

ENGROSSED LEGISLATIVE BILL 311

Introduced by DeBoer, 10.

A BILL FOR AN ACT relating to law; to amend sections 75-342, 76-2325.01, 86-111.01, 86-124, 86-704, and 86-1505, Reissue Revised Statutes of Nebraska, and sections 75-109.01 and 75-311, Revised Statutes Cumulative Supplement, 2024; to adopt the Telecommunications Exchange Deregulation Act; to provide certain restrictions on governing entities as prescribed; to change provisions relating to jurisdiction of the Public Service Commission; to change and provide provisions relating to certificates of public convenience and necessity, permits for certain common or contract carriers, medicaid nonemergency medical transportation services and certificates of authority, and certain transportation network companies and participating drivers; to provide duties for the Public Service Commission; to provide penalties for interference with certain facilities of broadband, communications, and wireless infrastructure companies; to redefine terms and change provisions of the Nebraska Telecommunications Regulation Act; to change provisions relating to telecommunications companies and governing entities as prescribed; to change provisions of the Rural Communications Sustainability Act; to eliminate requirements relating to issuance of securities by a common carrier; to provide operative dates; to repeal the original sections; to outright repeal section 75-148; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

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

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

(1) Carrier of last resort means a facilities-based telecommunications company, as determined by the commission, not inconsistent with the federal Telecommunications Act of 1996, which receives or has received high-cost

support from the federal Universal Service Fund or the Nebraska Telecommunications Universal Service Fund and has the obligation to provide voice communications service, upon reasonable request, to all residential and single-line business customers within a defined service or geographic area;

(2) Commission means the Public Service Commission;

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

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

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

(6) Voice communications service means (a) the transmission, conveyance, or routing of real-time, two-way voice communications to a point or between or among points by or through any electronic, radio, satellite, cable, optical, microwave, wireline, wireless, or other medium or method, regardless of the protocol used, (b) the ability to receive and terminate voice calls to and from the public switched telephone network, or (c) voice over Internet protocol service as defined in section 86-121.01.

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

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

(3) The Telecommunications Exchange Deregulation Act 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) 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 any carrier-to-carrier tariff rates, wholesale 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 911 Service System Act, the Telecommunications Relay System 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 the Telecommunications Exchange Deregulation Act;

(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;

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

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

(i) The commission's authority to apply or enforce statutory or regulatory

provisions against an incumbent local exchange carrier in a deregulated exchange if such statutory or regulatory provisions could otherwise be applicable to a competitive local exchange carrier.

Sec. 4. (1) Notwithstanding any other provisions of Chapters 75 and 86, only an electing local exchange carrier may initiate a proceeding to deregulate one of such carrier's exchanges. The commission may hold a hearing on the application and receive testimony from the applicant and any other interested person. No later than one hundred twenty days after the date the commission receives an application to initiate such proceeding, the commission shall determine whether the regulated exchange should be deregulated or remain regulated and issue a final order classifying the exchange in accordance with this section. An electing local exchange carrier may file an application with the commission to deregulate an exchange of the carrier that the commission previously determined should remain regulated upon a material change in the exchange including the entrance of additional carriers providing voice communications service by carriers previously operating in the exchange. The commission may set an application fee at an amount to cover the commission's cost of processing such application.

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

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

(ii) Household locations outside of tribal areas known at the time of

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

(b) In making a determination under subsection (1) of this section, the commission may determine that an exchange should be deregulated if, in addition to the electing local exchange carrier, at least two other carriers are providing, or are capable of providing, voice communications service in at least seventy-five percent of the household locations outside of tribal areas known at the time of application in the exchange.

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

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

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

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

- (a) Fulfill the obligations of a carrier of last resort;
- (b) Comply with standards or reporting requirements related to quality of

retail service;

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

(d) File an earnings report with the commission.

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

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

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

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

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

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

Sec. 7. (1) A transitioning carrier is no longer required to do the

following in the deregulated exchange:

- (a) Fulfill the obligations of a carrier of last resort;
- (b) Comply with standards or reporting requirements related to quality of retail service; or
- (c) Comply with a pricing requirement for retail service unless the requirement is a condition of receiving grant funds administered by the commission.

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

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

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

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

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

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

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

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

(c) Infrastructure means any land, easements, conduits, poles, towers, structures, and related facilities owned and managed by a governing entity;

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

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

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

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

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

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

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

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

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

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

(c) Condition access to infrastructure or a public right-of-way upon any regulation of or acceptance of conditions regulating telecommunications service, Internet-protocol-enabled service, voice over Internet protocol service, rates, service, or service contract terms or conditions or by

providing requirements inconsistent with section 86-704.

(3) This section shall not affect or modify:

(a) Any matter excluded from the scope of section 86-124 by subsection (2) thereof;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

regulations of the commission under such sections and (ii) the proposed service, to the extent to be authorized by the certificate, whether regular or irregular, is or will be required by the present or future public convenience and necessity. Otherwise the application shall be denied.

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

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

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

(b) For a designation of authority to provide medicaid nonemergency medical transportation services pursuant to a contract with (i) the Department of Health and Human Services, (ii) a medicaid-managed care organization under contract with the department, or (iii) another agent working on the

department's behalf as provided under section 75-303.01, in determining whether the authorization will be consistent with the public interest, the commission shall consult with the Director of Medicaid and Long-Term Care of the Division of Medicaid and Long-Term Care of the department or his or her designee.

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

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

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

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

Sec. 15. Section 75-342, Reissue Revised Statutes of Nebraska, is amended

to read:

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

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

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

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

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

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

86-124 (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, wholesale 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.

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

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

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

(3) Consent from a governing entity for the use of a public highway shall be based upon a lawful exercise of the governing entity's statutory and constitutional authority. Such consent shall not be unreasonably withheld, and a preference or disadvantage shall not be created through the granting or withholding of such consent. A governing entity shall not adopt an ordinance,

resolution, rule, or regulation that prohibits or has the effect of prohibiting the ability of a telecommunications company to provide telecommunications service.

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

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

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

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

(A) Before October 1, 2024, six and twenty-five hundredths percent; and

(B) Beginning October 1, 2024, four percent; and

(b) A public highway construction permit fee or charge that complies with subsection (7) of this section.

(5) A municipality may increase an occupation tax described in subdivision (4)(a) of this section to a rate that exceeds the limit contained in subdivision (4)(a)(ii) of this section if the question of whether to increase such rate has been submitted at a primary or general election at which members of the governing body of the municipality are nominated or elected or at a special election held within the municipality and in which all registered voters shall be entitled to vote on such question. A municipality may not increase its existing rate pursuant to this subsection by more than twenty-five hundredths percent at any one election. The officials of the municipality shall order the submission of the question by submitting a certified copy of the resolution proposing the rate increase to the election commissioner or county clerk at least fifty days before the election. The election shall be conducted in accordance with the Election Act. If a majority of the votes cast upon such question are in favor of such rate increase, then the governing body of such

municipality shall be empowered to impose the rate increase. If a majority of those voting on the question are opposed to such rate increase, then the governing body of the municipality shall not impose such rate increase.

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

(7) Any public highway construction permit fee or charge that is imposed by a governing entity for the use of a public highway shall (a) apply to all persons seeking use of the public highway in a substantially similar manner, (b) be directly related to the costs incurred by the governing entity in providing services relating to the granting or administration of permits, and (c) be reasonably related in time to the occurrence of such costs.

(8) Any tax, fee, or charge imposed by a governing entity as described in this section shall be competitively neutral.

(9) Taxes or fees shall not be collected by a governing entity through the provision of in-kind services by a telecommunications company, and a governing entity shall not require the provision of in-kind services as a condition of consent to the use of a public highway.

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

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

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

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

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

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

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

86-1505 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 or competitive provider the commission expeditiously 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. 21. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 18, 20, 23, and 24 of this act become operative three calendar months after the

adjournment of this legislative session. The other sections of this act become operative on their effective date.

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

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

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

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

PRESIDENT OF THE LEGISLATURE

*THIS IS TO CERTIFY that the within LB 311 was passed by the One Hundred Ninth
Legislature of Nebraska at its First Session on the day
of 20.....*

CLERK OF THE LEGISLATURE

Approved:

..... 20....., o'clockM.

GOVERNOR