

ONE HUNDRED SECOND LEGISLATURE - SECOND SESSION - 2012
COMMITTEE STATEMENT (CORRECTED)
LB1091

Hearing Date: Monday February 13, 2012
Committee On: Transportation and Telecommunications
Introducer: Fischer
One Liner: Adopt the Prepaid Wireless Surcharge Act and eliminate certain charges on prepaid wireless service

Roll Call Vote - Final Committee Action:
Advanced to General File

Vote Results:

Aye:	7	Senators Campbell, Dubas, Fischer, Hadley, Janssen, Lautenbaugh, Price
Nay:		
Absent:	1	Senator Louden
Present Not Voting:		

Proponents:

Senator Fischer
Beth Canuteson

Representing:

Introducer
AT&T Wireless

Opponents:

Representing:

Neutral:

Jim Otto
Jerry Vap

Representing:

NE Retail Association
NE PSC

Summary of purpose and/or changes:

LB 1091 requires the seller of prepaid wireless service to collect the Wireless E911 fee and Relay System fee at the point-of-sale.

Section 2 creates definitions for the Act, including the terms: "consumer", "prepaid wireless surcharge", "prepaid wireless telecommunications service", "provider", "retail transaction", "seller", and "wireless telecommunications service".

Section 3 mandates the Department of Revenue to determine the surcharge and provide 90 days notice of any change. The section creates a formula for determining each surcharge.

Subsection (3) requires the seller to begin collecting the surcharge from the consumer beginning January 1, 2013. The surcharge must be a separate line-item on the bill. The subsection also outlines when a transaction is considered occurring within the state.

Subsection (4) provides that the surcharge is the liability of the consumer, but the seller is liable for remitting all surcharges collected.

Subsection (5) provides that the surcharge will not be included in any other tax imposed by the state or political subdivision.

Subsection (6) allows for an exemption for de minimis service that is sold along with the prepaid wireless equipment (i.e. cellphone). If the service is 10 minutes or less, or \$5 or less, then the surcharge does not have to be collected.

Section 4 requires the seller to remit the surcharge to the Department of Revenue in the same manner as sales tax, and authorizes an audit and appeal procedure in the same manner as sales tax.

The section allows the seller to retain a 3% collection fee.

The section authorizes Revenue to develop a procedure by which a seller can claim that a sale is not a retail transaction under the Act.

The section also authorizes Revenue to keep a 2% administration fee, after which the remitted surcharge is to be turned over to the Treasurer for credit to the Wireless E911 fund and the Telecommunications Relay System fund with their respective proportions.

Section 5 mandates that the surcharge is to be the only obligation for the the Wireless E911 and Telecommunications Relay System programs with respect to prepaid wireless service.

Sections 6 to 8 make harmonizing changes to their respective statutory sections.

Section 9 sets an effective date of January 1, 2013 for Sections 6 to 8. All other sections will be enacted three calendar months after the bill takes effect.

Section 10 provides the severability clause to protect against unconstitutional provisions within the bill.

Section 12 outright repeals sec. 86-450.02, which defined prepaid wireless service for enhanced wireless 911 purposes.

Deb Fischer, Chairperson