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HOUSE BILL 716

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Eric A. Youngberg

AN ACT

RELATING TO TAXATION; PROVIDING FOR THE SUSPENSION OF THE  
TELECOMMUNICATIONS RELAY SERVICE SURCHARGE FOR PERIODS WHEN THE  
BALANCE OF THE TELECOMMUNICATIONS ACCESS FUND EXCEEDS A CERTAIN  
AMOUNT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 63-9F-11 NMSA 1978 (being Laws 1993,  
Chapter 54, Section 11, as amended) is amended to read:

"63-9F-11. IMPOSITION OF SURCHARGE. --

A. Except as provided in Subsection F of this section, a telecommunications relay service surcharge of  
thirty-three hundredths percent is imposed on the gross amount  
paid by customers for:

(1) intrastate telephone services, other than  
mobile telecommunications services, provided in this state; and

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1 (2) intrastate mobile telecommunications  
2 services that originate and terminate in the same state,  
3 regardless of where the mobile telecommunications services  
4 originate, terminate or pass through, provided by home service  
5 providers to customers whose place of primary use is in New  
6 Mexico.

7 B. The telecommunications relay service surcharge  
8 shall be included on the monthly bill of each customer of a  
9 local exchange company or other telecommunications company  
10 providing intrastate telephone services or intrastate mobile  
11 telecommunications services and paid at the time of payment of  
12 the monthly bill. Receipts from selling a service to any other  
13 telecommunications company or provider for resale shall not be  
14 subject to the surcharge. The customer shall be liable for the  
15 payment of this surcharge to the local exchange company or  
16 other telecommunications company providing intrastate telephone  
17 services to the customer. For the purposes of [~~Subsections A~~  
18 ~~and B~~] Subsection A of this section and this subsection, "home  
19 service provider", "mobile telecommunications services" and  
20 "place of primary use" have the meanings given in the federal  
21 Mobile Telecommunications Sourcing Act.

22 C. A telecommunications company providing  
23 intrastate telephone services shall be responsible for  
24 assessing, collecting and remitting the telecommunications  
25 relay service surcharge to the taxation and revenue department.

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1 The amount of the telecommunications relay service surcharge  
2 collected by a telecommunications company shall be remitted  
3 monthly to the taxation and revenue department, on or before  
4 the twenty-fifth of the month following collection, which shall  
5 administer and enforce the collection of the surcharge pursuant  
6 to the provisions of the Tax Administration Act.

7 D. The taxation and revenue department shall remit  
8 to the telecommunications access fund the amount of the  
9 telecommunications relay service surcharge collected less any  
10 amount deducted pursuant to the provisions of Subsection E of  
11 this section. Transfer of the net receipts from the surcharge  
12 to the telecommunications access fund shall be made within the  
13 month following the month in which the surcharge is collected.

14 E. The taxation and revenue department may deduct  
15 an amount not to exceed three percent of the telecommunications  
16 relay service surcharge collected as a charge for the  
17 administrative costs of collection, which amount shall be  
18 remitted to the state treasurer for deposit in the general fund  
19 each month.

20 F. No later than August 1 of each year, the  
21 commission shall report to the taxation and revenue department  
22 the appropriations made from the telecommunications access fund  
23 for expenditure in the current fiscal year as well as other  
24 expected expenditures from the fund during that year. In the  
25 event that the balance of the telecommunications access fund,

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1 on July 1 of that fiscal year, exceeds one hundred twenty-five  
2 percent of the amount reported by the commission, the  
3 telecommunications relay service surcharge shall be suspended  
4 and not imposed for the succeeding calendar year. The taxation  
5 and revenue department shall notify taxpayers of any change in  
6 the rate of the surcharge imposed by this section.

7 [F-] G. The commission shall report to the revenue  
8 stabilization and tax policy committee annually by September 30  
9 the following information with respect to the prior fiscal  
10 year:

11 (1) the amount and source of revenue received  
12 by the telecommunications access fund;

13 (2) the amount and category of expenditures  
14 from the fund; and

15 (3) the balance of the fund on that June 30."

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