

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 550

Introduced by Vargas, 7; Hilgers, 21.

Read first time January 22, 2019

Committee: Transportation and Telecommunications

1 A BILL FOR AN ACT relating to wireless telecommunications services; to
2 amend sections 86-313 and 86-457, Reissue Revised Statutes of
3 Nebraska, and sections 86-328 and 86-1028, Revised Statutes
4 Cumulative Supplement, 2018; to require voter approval for taxes and
5 fees on wireless services; to change and eliminate certain
6 surcharges; to eliminate the Prepaid Wireless Surcharge Act; to
7 harmonize provisions; to repeal the original sections; and to
8 outright repeal section 86-901, Reissue Revised Statutes of
9 Nebraska, and sections 86-320.02, 86-902, 86-903, 86-904, and
10 86-905, Revised Statutes Cumulative Supplement, 2018.

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

1 Section 1. No municipality shall impose any tax or fee related to
2 wireless and prepaid wireless services after the effective date of this
3 act unless and until the question of whether to impose such tax has been
4 submitted at a primary, general, or special election held within the
5 municipality and in which all registered voters shall be entitled to vote
6 on such question. The officials of the municipality shall order the
7 submission of the question by submitting a certified copy of the
8 resolution proposing the tax to the election commissioner or county clerk
9 by March 1 for a primary election, by September 1 for a general election,
10 or at least fifty days before a special election. The election shall be
11 conducted in accordance with the Election Act. If a majority of the votes
12 cast upon such question are in favor of such tax, then the governing body
13 of such municipality shall be empowered to impose such tax. If a majority
14 of those voting on the question are opposed to such tax, then the
15 governing body of the municipality shall not impose such tax.

16 Sec. 2. Section 86-313, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 86-313 (1)(a) Each telephone company in Nebraska shall collect from
19 each of the telephone subscribers a surcharge not to exceed twenty cents
20 per month on each telephone number or functional equivalent in Nebraska.
21 ~~The , including wireless service as defined in section 86-456.01. Except~~
22 ~~for wireless service,~~ the surcharge shall only be collected on the first
23 one hundred telephone numbers or functional equivalents per subscriber.
24 The companies shall add the surcharge to each subscriber's bill. The
25 surcharge shall not be collected with respect to wireless service as
26 defined in section 86-456.01 or prepaid wireless telecommunications
27 service as defined in the Prepaid Wireless Surcharge Act. For purposes of
28 this subdivision, prepaid wireless telecommunications service means a
29 wireless telecommunications service that allows a caller to dial 911 to
30 access the 911 system, which service must be paid for in advance and is
31 sold in predetermined units or dollars of which the number declines with

1 use in a known amount or expiration of time.

2 (b) The telephone companies are not liable for any surcharge not
3 paid by a subscriber.

4 (2) Before April 1 of each year, the commission shall hold a public
5 hearing to determine the amount of surcharge necessary to carry out the
6 Telecommunications Relay System Act. After the hearing, the commission
7 shall set the surcharge at the level necessary to fund the statewide
8 telecommunications relay system and the specialized telecommunications
9 equipment program for the following year plus a reasonable reserve. The
10 surcharge shall become effective on July 1 following the change.

11 (3) In an emergency the commission may adjust the amount of the
12 surcharge to become effective before such date but only after a public
13 hearing for such purpose.

14 (4) Each telephone company shall remit the proceeds from the
15 surcharge to the commission. The commission shall remit the funds to the
16 State Treasurer for credit to the fund.

17 (5) The commission may require an audit of any company collecting
18 the surcharge pursuant to the act.

19 (6) This section shall not apply to subscribers who have no access
20 to relay service.

21 Sec. 3. Section 86-328, Revised Statutes Cumulative Supplement,
22 2018, is amended to read:

23 86-328 (1) Annually the commission shall hold a public hearing to
24 determine the level of the fund necessary to carry out the Nebraska
25 Telecommunications Universal Service Fund Act. The commission shall
26 publish notice of the hearing in at least one newspaper of general
27 circulation in the state at least once each week for two consecutive
28 weeks before the hearing. After the hearing, the commission shall
29 determine the amount of the fund for the following year, including a
30 reasonable reserve. In the initial year of the fund's operation, the
31 commission shall determine the amount of the fund to be equivalent to the

1 amount which, in the commission's judgment, after careful analysis, is
2 necessary to keep approximately ninety-six percent of Nebraska households
3 subscribed to local telecommunications service.

4 (2) In an emergency as determined by the commission, the commission
5 may adjust the level of the fund, but only after a public hearing for
6 such purpose.

7 ~~(3) For purposes of service by a prepaid wireless telecommunications~~
8 ~~service provider, universal service fund contribution and surcharge~~
9 ~~obligations shall be governed by the Prepaid Wireless Surcharge Act,~~
10 ~~except that a prepaid wireless telecommunications service provider shall~~
11 ~~continue to be subject to the audit requirements in subdivision (2)(d) of~~
12 ~~section 86-324.~~

13 Sec. 4. Section 86-457, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 86-457 (1) Each wireless carrier shall collect a surcharge of up to
16 thirty-five cents on all active telephone numbers or functional
17 equivalents every month from users of wireless service and shall remit
18 the surcharge in accordance with section 86-459. ÷

19 ~~(a) A surcharge of up to seventy cents, except as provided in~~
20 ~~subdivision (1)(b) of this subsection, on all active telephone numbers or~~
21 ~~functional equivalents every month from users of wireless service and~~
22 ~~shall remit the surcharge in accordance with section 86-459; or~~

23 ~~(b) A surcharge of up to fifty cents on all active telephone numbers~~
24 ~~or functional equivalents every month from users of wireless service~~
25 ~~whose primary place of use is in a county containing a city of the~~
26 ~~metropolitan class and shall remit the surcharge in accordance with~~
27 ~~section 86-459.~~

28 The wireless carrier is not liable for any surcharge not paid by a
29 customer.

30 (2) Except as otherwise provided in this section, the wireless
31 carrier shall add the surcharge to each user's billing statement. The

1 surcharge shall appear as a separate line-item charge on the user's
2 billing statement and shall be labeled as "Enhanced Wireless 911
3 Surcharge" or a reasonable abbreviation of such phrase.

4 (3) If a wireless carrier, except as otherwise provided in this
5 section, resells its service through other entities, each reseller shall
6 collect the surcharge from its customers and shall remit the surcharge in
7 accordance with section 86-459.

8 (4) The surcharges authorized by this section shall not apply to
9 prepaid wireless telecommunications service ~~as defined in section 86-902.~~
10 For purposes of this subsection, prepaid wireless telecommunications
11 service means a wireless telecommunications service that allows a caller
12 to dial 911 to access the 911 system, which service must be paid for in
13 advance and is sold in predetermined units or dollars of which the number
14 declines with use in a known amount or expiration of time.

15 (5) This section shall not apply to users who have no 911 service.

16 Sec. 5. Section 86-1028, Revised Statutes Cumulative Supplement,
17 2018, is amended to read:

18 86-1028 (1) The 911 Service System Fund is created. The fund shall
19 consist of surcharges collected pursuant to section ~~sections~~ 86-457 ~~and~~
20 ~~86-904~~, money transferred from the Enhanced Wireless 911 Fund, any
21 federal funds received for implementation and development of 911 service,
22 and any other money designated for credit to the 911 Service System Fund.
23 The fund shall be used for the costs of administering the fund, for the
24 purposes specified in section 86-465 unless otherwise directed by federal
25 law with respect to any federal funds, and for the purposes specified in
26 the 911 Service System Act. The costs of administering the 911 Service
27 System Fund shall be kept to a minimum.

28 (2) The fund shall not be subject to any fiscal-year limitation or
29 lapse provision of unexpended balance at the end of any fiscal year or
30 biennium. Any money in the fund available for investment shall be
31 invested by the state investment officer pursuant to the Nebraska Capital

1 Expansion Act and the Nebraska State Funds Investment Act, and for the
2 period July 1, 2017, through June 30, 2019, any interest earned by the
3 fund shall be credited to the General Fund.

4 (3) Money in the 911 Service System Fund may be used to pay for
5 costs incurred by or on behalf of governing bodies or public safety
6 answering points to provide 911 service that are determined by the
7 commission to be eligible for funding. The commission is not required to
8 provide funding from the 911 Service System Fund to more than one public
9 safety answering point in any county. Each entity that receives
10 disbursements from the fund under this subsection shall make a full
11 accounting of the money in a manner and form prescribed by the
12 commission.

13 (4) The State Treasurer shall transfer any money in the Enhanced
14 Wireless 911 Fund on July 1, 2018, to the 911 Service System Fund.

15 Sec. 6. Original sections 86-313 and 86-457, Reissue Revised
16 Statutes of Nebraska, and sections 86-328 and 86-1028, Revised Statutes
17 Cumulative Supplement, 2018, are repealed.

18 Sec. 7. The following sections are outright repealed: Section
19 86-901, Reissue Revised Statutes of Nebraska, and sections 86-320.02,
20 86-902, 86-903, 86-904, and 86-905, Revised Statutes Cumulative
21 Supplement, 2018.