

AMENDMENTS TO LB389

(Amendments to Standing Committee amendments, AM1456)

Introduced by Friesen, 34.

1 1. Strike section 33 and insert the following new section:

2 Sec. 39. The Small Wireless Facilities Deployment Act does not  
3 apply to:

4 (1) The University of Nebraska system, the Nebraska State College  
5 System, the community college system, and all campuses, areas, and  
6 property of such systems; or

7 (2) A rural public power supplier which includes a public power  
8 district, a public power and irrigation district, an electric  
9 cooperative, or an electric membership association, that does not provide  
10 electric service to any city of the metropolitan class, city of the  
11 primary class, or city of the first class.

12 2. On page 1, line 8, after "interest" insert "and public policy";  
13 in line 12 after "is" insert "necessary to address public need and policy  
14 and is"; in line 14 after "goals" insert "and public policy,"; and in  
15 line 22 strike the first "the" and insert "the public need and policy  
16 and".

17 3. On page 2, line 5, after "Act" insert ", together with any taxes,  
18 fees, or charges imposed under section 86-704,"; and in lines 9 and 10  
19 strike "by recovering their costs of" and insert "for".

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

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

25 6. On page 8, line 15, strike "exclusively" and insert "and used".

26 7. On page 11, line 25, after the semicolon insert "and"; in line 30

1 strike "; and" and insert an underscored period; and strike line 31 and  
2 insert the following new subsection:

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

19 (b) Traffic signal utility poles and traffic control devices owned  
20 by the Department of Transportation shall not be used for the collocation  
21 of small wireless facilities under the Small Wireless Facilities  
22 Deployment Act. State highway lighting utility poles may be used for  
23 collocation of small wireless facilities only if: (i) There are  
24 insufficient reasonable alternative collocation options at or near the  
25 requested location; (ii) the small wireless facilities can be safely  
26 installed, operated, and maintained; and (iii) the collocation of the  
27 small wireless facilities will not violate reasonable wind, ice, weight,  
28 and seismic loading requirements on state highway lighting utility poles.

29 (c) Applicants that collocate small wireless facilities on state  
30 highway lighting utility poles assume the risk of loss or damage to, or  
31 loss of use of, such facilities when such poles are damaged, destroyed,

1 or taken out of service on state property, except to the extent that such  
2 loss or damage is due to or caused by the negligence or willful  
3 misconduct of the Department of Transportation or its employees,  
4 contractors, or agents. This subdivision does not preclude claims against  
5 entities other than the Department of Transportation.

6 (d) The construction, operation, maintenance, collocation, or  
7 placement of wireless facilities, utility poles, or wireless support  
8 structures shall occur at no cost to the Department of Transportation  
9 unless otherwise agreed in advance between an applicant and the  
10 department.

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

16 (f) If the future maintenance or construction of a state or federal  
17 highway by the Department of Transportation requires the moving or  
18 relocating of wireless facilities, utility poles, or wireless support  
19 structures, such facilities, poles, or structures shall be removed or  
20 relocated by the owner at the owner's expense and as directed by the  
21 department."

22 8. On page 12, strike lines 1 through 26; and in line 27 strike  
23 "(5)" and insert "(6)".

24 9. On page 13, strike beginning with "to" in line 2 through  
25 "section" in line 4 and insert "for work that requires excavation or  
26 closing of sidewalks or vehicular lanes within the right-of-way for such  
27 activities"; in line 5 strike "(6)" and insert "(7)"; and in line 9 after  
28 the second "facility" insert "and related utility pole, unless such pole  
29 is otherwise being used by another utility or is owned by a party other  
30 than the owner of the removed small wireless facility,".

31 10. Renumber the remaining sections and correct internal references

1 accordingly.