

4 2. On page 7, line 11, strike "subsection (4)" and insert
5 "subsections (4) and (5)".

6 3. On page 11, line 25, after the semicolon insert "and"; in line 30
7 strike "; and" and insert an underscored period; and strike line 31 and
8 insert the following new subsection:

9 "(5)(a) Notwithstanding any other provision of the Small Wireless
10 Facilities Deployment Act, for any construction, operation, collocation,
11 maintenance, relocation, or placement of wireless facilities, utility
12 poles, or wireless support structures that occurs upon, above, across, or
13 under a state or federal highway or upon a state-owned utility pole or
14 wireless support structure, the application process, location, and
15 installation of such facilities, poles, or structures, as such pertain to
16 the present and future use of the right-of-way or state-owned poles or
17 wireless support structures for highway purposes, shall be subject to the
18 rules and regulations, guidance documents, and usual and customary
19 permitting requirements of the State of Nebraska and the Department of
20 Transportation, including, but not limited to, requirements for location
21 and design review, liability and automobile insurance, indemnification of
22 the department from liability, protection of public safety and property
23 interests, and compliance with federal transportation funding
24 requirements.

25 (b) Traffic signal utility poles and traffic control devices owned
26 by the Department of Transportation shall not be used for the collocation

1 of small wireless facilities under the Small Wireless Facilities
2 Deployment Act. State highway lighting utility poles may be used for
3 collocation of small wireless facilities only if: (i) There are
4 insufficient reasonable alternative collocation options at or near the
5 requested location; (ii) the small wireless facilities can be safely
6 installed, operated, and maintained; and (iii) the collocation of the
7 small wireless facilities will not violate reasonable wind, ice, weight,
8 and seismic loading requirements on state highway lighting utility poles.

9 (c) Applicants that collocate small wireless facilities on state
10 highway lighting utility poles assume the risk of loss or damage to, or
11 loss of use of, such facilities when such poles are damaged, destroyed,
12 or taken out of service on state property, except to the extent that such
13 loss or damage is due to or caused by the negligence or willful
14 misconduct of the Department of Transportation or its employees,
15 contractors, or agents. This subdivision does not preclude claims against
16 entities other than the Department of Transportation.

17 (d) The construction, operation, maintenance, collocation, or
18 placement of wireless facilities, utility poles, or wireless support
19 structures shall occur at no cost to the Department of Transportation
20 unless otherwise agreed in advance between an applicant and the
21 department.

22 (e) The Department of Transportation may set and collect a
23 reasonable application fee to cover its costs in administering the
24 activities described in this subsection, as well as a uniform and
25 nondiscriminatory system of annual occupancy rates for the use and
26 occupancy of state-owned property.

27 (f) If the future maintenance or construction of a state or federal
28 highway by the Department of Transportation requires the moving or
29 relocating of wireless facilities, utility poles, or wireless support
30 structures, such facilities, poles, or structures shall be removed or
31 relocated by the owner at the owner's expense and as directed by the

1 department.".

2 4. On page 12, strike lines 1 through 26; and in line 27 strike
3 "(5)" and insert "(6)".

4 5. On page 13, line 4, strike "and (4)" and insert "through (5)";
5 and in line 5 strike "(6)" and insert "(7)".