

**ONE HUNDRED NINTH LEGISLATURE - FIRST SESSION - 2025**  
**COMMITTEE STATEMENT**  
**LB311**

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**Hearing Date:** Tuesday February 11, 2025  
**Committee On:** Transportation and Telecommunications  
**Introducer:** DeBoer  
**One Liner:** Change provisions relating to nonregulated activities under the Nebraska Telecommunications Regulation Act

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File with amendment(s)

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**Vote Results:**  
**Aye:** 8 Senators Moser, Ballard, Bosn, Brandt, DeBoer, Fredrickson, Guereca, Storer  
**Nay:**  
**Absent:**  
**Present Not Voting:**

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**Testimony:**

**Proponents:**

Senator Wendy DeBoer  
Dayton Murty  
Tip O'Neill  
John Wyvill\*

**Representing:**

Opening Presenter  
Charter Communications  
Nebraska Telecommunications Association  
Cox Communications

**Opponents:**

Candace Meredith  
Dan Watermeier  
Lash Chaffin  
Seth Voyles  
Dianne Plock

**Representing:**

Nebraska Association of County Officials  
Nebraska Public Service Commission  
League of Nebraska Municipalities  
Omaha Public Power District  
Self

**Neutral:**

**Representing:**

\* ADA Accommodation Written Testimony

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**Summary of purpose and/or changes:**

LB311 clarifies that federal law preempts local government regulations in managing broadband Internet access services including rates, contract terms, and conditions. This does not affect authority delegated to the Public Service Commission or to any other state agency, like the Nebraska Broadband Office, to administer federal or state broadband grants.

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**Explanation of amendments:**

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The Committee considered and adopted an amendment which accomplishes the following:  
Incorporates the provisions of LB 666 (Section 20), LB 347 (Section 24), LB 191 as amended (Section 16), LB 227 (Section 14, 15), and LB 4 as amended (Sections 1-11, 13, 18). It also amends the provisions of the original LB 311 (Sections 12, 17, 19) to clarify statutory language.

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AM 1090 reflects an agreement between interested parties to improve the original provisions of the LB 311. It offers definitions to encapsulate various government organizations and addresses concerns by county and city governments regarding their rights of way.

Testifiers on LB311:

Proponents:

Senator Tanya Storer , Opening Presenter

Tip O'Neill, Nebraska Telecommunications Association

Opponents: Dayton Murty, Charter Communications  
Candace Meredith, Nebraska Association of County Officials  
Dan Watermeier, Nebraska Public Service Commission  
Lash Chaffin, League of Nebraska Municipalities  
Seth Voyles, Omaha Public Power District  
Dianne Plocker, Self

Neutral: None

Committee vote to amend LB 311 with AM 1090: Yes - 8; No - 0; Absent - 0; Present Not Voting - 0;

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LB 666 alters the Rural Communications Sustainability Act. It allows competitive broadband providers to petition the Public Service Commission (PSC) to transition Nebraska Universal Service Fund support from a former incumbent local exchange carrier (ILEC) serving a designated area to the competitive provider now serving that area, as long as it accepts responsibilities similar to carrier of last resort (COLR) duties. Previously, only ILECs were able to petition the PSC.

Testifiers on LB666:

Proponents:

Senator Tanya Storer , Opening Presenter  
Bachtiyer Kholmatov, Pinpoint Communications and Nebraska Rural Broadband Association  
Tip O'Neill, Nebraska Telecommunications Association  
Andy Pollock, Nebraska Rural Broadband Alliance

Opponents: None

Neutral:

Cullen Robbins, Nebraska Public Service Commission

Committee vote to attach LB 666 to LB 311 as amended: Yes - 8; No - 0; Absent - 0; Present Not Voting - 0;



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LB 347 outright repeals section 75-148, which requires a common carrier to secure an affirmative order from the PSC before issuing stocks, bond, notes, or other evidence of indebtedness payable at periods of twelve months. Common carriers would not have to seek such PSC approval under LB 347. The provisions of section 75-148 are as follows:

75-148 - Common carrier; issuance of securities; conditions.

A common carrier may issue stock, bonds, notes, or other evidence of indebtedness, payable at periods of more than twelve months after the date thereof, when necessary for the acquisition of property, the construction, completion, extension, or improvement of facilities, the improvement or maintenance of its service, or the discharge or lawful refunding of its obligations if the common carrier first secures from the commission an order authorizing such issue and the amount thereof and stating that in the opinion of the commission the use of the capital to be secured by the issue of such stock, bonds, notes, or other evidence of indebtedness is reasonably required for the purposes of the carrier. A common carrier may issue notes or other evidence of indebtedness for proper corporate purposes and not in violation of any provision of law, payable in periods of not more than twelve months, without such consent if no such note is, in whole or in part, directly or indirectly, refunded by any issue of such stock or bonds, or by any evidence of indebtedness running more than twelve months, without the consent of the commission. The provisions of this section shall not apply to the security issuances of common carriers who are under the control of a federal regulatory agency.

Testifiers on LB347:

Proponents:

Senator Jason Prokop , Opening Presenter  
Christian Mirch, Nebraska Public Service Commission  
Andrew Vinton, Allo Communications  
Tip O'Neill, Nebraska Telecommunications Association

Opponents: None

Neutral: None

Committee vote to attach LB 347 to LB 311 as amended: Yes - 8; No - 0; Absent - 0; Present Not Voting - 0;

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LB 191 adds broadband and communications infrastructure to the list of infrastructure projects protected under the One-Call Notification System Act. It was amended by AM 394, which added wireless infrastructure to that list.

Testifiers on LB191:

Proponents:

Senator Carolyn Bosn , Opening Presenter  
Tip O'Neill, Nebraska Telecommunications Association  
Dayton Murty, Charter Communications  
John Wyvill, Cox Communications

Opponents: None

Neutral: None

Vote to amend LB 191 with AM 394: Yes - 8; No - 0; Absent - 0; Present Not Voting - 0;



Vote to amend LB 191, as amended, to LB 311: Yes - 8; No - 0; Absent - 0; Present Not Voting - 0;

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LB 227 shifts the burden of proof for common carriers seeking to provide transportation services in Nebraska. Under the bill, the burden of proof shifts from the transportation applicant to the contesting incumbent carrier to prove that the applicant is not fit, willing or is unable to perform the services proposed. Incumbents must show that an area's needs are currently or will be met without the applicant and that the operations of existing carriers would be impaired contrary to the public interest.

Testifiers on LB227:

Proponents:

Senator Wendy DeBoer , Opening Presenter

Dillon Keiffer-Johnson, Nebraska Public Service Commission

Opponents:

Alissa Kern, Camelot Transportation Inc.

Neutral: None

Committee vote to attach LB 227 to LB 311 as amended: Yes - 8; No - 0; Absent - 0; Present Not Voting - 0;

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LB 4 allows electing local exchange carriers to petition the PSC to deregulate some or all of their exchanges. Deregulation removes certain obligations in those exchanges including reporting requirements, rate restrictions, and carrier of last resort duties. It provides the PSC with criteria to consider when considering such deregulation. LB 4 was amended by AM 1094, which clarified PSC duties, the information it could consider, and fees associated with such petitions.

Testifiers on LB4:

Proponents:

Senator Carolyn Bosn , Opening Presenter

Trent Fellers, Windstream

Peter Gose, Lumen Technologies

Opponents:

Tim Schram, Public Service Commission

Tracy Aksamit, Self

Neutral:

Andy Pollock, Nebraska Rural Broadband Alliance

Vote to amend LB 4 with LB 1094: Yes - 8; No - 0; Absent - 0; Present Not Voting - 0;

Vote to amend LB 4, as amended, to LB 311: Yes - 8; No - 0; Absent - 0; Present Not Voting - 0;

Section by section summary:



-Section 1 (LB 4)

Identifies sections one to eleven as the Telecommunications Exchange Deregulation Act.

-Section 2 (LB 4)

Provides definitions for the Telecommunications Exchange Deregulation Act.

-Section 3 (LB 4)

Provides that the act shall not affect the ability of law enforcement to enforce criminal or civil laws and identifies other government functions not affected by the act. It also ensures that 911 services will not be affected by the act.

-Section 4 (LB 4)

Identifies who may initiate proceedings with the PSC to deregulate telecommunications exchanges. On receipt of an application, the PSC must make a determination within one hundred and twenty days to make a determination of whether an exchange should be deregulated. It also allows the PSC to charge an application fee and details the criteria and presumptions that it should use when determining whether an exchange should be deregulated.

-Section 5 (LB 4)

Details that deregulated carriers are not subject to certain reporting requirements and other duties. It also allows the PSC to receive, mediate, and hear complaints received against deregulated carriers.

-Section 6 (LB 4)

Provides that transitioning carriers with exchanges that are still regulated are subject to requirements that were in effect before the entity began the transition to deregulated exchanges.

-Section 7 (LB 4)

Specifies that transitioning carriers are not subject to certain duties in a deregulated exchange.

-Section 8 (LB 4)

Provides that transitioning carriers are still obligated to satisfy obligations in exchanges that are still regulated.

-Section 9 (LB 4)

Clarifies that nothing in the act shall relieve the requirement of telecommunications providers to satisfy the obligations created under Neb. Rev. Stat. § 86-124, the provisions of which follow:

86-124 - Nonregulated activities; section, how construed.

(1) The commission shall not regulate the following:

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

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

(c) Interexchange services; and

(d) Internet-protocol-enabled service and voice over Internet protocol



service, including rates, service or contract terms, conditions, or requirements for entry for such service.

(2) This section shall not affect or modify:

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

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

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

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

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

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

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

#### -Section 10 (LB 4)

Provides that telecommunications companies seeking to discontinue service in a deregulated exchange are not subject to section Neb. Rev. Stat. § 86-134(1)(a) but are subject to the requirements of section 86-134(1)(b). The provisions of 86-134 follow:

#### 86-134 - Discontinuation of service.

(1) No telecommunications company which provides intrastate interexchange service or basic local exchange service may abandon or otherwise discontinue such service in or to a local exchange area which it serves unless:

(a) The commission finds upon application and hearing, if such hearing is deemed necessary by the commission, that one or more other telecommunications companies or communications providers (i) are furnishing comparable wireline telecommunications service, including voice over Internet protocol service, to the subscribers in such local exchange area or (ii) have been designated as eligible telecommunications carriers in such local exchange area at the time of discontinuance or abandonment; and



(b) The telecommunications company discontinuing telecommunications service to such local exchange area:

(i) Notifies its subscribers in the local exchange area in writing of the abandonment, which notice shall be sent at least thirty days prior to the effective date of such abandonment;

(ii) Refunds any unused prepaid subscription charges or other unused prepaid charges to each customer in the local exchange area prior to the effective date of the abandonment; and

(iii) Prior to the effective date of the abandonment, reimburses its customers in the local exchange area for service charges which its customers incur in obtaining substitute service from another telecommunications company or communications provider or, in lieu thereof, pays other telecommunications companies or communications providers directly for such service charges on behalf of its customers making changes in their service as a result of the abandonment.

(2) For purposes of this section:

(a) Communications provider has the same meaning as in section 86-125; and

(b) Eligible telecommunications carrier means an eligible telecommunications carrier as designated under 47 U.S.C. 214(e), as such section existed on January 1, 2022.

-Section 11 (LB 4)

The PSC may adopt and promulgate rules to effectuate the Telecommunications Exchange Deregulation Act.

-Section 12 (LB 311)

Provides definitions for terms related to telecommunications regulations in the bill.

-Section 13 (LB 4)

Adds the Telecommunications Exchange Deregulation Act to the list of acts that over which the PSC has jurisdiction.

-Section 14 (LB 227)

Alters the burden of proof under which an applicant to provide common carrier services in the state must operate. It places the burden of proof on a proponent to an application rather than on the applicant themselves.

-Section 15 (LB 227)

Provides that the PSC shall grant authorization to a common carrier transportation applicant if a proponent has not met the burden of proof to show that existing carriers currently or will meet current needs or that the applicant would cause impair the operation of incumbent carriers contrary to the public interest.

-Section 16 (LB 191)

Adds broadband, communications, and wireless infrastructure to the list of critical infrastructure protected under the One-Call Notifications System



Act.

-Section 17 (LB 311)

Updates federal definition references to Internet-protocol-enabled service and IP-enabled service to those that existed on January 1, 2025.

-Section 18 (LB 4)

Clarifies language regarding use of the federal Universal Service Fund in Nebraska.

-Section 19 (LB 311)

Expands the entities governed under that act from municipalities to 'governing entities', which includes counties other government institutions. It specifies that governing entities shall not impose addition requirements in the case that the PSC has the PSC or the FCC has authorized on internet-protocol-enabled service and voice over internet protocol service.

-Section 20 (LB 666)

Allows competitive providers to petition the PSC to transfer NUSF support from an ILEC to them if they can satisfy the obligation currently performed by the ILECs. Previously, only ILECs could make such petition.

-Section 21

Identifies the effective operation date of sections in the act.

-Section 22 - Repealer

Repeals original sections from Neb. Rev. Stat. Section 86

-Section 23 - Repealer

-Section 24 (LB 347)

Outright repeals section 75-148.

-Section 25 is an emergency clause.

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Mike Moser, Chairperson

