

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIFTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 43**

Introduced by Hilkemann, 4.

Read first time January 05, 2017

Committee:

- 1 A BILL FOR AN ACT relating to telecommunications; to amend sections
- 2 86-435, 86-457, and 86-903, Reissue Revised Statutes of Nebraska; to
- 3 change provisions relating to surcharges for 911 service; to
- 4 harmonize provisions; and to repeal the original sections.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 86-435, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 86-435 (1) A governing body may incur any nonrecurring or recurring  
4 charges for the installation, maintenance, and operation of 911 service  
5 and shall pay such costs out of general funds which may be supplemented  
6 by funds from the imposition of a service surcharge. A governing body  
7 incurring costs for 911 service may impose a uniform service surcharge of  
8 up to fifty cents per month on each telephone number or functional  
9 equivalent of service users whose primary place of use is within the  
10 governing body's 911 service area, except for those service users served  
11 by wireless carriers as defined in section 86-456 and those service users  
12 who have no access to 911 service. The initial service surcharge may be  
13 imposed at any time subsequent to the execution of an agreement for 911  
14 service with a service supplier.

15 (2) ~~The Except in a county containing a city of the metropolitan~~  
16 ~~class,~~ such uniform service surcharge in subsection (1) of this section  
17 may be increased by an additional amount not to exceed fifty cents per  
18 month, except that the monthly uniform service surcharge shall not exceed  
19 one dollar per month. Such additional increase shall be made only after:

20 (a) Publication of notices for a public hearing. Such notices shall:  
21 (i) Be published at least once a week for three consecutive weeks in  
22 a legal newspaper published or of general circulation in the areas  
23 affected;

24 (ii) Set forth the time, place, and date of such public hearing; and

25 (iii) Set forth the purpose of the public hearing and the purpose of  
26 the increase; and

27 (b) A public hearing is held pursuant to such notices.

28 (3) If 911 service is to be provided for a territory which is  
29 included in whole or in part in the jurisdiction of two or more governing  
30 bodies, the agreement for such service shall be entered into by each such  
31 governing body unless any such governing body expressly excludes itself

1 from the agreement. Such an agreement shall provide that each governing  
2 body which is a customer of 911 service will pay for its portion of the  
3 service. Nothing in this subsection shall be construed to prevent two or  
4 more governing bodies from entering into a contract which establishes a  
5 separate legal entity for the purpose of entering into such an agreement  
6 as the customer of the service supplier or any supplier of equipment for  
7 911 service.

8 (4) If a governing body's 911 service area includes a local exchange  
9 area which intersects governmental boundary lines, the affected  
10 governmental units may cooperate to provide 911 service through an  
11 agreement as provided in the Interlocal Cooperation Act or the Joint  
12 Public Agency Act. The agreement shall provide for the assessment of a  
13 uniform service surcharge within a governing body's 911 service area. The  
14 service surcharge on each telephone number or functional equivalent of  
15 service users whose primary place of use is within the governing body's  
16 911 service area, except for those service users served by wireless  
17 carriers as defined in section 86-456 and those service users who have no  
18 access to 911 service, shall be the same as the amount allowed in  
19 subsections (1) and (2) of this section.

20 (5) Funds generated by the service surcharge shall be expended only  
21 for the purchase, installation, maintenance, and operation of  
22 telecommunications equipment and telecommunications-related services  
23 required for the provision of 911 service.

24 Sec. 2. Section 86-457, Reissue Revised Statutes of Nebraska, is  
25 amended to read:

26 86-457 (1) Each wireless carrier shall collect a ÷  
27 ~~(a) A surcharge of up to seventy cents, except as provided in subdivision~~  
28 ~~(1)(b) of this subsection,~~ on all active telephone numbers or functional  
29 equivalentents every month from users of wireless service and shall remit  
30 the surcharge in accordance with section 86-459. ~~÷ or~~  
31 ~~(b) A surcharge of up to fifty cents on all active telephone numbers or~~

1 ~~functional equivalents every month from users of wireless service whose~~  
2 ~~primary place of use is in a county containing a city of the metropolitan~~  
3 ~~class and shall remit the surcharge in accordance with section 86-459.~~

4 The wireless carrier is not liable for any surcharge not paid by a  
5 customer.

6 (2) Except as otherwise provided in this section, the wireless  
7 carrier shall add the surcharge to each user's billing statement. The  
8 surcharge shall appear as a separate line-item charge on the user's  
9 billing statement and shall be labeled as "Enhanced Wireless 911  
10 Surcharge" or a reasonable abbreviation of such phrase.

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

15 (4) The surcharges authorized by this section shall not apply to  
16 prepaid wireless telecommunications service as defined in section 86-902.

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

18 Sec. 3. Section 86-903, Reissue Revised Statutes of Nebraska, is  
19 amended to read:

20 86-903 (1) The Department of Revenue shall determine the prepaid  
21 wireless surcharge annually, effective January 1, based on the charges  
22 described in subsection (2) of this section as in effect on the preceding  
23 July 1. The department shall provide not less than ninety days' advance  
24 notice of any change in the prepaid wireless surcharge on the  
25 department's web site.

26 (2) The prepaid wireless surcharge shall be the sum of the following  
27 two percentages, rounded up to the nearest tenth of one percent:

28 (a) The percentage obtained by dividing (i) the amount of the  
29 wireless E-911 surcharge authorized under subsection (1) subdivision (1)  
30 ~~(b)~~ of section 86-457 by (ii) fifty; and

31 (b) The percentage obtained by dividing (i) the amount of the

1 Nebraska Telecommunications Relay System Fund surcharge set by the Public  
2 Service Commission pursuant to the Telecommunications Relay System Act by  
3 (ii) fifty.

4 (3) Beginning January 1, 2013, each seller shall collect the prepaid  
5 wireless surcharge from the consumer with respect to each retail  
6 transaction occurring in this state. The seller shall disclose the amount  
7 of the prepaid wireless surcharge either separately on an invoice,  
8 receipt, or other similar document that is provided to the consumer by  
9 the seller or otherwise. A retail transaction that is effected in person  
10 by a consumer at a business location of the seller shall be treated as  
11 occurring in this state if that business location is in this state, and  
12 any other retail transaction shall be treated as occurring in this state  
13 if the retail transaction is treated as occurring in this state for  
14 purposes of section 77-2703.

15 (4) The prepaid wireless surcharge is the liability of the consumer  
16 and not of the seller or of any provider, except that the seller shall be  
17 liable to remit all prepaid wireless surcharges that the seller collects  
18 from consumers as provided in section 86-904, including all such charges  
19 that the seller is deemed to collect when the amount of the charge has  
20 not been separately stated on an invoice, receipt, or other similar  
21 document provided to the consumer by the seller.

22 (5) The amount of the prepaid wireless surcharge that is collected  
23 by a seller from a consumer, whether or not such amount is separately  
24 stated on an invoice, receipt, or other similar document provided to the  
25 consumer by the seller, shall not be included in the base for measuring  
26 any tax, fee, surcharge, or other charge that is imposed by this state,  
27 any political subdivision of this state, or any intergovernmental agency.

28 (6) For purposes of subsection (3) of this section, when prepaid  
29 wireless telecommunications service is sold with one or more other  
30 products or services for a single, non-itemized price, the seller shall  
31 elect to treat the price of the prepaid wireless telecommunications

1 service (a) as such entire non-itemized price, (b) if the amount of  
2 prepaid wireless telecommunications service is disclosed to the consumer  
3 as a dollar amount, as such dollar amount, or (c) if the retailer can  
4 identify the portion of the price that is attributable to the prepaid  
5 wireless telecommunications service by reasonable and verifiable  
6 standards from its books and records that are kept in the regular course  
7 of business for other purposes, including, but not limited to, nontax  
8 purposes, as such portion. If the amount of prepaid wireless  
9 telecommunications service is denominated as ten minutes or less or as  
10 five dollars or less, the seller may elect not to collect any prepaid  
11 wireless surcharge with respect to the retail transaction.

12 Sec. 4. Original sections 86-435, 86-457, and 86-903, Reissue  
13 Revised Statutes of Nebraska, are repealed.