

**SENATE BILL NO. 2353**

Introduced by

Senators Kringstad, Krauter

1 A BILL for an Act to create and enact three new sections to chapter 57-40.6 and a new  
2 subsection to section 57-40.6-08 of the North Dakota Century Code, relating to a wireless 911  
3 service fee, liability, and an emergency services communication system advisory committee for  
4 911; to amend and reenact sections 57-40.6-01, 57-40.6-05, and 57-40.6-06 of the North  
5 Dakota Century Code, relating to wireless 911 telephone service; and to provide a continuing  
6 appropriation.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1. AMENDMENT.** Section 57-40.6-01 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **57-40.6-01. Definitions.** In this chapter, unless the context or subject matter otherwise  
11 requires:

- 12 1. "Emergency services communication system" means a statewide, countywide, or  
13 citywide radio system, land lines communication network, or emergency 911  
14 telephone system, which provides rapid public access for coordinated dispatching  
15 of services, personnel, equipment, and facilities for law enforcement, fire, medical,  
16 or other emergency services.
- 17 2. "Telephone access line" means the principal fixed land line access to the  
18 telephone company's switched network including an outward dialed trunk or  
19 access register.
- 20 3. "Wireless telephone service" means public telephone service provided for two-way  
21 voice or data communications which is transmitted independent of switched local  
22 exchange access telephone service and which may be transmitted, in part, by  
23 cable or wire as part of a larger telephone cable system. The term includes cellular  
24 telephone service and any resellers of the service, personal communication

1           service, and specialized mobile radio service. The term does not include any  
2           service that cannot connect a person to an established public safety answering  
3           point under the 911 system by dialing the digits 9-1-1.

4           4.   "911 service carrier" means any provider of wireless telephone service.

5           **SECTION 2.** A new section to chapter 57-40.6 of the North Dakota Century Code is  
6   created and enacted as follows:

7           **Emergency system - Wireless 911 service fee - Continuing appropriation.** A  
8   subscriber shall pay a wireless 911 service fee, per device, to the 911 service carrier. This fee  
9   must be the statewide land line weighted average rate. Weighting must be based on population  
10   so as to provide a true and reflective average of the land line 911 tax. The state treasurer shall  
11   complete an annual fiscal year review of the fee and adjust the fee if necessary. Any  
12   adjustment must be communicated to wireless providers at least ninety days before  
13   implementation. The 911 service carrier shall add the wireless 911 service fee to all current  
14   bills for wireless telephone service in this state. The 911 service carrier shall collect the  
15   wireless 911 service fee and shall remit the proceeds to the state treasurer on a monthly basis.  
16   The state treasurer shall deposit the funds in a special 911 fund.

17          **SECTION 3.** A new section to chapter 57-40.6 of the North Dakota Century Code is  
18   created and enacted as follows:

19          **Special 911 fund - Continuing appropriation - Distribution.** All funds deposited in  
20   the special 911 fund are appropriated on a continuing basis to the state treasurer for quarterly  
21   distribution as follows:

- 22           a.   Until July 1, 2003, fifteen percent to the 911 service carriers for use in  
23               upgrading to meet federal communications commission requirements to  
24               provide public safety answering points with a 911 callback number, and  
25               location identification, and to cover the cost of billing, collecting, and remitting  
26               the 911 service fee.
- 27           b.   Until July 1, 2003, ten percent to state radio communications to help defray  
28               the costs of 911 service.
- 29           c.   Until July 1, 2003, seventy-five percent to the counties, based upon  
30               population.

d. After June 30, 2003, five percent to state radio communications for administrative purposes.

e. After June 30, 2003, ninety-five percent to the counties, based on population.

**SECTION 4. AMENDMENT.** Section 57-40.6-05 of the North Dakota Century Code is amended and reenacted as follows:

**57-40.6-05. Restriction on use of tax or service fee proceeds.** The county may not use the proceeds of the tax imposed under section 57-40.6-02 or the 911 service fee imposed under section 2 of this Act for any purpose other than establishing or operating the emergency services communication system.

**SECTION 5. AMENDMENT.** Section 57-40.6-06 of the North Dakota Century Code is amended and reenacted as follows:

**57-40.6-06. Data base.** In 911 systems that have been approved by the state emergency ~~service~~ services communication system advisory committee, any telecommunications company or 911 service carrier providing emergency 911 service shall provide, on an annual basis, current customer names, addresses, and telephone numbers to each public service answering point within each 911 system and shall update the information according to a schedule prescribed by the state 911 advisory committee's standards and guidelines. Information provided under this section must be provided in accordance with the transactional record disclosure requirements of the federal Electronics Communications Privacy Act of 1986, 18 U.S.C. 2703 (C)(1)(B)(iv).

**SECTION 6.** A new subsection to section 57-40.6-08 of the North Dakota Century Code is created and enacted as follows:

A local exchange provider, emergency service provider, or 911 service carrier, or employee or agent of these providers or carriers, is not liable to any person for any infringement or invasion of the right of privacy of any person caused or claimed to have been caused, directly or indirectly, by the installation, operation, failure to operate, maintenance, removal, presence, condition, occasion, or use of an emergency service feature, automatic number identification service, or automatic location identification service, and the equipment associated with these services, or by any service furnished by any provider in connection with these services, including the identification of the telephone number, address or name associated

1           with the telephone used by the party accessing 911 service, and automatic number  
2           identification service or automatic location identification service, and which arises  
3           out of the negligence or other wrongful act of the provider, the customer, the  
4           governing body, service users, agencies, or municipalities, or their employees or  
5           agents. A provider or its employees and agents are not liable for any damages in a  
6           claim for relief for injuries, death, or loss to person or property incurred as a result  
7           of any act or omission of the provider, employee, or agent, in connection with  
8           developing, adopting, implementing, maintaining, enhancing, or operating an  
9           emergency telephone service, except for damages or injury intentionally caused by  
10          or resulting from gross negligence of the provider or person.

11          **SECTION 7.** A new section to chapter 57-40.6 of the North Dakota Century Code is  
12 created and enacted as follows:

13          **Emergency services communication system advisory committee - Standards and**  
14 **guidelines - Report.**

- 15          1.   The governor shall appoint a ten-member emergency services communication  
16              system advisory committee for 911. The governor shall include on the advisory  
17              committee one representative from the North Dakota league of cities, one  
18              representative from the North Dakota association of counties, one representative  
19              from the North Dakota peace officers association, one representative from the  
20              North Dakota firefighters association, one representative from the North Dakota  
21              911 association, one representative from the North Dakota emergency medical  
22              service association, two members of the North Dakota house of representatives,  
23              and two members of the North Dakota senate. Members' terms are for three  
24              years, subject to reappointment, beginning with staggered terms as determined by  
25              the governor. The entity represented is responsible for the expenses of the  
26              member representing that entity. The legislative council is responsible for paying  
27              the expenses of members of the legislative assembly. The legislative council shall  
28              provide staff services to the committee. The advisory committee shall name a  
29              chairman and vice chairman from its membership.
- 30          2.   The advisory committee shall adopt rules under chapter 28-32 for the development  
31              and operation of all emergency 911 systems. The rules must establish the level of

- 1                   emergency 911 system services to be provided and the uniformity and  
2                   compatibility of emergency 911 systems in the state.  
3           3. Each biennium the advisory committee shall submit a report of its work to the  
4                   governor and the legislative assembly.