

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 652**

Introduced by Transportation and Telecommunications Committee: Smith, 14,  
Chairperson; Brasch, 16; Davis, 43; Friesen, 34; Garrett,  
3; Seiler, 33.

Read first time January 21, 2015

Committee: Transportation and Telecommunications

1 A BILL FOR AN ACT relating to telecommunications; to amend sections  
2 28-1311, 75-132.01, 77-2703.04, 84-712.05, 86-163, 86-435, 86-438,  
3 86-457, 86-463, and 86-903, Reissue Revised Statutes of Nebraska,  
4 and sections 75-109.01 and 75-156, Revised Statutes Cumulative  
5 Supplement, 2014; to adopt the 911 Emergency Services Communications  
6 Act; to change the offense of interference with a public service  
7 company; to provide powers and duties for the Public Service  
8 Commission; to change provisions relating to use of funds; to  
9 terminate a certain surcharge; to change a fee; to harmonize  
10 provisions; to provide operative dates; and to repeal the original  
11 sections.

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

1           Section 1. Sections 1 to 21 of this act shall be known and may be  
2 cited as the 911 Emergency Services Communications Act.

3           Sec. 2. The purposes of the 911 Emergency Services Communications  
4 Act are to establish a statewide governing authority and to establish a  
5 funding mechanism that ensures all Nebraskans, without regard to their  
6 location or abilities, have comparable accessibility to communicate for  
7 911 emergency services.

8           Sec. 3. It is the intent of the Legislature that:

9           (1) The statewide governing authority provide oversight to plan,  
10 implement, fund, manage, and maintain 911 emergency services  
11 communication;

12           (2) Local governing bodies will continue to provide dispatch and 911  
13 emergency services;

14           (3) Comprehensive statewide 911 coordination includes statewide  
15 planning, funding support, stakeholder involvement, uniform adherence to  
16 established technical and training standards, influencing policy creation  
17 to benefit all stakeholders, public education, training, enforcement,  
18 rulemaking, procurement authority, grant writing assistance, grant  
19 management, dispute resolution, and program evaluation;

20           (4) The jurisdictional roles of the state, regional, and local  
21 governing authorities be clearly defined and aligned for the most  
22 efficient operation of 911 emergency services communication;

23           (5) Public and private partnerships be promoted;

24           (6) Statewide standards be adopted for both technical and training  
25 efficiency and that quality assurance plans be adopted;

26           (7) All stakeholders be actively involved in the process; and

27           (8) Adequate training be provided to all stakeholders.

28           Sec. 4. For purposes of the 911 Emergency Services Communications  
29 Act:

30           (1) 911 call means any two-way form of communication requesting  
31 emergency assistance by contacting a public safety answering point and

1 includes voice and nonvoice communications that are subject to applicable  
2 state or federal requirements to provide such 911 dialing capability.  
3 Wireless and Internet-protocol-enabled services exempt from Federal  
4 Communications Commission regulations for 911 communications service, 911  
5 service, and next generation 911 service are excluded from this  
6 definition;

7 (2) 911 emergency services means the provision of firefighting, law  
8 enforcement, medical, or other public services as determined by the local  
9 governing bodies to respond to and manage emergency incidents;

10 (3) 911 emergency services communication means a coordinated system  
11 of technologies used to operate a network for receiving and processing  
12 incident-related information to facilitate an emergency response and  
13 includes basic or enhanced 911 calls made by telephone, text to 911,  
14 Internet-protocol-based applications, and emerging technologies that  
15 allow the public to access 911 emergency services;

16 (4) 911 emergency services communication provider means any person  
17 providing the infrastructure, network, applications, or service necessary  
18 for the public to make a 911 call. The term includes local exchange  
19 carriers, wireless carriers, prepaid wireless telecommunications service  
20 providers as defined in section 86-902 and interconnected voice over  
21 Internet protocol providers, but does not include providers of advanced  
22 telecommunications service that do not provide retail service capable of  
23 making a 911 call;

24 (5) Advanced telecommunications service means high-speed, broadband  
25 telecommunications capability provided by a local exchange carrier,  
26 wireless service provider, Internet service provider, or other provider  
27 that enables service users to originate and receive voice, data,  
28 graphics, and video communications;

29 (6) Commission means the Public Service Commission;

30 (7) Fund means the 911 Emergency Services Communication Fund;

31 (8) Interconnected voice over Internet protocol service means

1 interconnected voice over Internet protocol service as defined in 47  
2 C.F.R. Part 9;

3 (9) Internet protocol means the method by which digital data is sent  
4 from one computer to another on the Internet or other networks;

5 (10) Local governing body means the county board, the city council  
6 of a city, the board of trustees of a village, or the board of directors  
7 of any rural or suburban fire protection district;

8 (11) Next-generation 911 service means 911 service using in whole or  
9 in part next generation 911 technology;

10 (12) Next generation 911 technology means equipment, products, or  
11 services that enable a public safety answering point to receive calls for  
12 emergency assistance by voice, text, video, or successor technology  
13 utilizing, in whole or in part, Internet protocol or any successor  
14 technology, as defined under federal law, regulation, or industry  
15 standard, as applicable, whether provided pursuant to Federal  
16 Communications Commission regulation or voluntarily in coordination with  
17 public safety answering points;

18 (13) Public safety agency means an agency that provides  
19 firefighting, police, medical, or other emergency services as determined  
20 by the local governing bodies to respond to and manage emergency  
21 incidents;

22 (14) Public safety answering point means an entity responsible for  
23 receiving 911 calls and processing those calls according to a specific  
24 operational policy; and

25 (15) Service user means any person who is provided 911 call services  
26 in this state.

27 Sec. 5. (1) The commission shall, as necessary, be the statewide  
28 governing authority for 911 emergency services communication. The  
29 commission shall develop and establish a funding mechanism to carry out  
30 the 911 Emergency Services Communications Act. The commission shall be  
31 responsible for the implementation and operation of coordinated,

1 intrastate networks for 911 emergency services communication, including  
2 the coordination of delivery, purchase, maintenance, and operation of any  
3 required equipment approved by the commission. The statewide governing  
4 authority shall ensure comprehensive statewide 911 coordination with all  
5 stakeholders. The commission shall create a position of a state 911  
6 coordinator for purposes of relevant state and federal program  
7 requirements. The commission may coordinate with local governing bodies,  
8 other states, tribal governments, and the federal government to carry out  
9 the act. The commission may cooperate with and enter into contracts with  
10 other state agencies, experts, agents, employees, vendors, or consultants  
11 to carry out the act in accordance with state contracting practices.

12 (2) The commission's authority as the statewide governing body for  
13 911 emergency services communication includes the funding of  
14 communication systems designed to assist the public in communicating with  
15 public safety agencies. Funding from the 911 surcharge is not intended to  
16 fully fund emergency services. Nothing in the act is intended to disallow  
17 other sources of funding of 911 emergency services communication.

18 (3) The commission shall be responsible for statewide planning and  
19 deployment of services to ensure 911 emergency services communication  
20 serves all people at a consistent level of service.

21 (4) The commission may coordinate with and provide technical  
22 assistance to public safety answering points, supporting 911  
23 organizations and authorities, and other public safety and emergency  
24 medical service entities regarding 911 implementation, as appropriate and  
25 necessary. The commission may develop technical and operational standards  
26 for public safety answering points to ensure system security and  
27 continuity of operations, including, but not limited to: System access  
28 controls; border control functions; service user access and identity;  
29 data and hardware protection; and disaster management and recovery.

30 (5) The commission may initiate a request for proposals for  
31 statewide contracts. Public safety answering points are not required to

1 participate in such contracts.

2 (6) The commission shall have the authority to participate in  
3 activities to implement and operate interconnecting next-generation 911  
4 systems with neighboring states and the federal government.

5 Sec. 6. (1) The 911 Emergency Services Communication Fund is  
6 created.

7 (2) The fund shall provide dedicated and sustainable funding to make  
8 911 emergency services communication available to all persons in the  
9 state consistent with the policies set forth in the 911 Emergency  
10 Services Communications Act. Anyone receiving support from the fund shall  
11 use the support only for the provision, maintenance, and upgrading of  
12 facilities and services for which the support is intended. Any such  
13 support should be explicit and sufficient to achieve the purpose of the  
14 911 Emergency Services Communications Act.

15 (3) The fund shall consist of the surcharges credited to the fund,  
16 any money appropriated by the Legislature, any federal funds received for  
17 emergency services communication, and any other funds designated for  
18 credit to the fund. Money in the fund shall be used for the costs of  
19 administering the fund and the purposes specified in section 6 of this  
20 act unless otherwise directed by federal law with respect to federal  
21 funds. Funds collected from the imposition of a service surcharge shall  
22 be credited to a separate fund and shall be used solely to pay for costs  
23 for 911 service. The money in the fund shall not be subject to any  
24 fiscal-year limitation or lapse provision of unexpended balance at the  
25 end of any fiscal year or biennium.

26 (4) The commission may apply for and accept gifts, grants,  
27 contributions, and bequests from any department, agency, or subdivision  
28 of federal, state, county, or municipal government and any individual,  
29 foundation, corporation, association, or public authority for the purpose  
30 of providing or receiving services, facilities, or staff assistance in  
31 connection with its work. Such funds will be deposited in the fund.

1       (5) Any money in the fund available for investment shall be invested  
2 by the state investment officer pursuant to the Nebraska Capital  
3 Expansion Act and the Nebraska State Funds Investment Act.

4       Sec. 7. (1) In addition to other provisions of the 911 Emergency  
5 Services Communications Act, and to the extent not prohibited by federal  
6 law, the commission:

7       (a) Shall have authority and power to issue orders carrying out its  
8 responsibilities and to review the compliance of any eligible entity  
9 receiving support for continued compliance with any orders, rules, or  
10 regulations adopted pursuant to the act;

11       (b) May withhold all or a portion of the funds, after reasonable  
12 notice and hearing, to be distributed from any entity failing to continue  
13 compliance with the commission's orders, rules, or regulations;

14       (c) Shall require every 911 emergency services communication  
15 provider to collect and remit surcharges established by the commission  
16 pursuant to state law. The commission may require, as reasonably  
17 necessary, a periodic audit of any 911 emergency services communication  
18 provider, to be performed by a third-party certified public accountant to  
19 insure the billing, collection, and remittance of a surcharge for 911  
20 emergency services communication. The costs of any audit required  
21 pursuant to this subdivision may be paid by the 911 emergency services  
22 communication provider being audited; and

23       (d) May administratively fine pursuant to section 75-156 any person  
24 who violates the act.

25       (2) The commission shall determine the standards and procedures  
26 reasonably necessary, adopt and promulgate rules and regulations as  
27 reasonably required, and enter into such contracts with other agencies,  
28 local governing bodies, public safety answering points, or private  
29 organizations or entities as may be reasonably necessary to efficiently  
30 develop, implement, and operate the fund and carry out the purposes of  
31 the act.

1       (3) The commission shall develop a cybersecurity policy to prevent  
2 and respond to security breaches with the potential to disrupt 911  
3 emergency services communication or disclose protected information prior  
4 to the implementation of a statewide network for 911 emergency services  
5 communication.

6       Sec. 8. (1) The commission shall administer the fund and oversee  
7 statewide 911 emergency services communication with the advice of an  
8 advisory board.

9       (2) The Statewide 911 Advisory Board is created to provide strategic  
10 recommendations and guidance for matters impacting 911 emergency services  
11 communication. The advisory board shall be composed of twelve individuals  
12 appointed by the Governor, including:

13       (a) One representative of a public safety answering point of a city  
14 of the metropolitan class;

15       (b) One representative of a public safety answering point managed by  
16 a sheriff;

17       (c) One representative of a public safety answering point not  
18 managed by a sheriff;

19       (d) One representative of county officials or county employees;

20       (e) One representative of municipal officials or municipal  
21 employees;

22       (f) One representative from the state's local exchange  
23 telecommunications service industry;

24       (g) One representative from the state's wireless telecommunications  
25 industry;

26       (h) One representative from the state's advanced telecommunications  
27 service industry;

28       (i) One member of the public representing accessibility issues such  
29 as the deaf and hard-of-hearing community, the blind and visually  
30 impaired community, non-English speakers, low-income populations, the  
31 disabled, schools, hospitals, or behavioral or mental health communities;

1       (j) A representative of the office of the Chief Information Officer;  
2       and

3       (k) A representative of the chief medical officer as designated in  
4       section 81-3115.

5       The advisory board shall also include an ex officio member from the  
6       commission.

7       (3) The advisory board shall:

8       (a) Assist the commission in ensuring comparable access to 911  
9       emergency services to all Nebraskans;

10       (b) Foster comprehensive statewide 911 coordination;

11       (c) Provide input on the level of 911 funding needed;

12       (d) Review and make comments to the commission on pending rule  
13       changes, orders, and the level of 911 funding needed;

14       (e) Assist the commission in developing standards;

15       (f) Provide input to the commission on 911 system strategic  
16       planning;

17       (g) Provide input to the commission on 911 standards and performance  
18       measuring programs;

19       (h) Provide input to the commission on public education efforts  
20       needed; and

21       (i) Refer matters to subcommittees of the board or request the input  
22       of stakeholders, including state agencies or local governing bodies on  
23       matters before the board.

24       (4) The advisory board shall adopt bylaws governing its operation,  
25       including a code of ethical conduct, by December 1, 2015.

26       (5) The advisory board shall meet as needed. The advisory board  
27       shall prepare an annual report on its activities to be included in the  
28       commission's annual telecommunications report to the Legislature under  
29       section 86-163.

30       (6) Members shall be appointed for terms of three years and shall  
31       receive no compensation but shall be reimbursed for their actual and

1 necessary expenses as provided in sections 81-1174 to 81-1177.

2 (7) Meetings of the advisory board are subject to the Open Meetings  
3 Act.

4 Sec. 9. (1) In consultation with the statewide 911 Advisory Board,  
5 the commission shall use the fund to create a master plan to implement  
6 next-generation 911 statewide. Next-generation 911 shall be designed to  
7 provide access to 911 emergency services communication and to provide  
8 multimedia data capabilities for public safety answering points. The  
9 commission may contract with a subject-matter expert consultant to  
10 develop the master plan.

11 (2) The master plan shall include development, phased-in  
12 implementation, and management of next-generation 911 and the deployment,  
13 interconnection, and management of 911 emergency services communication,  
14 including, but not limited to, necessary technological upgrades,  
15 geographic information systems, public safety answering point training,  
16 public education, and any other necessary issues related to next-  
17 generation 911.

18 (3) The master plan shall address capital replacement needs and  
19 capital infrastructure expenses for a statewide network for 911 emergency  
20 services communication.

21 (4) The master plan shall address the method by which all affected  
22 parties transition from current funding means to the new methodology as  
23 adopted by the commission.

24 Sec. 10. (1) The provision of 911 emergency services shall be the  
25 responsibility of each county. A local governing body may incur any  
26 nonrecurring or recurring charges for the installation, maintenance, and  
27 operation of 911 emergency services communication and may pay such costs  
28 out of general funds.

29 (2) Nothing in this section shall be construed to prohibit or  
30 discourage the formation of regional systems, and any system established  
31 pursuant to the 911 Emergency Services Communications Act may include

1 more than one public safety answering point or may include any portion of  
2 any geographic area in the state. A public safety agency that receives a  
3 911 call for 911 emergency services outside its jurisdictional boundaries  
4 shall transmit the 911 call to the proper public safety answering point  
5 or public safety agency. Public safety agencies within a single system  
6 and public agencies in different systems but whose jurisdictional  
7 boundaries are contiguous are authorized to enter into joint or  
8 cooperative agreements to implement the requirement of this subsection.

9 (3) If 911 emergency services communication is to be provided for a  
10 territory that is included in whole or in part in the jurisdiction of two  
11 or more local governing bodies, the agreement for such service shall be  
12 entered into by each such local governing body unless any such local  
13 governing body expressly excludes itself from the agreement. Such an  
14 agreement shall provide that each local governing body that is a customer  
15 of 911 emergency services communication will pay for its portion of the  
16 service. Nothing in the act shall be construed to prevent two or more  
17 local governing bodies from entering into a contract that establishes a  
18 separate legal entity for the purpose of entering into such an agreement  
19 as the customer of the service supplier or any supplier of equipment for  
20 911 emergency services communication.

21 (4) If a local governing body's jurisdictional boundaries include a  
22 local exchange area that intersects jurisdictional boundaries, the  
23 affected governmental units may cooperate to provide 911 emergency  
24 services communication through an agreement as provided in the Interlocal  
25 Cooperation Act or the Joint Public Agency Act.

26 Sec. 11. Services described in the 911 Emergency Services  
27 Communications Act are an essential service and are within the  
28 governmental powers and authorities of the commission, a local governing  
29 body, or a public safety agency. The commission, local governing bodies,  
30 and public safety agencies may provide 911 emergency services  
31 communication. In contracting for and providing such communication,

1 except for failure to use reasonable care or for intentional acts, the  
2 commission, a local governing body, a public safety agency, and a service  
3 provider and its employees and agents shall be immune from liability or  
4 the payment for any damages in the performance of installing,  
5 maintaining, or providing 911 emergency services communication.

6       Sec. 12. The commission may apply for or assist any political  
7 subdivision in applying for any federal or other funds available for 911  
8 emergency services communication and may distribute federal funds  
9 consistent with federal law and other funds consistent with the  
10 directives, purposes, or conditions of such other funds. Except for  
11 intentional acts, the commission shall be immune from liability or the  
12 payment of damages in assisting any political subdivision in applying for  
13 any such federal funds.

14       Sec. 13. (1) Beginning July 1, 2017, each 911 emergency services  
15 communication provider shall collect a surcharge set by the commission of  
16 up to seventy cents on all active telephone numbers or functional  
17 equivalents every month from service users with the capability to  
18 complete a 911 call and shall remit the surcharge in accordance with  
19 section 17 of this act.

20       (2) A 911 emergency services communication provider is not liable  
21 for any surcharge not paid by a customer.

22       (3) Except as otherwise provided in the 911 Emergency Services  
23 Communications Act, the 911 emergency services communication provider  
24 shall add the surcharge to each service user's billing statement. The  
25 surcharge shall appear as a separate line-item charge on the service  
26 user's billing statement and shall be labeled as 911 surcharge.

27       (4) The surcharge shall not apply to service users who have no 911  
28 service.

29       (5) Funds generated by the surcharge shall be expended only for the  
30 provision of 911 emergency services communication in this state.

31       (6) If a 911 emergency communications provider, except as otherwise

1 provided in this section, resells its service through other entities,  
2 each reseller shall collect the surcharge from its customers and shall  
3 remit the surcharge in accordance with this section.

4 (7) No service user shall be required to pay more than one 911  
5 surcharge per number or wireless device.

6 (8) The surcharges authorized by this section shall not apply to  
7 prepaid wireless telecommunications service as defined in section 86-902.

8 Sec. 14. The commission shall hold a public hearing annually to  
9 determine the amount of revenue necessary to carry out the 911 Emergency  
10 Services Communications Act. After the hearing, the commission shall  
11 determine the amount of money to be deposited in the fund for the  
12 following year and shall set the surcharge subject to the limitation in  
13 section 13 of this act. In an emergency as determined by the commission,  
14 the commission may adjust the level of the fund, but only after a public  
15 hearing for such purpose.

16 Sec. 15. (1) A public safety answering point or 911 emergency  
17 services communication provider may be compensated for costs determined  
18 by the commission to be eligible for funding. The level of funding  
19 available to each public safety answering point and 911 emergency  
20 services communication provider for eligible cost compensation may be  
21 limited based upon the mechanism established by the commission pursuant  
22 to section 5 of this act. The commission is not required to provide  
23 compensation for costs to more than one public safety answering point in  
24 any county. A public safety answering point or 911 emergency services  
25 communication provider may apply for disbursement from the fund by  
26 submitting a written application to the commission. The commission shall  
27 receive and review applications, including supporting documentation. The  
28 commission shall notify each applicant as to the commission's approval or  
29 disapproval of the application.

30 (2) Each entity that receives a disbursement from the fund shall  
31 make a full accounting of the money in a manner and form prescribed by

1 the commission.

2       Sec. 16. (1) A 911 emergency services communication provider shall  
3 bill the surcharge established by the commission to a service user  
4 monthly. The surcharge shall be collected as far as practicable at the  
5 same time as and along with the charges for service in accordance with  
6 the regular billing practice of the 911 emergency services communication  
7 provider. A service user shall be liable for any surcharge billed to the  
8 service user until the surcharge has been paid to the 911 emergency  
9 services communication provider. A 911 emergency services communication  
10 provider shall have no obligation to take any legal action to enforce the  
11 collection of any surcharge. Such action may be brought by or on behalf  
12 of the commission. A 911 emergency services communication provider shall  
13 not be liable for such uncollected amounts.

14       (2) 911 emergency services communication providers shall collect and  
15 remit 911 system data as required by the commission to carry out the 911  
16 Emergency Services Communications Act, such as network performance, call  
17 processing, network components, or outages.

18       (3) The commission may administratively fine pursuant to section  
19 75-156 any person who violates the act.

20       Sec. 17. (1) Each 911 emergency services communication provider  
21 shall remit monthly to the commission the amounts collected pursuant to  
22 section 16 of this act together with any forms required by the commission  
23 no later than sixty days after the last day of the month. The commission  
24 shall remit the funds to the State Treasurer for credit to the fund.

25       (2) As the commission may require, each 911 emergency services  
26 communication provider shall report to the commission on a quarterly  
27 basis in a manner prescribed by the commission to ensure the purposes of  
28 the 911 Emergency Services Communications Act are realized.

29       (3) Each 911 emergency services communication provider shall  
30 maintain records required by the commission pursuant to the section for a  
31 period of three years after the date of remittance to the fund. The

1 commission may require an audit of any provider's books and records  
2 concerning the collection and remittance of any amounts collected  
3 pursuant to the act. The costs of an audit required by the commission  
4 shall, at the commission's discretion, be paid by the audited provider. A  
5 911 emergency services communication provider shall not be required to  
6 pay for more than one remittance audit or more than one collection audit  
7 per year unless the commission orders subsequent audits for good cause.

8 (4) Each 911 emergency services communication provider shall comply  
9 with all commission rules and regulations regarding 911 emergency  
10 services communication.

11 (5) Each 911 emergency services communication provider shall comply  
12 with this section regardless of whether the 911 emergency services  
13 communication provider receives reimbursement from the fund. 911  
14 emergency services communication providers failing to comply with this  
15 section may be administratively fined by the commission pursuant to  
16 section 75-156.

17 Sec. 18. (1) Each public safety answering point shall report to the  
18 commission annually (a) the name and location of the public safety  
19 answering point, (b) how they are complying with any quality assurance  
20 protocols developed by the commission, (c) an accounting of funds  
21 received and spent, (d) data required by the commission regarding the  
22 status and operation of the components of statewide network for 911  
23 emergency services communication, and (e) any other information requested  
24 by the commission.

25 (2) Nothing in the 911 Emergency Services Communications Act shall  
26 be construed to prevent two or more local governing bodies or public  
27 safety answering points from entering into an agreement or memorandum of  
28 understanding to share costs and resources in the provision of 911  
29 emergency services communication.

30 (3) A public safety answering point, or the commission on behalf of  
31 any public safety answering point that has designated the commission to

1 do so, may enter into a service agreement with one or more 911 emergency  
2 services communication providers or vendors. The commission shall  
3 determine the most efficient method for providing 911 emergency services  
4 communication.

5 (4) Information provided by public safety answering points to the  
6 commission pursuant to the act may be treated as records that may be  
7 withheld from the public upon request of the party submitting such  
8 records if the information qualifies under subdivision (5) of section  
9 84-712.05.

10 Sec. 19. The commission shall compile the information required in  
11 sections 8 and 18 of this act and include it in its annual  
12 telecommunications report to the Legislature under section 86-163. The  
13 report may also include a summary of the progress on the implementation  
14 of a statewide network for 911 emergency services communication, the  
15 capital improvements and expenditures proposed for the following fiscal  
16 year, expected 911 surcharge revenue in the following fiscal year, and a  
17 summary of the 911 surcharge revenue and expenses for the prior fiscal  
18 year.

19 Sec. 20. The commission shall adopt and promulgate rules and  
20 regulations necessary to carry out the 911 Emergency Services  
21 Communications Act.

22 Sec. 21. The commission may assess a civil penalty pursuant to  
23 section 75-156 for each violation of any provision of the 911 Emergency  
24 Services Communications Act or any rule, regulation, or order of the  
25 commission issued under authority designated to the commission pursuant  
26 to the act.

27 Sec. 22. Section 28-1311, Reissue Revised Statutes of Nebraska, is  
28 amended to read:

29 28-1311 (1) A person commits the offense of interfering with a  
30 public service company if he or she willfully and purposely interrupts or  
31 interferes with the transmission of telecommunications services telegraph

1 ~~or telephone messages~~ or the transmission of light, heat and power in  
2 this state.

3 (2) Interference with public service companies is a Class II  
4 misdemeanor.

5 Sec. 23. Section 75-109.01, Revised Statutes Cumulative Supplement,  
6 2014, is amended to read:

7 75-109.01 Except as otherwise specifically provided by law, the  
8 Public Service Commission shall have jurisdiction, as prescribed, over  
9 the following subjects:

10 (1) Common carriers, generally, pursuant to sections 75-101 to  
11 75-158;

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

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

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

18 (5) Motor carrier registration and safety pursuant to sections  
19 75-301 to 75-322, 75-369.03, 75-370, and 75-371;

20 (6) Pipeline carriers and rights-of-way pursuant to the Major Oil  
21 Pipeline Siting Act, the State Natural Gas Regulation Act, and sections  
22 75-501 to 75-503. If the provisions of Chapter 75 are inconsistent with  
23 the provisions of the Major Oil Pipeline Siting Act, the provisions of  
24 the Major Oil Pipeline Siting Act control;

25 (7) Railroad carrier safety pursuant to sections 74-918, 74-919,  
26 74-1323, and 75-401 to 75-430;

27 (8) Telecommunications carriers pursuant to the 911 Emergency  
28 Services Communications Act, the Automatic Dialing-Announcing Devices  
29 Act, the Emergency Telephone Communications Systems Act, the Enhanced  
30 Wireless 911 Services Act, the Intrastate Pay-Per-Call Regulation Act,  
31 the Nebraska Telecommunications Regulation Act, the Nebraska

1 Telecommunications Universal Service Fund Act, the Telecommunications  
2 Relay System Act, the Telephone Consumer Slamming Prevention Act, and  
3 sections 86-574 to 86-580;

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

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

7 (11) Jurisdictional utilities governed by the State Natural Gas  
8 Regulation Act. If the provisions of Chapter 75 are inconsistent with the  
9 provisions of the State Natural Gas Regulation Act, the provisions of the  
10 State Natural Gas Regulation Act control.

11 Sec. 24. Section 75-132.01, Reissue Revised Statutes of Nebraska, is  
12 amended to read:

13 75-132.01 (1) Notwithstanding the provisions of section 75-131, the  
14 commission shall have exclusive original jurisdiction over any action  
15 concerning a violation of any provision of (a) the 911 Emergency Services  
16 Communications Act, the Automatic Dialing-Announcing Devices Act, the  
17 Emergency Telephone Communications Systems Act, the Enhanced Wireless 911  
18 Services Act, the Intrastate Pay-Per-Call Regulation Act, the Nebraska  
19 Telecommunications Regulation Act, the Nebraska Telecommunications  
20 Universal Service Fund Act, the Telecommunications Relay System Act, or  
21 the Telephone Consumer Slamming Prevention Act by any person providing  
22 telecommunications service for a fee in Nebraska intrastate commerce  
23 pursuant to such acts or (b) sections 86-574 to 86-578 by an agency or  
24 political subdivision of the state.

25 (2) If the commission enters an order declining jurisdiction under  
26 subsection (1) of this section, any interested person may petition the  
27 district court of the county in which such alleged violation has  
28 occurred. If it appears to the court, after a hearing, that a provision  
29 of such acts or sections has been violated, the court may issue an  
30 injunction or other proper process to restrain the telecommunications  
31 company and its directors, officers, employees, or agents or the agency

1 or political subdivision of the state from continuing such violation and  
2 may order additional relief. Any party to the case shall have the right  
3 to appeal the decision of the district court to the Court of Appeals  
4 under the rules provided by law for appeals in civil cases.

5 Sec. 25. Section 75-156, Revised Statutes Cumulative Supplement,  
6 2014, is amended to read:

7 75-156 (1) In addition to other penalties and relief provided by  
8 law, the Public Service Commission may, upon a finding that the violation  
9 is proven by clear and convincing evidence, assess a civil penalty of up  
10 to ten thousand dollars per day against any person, motor carrier,  
11 regulated motor carrier, common carrier, contract carrier, grain dealer,  
12 or grain warehouseman for each violation of (a) any provision of the laws  
13 of this state within the jurisdiction of the commission as enumerated in  
14 section 75-109.01, (b) any term, condition, or limitation of any  
15 certificate, permit, or authority issued by the commission pursuant to  
16 the laws of this state within the jurisdiction of the commission as  
17 enumerated in section 75-109.01, or (c) any rule, regulation, or order of  
18 the commission issued under authority delegated to the commission  
19 pursuant to the laws of this state within the jurisdiction of the  
20 commission as enumerated in section 75-109.01.

21 (2) In addition to other penalties and relief provided by law, the  
22 Public Service Commission may, upon a finding that the violation is  
23 proven by clear and convincing evidence, assess a civil penalty not less  
24 than one hundred dollars and not more than one thousand dollars against  
25 any jurisdictional utility for each violation of (a) any provision of the  
26 State Natural Gas Regulation Act, (b) any rule, regulation, order, or  
27 lawful requirement issued by the commission pursuant to the act, (c) any  
28 final judgment or decree made by any court upon appeal from any order of  
29 the commission, or (d) any term, condition, or limitation of any  
30 certificate issued by the commission issued under authority delegated to  
31 the commission pursuant to the act. The amount of the civil penalty

1 assessed in each case shall be based on the severity of the violation  
2 charged. The commission may compromise or mitigate any penalty prior to  
3 hearing if all parties agree. In determining the amount of the penalty,  
4 the commission shall consider the appropriateness of the penalty in light  
5 of the gravity of the violation and the good faith of the violator in  
6 attempting to achieve compliance after notification of the violation is  
7 given.

8 (3) In addition to other penalties and relief provided by law, the  
9 Public Service Commission may, upon a finding that the violation is  
10 proven by clear and convincing evidence, assess a civil penalty of up to  
11 ten thousand dollars per day against any wireless carrier for each  
12 violation of the Enhanced Wireless 911 Services Act or any rule,  
13 regulation, or order of the commission issued under authority delegated  
14 to the commission pursuant to the act or against any 911 emergency  
15 services communication provider for each violation of the 911 Emergency  
16 Services Communications Act or any rule, regulation, or order of the  
17 commission issued under the authority delegated to the commission  
18 pursuant to the act.

19 (4) In addition to other penalties and relief provided by law, the  
20 Public Service Commission may, upon a finding that the violation is  
21 proven by clear and convincing evidence, assess a civil penalty of up to  
22 one thousand dollars against any person for each violation of the  
23 Nebraska Uniform Standards for Modular Housing Units Act or the Uniform  
24 Standard Code for Manufactured Homes and Recreational Vehicles or any  
25 rule, regulation, or order of the commission issued under the authority  
26 delegated to the commission pursuant to either act. Each such violation  
27 shall constitute a separate violation with respect to each modular  
28 housing unit, manufactured home, or recreational vehicle, except that the  
29 maximum penalty shall not exceed one million dollars for any related  
30 series of violations occurring within one year from the date of the first  
31 violation.

1           (5) The civil penalty assessed under this section shall not exceed  
2 two million dollars per year for each violation except as provided in  
3 subsection (4) of this section. The amount of the civil penalty assessed  
4 in each case shall be based on the severity of the violation charged. The  
5 commission may compromise or mitigate any penalty prior to hearing if all  
6 parties agree. In determining the amount of the penalty, the commission  
7 shall consider the appropriateness of the penalty in light of the gravity  
8 of the violation and the good faith of the violator in attempting to  
9 achieve compliance after notification of the violation is given.

10           (6) Upon notice and hearing in accordance with this section and  
11 section 75-157, the commission may enter an order assessing a civil  
12 penalty of up to one hundred dollars against any person, firm,  
13 partnership, limited liability company, corporation, cooperative, or  
14 association for failure to file an annual report or pay the fee as  
15 required by section 75-116 and as prescribed by commission rules and  
16 regulations or for failure to register as required by section 86-125 and  
17 as prescribed by commission rules and regulations. Each day during which  
18 the violation continues after the commission has issued an order finding  
19 that a violation has occurred constitutes a separate offense. Any party  
20 aggrieved by an order of the commission under this section may appeal.  
21 The appeal shall be in accordance with section 75-136.

22           (7) When any person or party is accused of any violation listed in  
23 this section, the commission shall notify such person or party in writing  
24 (a) setting forth the date, facts, and nature of each act or omission  
25 upon which each charge of a violation is based, (b) specifically  
26 identifying the particular statute, certificate, permit, rule,  
27 regulation, or order purportedly violated, (c) that a hearing will be  
28 held and the time, date, and place of the hearing, (d) that in addition  
29 to the civil penalty, the commission may enforce additional penalties and  
30 relief as provided by law, and (e) that upon failure to pay any civil  
31 penalty determined by the commission, the penalty may be collected by

1 civil action in the district court of Lancaster County.

2 Sec. 26. Section 77-2703.04, Reissue Revised Statutes of Nebraska,  
3 is amended to read:

4 77-2703.04 (1) Except for the telecommunications service defined in  
5 subsection (3) of this section, the sale of telecommunications service  
6 sold on a call-by-call basis shall be sourced to (a) each level of taxing  
7 jurisdiction where the call originates and terminates in that  
8 jurisdiction or (b) each level of taxing jurisdiction where the call  
9 either originates or terminates and in which the service address is also  
10 located.

11 (2) Except for the telecommunications service defined in subsection  
12 (3) of this section, a sale of telecommunications service sold on a basis  
13 other than a call-by-call basis and ancillary services are sourced to the  
14 customer's place of primary use.

15 (3)(a) For mobile telecommunications service and ancillary services  
16 provided and billed to a customer by a home service provider:

17 (i) Notwithstanding any other provision of law or any local  
18 ordinance or resolution, such mobile telecommunications service is deemed  
19 to be provided by the customer's home service provider;

20 (ii) All taxable charges for such mobile telecommunications service  
21 and ancillary services shall be subject to tax by the state or other  
22 taxing jurisdiction in this state whose territorial limits encompass the  
23 customer's place of primary use regardless of where the mobile  
24 telecommunications service originates, terminates, or passes through; and

25 (iii) No taxes, charges, or fees may be imposed on a customer with a  
26 place of primary use outside this state.

27 (b) In accordance with the federal Mobile Telecommunications  
28 Sourcing Act, as such act existed on July 20, 2002, the Tax Commissioner  
29 may, but is not required to:

30 (i) Provide or contract for a tax assignment data base based upon  
31 standards identified in 4 U.S.C. 119, as such section existed on July 20,

1 2002, with the following conditions:

2 (A) If such data base is provided, a home service provider shall be  
3 held harmless for any tax that otherwise would result from any errors or  
4 omissions attributable to reliance on such data base; or

5 (B) If such data base is not provided, a home service provider may  
6 rely on an enhanced zip code for identifying the proper taxing  
7 jurisdictions and shall be held harmless for any tax that otherwise would  
8 result from any errors or omissions attributable to reliance on such  
9 enhanced zip code if the home service provider identified the taxing  
10 jurisdiction through the exercise of due diligence and complied with any  
11 procedures that may be adopted by the Tax Commissioner. Any such  
12 procedure shall be in accordance with 4 U.S.C. 120, as such section  
13 existed on July 20, 2002; and

14 (ii) Adopt procedures for correcting errors in the assignment of  
15 primary use that are consistent with 4 U.S.C. 121, as such section  
16 existed on July 20, 2002.

17 (c) If charges for mobile telecommunications service that are not  
18 subject to tax are aggregated with and not separately stated on the bill  
19 from charges that are subject to tax, the total charge to the customer  
20 shall be subject to tax unless the home service provider can reasonably  
21 separate charges not subject to tax using the records of the home service  
22 provider that are kept in the regular course of business.

23 (d) For purposes of this subsection:

24 (i) Customer means an individual, business, organization, or other  
25 person contracting to receive mobile telecommunications service from a  
26 home service provider. Customer does not include a reseller of mobile  
27 telecommunications service or a serving carrier under an arrangement to  
28 serve the customer outside the home service provider's service area;

29 (ii) Home service provider means a telecommunications company as  
30 defined in section 86-322 that has contracted with a customer to provide  
31 mobile telecommunications service;

1 (iii) Mobile telecommunications service means a wireless  
2 communication service carried on between mobile stations or receivers and  
3 land stations, and by mobile stations communicating among themselves, and  
4 includes (A) both one-way and two-way wireless communication services,  
5 (B) a mobile service which provides a regularly interacting group of  
6 base, mobile, portable, and associated control and relay stations,  
7 whether on an individual, cooperative, or multiple basis for private one-  
8 way or two-way land mobile radio communications by eligible users over  
9 designated areas of operation, and (C) any personal communication  
10 service;

11 (iv) Place of primary use means the street address representative of  
12 where the customer's use of mobile telecommunications service primarily  
13 occurs. The place of primary use shall be the residential street address  
14 or the primary business street address of the customer and shall be  
15 within the service area of the home service provider; and

16 (v) Tax means the sales taxes levied under sections 13-319, 77-2703,  
17 and 77-27,142, the surcharges levied under the 911 Emergency Services  
18 Communications Act, the Enhanced Wireless 911 Services Act, the Nebraska  
19 Telecommunications Universal Service Fund Act, and the Telecommunications  
20 Relay System Act, and any other tax levied against the customer based on  
21 the amount charged to the customer. Tax does not mean an income tax,  
22 property tax, franchise tax, or any other tax levied on the home service  
23 provider that is not based on the amount charged to the customer.

24 (4) A sale of post-paid calling service is sourced to the  
25 origination point of the telecommunications signal as first identified by  
26 either (a) the seller's telecommunications system, or (b) information  
27 received by the seller from its service provider, where the system used  
28 to transport such signals is not that of the seller.

29 (5) A sale of prepaid calling service or a sale of a prepaid  
30 wireless calling service is sourced in accordance with section  
31 77-2703.01, except that in the case of a sale of a prepaid wireless

1 calling service, the rule provided in section 77-2703.01 shall include as  
2 an option the location associated with the mobile telephone number.

3 (6) A sale of a private communication service is sourced as follows:

4 (a) Service for a separate charge related to a customer channel  
5 termination point is sourced to each level of jurisdiction in which such  
6 customer channel termination point is located;

7 (b) Service where all customer termination points are located  
8 entirely within one jurisdiction or levels of jurisdiction is sourced in  
9 such jurisdiction in which the customer channel termination points are  
10 located;

11 (c) Service for segments of a channel between two customer channel  
12 termination points located in different jurisdictions and which segments  
13 of channel are separately charged is sourced fifty percent in each level  
14 of jurisdiction in which the customer channel termination points are  
15 located; and

16 (d) Service for segments of a channel located in more than one  
17 jurisdiction or levels of jurisdiction and which segments are not  
18 separately billed is sourced in each jurisdiction based on the percentage  
19 determined by dividing the number of customer channel termination points  
20 in such jurisdiction by the total number of customer channel termination  
21 points.

22 (7) For purposes of this section:

23 (a) 800 service means a telecommunications service that allows a  
24 caller to dial a toll-free number without incurring a charge for the  
25 call. The service is typically marketed under the name 800, 855, 866,  
26 877, and 888 toll-free calling, and any subsequent numbers designated by  
27 the Federal Communications Commission;

28 (b) 900 service means an inbound toll telecommunications service  
29 purchased by a subscriber that allows the subscriber's customers to call  
30 in to the subscriber's prerecorded announcement or live service. 900  
31 service does not include the charge for collection services provided by

1 the seller of the telecommunications services to the subscriber or  
2 service or product sold by the subscriber to the subscriber's customer.  
3 The service is typically marketed under the name 900 service, and any  
4 subsequent numbers designated by the Federal Communications Commission;

5 (c) Air-to-ground radiotelephone service means a radio  
6 telecommunication service, as that term is defined in 47 C.F.R. 22.99, as  
7 such regulation existed on January 1, 2007, in which common carriers are  
8 authorized to offer and provide radio telecommunications service for hire  
9 to subscribers in aircraft;

10 (d) Ancillary services means services that are associated with or  
11 incidental to the provision of telecommunications services, including,  
12 but not limited to, detailed telecommunications billings, directory  
13 assistance, vertical service, and voice mail services;

14 (e) Call-by-call basis means any method of charging for  
15 telecommunications service where the price is measured by individual  
16 calls;

17 (f) Coin-operated telephone service means a telecommunications  
18 service paid for by inserting money into a telephone accepting direct  
19 deposits of money to operate;

20 (g) Communications channel means a physical or virtual path of  
21 communications over which signals are transmitted between or among  
22 customer channel termination points;

23 (h) Conference bridging service means an ancillary service that  
24 links two or more participants of an audio or video conference call and  
25 may include the provision of a telephone number. Conference bridging  
26 service does not include the telecommunications services used to reach  
27 the conference bridge;

28 (i) Customer means the person or entity that contracts with the  
29 seller of telecommunications service. If the end user of  
30 telecommunications service is not the contracting party, the end user of  
31 the telecommunications service is the customer of the telecommunications

1 service, but this sentence only applies for the purpose of sourcing sales  
2 of telecommunications service under this section. Customer does not  
3 include a reseller of telecommunications service or for mobile  
4 telecommunications service of a serving carrier under an agreement to  
5 serve the customer outside the home service provider's licensed service  
6 area;

7 (j) Customer channel termination point means the location where the  
8 customer either inputs or receives the communications;

9 (k) Detailed telecommunications billing service means an ancillary  
10 service of separately stating information pertaining to individual calls  
11 on a customer's billing statement;

12 (l) Directory assistance means an ancillary service of providing  
13 telephone number information and address information;

14 (m) End user means the person who utilizes the telecommunications  
15 service. In the case of an entity, end user means the individual who  
16 utilizes the service on behalf of the entity;

17 (n) Fixed wireless service means a telecommunications service that  
18 provides radio communication between fixed points;

19 (o) International means a telecommunications service that originates  
20 or terminates in the United States and terminates or originates outside  
21 the United States, respectively. United States includes the District of  
22 Columbia or a United States territory or possession;

23 (p) Interstate means a telecommunications service that originates in  
24 one state of the United States, or a territory or possession of the  
25 United States, and terminates in a different state, territory, or  
26 possession of the United States;

27 (q) Intrastate means a telecommunications service that originates in  
28 one state of the United States, or a territory or possession of the  
29 United States, and terminates in the same state, territory, or possession  
30 of the United States;

31 (r) Mobile wireless service means a telecommunications service that

1 is transmitted, conveyed, or routed regardless of the technology used,  
2 whereby the origination and termination points of the transmission,  
3 conveyance, or routing are not fixed, including, by way of example only,  
4 telecommunications services that are provided by a commercial mobile  
5 radio service provider;

6 (s) Paging service means a telecommunications service that provides  
7 transmission of coded radio signals for the purpose of activating  
8 specific pagers. Such transmission may include messages and sounds;

9 (t) Pay telephone services means a telecommunications service  
10 provided through pay telephones;

11 (u) Post-paid calling service means the telecommunications service  
12 obtained by making a payment on a call-by-call basis either through the  
13 use of a credit card or payment mechanism, such as a bank card, travel  
14 card, credit card, or debit card, or by a charge made to a telephone  
15 number which is not associated with the origination or termination of the  
16 telecommunications service. A post-paid calling service includes a  
17 telecommunications service, except a prepaid wireless calling service,  
18 that would be a prepaid calling service except it is not exclusively a  
19 telecommunications service;

20 (v) Prepaid calling service means the right to access exclusively  
21 telecommunications service, which is paid for in advance and which  
22 enables the origination of calls using an access number or authorization  
23 code, whether manually or electronically dialed, and that is sold in  
24 predetermined units or dollars of which the number declines with use in a  
25 known amount;

26 (w) Prepaid wireless calling service means a telecommunications  
27 service that provides the right to utilize mobile wireless service as  
28 well as other nontelecommunications services, including the download of  
29 digital products delivered electronically, content, and ancillary  
30 services, which must be paid for in advance, that is sold in  
31 predetermined units of dollars or which the number declines with use in a

1 known amount;

2 (x) Private communication service means a telecommunications service  
3 that entitles the customer to exclusive or priority use of a  
4 communications channel or group of channels between or among termination  
5 points, regardless of the manner in which such channel or channels are  
6 connected, and includes switching capacity, extension lines, stations,  
7 and any other associated services that are provided in connection with  
8 the use of such channel or channels;

9 (y) Residential telecommunications service means a  
10 telecommunications service or ancillary services provided to an  
11 individual for personal use at a residential address, including an  
12 individual dwelling unit such as an apartment. In the case of  
13 institutions where individuals reside, such as schools or nursing homes,  
14 telecommunications service is considered residential if it is provided to  
15 and paid for by an individual resident rather than the institution;

16 (z) Service address means the location of the telecommunications  
17 equipment to which a customer's call is charged and from which the call  
18 originates or terminates, regardless of where the call is billed or paid.  
19 If this location is not known, service address means the origination  
20 point of the signal of the telecommunications service first identified  
21 either by the seller's telecommunications system, or in information  
22 received by the seller from its service provider, where the system used  
23 to transport such signals is not that of the seller. If both locations  
24 are not known, the service address means the location of the customer's  
25 place of primary use;

26 (aa) Telecommunications service means the electronic transmission,  
27 conveyance, or routing of voice, data, audio, video, or any other  
28 information or signals to a point, or between or among points.  
29 Telecommunications service includes such transmission, conveyance, or  
30 routing in which computer processing applications are used to act on the  
31 form, code, or protocol of the content for purposes of transmission,

1 conveyance, or routing without regard to whether such service is referred  
2 to as voice over Internet protocol services or is classified by the  
3 Federal Communications Commission as enhanced or value-added.  
4 Telecommunications service does not include:

5 (i) Data processing and information services that allow data to be  
6 generated, acquired, stored, processed, or retrieved and delivered by an  
7 electronic transmission to a purchaser when such purchaser's primary  
8 purpose for the underlying transaction is the processed data or  
9 information;

10 (ii) Installation or maintenance of wiring or equipment on a  
11 customer's premises;

12 (iii) Tangible personal property;

13 (iv) Advertising, including, but not limited to, directory  
14 advertising;

15 (v) Billing and collection services provided to third parties;

16 (vi) Internet access service;

17 (vii) Radio and television audio and video programming services,  
18 regardless of the medium, including the furnishing of transmission,  
19 conveyance, and routing of such services by the programming service  
20 provider. Radio and television audio and video programming services shall  
21 include, but not be limited to, cable service as defined in 47 U.S.C.  
22 522, as such section existed on January 1, 2007, and audio and video  
23 programming services delivered by providers of commercial mobile radio  
24 service as defined in 47 C.F.R. 20.3, as such regulation existed on  
25 January 1, 2007;

26 (viii) Ancillary services; or

27 (ix) Digital products delivered electronically, including, but not  
28 limited to, software, music, video, reading materials, or ringtones;

29 (bb) Value-added, nonvoice data service means a service that  
30 otherwise meets the definition of telecommunications services in which  
31 computer processing applications are used to act on the form, content,

1 code, or protocol of the information or data primarily for a purpose  
2 other than transmission, conveyance, or routing;

3 (cc) Vertical service means an ancillary service that is offered in  
4 connection with one or more telecommunications services, which offers  
5 advanced calling features that allow customers to identify callers and to  
6 manage multiple calls and call connections, including conference bridging  
7 services; and

8 (dd) Voice mail service means an ancillary service that enables the  
9 customer to store, send, or receive recorded messages. Voice mail service  
10 does not include any vertical services that the customer may be required  
11 to have in order to utilize the voice mail service.

12 Sec. 27. Section 84-712.05, Reissue Revised Statutes of Nebraska, is  
13 amended to read:

14 84-712.05 The following records, unless publicly disclosed in an  
15 open court, open administrative proceeding, or open meeting or disclosed  
16 by a public entity pursuant to its duties, may be withheld from the  
17 public by the lawful custodian of the records:

18 (1) Personal information in records regarding a student, prospective  
19 student, or former student of any educational institution or exempt  
20 school that has effectuated an election not to meet state approval or  
21 accreditation requirements pursuant to section 79-1601 when such records  
22 are maintained by and in the possession of a public entity, other than  
23 routine directory information specified and made public consistent with  
24 20 U.S.C. 1232g, as such section existed on February 1, 2013, and  
25 regulations adopted thereunder;

26 (2) Medical records, other than records of births and deaths and  
27 except as provided in subdivision (5) of this section, in any form  
28 concerning any person; records of elections filed under section 44-2821;  
29 and patient safety work product under the Patient Safety Improvement Act;

30 (3) Trade secrets, academic and scientific research work which is in  
31 progress and unpublished, and other proprietary or commercial information

1 which if released would give advantage to business competitors and serve  
2 no public purpose;

3 (4) Records which represent the work product of an attorney and the  
4 public body involved which are related to preparation for litigation,  
5 labor negotiations, or claims made by or against the public body or which  
6 are confidential communications as defined in section 27-503;

7 (5) Records developed or received by law enforcement agencies and  
8 other public bodies charged with duties of investigation or examination  
9 of persons, institutions, or businesses, when the records constitute a  
10 part of the examination, investigation, intelligence information, citizen  
11 complaints or inquiries, informant identification, or strategic or  
12 tactical information used in law enforcement training, except that this  
13 subdivision shall not apply to records so developed or received relating  
14 to the presence of and amount or concentration of alcohol or drugs in any  
15 body fluid of any person;

16 (6) Appraisals or appraisal information and negotiation records  
17 concerning the purchase or sale, by a public body, of any interest in  
18 real or personal property, prior to completion of the purchase or sale;

19 (7) Personal information in records regarding personnel of public  
20 bodies other than salaries and routine directory information;

21 (8) Information solely pertaining to protection of the security of  
22 public property and persons on or within public property, such as  
23 specific, unique vulnerability assessments or specific, unique response  
24 plans, either of which is intended to prevent or mitigate criminal acts  
25 the public disclosure of which would create a substantial likelihood of  
26 endangering public safety or property; computer or communications network  
27 schema, passwords, and user identification names; network specifications  
28 for, or call records collected in, the provision of 911 emergency  
29 services communication; guard schedules; lock combinations; or public  
30 utility infrastructure specifications or design drawings the public  
31 disclosure of which would create a substantial likelihood of endangering

1 public safety or property, unless otherwise provided by state or federal  
2 law;

3 (9) The security standards, procedures, policies, plans,  
4 specifications, diagrams, access lists, and other security-related  
5 records of the Lottery Division of the Department of Revenue and those  
6 persons or entities with which the division has entered into contractual  
7 relationships. Nothing in this subdivision shall allow the division to  
8 withhold from the public any information relating to amounts paid persons  
9 or entities with which the division has entered into contractual  
10 relationships, amounts of prizes paid, the name of the prize winner, and  
11 the city, village, or county where the prize winner resides;

12 (10) With respect to public utilities and except as provided in  
13 sections 43-512.06 and 70-101, personally identified private citizen  
14 account payment and customer use information, credit information on  
15 others supplied in confidence, and customer lists;

16 (11) Records or portions of records kept by a publicly funded  
17 library which, when examined with or without other records, reveal the  
18 identity of any library patron using the library's materials or services;

19 (12) Correspondence, memoranda, and records of telephone calls  
20 related to the performance of duties by a member of the Legislature in  
21 whatever form. The lawful custodian of the correspondence, memoranda, and  
22 records of telephone calls, upon approval of the Executive Board of the  
23 Legislative Council, shall release the correspondence, memoranda, and  
24 records of telephone calls which are not designated as sensitive or  
25 confidential in nature to any person performing an audit of the  
26 Legislature. A member's correspondence, memoranda, and records of  
27 confidential telephone calls related to the performance of his or her  
28 legislative duties shall only be released to any other person with the  
29 explicit approval of the member;

30 (13) Records or portions of records kept by public bodies which  
31 would reveal the location, character, or ownership of any known

1 archaeological, historical, or paleontological site in Nebraska when  
2 necessary to protect the site from a reasonably held fear of theft,  
3 vandalism, or trespass. This section shall not apply to the release of  
4 information for the purpose of scholarly research, examination by other  
5 public bodies for the protection of the resource or by recognized tribes,  
6 the Unmarked Human Burial Sites and Skeletal Remains Protection Act, or  
7 the federal Native American Graves Protection and Repatriation Act;

8 (14) Records or portions of records kept by public bodies which  
9 maintain collections of archaeological, historical, or paleontological  
10 significance which reveal the names and addresses of donors of such  
11 articles of archaeological, historical, or paleontological significance  
12 unless the donor approves disclosure, except as the records or portions  
13 thereof may be needed to carry out the purposes of the Unmarked Human  
14 Burial Sites and Skeletal Remains Protection Act or the federal Native  
15 American Graves Protection and Repatriation Act;

16 (15) Job application materials submitted by applicants, other than  
17 finalists, who have applied for employment by any public body as defined  
18 in section 84-1409. For purposes of this subdivision, (a) job application  
19 materials means employment applications, resumes, reference letters, and  
20 school transcripts and (b) finalist means any applicant (i) who reaches  
21 the final pool of applicants, numbering four or more, from which the  
22 successful applicant is to be selected, (ii) who is an original applicant  
23 when the final pool of applicants numbers less than four, or (iii) who is  
24 an original applicant and there are four or fewer original applicants;

25 (16) Records obtained by the Public Employees Retirement Board  
26 pursuant to section 84-1512;

27 (17) Social security numbers; credit card, charge card, or debit  
28 card numbers and expiration dates; and financial account numbers supplied  
29 to state and local governments by citizens; and

30 (18) Information exchanged between a jurisdictional utility and city  
31 pursuant to section 66-1867.

1           Sec. 28. Section 86-163, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3           86-163 The commission shall file with the Clerk of the Legislature  
4 an annual report on or before September 30 of each year on the status of  
5 the Nebraska telecommunications industry. The report shall be submitted  
6 in electronic format. The report shall:

7           (1) Describe the quality of telecommunications service being  
8 provided to the citizens of Nebraska;

9           (2) Describe the availability of diverse and affordable  
10 telecommunications service to all of the people of Nebraska;

11           (3) Describe the level of telecommunications service rates;

12           (4) Describe the use and continued need for the Nebraska  
13 Telecommunications Universal Service Fund;

14           (5) Describe the availability and location of 911 emergency services  
15 communication service and E-911 service as required by section 86-437;

16           ~~(6) Describe the availability and location of wireless 911 service~~  
17 ~~or enhanced wireless 911 service as required by section 86-460;~~

18           (6 7) Address the need for further legislation to achieve the  
19 purposes of the Nebraska Telecommunications Regulation Act; and

20           (7 8) Address the funding level of the Nebraska Competitive  
21 Telephone Marketplace Fund and an accounting of commission expenses  
22 related to its duties under section 86-127.

23           Sec. 29. Section 86-435, Reissue Revised Statutes of Nebraska, is  
24 amended to read:

25           86-435 (1) A governing body may incur any nonrecurring or recurring  
26 charges for the installation, maintenance, and operation of 911 service  
27 and shall pay such costs out of general funds which may be supplemented  
28 by funds from the imposition of a service surcharge. Until July 1, 2017,  
29 a A governing body incurring costs for 911 service may impose a uniform  
30 service surcharge of up to fifty cents per month on each telephone number  
31 or functional equivalent of service users whose primary place of use is

1 within the governing body's 911 service area, except for those service  
2 users served by wireless carriers as defined in section 86-456 and those  
3 service users who have no access to 911 service. The initial service  
4 surcharge may be imposed at any time subsequent to the execution of an  
5 agreement for 911 service with a service supplier.

6 (2) Except in a county containing a city of the metropolitan class,  
7 such uniform service surcharge in subsection (1) of this section may be  
8 increased by an additional amount not to exceed fifty cents per month.  
9 Such additional increase shall be made only after:

10 (a) Publication of notices for a public hearing. Such notices shall:

11 (i) Be published at least once a week for three consecutive weeks in  
12 a legal newspaper published or of general circulation in the areas  
13 affected;

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

15 (iii) Set forth the purpose of the public hearing and the purpose of  
16 the increase; and

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

18 (3) If 911 service is to be provided for a territory which is  
19 included in whole or in part in the jurisdiction of two or more governing  
20 bodies, the agreement for such service shall be entered into by each such  
21 governing body unless any such governing body expressly excludes itself  
22 from the agreement. Such an agreement shall provide that each governing  
23 body which is a customer of 911 service will pay for its portion of the  
24 service. Nothing in this subsection shall be construed to prevent two or  
25 more governing bodies from entering into a contract which establishes a  
26 separate legal entity for the purpose of entering into such an agreement  
27 as the customer of the service supplier or any supplier of equipment for  
28 911 service.

29 (4) If a governing body's 911 service area includes a local exchange  
30 area which intersects governmental boundary lines, the affected  
31 governmental units may cooperate to provide 911 service through an

1 agreement as provided in the Interlocal Cooperation Act or the Joint  
2 Public Agency Act. The agreement shall provide for the assessment of a  
3 uniform service surcharge within a governing body's 911 service area. The  
4 service surcharge on each telephone number or functional equivalent of  
5 service users whose primary place of use is within the governing body's  
6 911 service area, except for those service users served by wireless  
7 carriers as defined in section 86-456 and those service users who have no  
8 access to 911 service, shall be the same as the amount allowed in  
9 subsections (1) and (2) of this section.

10 (5) Funds generated by the service surcharge shall be expended only  
11 for the purchase, installation, maintenance, and operation of  
12 telecommunications equipment and telecommunications-related services  
13 required for the provision of 911 service.

14 Sec. 30. Section 86-438, Reissue Revised Statutes of Nebraska, is  
15 amended to read:

16 86-438 Each calendar year through 2017, the governing body shall  
17 establish the rate of the service surcharge, not to exceed the amount  
18 authorized by section 86-435, that together with any surplus revenue  
19 carried forward will produce sufficient revenue to fund the expenditures  
20 described in section 86-421. Amounts collected in excess of such  
21 necessary expenditures within a given year shall be carried forward to  
22 the next year. A governing body shall make its determination of the rate  
23 no later than September 1 of each year and, if it is a new rate, shall  
24 fix the new rate to take effect commencing with the first billing period  
25 of each service user on or following the next January 1. The governing  
26 body shall notify by certified or registered mail every service supplier  
27 of any change in the rate at least ninety days before the new rate  
28 becomes effective.

29 Sec. 31. Section 86-457, Reissue Revised Statutes of Nebraska, is  
30 amended to read:

31 86-457 (1) Until July 1, 2017, each ~~Each~~ wireless carrier shall

1 collect:

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

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

11 The wireless carrier is not liable for any surcharge not paid by a  
12 customer.

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

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

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

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

25 Sec. 32. Section 86-463, Reissue Revised Statutes of Nebraska, is  
26 amended to read:

27 86-463 The Enhanced Wireless 911 Fund is created. The fund shall  
28 consist of the surcharges credited to the fund, any money appropriated by  
29 the Legislature, any federal funds received for wireless emergency  
30 communication, and any other funds designated for credit to the fund.  
31 Money in the fund shall be used for the costs of administering the fund.

1 ~~for and the~~ purposes specified in section 86-465, and for purposes of the  
2 911 Emergency Services Communications Act, unless otherwise directed by  
3 federal law with respect to any federal funds. The costs of administering  
4 the fund shall be kept to a minimum. The money in the fund shall not be  
5 subject to any fiscal-year limitation or lapse provision of unexpended  
6 balance at the end of any fiscal year or biennium. Interest accruing to  
7 the fund from invested fund balances may be transferred to the General  
8 Fund at the direction of the Legislature through June 30, 2010. Any money  
9 in the Enhanced Wireless 911 Fund available for investment shall be  
10 invested by the state investment officer pursuant to the Nebraska Capital  
11 Expansion Act and the Nebraska State Funds Investment Act. The State  
12 Treasurer shall transfer any money in the fund on June 30, 2017, to the  
13 911 Emergency Services Communication Fund.

14 Sec. 33. Section 86-903, Reissue Revised Statutes of Nebraska, is  
15 amended to read:

16 86-903 (1) The Department of Revenue shall determine the prepaid  
17 wireless surcharge annually, effective January 1, based on the charges  
18 described in subsection (2) of this section as in effect on the preceding  
19 July 1. The department shall provide not less than ninety days' advance  
20 notice of any change in the prepaid wireless surcharge on the  
21 department's web site.

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

24 (a) The percentage obtained by dividing (i) the amount of the  
25 ~~wireless~~ E-911 surcharge authorized under section 13 of this act  
26 ~~subdivision (1)(b) of section 86-457~~ by (ii) fifty; and

27 (b) The percentage obtained by dividing (i) the amount of the  
28 Nebraska Telecommunications Relay System Fund surcharge set by the Public  
29 Service Commission pursuant to the Telecommunications Relay System Act by  
30 (ii) fifty.

31 (3) ~~Each Beginning January 1, 2013,~~ each seller shall collect the

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

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

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

24 (6) For purposes of subsection (3) of this section, when prepaid  
25 wireless telecommunications service is sold with one or more other  
26 products or services for a single, non-itemized price, the seller shall  
27 elect to treat the price of the prepaid wireless telecommunications  
28 service (a) as such entire non-itemized price, (b) if the amount of  
29 prepaid wireless telecommunications service is disclosed to the consumer  
30 as a dollar amount, as such dollar amount, or (c) if the retailer can  
31 identify the portion of the price that is attributable to the prepaid

1 wireless telecommunications service by reasonable and verifiable  
2 standards from its books and records that are kept in the regular course  
3 of business for other purposes, including, but not limited to, nontax  
4 purposes, as such portion. If the amount of prepaid wireless  
5 telecommunications service is denominated as ten minutes or less or as  
6 five dollars or less, the seller may elect not to collect any prepaid  
7 wireless surcharge with respect to the retail transaction.

8       Sec. 34. Sections 33 and 36 of this act become operative on July 1,  
9 2017. The other sections of this act become operative on their effective  
10 date.

11       Sec. 35. Original sections 28-1311, 75-132.01, 77-2703.04,  
12 84-712.05, 86-163, 86-435, 86-438, 86-457, and 86-463, Reissue Revised  
13 Statutes of Nebraska, and sections 75-109.01 and 75-156, Revised Statutes  
14 Cumulative Supplement, 2014, are repealed.

15       Sec. 36. Original section 86-903, Reissue Revised Statutes of  
16 Nebraska, is repealed.