

**TELECOMMUNICATIONS AMENDMENTS**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis S. Bramble**

House Sponsor: Jennifer M. Seelig

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**LONG TITLE**

**General Description:**

This bill provides that the existing surcharge on residential and business lines, for the provision of telecommunications devices to hearing and speech impaired persons, shall apply to each access line for residential and business telephone service and each telephone number for mobile telephone service.

**Highlighted Provisions:**

This bill:

- ▶ provides that the existing surcharge on residential and business lines, for the provision of telecommunications devices to hearing and speech impaired persons, shall apply to each access line for residential and business telephone service and each telephone number for mobile telephone service;
- ▶ reduces the maximum surcharge from 25 cents to 20 cents; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**54-8b-10**, as last amended by Laws of Utah 2008, Chapter 382

**63J-1-602.3**, as enacted by Laws of Utah 2010, Chapter 265

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30 *Be it enacted by the Legislature of the state of Utah:*

31 Section 1. Section **54-8b-10** is amended to read:

32 **54-8b-10. Imposing a surcharge to provide hearing and speech impaired persons**  
33 **with telecommunication devices -- Definitions -- Procedures for establishing program --**  
34 **Surcharge -- Administration and disposition of surcharge money.**

35 (1) As used in this section:

36 (a) "Certified deaf or severely hearing or speech impaired person" means any state  
37 resident who:

38 (i) is so certified by:

39 (A) a licensed physician;

40 (B) an otolaryngologist;

41 (C) a speech language pathologist;

42 (D) an audiologist; or

43 (E) a qualified state agency; and

44 (ii) qualifies for assistance under any low income public assistance program  
45 administered by a state agency.

46 (b) "Certified interpreter" means a person who is a certified interpreter under Title  
47 53A, Chapter 26a, Interpreter Services for the Hearing Impaired Act.

48 (c) (i) "Telecommunication device" means any mechanical adaptation device that  
49 enables a deaf or severely hearing or speech impaired person to use the telephone.

50 (ii) "Telecommunication device" includes:

51 (A) telecommunication devices for the deaf (TDD);

52 (B) telephone amplifiers;

53 (C) telephone signal devices;

54 (D) artificial larynxes; and

55 (E) adaptive equipment for TDD keyboard access.

56 (2) The commission shall hold hearings to establish a program whereby ~~[any]~~ a  
57 certified deaf or severely hearing or speech impaired customer of a ~~[telephone corporation]~~

58 telecommunications corporation that provides service through a local exchange or of a wireless  
59 telecommunications provider may obtain a telecommunication device capable of serving the  
60 customer at no charge to the customer beyond the rate for basic service.

61 (3) (a) The program described in Subsection (2) shall provide a dual party relay system  
62 using third party intervention to connect a certified deaf or severely hearing or speech impaired  
63 person with a normal hearing person by way of telecommunication devices designed for that  
64 purpose.

65 (b) The commission may, by rule, establish the type of telecommunications device to  
66 be provided to ensure functional equivalence.

67 (4) (a) The commission shall impose a surcharge on each ~~[residence and business~~  
68 ~~access line of each customer to the local exchange of any telephone corporation providing such~~  
69 ~~lines in this state]~~ residential and business access line of each customer of local-exchange  
70 telephone service in this state, and each residential and business telephone number of each  
71 customer of mobile telephone service in this state, not including a telephone number used  
72 exclusively to transfer data to and from a mobile device, which shall be collected by the  
73 telecommunications corporation providing public telecommunications service to the customer,  
74 to cover the costs of:

75 (i) the program described in Subsection (2); and

76 (ii) payments made under Subsection (5).

77 (b) The commission shall establish by rule the amount to be charged under this section,  
78 ~~[which may]~~ provided that:

79 (i) the surcharge does not exceed [25] 20 cents per [residence] month for each  
80 residential and business [access line:] access line for local-exchange telephone service, and for  
81 each residential and business telephone number for mobile telephone service, not including a  
82 telephone number used exclusively to transfer data to and from a mobile device; and

83 (ii) if the surcharge is related to a mobile telecommunications service, the surcharge  
84 may be imposed, billed, and collected only to the extent permitted by the Mobile  
85 Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

86 (c) The [~~telephone~~] telecommunications corporation shall collect the surcharge from its  
87 customers and transfer the money collected to the commission under rules adopted by the  
88 commission.

89 (d) The surcharge shall be separately identified on [~~customer bills~~] each bill to a  
90 customer.

91 (5) (a) [~~Any money~~] Money collected from the surcharge imposed under Subsection (4)  
92 shall be deposited in the state treasury as dedicated credits to be administered as determined by  
93 the [~~Public Service Commission~~] commission.

94 (b) These dedicated credits may be used only:

95 (i) for the purchase, maintenance, repair, and distribution of telecommunication  
96 devices;

97 (ii) for the acquisition, operation, maintenance, and repair of a dual party relay system;

98 (iii) to reimburse telephone corporations for the expenses incurred in collecting and  
99 transferring to the commission the surcharge imposed by the commission;

100 (iv) for the general administration of the program;

101 (v) to train persons in the use of telecommunications devices; and

102 (vi) by the commission to contract, in compliance with Title 63G, Chapter 6, Utah  
103 Procurement Code, with:

104 (A) an institution within the state system of higher education listed in Section  
105 53B-1-102 for a program approved by the Board of Regents that trains persons to qualify as  
106 certified interpreters; or

107 (B) the Division of Services to the Deaf and Hard of Hearing for a program that trains  
108 persons to qualify as certified interpreters.

109 (c) (i) The commission shall make rules under Title 63G, Chapter 3, Utah  
110 Administrative Rulemaking Act, for the administration of [~~monies~~] money under Subsection  
111 (5)(b)(vi).

112 (ii) In the initial rulemaking to determine the administration of [~~monies~~] money under  
113 Subsection (5)(b)(vi), the commission shall give notice and hold a public hearing.

114 (d) [~~Monies~~] Money received by the commission under Subsection (4) [~~are~~] is  
115 nonlapsing.

116 (6) (a) The telephone surcharge need not be collected by a [~~local exchange company~~]  
117 telecommunications corporation if the amount collected would be less than the actual  
118 administrative costs of the collection.

119 (b) If Subsection (6)(a) applies, the [~~local exchange company~~] telecommunications  
120 corporation shall submit to the commission, in lieu of the revenue from the surcharge  
121 collection, a breakdown of the anticipated costs and the expected revenue from the collection,  
122 showing that the costs exceed the revenue.

123 (7) The commission shall solicit the advice, counsel, and physical assistance of  
124 severely hearing or speech impaired persons and the organizations serving them in the design  
125 and implementation of the program.

126 Section 2. Section **63J-1-602.3** is amended to read:

127 **63J-1-602.3. List of nonlapsing funds and accounts -- Title 46 through Title 60.**

128 (1) Certain funds associated with the Law Enforcement Operations Account, as  
129 provided in Section 51-9-411.

130 (2) The Public Safety Honoring Heroes Restricted Account created in Section  
131 53-1-118.

132 (3) Funding for the Search and Rescue Financial Assistance Program, as provided in  
133 Section 53-2-107.

134 (4) Appropriations made to the Department of Public Safety from the Department of  
135 Public Safety Restricted Account, as provided in Section 53-3-106.

136 (5) Appropriations to the Motorcycle Rider Education Program, as provided in Section  
137 53-3-905.

138 (6) The DNA Specimen Restricted Account created in Section 53-10-407.

139 (7) Appropriations to the State Board of Education, as provided in Section  
140 53A-17a-105.

141 (8) Certain funds appropriated from the Uniform School Fund to the State Board of

142 Education for new teacher bonus and performance-based compensation plans, as provided in  
143 Section 53A-17a-148.

144 (9) Certain funds appropriated from the Uniform School Fund to the State Board of  
145 Education for implementation of proposals to improve mathematics achievement test scores, as  
146 provided in Section 53A-17a-152.

147 (10) The School Building Revolving Account created in Section 53A-21-401.

148 (11) Money received by the State Office of Rehabilitation for the sale of certain  
149 products or services, as provided in Section 53A-24-105.

150 (12) The State Board of Regents, as provided in Section 53B-6-104.

151 (13) Certain funds appropriated from the General Fund to the State Board of Regents  
152 for teacher preparation programs, as provided in Section 53B-6-104.

153 (14) A certain portion of money collected for administrative costs under the School  
154 Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

155 (15) Certain surcharges on [~~residence~~] residential and business [~~telecommunications~~  
156 ~~access lines~~] telephone numbers imposed by the Public Service Commission, as provided in  
157 Section 54-8b-10.

158 (16) Certain fines collected by the Division of Occupational and Professional Licensing  
159 for violation of unlawful or unprofessional conduct that are used for education and enforcement  
160 purposes, as provided in Section 58-17b-505.

161 (17) The Nurse Education and Enforcement Account created in Section 58-31b-103.

162 (18) The Certified Nurse Midwife Education and Enforcement Account created in  
163 Section 58-44a-103.

164 (19) Certain fines collected by the Division of Occupational and Professional Licensing  
165 for use in education and enforcement of the Security Personnel Licensing Act, as provided in  
166 Section 58-63-103.

167 (20) The Professional Geologist Education and Enforcement Account created in  
168 Section 58-76-103.

169 (21) Certain money in the Water Resources Conservation and Development Fund, as

170 provided in Section 59-12-103.