

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 311

FINAL READING

Introduced by DeBoer, 10.

Read first time January 15, 2025

Committee: Transportation and Telecommunications

1 A BILL FOR AN ACT relating to law; to amend sections 75-342, 76-2325.01,
2 86-111.01, 86-124, 86-704, and 86-1505, Reissue Revised Statutes of
3 Nebraska, and sections 75-109.01 and 75-311, Revised Statutes
4 Cumulative Supplement, 2024; to adopt the Telecommunications
5 Exchange Deregulation Act; to provide certain restrictions on
6 governing entities as prescribed; to change provisions relating to
7 jurisdiction of the Public Service Commission; to change and provide
8 provisions relating to certificates of public convenience and
9 necessity, permits for certain common or contract carriers, medicaid
10 nonemergency medical transportation services and certificates of
11 authority, and certain transportation network companies and
12 participating drivers; to provide duties for the Public Service
13 Commission; to provide penalties for interference with certain
14 facilities of broadband, communications, and wireless infrastructure
15 companies; to redefine terms and change provisions of the Nebraska
16 Telecommunications Regulation Act; to change provisions relating to
17 telecommunications companies and governing entities as prescribed;
18 to change provisions of the Rural Communications Sustainability Act;
19 to eliminate requirements relating to issuance of securities by a
20 common carrier; to provide operative dates; to repeal the original
21 sections; to outright repeal section 75-148; and to declare an
22 emergency.

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

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

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

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

13 (2) Commission means the Public Service Commission;

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

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

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

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

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

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

9 (3) The Telecommunications Exchange Deregulation Act shall not
10 affect or modify:

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

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

20 (c) Any requirement to contribute to any fund administered by the
21 commission authorized by the 911 Service System Act, the
22 Telecommunications Relay System Act, or the Nebraska Telecommunications
23 Universal Service Fund Act;

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

28 (e) The eligibility and requirements for the receipt of funds from
29 the Nebraska Telecommunications Universal Service Fund and the rules,
30 regulations, and orders under the Nebraska Telecommunications Universal
31 Service Fund Act or the receipt of funds from the federal Universal

1 Service Fund, regardless of the unregulated status of the provider's
2 service under the Telecommunications Exchange Deregulation Act;

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

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

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

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

15 **Sec. 4. (1)** Notwithstanding any other provisions of Chapters 75 and
16 86, only an electing local exchange carrier may initiate a proceeding to
17 deregulate one of such carrier's exchanges. The commission may hold a
18 hearing on the application and receive testimony from the applicant and
19 any other interested person. No later than one hundred twenty days after
20 the date the commission receives an application to initiate such
21 proceeding, the commission shall determine whether the regulated exchange
22 should be deregulated or remain regulated and issue a final order
23 classifying the exchange in accordance with this section. An electing
24 local exchange carrier may file an application with the commission to
25 deregulate an exchange of the carrier that the commission previously
26 determined should remain regulated upon a material change in the exchange
27 including the entrance of additional carriers providing voice
28 communications service by carriers previously operating in the exchange.
29 The commission may set an application fee at an amount to cover the
30 commission's cost of processing such application.

31 (2)(a) In making a determination under subsection (1) of this

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

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

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

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

28 (c) In determining whether household locations are capable of being
29 provided voice communications services by a carrier other than the
30 electing local exchange carrier, the commission shall consider evidence
31 related to vacant locations, declination of service to the location, and

1 other evidence related to inaccuracies in the Federal Communications
2 Commission's Broadband Data Collection or other data related to service
3 capability for the location.

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

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

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

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

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

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

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

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

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

31 (4) Nothing in this section affects the continuing applicability of

1 sections 86-122 to 86-124.

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

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

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

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

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

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

23 (c) Comply with a pricing requirement for retail service unless the
24 requirement is a condition of receiving grant funds administered by the
25 commission.

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

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

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

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

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

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

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

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

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

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

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

- 1 (f) Public power industry has the same meaning as in section 70-601;
2 (g) Public right-of-way means any right-of-way located in a highway
3 as defined in section 60-624;
4 (h) Telecommunications company has the same meaning as in section
5 86-119;
6 (i) Telecommunications service has the same meaning as in section
7 86-121; and
8 (j) Voice over Internet protocol service has the same meaning as in
9 section 86-121.01.
10 (2) No governing entity shall enact, adopt, or enforce any action
11 the effect of which would be to:
12 (a) Impose any regulation barred by subdivision (1)(d) of section
13 86-124, including by conditioning any contract or grant upon acceptance
14 of conditions constituting such regulation with respect to any service
15 not offered under such contract or grant;
16 (b) Impose any regulation on a provider that is preempted by federal
17 law or on a telecommunications company that is prohibited by subsection
18 (3) of section 86-123; or
19 (c) Condition access to infrastructure or a public right-of-way upon
20 any regulation of or acceptance of conditions regulating
21 telecommunications service, Internet-protocol-enabled service, voice over
22 Internet protocol service, rates, service, or service contract terms or
23 conditions or by providing requirements inconsistent with section 86-704.
24 (3) This section shall not affect or modify:
25 (a) Any matter excluded from the scope of section 86-124 by
26 subsection (2) thereof;
27 (b) Any entity's rights, privileges, duties, and obligations with
28 respect to the use of a public right-of-way or infrastructure;
29 (c) The authority of the Public Service Commission under the 911
30 Service System Act;
31 (d) Any authority delegated to the Public Service Commission or to

1 any state agency to administer a state or federal grant program under a
2 state or federal statute, rule, or order;

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

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

11 **Sec. 13.** Section 75-109.01, Revised Statutes Cumulative Supplement,
12 2024, is amended to read:

13 75-109.01 Except as otherwise specifically provided by law, the
14 Public Service Commission shall have jurisdiction, as prescribed, over
15 the following subjects:

16 (1) Common carriers, generally, pursuant to sections 75-101 to
17 75-158;

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

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

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

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

26 (6) Pipeline carriers and rights-of-way pursuant to the Major Oil
27 Pipeline Siting Act, the State Natural Gas Regulation Act, and sections
28 75-501 to 75-503. If the provisions of Chapter 75 are inconsistent with
29 the provisions of the Major Oil Pipeline Siting Act, the provisions of
30 the Major Oil Pipeline Siting Act control;

31 (7) Railroad carrier safety pursuant to sections 74-918, 74-919,

1 74-1323, and 75-401 to 75-430;

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

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

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

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

18 **Sec. 14.** Section 75-311, Revised Statutes Cumulative Supplement,
19 2024, is amended to read:

20 75-311 (1)(a) ~~(1)~~ A certificate shall be issued to any qualified
21 applicant authorizing the whole or any part of the operations covered by
22 the application if it is found after notice and hearing that (i) ~~(a)~~ the
23 applicant is fit, willing, and able properly to perform the service
24 proposed and to conform to the provisions of sections 75-301 to 75-322
25 and the requirements, rules, and regulations of the commission under such
26 sections and (ii) ~~(b)~~ the proposed service, to the extent to be
27 authorized by the certificate, whether regular or irregular, is or will
28 be required by the present or future public convenience and necessity.
29 Otherwise the application shall be denied.

30 (b) The burden shall be on the applicant to show (i) that they are
31 fit, willing, and able properly to perform the service proposed and to

1 conform to the provisions of sections 75-301 to 75-322 and the
2 requirements, rules, and regulations of the commission and (ii) that the
3 proposed service will be responsive to a public demand or need.

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

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

23 (b) For a designation of authority to provide medicaid nonemergency
24 medical transportation services pursuant to a contract with (i) the
25 Department of Health and Human Services, (ii) a medicaid-managed care
26 organization under contract with the department, or (iii) another agent
27 working on the department's behalf as provided under section 75-303.01,
28 in determining whether the authorization will be consistent with the
29 public interest, the commission shall consult with the Director of
30 Medicaid and Long-Term Care of the Division of Medicaid and Long-Term
31 Care of the department or his or her designee.

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

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

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

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

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

11 ~~(4)~~ (6) This section shall not apply to transportation network
12 companies holding a permit under section 75-324 or operations pursuant to
13 a contract authorized by sections 75-303.02 and 75-303.03.

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

16 75-342 No transportation network company or participating driver
17 shall provide transportation for any person under contract with the
18 Department of Health and Human Services or any contractors of the
19 Department of Health and Human Services without specific authorization
20 from the commission. The commission shall grant specific authorization to
21 a requesting transportation network company or participating driver,
22 unless a protestant shows that (1) existing carriers are currently
23 meeting, or will meet, the proposed need for the proposed service and (2)
24 that even if the applicant's service will be responsive to a public
25 demand or need, that applicant would not be able to serve this need in a
26 specified manner without endangering or impairing the operations of
27 existing carriers contrary to the public interest. In order to receive
28 such authorization, the transportation network company or participating
29 driver shall demonstrate that such service is or will be required by the
30 present or future public convenience and necessity.

31 **Sec. 16.** Section 76-2325.01, Reissue Revised Statutes of Nebraska,

1 is amended to read:

2 76-2325.01 Any person who willfully and maliciously breaks, injures,
3 destroys, or otherwise interferes with the poles, wires, or other
4 facilities of any telecommunications, broadband, communications, wireless
5 infrastructure, or railroad company or electric light and power company
6 in this state or who willfully and purposely interrupts or interferes
7 with the transmission of telecommunications, broadband, communications,
8 ~~messages or the transmission of~~ light, heat, or and power in this state
9 shall be subject to the action and penalty prescribed in section 28-519.

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

12 86-111.01 Internet-protocol-enabled service or IP-enabled service
13 means any service, capability, functionality, or application, including
14 broadband Internet access service as defined in 47 C.F.R. 8.1, as such
15 regulation existed on January 1, 2025, provided using Internet protocol,
16 or any successor protocol, that enables a service user to send or receive
17 a communication in Internet protocol format, including, but not limited
18 to, voice, data, or video.

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

21 86-124 (1) The commission shall not regulate the following:

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

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

26 (c) Interexchange services; and

27 (d) Internet-protocol-enabled service and voice over Internet
28 protocol service, including rates, service or contract terms, conditions,
29 or requirements for entry for such service.

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

31 (a) The enforcement of criminal or civil laws, including, but not

1 limited to, laws concerning consumer protection and unfair or deceptive
2 trade practices which apply generally to the conduct of business;

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

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

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

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

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

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

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

29 86-704 (1) Any telecommunications company, incorporated or qualified
30 to do business in this state, is granted the right to construct, operate,
31 and maintain telecommunications lines and related facilities along, upon,

1 across, and under the public highways of this state, and upon and under
2 lands in this state, whether state or privately owned, except that (a)
3 such lines and related facilities shall be so constructed and maintained
4 as not to interfere with the ordinary use of such lands or of such
5 highways by the public and (b) all aerial wires and cables shall be
6 placed at a height of not less than eighteen feet above all highway
7 crossings.

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

22 (3) Consent from a governing entity ~~body~~ for the use of a public
23 highway ~~within a municipality~~ shall be based upon a lawful exercise of
24 the governing entity's ~~its~~ statutory and constitutional authority. Such
25 consent shall not be unreasonably withheld, and a preference or
26 disadvantage shall not be created through the granting or withholding of
27 such consent. A governing entity ~~municipality~~ shall not adopt an
28 ordinance, resolution, rule, or regulation that prohibits or has the
29 effect of prohibiting the ability of a telecommunications company to
30 provide telecommunications service.

31 (4) ~~(4)(a)~~ A municipality shall not levy a tax, fee, or charge for

1 any right or privilege of engaging in a telecommunications business or
2 for the use by a telecommunications company of a public highway other
3 than:

4 (a) (i) An occupation tax authorized under section 14-109, 15-202,
5 15-203, 16-205, or 17-525 that meets the following requirements:

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

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

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

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

14 (b) (ii) A public highway construction permit fee or charge that
15 complies with subsection (7) of this section. ~~to the extent that the fee~~
16 ~~or charge applies to all persons seeking use of the public highway in a~~
17 ~~substantially similar manner. All public highway construction permit fees~~
18 ~~or charges shall be directly related to the costs incurred by the~~
19 ~~municipality in providing services relating to the granting or~~
20 ~~administration of permits. Any highway construction permit fee or charge~~
21 ~~shall also be reasonably related in time to the occurrence of such costs.~~

22 (b) ~~Any tax, fee, or charge imposed by a municipality shall be~~
23 ~~competitively neutral.~~

24 (5) A municipality may increase an occupation tax described in
25 subdivision (4)(a) (4)(a)(i) of this section to a rate that exceeds the
26 limit contained in subdivision (4)(a)(ii) (4)(a)(i)(B) of this section if
27 the question of whether to increase such rate has been submitted at a
28 primary or general election at which members of the governing body of the
29 municipality are nominated or elected or at a special election held
30 within the municipality and in which all registered voters shall be
31 entitled to vote on such question. A municipality may not increase its

1 existing rate pursuant to this subsection by more than twenty-five
2 hundredths percent at any one election. The officials of the municipality
3 shall order the submission of the question by submitting a certified copy
4 of the resolution proposing the rate increase to the election
5 commissioner or county clerk at least fifty days before the election. The
6 election shall be conducted in accordance with the Election Act. If a
7 majority of the votes cast upon such question are in favor of such rate
8 increase, then the governing body of such municipality shall be empowered
9 to impose the rate increase. If a majority of those voting on the
10 question are opposed to such rate increase, then the governing body of
11 the municipality shall not impose such rate increase.

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

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

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

29 (9) ~~(7)~~ Taxes or fees shall not be collected by a governing entity
30 municipality through the provision of in-kind services by a
31 telecommunications company, and a governing entity municipality shall not

1 require the provision of in-kind services as a condition of consent to
2 the use of a public highway.

3 (10) (8) The terms of any agreement between a governing entity
4 municipality and a telecommunications company regarding use of public
5 highways shall be matters of public record and shall be made available to
6 any member of the public upon request, except that information submitted
7 to a governing entity municipality by a telecommunications company which
8 such telecommunications company determines to be proprietary shall be
9 deemed to be a trade secret pursuant to subdivision (3) of section
10 84-712.05 and shall be accorded full protection from disclosure to third
11 parties in a manner consistent with state law.

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

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

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

18 (c) Telecommunications service has the same meaning as in section
19 86-121; and

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

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

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

29 (1) Upon finding that the granting agency has determined the
30 competitive provider is in compliance with all requirements of the
31 broadband deployment program, relieve the incumbent carrier of eligible

1 telecommunications carrier obligations and carrier of last resort
2 obligations in the deployment project area;

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

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

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

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

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

22 **Sec. 24.** The following section is outright repealed: Section
23 75-148, Reissue Revised Statutes of Nebraska.

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