

**1999 SENATE INDUSTRY, BUSINESS AND LABOR**

**SB 2307**

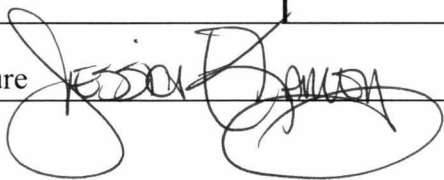
1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2307

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date January 27, 1999

Tape Number	Side A	Side B	Meter #
1	x	x	3900-end, 0-end
Committee Clerk Signature 			

Minutes:

Senator Mutch called the meeting to order. All senators were present.

Senator Krebsbach introduced the bill. Her testimony is included.

Senator Traynor testified in support of the bill. His testimony is included. Senator Sand asked him if he thought that they should look more closely at statewide distribution. His answer was that it would be more difficult in the more rural areas.

Pete Eggiman, director of Grand Forks County 911 Center, testified in support of SB2307. His testimony is included.

Barry Cox testified in support of SB2307. His testimony is included. Senator Mutch asked him how much revenue they are anticipating. Mr. Cox said that the 25 cents would generate about \$25,000. Senator Thompson asked him if they would have to go to property taxes if there wasn't this bill. He was told that that would be the only option.



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Senate Industry, Business and Labor Committee

Bill/Resolution Number Sb2307

Hearing Date January 27, 1999

Jeanelle Pepply testified in support of SB2307. Her testimony is included.

Jerry Berquist testified in support of SB2307. Her testimony is included.

Tod Kranda, Air Touch, testified in opposition to SB2307. His testimony is included. Senator Thompson asked him how many customers would or wouldn't receive benefits. His answer was that none of the wireless phones have the locator device in them.

Thomas O. Kelsh, Western Wireless, testified in opposition to SB2307. His testimony is included.

Carol Lindsay testified in opposition of SB2307.

Pete Hegiman testified in opposition to SB2307.

Senator Sand closed the hearing on SB2307.

Committee discussion took place on SB2307.

Senator Klein motioned for a do pass on SB2307. Senator Thompson seconded his motion. The motion carried with a 7-0-0 vote.

Senator Krebsbach will carry the bill.

## FISCAL NOTE

(Return original and 14 copies)

Bill/Resolution No.: \_\_\_\_\_

Amendment to: Engrossed SB 2307-Conference Committee

Requested by Legislative Council

Date of Request: 4/15/99

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts. Please provide breakdowns, if appropriate, showing salaries and wages, operating expenses, equipment, or other details to assist in the budget process. In a word processing format, add lines or space as needed or attach a supplemental sheet to adequately address the fiscal impact of the measure.

**Narrative:** If enacted, with amendments to the First Engrossment (pps. 1259-1260 Journal of the Senate), SB 2307 is expected to have the following fiscal impact:

2. **State** fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>			+\$24,000	+\$2.422 million		
<b>Expenditures</b>						

3. What, if any, is the effect of this measure on the budget for your agency or department:

- a. For rest of 1997-99 biennium: \_\_\_\_\_  
(Indicate the portion of this amount included in the 1999-2001 executive budget:)
- b. For the 1999-2001 biennium: \_\_\_\_\_  
(Indicate the portion of this amount included in the 1999-2001 executive budget:)
- c. For the 2001-03 biennium: \_\_\_\_\_

4. **County, city, and school district** fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

If additional space is needed  
attach a supplemental sheet.

Signed: *Kathryn L. Strombeck*

Typed Name: Kathryn L. Strombeck

Department: Tax

Date Prepared: April 15, 1999

Phone Number: 328-3402

## FISCAL NOTE

(Return original and 14 copies)

Bill/Resolution No.: \_\_\_\_\_

Amendment to: Eng. SB 2307

Requested by Legislative Council

Date of Request: 3-26-99

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts. Please provide breakdowns, if appropriate, showing salaries and wages, operating expenses, equipment, or other details to assist in the budget process. In a word processing format, add lines or space as needed or attach a supplemental sheet to adequately address the fiscal impact of the measure.

**Narrative:** If enacted with amendments to the first engrossment, SB 2307 is expected to have the following fiscal impact:

2. **State** fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>			+\$15,000	+\$1,514,000		
<b>Expenditures</b>						

3. What, if any, is the effect of this measure on the budget for your agency or department:
- a. For rest of 1997-99 biennium: \_\_\_\_\_  
(Indicate the portion of this amount included in the 1999-2001 executive budget:)
  - b. For the 1999-2001 biennium: \_\_\_\_\_  
(Indicate the portion of this amount included in the 1999-2001 executive budget:)
  - c. For the 2001-03 biennium: \_\_\_\_\_

4. **County, city, and school district** fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

If additional space is needed  
attach a supplemental sheet.

Signed: 

Typed Name: Kathryn L. Strombeck

Department: Tax

Date Prepared: March 26, 1999

Phone Number: 328-3402

## FISCAL NOTE

Return original and 14 copies)

Bill/Resolution No.: \_\_\_\_\_

Amendment to: SB 2307

Requested by Legislative Council

Date of Request: 2/17/99

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts. Please provide breakdowns, if appropriate, showing salaries and wages, operating expenses, equipment, or other details to assist in the budget process. In a word processing format, add lines or space as needed or attach a supplemental sheet to adequately address the fiscal impact of the measure.

**Narrative:** If enacted, SB 2307 is expected to provide \$6,054,000 to the wireless 911 service fund in the 1999-2001 biennium. One percent of total collections, which is \$61,000, is expected to go to the state general fund.

2. State fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>			+\$61,000	+\$6,054,000		
<b>Expenditures</b>						

3. What, if any, is the effect of this measure on the budget for your agency or department:

a. For rest of 1997-99 biennium: \_\_\_\_\_

(Indicate the portion of this amount included in the 1999-2001 executive budget:)

b. For the 1999-2001 biennium: \_\_\_\_\_

(Indicate the portion of this amount included in the 1999-2001 executive budget:)

c. For the 2001-03 biennium: \_\_\_\_\_

4. County, city, and school district fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

If additional space is needed  
attach a supplemental sheet.

Signed: 

Typed Name: Kathryn L. Strombeck

Department: Tax

Date Prepared: February 18, 1999

Phone Number: 328-3402

## FISCAL NOTE

(Return original and 14 copies)

Resolution No.: SB 2307

Amendment to: \_\_\_\_\_

Requested by Legislative Council

Date of Request: 1/20/99

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts. Please provide breakdowns, if appropriate, showing salaries and wages, operating expenses, equipment, or other details to assist in the budget process. In a word processing format, add lines or space as needed or attach a supplemental sheet to adequately address the fiscal impact of the measure.

**Narrative:** If enacted, SB 2307 is expected to provide \$6,054,000 to the wireless 911 service fund in the 1999-2001 biennium. One percent of total collections, which is \$61,000, is expected to go to the state general fund.

2. **State fiscal effect in dollar amounts:**

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>			+\$61,000	+\$6,054,000		
<b>Expenditures</b>						

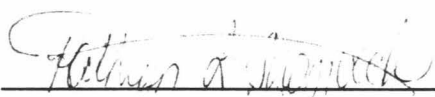
3. What, if any, is the effect of this measure on the budget for your agency or department:

- a. For rest of 1997-99 biennium: \_\_\_\_\_  
(Indicate the portion of this amount included in the 1999-2001 executive budget:)
- b. For the 1999-2001 biennium: \_\_\_\_\_  
(Indicate the portion of this amount included in the 1999-2001 executive budget:)
- c. For the 2001-03 biennium: \_\_\_\_\_

4. **County, city, and school district fiscal effect in dollar amounts:**

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

If additional space is needed  
attach a supplemental sheet.

Signed: 

Typed Name: Kathryn L. Strombeck

Department: Tax

Date Prepared: January 26, 1999

Phone Number: 328-3402



**REPORT OF STANDING COMMITTEE**

**SB 2307: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2307 was rereferred to the Appropriations Committee.**

**1999 SENATE APPROPRIATIONS**

**SB 2307**



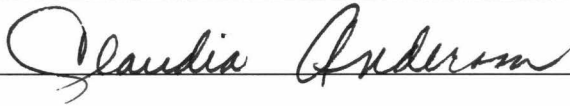
1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2307

Senate Appropriations Committee

Conference Committee

Hearing Date 2/12/99; 2/15/99

Tape Number	Side A	Side B	Meter #
1	X		125-3970
2/15/99	X		61-3270
Committee Clerk Signature 			

Minutes:

**SENATOR NETHING:** Opened the hearing on SB 2307

**SENATOR KAREN KREBSBACH:** Cosponsor of SB 2307. (Testimony attached #1) (tape 125-270)

**TERRY TRAYNOR:** Assistant Director, ND Association of Counties, to testify in support of SB 2307 (testimony attached #2) (tape 300-850)

**PETE EGGIMANN:** Director, Grand Forks County 911 Communications Center, to testify in support of SB 2307 (testimony attached #3) (tape 965-1335)

**JANELLE POEPPLE:** Coordinator, Wells County 9-1-1, and Past President of the ND 9-1-1 Association to testify in support of SB 2307 (testimony attached #4) (tape 1612-1825)

**JERRY BERQUIST:** Co-Chairman of the Legislative Committee for the ND 9-1-1 Association and Stutsman County 9-1-1 Coordinator, to testify in support of SB 2307. (testimony attached #5) (tape 1826-1990)

**TODD KRANDA:** to testify in behalf Richard C. Nelson, Director of Government Relations, Air Touch Cellular (testimony attached #6a), indicating support of amendments to SB 2307. Their amendments (6B) provide exemptions for wireless customers who already pay for 9-1-1 service on their residential and business lines. In addition, attachments (6c) provide references to relevant federal law regarding wireless 9-1-1 service.

**SENATOR KRAUTER:** In the docket there are two requirements listed and one of them is to provide the cost to negotiation. I was reading in Section 3, subsection 2 that provides it to you. And, according to county testimony, that is why that money is escrowed at 75 percent and they will be able to work out those costs to address that issue.

**TODD KRANDA:** The reference, page 4, subsection 2, I believe is what you are talking about, simply talks about the 75 percent of those revenues that are collected being prorated based on population. It leaves wide open any cost recovery mechanism.... We're suggesting the \$1.00 fee imposed on your wireless telephone should go to the enhanced wireless service, not the entire network of landline and other support mechanisms... We're required by the FCC to have a cost reimbursement directed to the enhanced locator, i.e. who the person is calling, where they're calling from, etc.

**JOHN OLSON:** to testify in support of the amendments to SB 2307. He indicated there is a lot of money being taxed through this bill, and no one has specifically identified where it is to go. (tape 3120-3430).

**SENATOR ST. AUBYN:** I'm wondering why we even need to deal with this in this committee. It deals with revenues, no expenditures on any particular project.

**SENATOR ANDRIST:** If this bill is a rereferral, were these amendments presented to the committee.

**SENATOR NETHING:** Todd indicated they arrived after the bill was kicked out of committee.

**MILES VOSBERG:** Tax Department, to address the fiscal note. (tape 3520-3640)

**TERRY TRAYNOR:** The amendment is similar to language considered during the interim study. The Association of Counties is *against* the amendments.(tape 3640-3845)

**SENATOR NETHING:** What would you prefer - either not having the bill or having the amendments? (tape 3845)

**TERRY TRAYNOR:** We would rather wait two years until costs are better understood.

**SENATOR NETHING:** I think we are being asked to settle something that the industry and providers should settle themselves.

**SENATOR NETHING:** Closed the hearing on SB 3970.

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2/15/99

**Tape 1, Side A, Meter 61-3270**

**SENATOR NETHING:** Reopened the hearing on SB 2307.

**SENATOR NETHING:** Called for a motion on the amendment to SB 2307.

**SENATOR ST. AUBYN:** Moved a Do Pass on the amendments to SB 2307.

**SENATOR NAADEN:** Seconded the motion.

**ROLL CALL: 8 YEAS; 5 NAYS; 0 ABSENT & NOT VOTING.**

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Senate Appropriations Committee

Bill/Resolution Number sb 2307.lwp

Hearing Date ~~2/12/99~~

2-15-99

Yeas: Nething; Naaden; Solberg; St. Aubyn; Grindberg; Holmberg; Bowman; Andrist.

Nays: Lindaas; Tomac; Robinson; Krauter; Kringstad.

Absent & Not Voting: Tallackson.

**SENATOR NETHING:** Called for a motion on SB 2307 as amended.

**SENATOR ST. AUBYN:** Moved a Do Pass SB 2307 as amended.

**SENATOR NAADEN:** Seconded the motion.

**ROLL CALL: 12 YEAS; 1 NAY; 1 ABSENT & NOT VOTING.**

Yeas: Nething; Naaden; Solberg; Lindaas; Robinson; Krauter; St. Aubyn; Grindberg; Holmberg;

Kringstad; Bowman; Andrist.

Nay: Tomac.

Absent & Not Voting: Tallackson.

**CARRIER: SENATOR ST. AUBYN.**

**SENATOR NETHING:** Closed the hearing on SB 2307.

Date: 2-15-99  
Roll Call Vote #: \_\_\_\_\_

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2307

Senate APPROPRIATIONS Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

✓ Legislative Council Amendment Number 90622.0102

Action Taken DO PASS

Motion Made By SENATOR ST. AUBYN Seconded By SENATOR NAADEN

Senators	Yes	No	Senators	Yes	No
Senator Nething, Chairman	✓				
Senator Naaden, Vice Chairman	✓				
Senator Solberg	✓				
Senator Lindaas		✓			
Senator Tallackson		✓			
Senator Tomac		✓			
Senator Robinson		✓			
Senator Krauter		✓			
Senator St. Aubyn	✓				
Senator Grindberg	✓				
Senator Holmberg	✓				
Senator Kringstad		✓			
Senator Bowman	✓				
Senator Andrist	✓				

Total (Yes) 8 No 5

Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Date: 2-15-99

Roll Call Vote #: \_\_\_\_\_

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2307

Senate APPROPRIATIONS Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DO PASS AS AMENDED

Motion Made By SENATOR ST. AUBYN Seconded By SENATOR NAADEN

Senators	Yes	No	Senators	Yes	No
Senator Nething, Chairman	✓				
Senator Naaden, Vice Chairman	✓				
Senator Solberg	✓				
Senator Lindaas	✓				
Senator Tallackson					
Senator Tomac		✓			
Senator Robinson	✓				
Senator Krauter	✓				
Senator St. Aubyn	✓				
Senator Grindberg	✓				
Senator Holmberg	✓				
Senator Kringstad	✓				
Senator Bowman	✓				
Senator Andrist	✓				

Total (Yes) 12 No 1

Absent 1

Floor Assignment SENATOR ST. AUBYN

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2307: Appropriations Committee (Sen. Nething, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). SB 2307 was placed on the Sixth order on the calendar.

Page 4, line 11, replace "authorizing" with "between political subdivisions or public safety answering points and commercial mobile service providers which authorize"

Page 4, line 12, replace "This revenue" with "The funds" and after "be" insert "designated for the implementation of enhanced 911 wireless service and allocated by political subdivisions on the basis of actual costs incurred by public safety answering points and commercial mobile radio service providers."

Page 4, remove lines 13 and 14

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

SENATE - This amendment limits the use of 75 percent of the funds collected from the \$1 per month fee on wireless telephone service to the implementation of enhanced 911 wireless service based on actual costs incurred by public safety answering points and commercial mobile radio service providers.

**1999 HOUSE FINANCE AND TAXATION**

**SB 2307**

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2307

House Finance and Taxation Committee

Conference Committee

Hearing Date March 1, 1999

Tape Number	Side A	Side B	Meter #
1	x		1
Committee Clerk Signature <i>Jamie Stein</i>			

Minutes:

REP. BELTER Opened the hearing.

TERRY TRAYNOR, ASST. DIRECTOR, NORTH DAKOTA ASSOCIATION OF COUNTIES

Testified in support of the bill. Explained the bill. See written testimony.

REP. JOHN DORSO, DIST. 46, FARGO, Testified in support of the bill as one of the sponsors.

Stated, we all knew way back when 911 went in, for those of us who are here, the cellular problem would be with us and sooner or later we would have to address that problem. The people who administer 911 are now having problems as the cellular phones become more and more prevalent, with multiple calls coming in on accidents or other emergencies. This bill hopes to provide the funding mechanism which we contemplated two or four years ago.

TERRY TRAYNOR Continued on until Sen. Krebsbach appeared at the committee.



SEN. KAREN KREBSBACH, DIST. 40, MINOT, Testified in support of the bill as the prime sponsor of the bill. See written testimony.

REP. WARNER Were there any amendments put on by the Senate which you found objectionable?

SEN. KREBSBACH No, at this time, the amendments which were put on by the Senate, are acceptable by all parties.

REP. SCHMIDT TO TERRY TRAYNOR, Related to Page 2, line 29, who collects the fees?

TERRY TRAYNOR, Stated the State Tax Department is authorized to collect the fee. The wireless companies are directed by the bill to place the one dollar per month fee on the billing and remit it to the Tax Department.

REP. WARNER The twenty five percent to be allocated, is there some type of formula for the seventy five percent?

TERRY TRAYNOR It would be based on population in the area.

REP. MICKELSON How did we arrive at a dollar and for the land line, US West, etc., is this a consistent fee that is charged through these communities?

TERRY TRAYNOR The fee was originally capped at fifty cents, by the legislature. It was put on throughout the state, primarily. When we went from 911 to E911, the legislature allowed that to go up to a dollar by vote of the people. Geographically, most of the state is at one dollar, however, as you suggested, the higher concentrated areas, such as Fargo, they levy thirty cents, because of the number of people there. There are a handful of others that are at fifty cents.

REP. GROSZ Regarding phase one and phase two, are these federal rules?

TERRY TRAYNOR My understanding is that they are constantly being reviewed and there are proposals to amend them. Phase one refers to identifying the number of the caller, their home location and the tower location. Phase two would bring it down to within so many feet of the location.

REP. GROSZ What is the total amount taken in by the land lines?

TERRY TRAYNOR Did not know the answer.

BARRY COX, BENSON COUNTY COMMISSIONER, Testified in support of the bill, See written testimony.

JERRY BERGQUIST, CO-CHAIRMAN OF THE ND 911 ASSOCIATION LEGISLATIVE COMMITTEE & STUTSMAN COUNTY 911 CORDINATOR. Testified in support of the bill. See written testimony.

REP. WARNER Is it possible for law enforcement personnel to tap into calls, to track drug transactions?

JERRY BERGQUIST I am not sure, there is talk with the wireless carriers themselves, how that stands I couldn't answer that.

JANELLE PEPPLE, 911 COORDINATOR IN WELLS COUNTY, AND THE PAST PRESIDENT OF THE NORTH DAKOTA 911 ASSOCIATION. Testified in support of the bill. See written testimony.

REP. MICKELSON What is the current rate that you pay for a land line in your area?

JANELLE PEPPLE One dollar

KENT BLICKENSDEFER, REPRESENTING US WEST OF NORTH DAKOTA, Testified in support of the bill.

Page 4  
House Finance and Taxation Committee  
Bill/Resolution Number Sb 2307  
Hearing Date March 1, 1999

REP. GROSZ Asked if US West had any wireless?

KENT BLICKENSDEFER We are not in wireless.

TODD KRANDA, INTRODUCED RICHARD NELSON.

RICHARD NELSON, GOVERNMENT RELATIONS, AIRTOUCH COMMUNICATIONS,

Testified in opposition of the bill. See written testimony.

REP. WINRICH Stated that from previous testimony, there were several amendments made in the Senate, based on the concern the industry brought forward, were these amendments also proposed in the Senate?

RICHARD NELSON Yes

REP. WINRICH So these were specifically rejected in the Senate committee?

RICHARD NELSON Yes.

TODD KRANDA Intervened stating that Mr. Nelson was not able to appear before the Senate Committee, at the conclusion of the hearing, there was an amendment which was suggested, but we were not offered the opportunity or timeliness, to submit those amendments before the bill was kicked out of committee. The amendments we are talking about were discussed with the 911 Association and with the Association of Counties at a couple of meetings. These amendments were not discussed with the Senate IBL Committee.

REP. WINRICH Your testimony seems to depend heavily what has been done in other states relative to your discussion about the dollar fee and that that is inappropriate, etc., is your proposal for cost recovery mechanism based on what happens in other states?

RICHARD NELSON The language we are proposing is what we have proposed in other states. Typically, there is more detail as to the clarity.

REP. KROEBER Isn't the cost based on population, Fargo can work that at thirty cents a phone line, or Bismarck maybe at fifty cents a phone line.

RICHARD NELSON I think you make a very good point. The cost may vary by population. With today's technology, you can have 911 centers handling local counties. The cost will vary.

REP. GROSZ Referred to phase one and two, this is not really a mandate, do we absolutely have to have E911?

RICHARD NELSON It is not mandatory for the state. If you opt to do this, here are the conditions.

REP. GROSZ Your amendment talks about getting money back to the company, how about the personal phone, who pays for that?

RICHARD NELSON There is no need to upgrade your telephone, it is based upon the transmitter or cell site. Many companies are looking to put that into the wireless network. There are a couple of companies exploring this.

REP. SCHMIDT You stated ten calls per day for emergencies, that is a pretty low number for public safety calls.

RICHARD NELSON That is a low number. We have heard there are some PSAPs that don't get very many calls. It depends upon the population and the demographics associated with the 911 bureau.

REP. GROSZ Asked how this technology can work from one point to another.

RICHARD NELSON Stated it will not be precise, but it will be within 125 meters from where the unit is, 67% of the time. One third of the time, we will not hit that target.

TOM KELSCH, REPRESENTING WESTERN WIRELESS CORPORATION, UNDER THE NEW NAME CELLULAR ONE, Submitted testimony from Jim Blundell. See written testimony.

REP. BELTER Asked whether these concerns were expressed in the Senate.

TOMM KELSCH Yes, basically, somewhat different, at the Senate IBL Committee, we did not have the fiscal note up to six million dollars.

JOHN OLSON, REPRESENTING COMNET CELLULAR, Testified in opposition of the bill and submitted a letter from Arnold C. Pohn. See written copy.

TODD KRANDA Presented a letter from Dean Polkow, Unicel Uniting Cellular & Digital, who was not able to attend, see attached copy.

With no further testimony, the hearing was closed.

COMMITTEE ACTION 3-1-99, Tape #1, Side B, Meter #42.2

Committee members discussed the bill at length, regarding the fees charged throughout the state and whether it could be the same as the land lines. Discussion was how will the fees be distributed and how much will go to counties, etc. The bill will be acted on later.

COMMITTEE ACTION 3-24-99, Tape #1, Side A, Meter #0.5

REP. GROSZ Presented amendments prepared by the Legislative Council. Also submitted a letter from Air-Touch to all committee members. The amendments would change the fee of one dollar down to twenty five cents, which would total 1.5 million dollars tax for the biennium, approximately four hundred thousand would go to PSAPS and the other funds would be available for implementation of Phase I. The reason I added the part about the political subdivision who has not certified by January 1, 2002, was because of the August 1, 2001, which they have to be certified by. Section 7 of the amendment directs the Legislative Council to study this issue further, whether it should be continued or, whether we need twenty seven PSAPS or only two.

There were several questions from committee members regarding the amendments.

REP. CLARK Also presented amendments which would change the one dollar fee to forty cents, stating it is below the national average which is between fifty and sixty cents. He also stated he was concerned about the fact, that if you do Phase I in some areas and Phase II in other areas, it may cause protective safety issues.

REP. GROSZ Made a motion to adopt his amendments.

REP. MICKELSON Second the motion. MOTION CARRIED BY VOICE VOTE.

After further discussion, REP. GROSZ Made a motion to further amend his amendment to state that any rebate would be paid to the consumer pro rata. He also amended the 2002 dates to state 2003. REP. MICKELSON Second the motion.

A roll call vote was done with 7 voting yes and 8 voting no. MOTION FAILED.

REP. CLARK Made a motion to adopt his amendments with the forty cent fee in it. He stated he would have no problem with the Grosz amendments if the fee was changed to forty cents.

REP. BELTER Stated he would not accept the Clark amendments because of the fee.

After a short break,

REP. CLARK Made a motion to reconsider the action by which the Grosz amendments were adopted. REP. MICKELSON Second the motion. MOTION CARRIED BY VOICE VOTE.

REP. MICKELSON Made a motion to adopt the amended Grosz amendments.

REP. RENNERFELDT Second the Motion. A roll call vote was taken with

10 Yes 5 No MOTION CARRIED.

REP. MICKELSON Made a motion for a DO PASS AS AMENDED.

REP. RENNERFELDT Second the motion. MOTION CARRIED.

14 Yes 1 No 0 Absent.

REP. GROSZ Was given the floor assignment.

Please type or use black pen to complete

Date 3-24-99

Roll call vote # 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2307

House HOUSE FINANCE & TAX Committee

- Subcommittee on \_\_\_\_\_
- Conference Committee

} Identify or check where appropriate

Legislative Council Amendment Number \_\_\_\_\_

Action Taken adopt <sup>further amended</sup> Grosz amends.

Motion Made By Rep. Grosz Seconded By Rep. Mickelson

Representatives	Yes	No	Representatives	Yes	No
BELTER	✓		WINRICH		✓
RENNERFELDT	✓				
CLARK		✓			
FROELICH	✓				
GRANDE	✓				
GROSZ	✓				
HERBEL		✓			
KROEBER		✓			
MICKELSON	✓				
NICHOLAS		✓			
RENNER	✓				
SCHMIDT		✓			
WARNER		✓			
WIKENHEISER		✓			

~~Failed~~

Total 7 8  
(Yes) (No)

Absent \_\_\_\_\_

Floor Assignment Rep.

If the vote is on an amendment, briefly indicate intent:

DO NOT USE HIGHLIGHTER ON ANY FORMS



VR  
3/25/99  
1082

**HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2307 HOUSE F & T 3-25-99**

Page 1, line 4, after "communications" insert "; to provide for a legislative council study"

Page 1, line 5, remove "a" and replace "appropriation" with "appropriations"

**HOUSE AMENDMENTS TO ENGROSSED SB 2307 HOUSE F & T 3-25-99**

Page 2, line 24, replace "one dollar" with "twenty-five cents"

Page 2, line 26, after the underscored period insert "On or after January 1, 2003, the fee under this section is subject to adjustment as provided in subsection 2 of section 57-40.6-02.2."

**HOUSE AMENDMENTS TO ENGROSSED SB 2307 HOUSE F & T 3-25-99**

Page 4, line 1, after "2." insert "a."

Page 4, after line 17, insert:

- "b. A political subdivision may not begin implementation of phase II of enhanced 911 wireless service, as defined by the federal communications commission, before August 1, 2001. A political subdivision that has not certified by January 1, 2003, that it has formally begun the implementation of phase II of enhanced 911 wireless service as defined by the federal communications commission is not entitled to allocation of the funds and interest held in escrow for that political subdivision under subdivision a, except to the extent those funds are necessary to complete phase I of enhanced 911 wireless service. The state treasurer shall transfer funds and interest to which a political subdivision is not entitled to a special rebate account for rebates to commercial mobile radio service customers through their providers. Upon application to the tax commissioner, each provider is entitled to a rebate of a percentage of the funds in the special rebate account equal to the percentage that provider paid of the total deposits into escrow under subdivision a and the provider shall allocate the rebate pro rata among the provider's customers. The funds and interest in the special rebate account are appropriated as a standing and continuing appropriation to the tax commissioner for rebates under this subdivision.
  
- c. By February 1, 2003, the tax commissioner shall administratively adjust the wireless 911 service fee under section 57-40.6-02.1. The fee must be reduced to reflect elimination of funding under subdivision b for political subdivisions that will not receive allocations of funds or interest because of failure to implement phase II of enhanced 911 wireless service.

**HOUSE AMENDMENTS TO ENGROSSED SB 2307 HOUSE F & T 3-25-99**

Page 5, line 17, after "agent," insert "subcontractor,"

Page 6, line 5, replace "agency" with "agent, subcontractor"

Page 6, after line 17, insert:

**"SECTION 7. LEGISLATIVE COUNCIL 911 SERVICE STUDY.** The legislative council shall study the current public safety answering points and systems for their capability to adequately administer systems, consider the feasibility and advisability of consolidating systems for the purposes of more efficiently administering systems and utilizing available funds, and review the technology under development or deployed to satisfy the requirements of the federal mandate for wireless enhanced 911 service and how such service could be integrated into the existing 911 system. The legislative council shall report its findings and recommendations, with any legislation necessary to implement the recommendations, to the fifty-seventh legislative assembly."

Renumber accordingly

Please type or use black pen to complete

Date 3-24-99  
Roll call vote # 2

### 1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2307

House HOUSE FINANCE & TAX Committee

- Subcommittee on \_\_\_\_\_
  - Conference Committee
- } Identify or check where appropriate

Legislative Council Amendment Number \_\_\_\_\_

Action Taken adopt Grosz amends

Motion Made By Rep. Mickelson Seconded By Rep. Rennerfeldt

Representatives	Yes	No	Representatives	Yes	No
BELTER	✓		WINRICH		✓
RENNERFELDT	✓				
CLARK	✓				
FROELICH	✓				
GRANDE	✓				
GROSZ	✓				
HERBEL <i>wait to last</i>		✓			
KROEBER		✓			
MICKELSON	✓				
NICHOLAS	✓				
RENNER	✓				
SCHMIDT		✓			
WARNER		✓			
WIKENHEISER	✓				

Total 10 5  
(Yes) (No)

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

DO NOT USE HIGHLIGHTER ON ANY FORMS

Please type or use black pen to complete

Date 3-24-99

Roll call vote # 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2307

House HOUSE FINANCE & TAX Committee

- Subcommittee on \_\_\_\_\_
  - Conference Committee
- } Identify or check where appropriate

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass as Amends

Motion Made By Rep. Mickelson Seconded By Rep. Rennerfeldt

Representatives	Yes	No	Representatives	Yes	No
BELTER	✓		WINRICH		✓
RENNERFELDT	✓				
CLARK	✓				
FROELICH	✓				
GRANDE	✓				
GROSZ	✓				
HERBEL	✓				
KROEBER	✓				
MICKELSON	✓				
NICHOLAS	✓				
RENNER	✓				
SCHMIDT	✓				
WARNER	✓				
WIKENHEISER	✓				

Total 14 1  
(Yes) (No)

Absent 0

Floor Assignment Rep. Grosz

If the vote is on an amendment, briefly indicate intent:

DO NOT USE HIGHLIGHTER ON ANY FORMS

REPORT OF STANDING COMMITTEE

SB 2307, as engrossed: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed SB 2307 was placed on the Sixth order on the calendar.

Page 1, line 4, after "communications" insert "; to provide for a legislative council study"

Page 1, line 5, remove "a" and replace "appropriation" with "appropriations"

Page 2, line 24, replace "one dollar" with "twenty-five cents"

Page 2, line 26, after the underscored period insert "On or after January 1, 2003, the fee under this section is subject to adjustment as provided in subsection 2 of section 57-40.6-02.2."

Page 4, line 1, after "2." insert "a."

Page 4, after line 17, insert:

"b. A political subdivision may not begin implementation of phase II of enhanced 911 wireless service, as defined by the federal communications commission, before August 1, 2001. A political subdivision that has not certified by January 1, 2003, that it has formally begun the implementation of phase II of enhanced 911 wireless service as defined by the federal communications commission is not entitled to allocation of the funds and interest held in escrow for that political subdivision under subdivision a, except to the extent those funds are necessary to complete phase I of enhanced 911 wireless service. The state treasurer shall transfer funds and interest to which a political subdivision is not entitled to a special rebate account for rebates to commercial mobile radio service customers through their providers. Upon application to the tax commissioner, each provider is entitled to a rebate of a percentage of the funds in the special rebate account equal to the percentage that provider paid of the total deposits into escrow under subdivision a and the provider shall allocate the rebate pro rata among the provider's customers. The funds and interest in the special rebate account are appropriated as a standing and continuing appropriation to the tax commissioner for rebates under this subdivision.

c. By February 1, 2003, the tax commissioner shall administratively adjust the wireless 911 service fee under section 57-40.6-02.1. The fee must be reduced to reflect elimination of funding under subdivision b for political subdivisions that will not receive allocations of funds or interest because of failure to implement phase II of enhanced 911 wireless service."

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advisability of consolidating systems for the purposes of more efficiently administering systems and utilizing available funds, and review the technology under development or deployed to satisfy the requirements of the federal mandate for wireless enhanced 911 service and how such service could be integrated into the existing 911 system. The legislative council shall report its findings and recommendations, with any legislation necessary to implement the recommendations, to the fifty-seventh legislative assembly."

Renumber accordingly

**1999 HOUSE APPROPRIATIONS**

**SB 2307**

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2307

House Appropriations Committee

Conference Committee

Hearing Date March 29, 1999

Tape Number	Side A	Side B	Meter #
1	x		0-25.4
Committee Clerk Signature <i>Casey Davis</i>			

Minutes:

**SB 2307** A bill for an act to create and enact sections 57-40.6-02.1 and 57-40.6-02.2 of the ND Century Code, relating to a wireless 911 service fee and service fund; to amend and reenact sections 57-40.6-01, 57-40.6-06, and 57-40.6-08 of the ND Century Code, relating to wireless 911 service fees, definitions, and communications; and to provide a continuing appropriation.

**CHAIRMAN DALRYMPLE** opened the hearing.

**1A: 0.0 SEN. KREVSBAUGH**, prime sponsor of the bill, testified in support of it.

**1A: 1.1 REP. POOLMAN** asked what the rationale was for reducing \$1 to .25, and what other options would be acceptable. Sen. Krevsbaugh replied that .25 would not cover what needs to be done in North Dakota, but there is room for negotiation.

**1A: 2.0 REP. DELZER** asked why the tax on land lines was not being decreased. Sen. Krevsbaugh replied that funds are needed for equipment. This equipment would zero in on where cellular phone calls are coming from.

**1A: 4.0 TERRY TRAYNOR, NDACo Assistant Director**, testified in support of the bill. (See testimony.)

**1A: 5.6 REP. DELZER** asked what other added costs there would be besides the tax. Mr. Traynor replied that it is difficult to get a handle on this information. It depends on what kind of deal the PSAPs can work out with the wireless phone service companies. Rep. Delzer continued by saying that they should have the costs before coming to the committee. Mr. Traynor replied that much of the information is confidential and it is difficult to gather it from the different industries.

**1A: 7.6 REP. BYRON CLARK** said that the average fee is 50-60 cents. The FCC stipulates that Phase 1 and Phase 2 services must begin by August 1, 2001, if they are going to do this.

**1A: 8.8 REP. WES BELTER** explained why the fee had been reduced from \$1 to .25. With a \$1 fee it would be a \$6 million tax increase. The issue needs to be researched much more before a \$1 fee is imposed. There will be a \$1.5 million tax increase with the .25 fee.

**1A: 11.1 REP. CARLSON** asked if the intent is to decrease the land line fee eventually. Rep. Belter replied that this was not discussed in the committee. This tax is to buy equipment to take care of the cellular phone issue. Cell phones need to pay their fair share. He asked if the equipment is available now. Rep. Belter replied that GPS phones are available, and there are triangulation systems which require three towers. There are too many unanswered questions for the committee to commit to a \$6 million tax increase.

**1A: 13.0 REP. CARLSON** mentioned that all land line owners already contribute to the 911 emergency service. The citizens of ND have already paid to have the 911 system in place, by paying the land line tax. Rep. Belter replied that this was correct, but there are cellular users who do not have land lines. The answering services have an additional work load due to cell phone calls. It is not unfair to ask cell users to help out.



**1A: 15.9 JERRY MARSCHKE, 911 System Operator for Burleigh County and the City of Bismarck,** appeared before the committee to answer any questions they may have.

**1A: 16.4 CHAIRMAN DALRYMPLE** asked if their technology needs will become more clear. Mr. Marschke replied that they will. For example, the new technology will expand the capability of the 911 center to receive 20 digits from the cell phone, instead of only 10 as appear on Caller IDs.

**1A: 17.4 MR. MARSCHKE** said that when a person calls 911, the CRT at the center tells the operator the specific address the call is coming from. This is not possible when a cell call comes in. They cannot find, locate, or call back the caller.

**1A: 18.8 REP. MICK GROSZ** appeared before the committee to say that no real study has ever been done. The study which was done was on land lines. There is no cost added for the PSAPs. There are some people who only have wireless. Wireless users should bear some of the cost. It is wrong to add \$1 tax without knowing what they are going to do with the money.

**CHAIRMAN DALRYMPLE** adjourned the hearing.

Date: 3-29-99

Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2307

House APPROPRIATIONS Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DO PASS

Motion Made By WENTZ Seconded By GULLESON

Representatives	Yes	No	Representatives	Yes	No
Chairman Dalrymple	x		Nichols	x	
Vice-Chairman Byerly		x	Poolman	x	
Aarsvold	x		Svedjan	x	
Bernstein		x	Timm	x	
Boehm		x	Tollefson		x
Carlson		x	Wentz	x	
Carlisle	x				
Delzer		x			
Gulleson	x				
Hoffner	x				
Huether	x				
Kerzman	x				
Lloyd	x				
Monson	x				

Total (Yes) 14 No 6

Absent \_\_\_\_\_

Floor Assignment GROSS

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)  
March 30, 1999 8:59 a.m.

Module No: HR-57-5934  
Carrier: Grosz  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

SB 2307, as engrossed: Appropriations Committee (Rep. Dalrymple, Chairman)  
recommends **DO PASS** (14 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING).  
Engrossed SB 2307 was placed on the Fourteenth order on the calendar.

**1999 SENATE INDUSTRY, BUSINESS AND LABOR**

**SB 2307**

**CONFERENCE COMMITTEE**

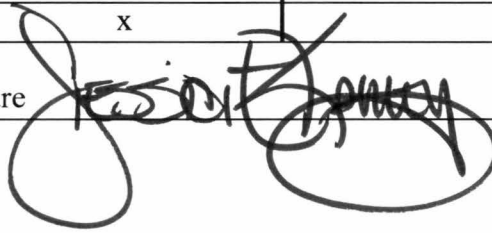
1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2307

Senate Industry, Business and Labor Committee

✓ Conference Committee

Hearing Date April 6, 1999

Tape Number	Side A	Side B	Meter #
1	x		3250-end
1	x		880-2460
1	x		0-2825
1	x		0-48
Committee Clerk Signature 			

Minutes:

Senator Krebsbach opened the conference committee discussion on SB2307. The conference committee consisted of Sens. Krebsbach, Klein, Thompson and reps. Belter, Grosz, and Froelich.

All were present.

Senator Krebsbach asked for someone to explain the house amendments.

Rep. Belter said that the house amendments changed the 1 dollar fee to a 25 cent fee. He said that they also made it so that they would of a study of the whole 911 system. He said that this would also leave provisions for transferring funds to the political subdivisions and in the event that there is any unused funds that they need to be redistributed that they will be given back to the customers who paid the tax. He then referred to Rep. Grosz for any further comments on SB2307.

Rep. Grosz said that the only other thing that is important to note is that phase 2 couldn't commence before August 1, 2001.

Senator Klein asked the house members if there was any theory behind the later implementation date.

Rep. Grosz said that it was so that the study could be done and the legislature would have a better idea of what this is going to cost the people and the PSAPs and have a better idea of what the fee should be or if this should even go on. He said that Phase 1 would still be allowed to go forward.

Senator Thompson asked if a study had already been done.

Rep. Belter said that the study that was done was more or less a discussion on the whole 911 system and putting it into state radio. Rep. Grosz agreed. He said that the subcommittee members agreed that the 911 wireless users fee is beyond the scope of the committee.

Senator Krebsbach asked him if that was in 1996. Rep. Grosz agreed. Senator Krebsbach then noted that it is three years later now.

Senator Thompson asked Rep Grosz if, being on the RRRC, there has been any discussion since those deliberations.

Rep. Grosz said that there weren't any last time.

Senator Krebsbach asked if there was anyone in the room that was involved with a a member that was present when they were discussing this issue.

Jeanelle Pepply, Wells County 911 Coordinator. She said that she was not an official member of the study group but she did attend many of the meetings. She said that the study did go in-depth inspects of the 911 system that they have in North Dakota.

Rep. Grosz said that the committee felt that the final recommendation should stand at what the subcommittee recommended. He said that this issue is too complicated for them to tackle at this point. (referring to what he read early). He said that to say that they have studied to death and that they have access to a lot of studies that are meaningful to them is a stretch.

Senator Krebsbach asked Rep. Grosz if he would be willing to acknowledge the fact that there has been tremendous change in technology from 1966 to date and that the technology is here to enact this type of a system and that places in North Dakota are ready to do so.

Rep. Grosz said that he will agree that there has been a change. He said that he did not recollect any recommendations as to technology or what is going to be implemented.

Rep. Belter said that in the house hearings it was made clear that yes there are new technologies, but to the point that they can put a cost figure on them and just what they are going to adopt as the form of technology that they are going to accept, has not been determined yet. He said that they cannot ask the people of North Dakota to pay a \$6 million dollar tax without having some direction. He said that they currently have 27 PSAPS in the state and you would have to buy equipment for all 27 and they need to find out if all 27 are needed. The original plan was for 2 PSAPS.

Senator Thompson asked what the \$6 million was based on.

Rep. Belter said that it is what a \$1 dollar per cellular phone would raise.

Senator Thompson asked him how many cell phones that there are in the state.

Rep. Belter said that you would have to take \$6 million and divide it by the number of months.

Senator Krebsbach said that she got 250,000 By taking the 6 million dividing it by twelve and then by 2.

Page 4

Senate Industry, Business and Labor Committee

Bill/Resolution Number Sb2307c

Hearing Date April 6, 1999

Senator Krebsbach asked how they intended the 25 cents to be utilized at this point.

Rep. Grosz said that they did not change the senates formula.

Senator Krebsbach said that then the counties would then be getting 6 cents instead of the intended 25 cents.

Rep. Grosz said that she was correct.

Senator Krebsbach recessed the committee for the day.

The Conference Committee for SB2307 met on April 8, 1999. All were present.

Jason Henderson, Senate Intern, handed out some information to the committee. His packet consisted of studies that have been done on this subject and news releases.

Senator Krebsbach suggested that the committee meet the at a later time so that they have time to review the information.

Rep. Belter said that it would be nice to get an in-depth cost study.

Senator Krebsbach said that she had information from Grand Forks, Burleigh, and Stark Counties.

Senator Thompson said that he noticed that in the information it said that it would be \$8 to \$10 dollars

The Conference Committee met again on April 9, 1999. All were present.

Rep. Grosz motioned that the Senate Accede to the house amendments. Senator Krebsbach said that before she accepted that motion she wanted to discuss some issues. She said that the delayed



implementation bothered her. She said that she did, however see a need for a planning committee to be involved.

Senator Klein asked her if the bill would include this committee.

Senator Krebsbach said that it would.

Rep. Belter said that he did not feel that there is adequate information that has been made available to them on this subject. He brought to attention the study that was done in Washington. He said that there was nothing presented to the house committee that covered some of the topics that this piece covers. He also noted that the state of Washington was looking at a cost of \$64 million to put this type of system into effect. He said that he knows that there are groups that want to proceed with this immediately, but they have not been able to provide the group with any information that would give them as legislators any type of a guide line to follow in order to raise the necessary funds to put out a workable plan. He said that Rep. Grosz contacted a cellular phone company yesterday and the information that was given to him said that a lot of the companies don't even know yet what it will cost. He said that they are not ready to proceed forward and that is why he feels that the house has presented a very realistic compromise.

Senator Thompson wondered if the \$64 million was comparing Washington apples with North Dakota wheat fields. He said that he can't believe that North Dakota would have any cost such as that. He said that he has not heard one consumer say that they don't want to see the 911 enhanced or that they don't want cell phones included in this.

Senator Krebsbach pointed out that this plan from Washington was based on 91 PSAPS. She said that they don't begin to have that many in North Dakota. She also made it clear that Washington, with its mountainous terrain, is a lot different than the flat plains of North Dakota

and much more costly to implement. She also acknowledged that this is a complex issue. She said that she knows that there are cities that have phase one implemented. She then called on Mr. DeBowie.

Lt. Fred DeBowie, Administrative Lt. and the Ward County 911 coordinator and the North Dakota 911 Association President. He said that on April 20, 1999 at 4 am Ward County will be initiating a new computer system, as part of their Y2K updates that will make them Phase 1 ready.

Rep. Grosz asked Mr. DeBowie if they have requested Phase 1 and if they have a cost recovery mechanism in place to give money back to the carriers for the cost incurred by them because of this and if they do what is the cost of implementing for these carriers.

Mr. DeBowie said that they have not requested phase one at this time. He also said that Ward Counties 911 fees are paid right now by personal property taxes. If for some reason that they couldn't get cost recovery mechanisms through the state of North Dakota through the wireless issue tax, it is feasible that Ward County could do the same thing with that. As for the third question he does not have any cost incurred, but there is a Phase 1 report on the Internet from Comm-net Cellular in Montana and it was indicated that a cost to the PSAP would be approximately \$5,000 and \$1.81 per cell device plus about 36 cents per month. He said that is what they are basing their figures on.

Jerry Marschke, Emergency Management & Combined Communications, said that they have requested from one of the cell companies and have not received a reply from them.

Rep. Grosz asked Mr. Marschke if his group has a cost recovery mechanism in place.

Mr. Marschke said that yes they do.

Rep. Grosz asked him what that was.

Mr. Marschke said that they don't know what the cell companies will bill them, but they would be happy to pay for it.

Rep. Belter suggested that Mr. Marschke's group would like to know what those costs are before they agreed to pay for that.

He said that they would and that they would do the bidding.

Rep. Belter asked him if there is a difference in the types of equipment that the different cell companies use.

Mr. Marschke said that he can't answer that question, but he would imagine the technology is very much the same.

Rep. Grosz said that he is concerned with the differences in the A carriers and the B carriers.

Mr. Marschke said that it part of their dilemma. They have to be able to accept the calls from all the different carriers. There will be a cost in all of those situations. They are hoping that they will have some dollars to put those things in place.

Senator Krebsbach referred to research that the clerk found and said that they found costs ranging from 60 cents to 22 cents per subscriber.

Rep. Grosz asked what those costs consisted of.

Senator Krebsbach then called on the clerk to answer his question.

Jessica Karley, Senate Committee Clerk, said that she called several wireless providers and she found that the companies with the lower cost of implementation were better networked than the ones with the higher costs. However, of the companies that she talked to, she found that one of the companies is ready for Phase 2.

Rep. Grosz said that the October 1, 2001 deadline is when the companies will have to be ready to go. He said that he truly and strongly believes that the senate accepting the house version won't slow anything down.

Senator Krebsbach said that it won't slow it down, but their 25 cents is definitely not sufficient to do the planning that they need.

Rep. Grosz said that he believed that is was.

Senator Krebsbach questioned Rep. Grosz's comments because she said that they want to give 25 cents back to the counties for their costs that they are incurring with the system.

Rep. Grosz said reminded Senator Krebsbach that when she said we, she was referring to her side of the table.

Senator Krebsbach said that if they changed it to 25 cents, there would be nothing going into the reserve to start building up.

Rep. Grosz said that they did not change the formula. 75% would still go into the fund to prepare for implementation.

Senator Krebsbach made a note then that the counties would get 6 cents.

Rep. Grosz said that it would be \$350, 000 per year when you think of it in the total dollars.

Rep. Froelich said that when his county switched to 911, they paid \$1 per phone on the land lines until the system was implemented and they needed that money in order to get it up to date. He said that the fees need to be able to cover the costs. He doesn't want to see the revenue being generated from property taxes. He believes that the users must be the ones paying for it. If they turn around and throw it back on property taxes, he feels that they would have an unfair tax. The fees need to be set at the proper level.

Rep. Belter said that he agrees with what Rep. Froelich said, but it still comes back to the point that they do not know what the costs are going to be. Even at the 25 cents, which doesn't seem like a lot of money, that is 1.5 million dollars that you are starting a program with that has not been laid out as to what the total cost is going to be. If you use \$1, you are talking about \$6 million. That is a lot of money. He asked the committee how many programs they have past this session where they have increased taxes \$6 million. He said that they are asking the consumers of North Dakota to spend \$6 million on a program that they don't know if it is going to cost \$2 million or whether it's going to cost \$64 million. He said that in the Washington Study they are basing those figures on 10 times as many phones as we have and they felt that would cost 80 cents. That would translate to \$8 per month in North Dakota. He thinks that it important to get a grasp on what that exact cost is going to be.

Rep. Froelich said that beings how they don't really have a fixed cost, is there somewhere that they can they can come to a happy medium. They could start at a quarter for six month or a year and after that graduate to fifty cents, or do they just want to adopt a flat fee.

Senator Thompson said that he had not thought that through but he hasn't talked to any body that has been involved with this issue that can see six cents as being enough to implement this.

Rep. Belter said that he knows that the people want it but he also thinks that the people want to also know the cost. It's a matter of how you ask the question. If you asked people if they would pay \$1 per month for E911, most people would probably say yes. If you said what about five dollars a month, or three dollars, or ten dollars a month, you would soon get a different answer.

He said that they all have a lot of programs that they know they want, but they have to know if they are affordable.

Senator Thompson said that in all honesty he is not sure that a \$1 fee is needed, but he can sure tell the committee that it is going to take more than 25 cents.

Rep. Belter said that he was not saying that 25 cents is going to do it, but what he was saying was that 25 cent is a step to move forward on this issue. At a dollar he did not feel that it is going to move forward.

Senator Klein said that they have gone past the point of affordability with 911. It has become something that they are required to provide now and he feels that it is unfortunate that they have reached that point. He said that what ever the cost is, it is going to be millions. He also said that he is not sure what the affordable amount is, five million or two million, but it is required now.

Senator Krebsbach noted that in regards to the Washington study, they did have an implementation cost of eighty cents for the first three years. After that the implementation cost was dropped. They did have a reserve after the fourth year and they had the carrier reimbursement of 25 cents, which was the first three years plus after that. She said that as she viewed it, they even included a state tax of 20 cents in both cases and their cost went from \$1.50 per month to 75 cents per month. She said that there are a lot of different ways to look at this. She said that she is not convinced that it is going to cost them \$84 million. She said that they are looking at a fee to implement a very important service and she said that it is going back to the users. She feels that is a fair way of taxing.

Rep. Grosz said that he would beg to differ on the comment of comparing Washington apples to North Dakota wheat fields. He said that the company that he is familiar with is wanting to bring cellular service to Rep. Froelichs area, but when you look at the coverage charge it is a lot. At the RRRC last year, Western Wireless testified that to give universal service in North Dakota

would take 1000 towers. The Washington study said 900 to 1200. He said that he doesn't think that they are that far off.

Senator Krebsbach reminded Rep. Grosz that the technology may be changing because it may be provided through satellites. Your technology is constantly changing.

Rep. Grosz said that the people that their are still people carrying cell phones that are not going to use this service. He Also said that he would be happy to make his motion again.

Senator Krebsbach said that she will accept Rep. Grosz's motion that the senate accede to the house amendment.

Rep. Belter seconded his motion. The motion failed with a 2-4 vote.

Rep. Grosz then motioned that the House recede to the Senate on SB2307.

Senator Krebsbach said that she hopes that the committee would not go along with that motion because, as she has said, she does feel that the \$1 may have been to aggressive and she wants to see this be a fair charge.

Rep. Belter seconded Rep. Grosz's motion.

Senator Thompson asked the House if their intent was to leave it as they passed it, even though they have found new information indicating that \$1 may be to much. He also asked them if it was also there intent to send it up there (to the floor) to try to kill it.

Rep. Grosz said that from his point of view they didn't find anything new out. He said that if that is the way they brought it over then that is the way that they will take it back and vote on it.

Senator Thompson said that Rep. Grosz did not answer his question. He again asked Rep. Grosz if his intention was to kill the bill at one dollar, because he would resist that.

Rep. Grosz said that he is obviously not in favor of it.

Senator Thompson said that Rep. Grosz answered his question.

Senator Krebsbach called for the motion that the House recede from their amendment to the Senate version of SB2307.

The motion failed with a 2-4 vote.

Senator Krebsbach recessed the meeting until a later time.

The Conference Committee met on SB2307 again on April 12, 1999.

Senator Krebsbach opened for discussion on SB2307. All committee members were present.

Senator Krebsbach dissolved the conference and called for a new committee to be appointed.

The Conference Committee on SB2307 recessed until a later time.

The Conference Committee for SB2307 met again later that afternoon.

The new committee consisted of Senator Krebsbach, Senator Klein, and Senator Thompson from the Senate. The House members were Representative Dorso, Representative Clark, and Representative Froelich.

Senator Krebsbach opened for discussion on SB2307. All committee members were present.

Rep. Dorso proposed amendments to the committee. He said that the amendments make it so that it will be 40 cents with 25 cents going to the PSAPS. He said that the left over 15 cents will go into a fund that will sit there until it is appropriated by the legislature. He said that they also call for a committee to be set up that will make a recommendation as to how and what shall be done.



He said that this thing has been kicked around long enough and that this is what he thinks that he can get consensus on the floor to pass. He said that, if the committee wants to try something else, they will just have to take their chances on the floor. He said that now is the time to fish and cut bait.

Senator Thompson asked Rep. Dorso if it was in the bill that it would be set at fifteen cents.

Rep. Dorso said that he believed that it was a percentage in the bill.

Senator Krebsbach said that it was a percentage.

Rep. Dorso said that when he started out on the bill his object was to philosophically say that people with cellular phones should be paying at least a portion of 911 service. He said that he doesn't want to weigh it out to see which side is here with more merit. He said that they can always come back next session with something, but at least for now they've got their foot in the door. If they don't do something, then they're just going to be taking the chance that there is going to be nothing and this argument will start again in 2001.

Senator Thompson said that he liked the part about the planning committee and that they will develop a proposed legislation regarding the enhanced 911.

Senator Krebsbach said that she wanted to inform the committee that she had discussion with leadership regarding the fact of the committee developing proposed legislation for implementation versus that of just developing a plan for a state wide implementation plan. She said that is the choice she would have preferred, but in compromise they do things to get the job done.

Rep. Dorso said that is the reason he thinks that it has to go to the budget section. The budget section can, at that point, modify what ever comes in, get some consensus on the budget section,

which will have some weight when it comes to the legislature. He said that, hopefully when it gets to the legislature it will have enough support because it went through the budget section. He said that he pictures this as the committee will recommend the legislation, the budget section will take it under advisement, if they want to modify it to a certain extent, but this is the way that it will work best. He said that his fear is that they will get to the legislative session and they will have a bill introduced that won't have gotten any discussion and that they will be back to this situation.

Senator Krebsbach asked if this was the same process that they went through when the land lines went into effect.

Rep. Dorso said that he did not believe that it was. He said that he was not very familiar with that, but that they are probably people in the room that are more familiar with that. He did say that there were people around that did not like the way that it did come down and that he believes that caused the study in 1995, which caused a lot of fights on the floor and when it got to the committee there were people that didn't like the way that the committee was constituted and people that didn't believe in the final product. He said that there were many people and many onlookers felt that the committee was stacked. He said that he doesn't want to see that happen this time again, that is why they have set the member of members on the implementation committee to 5, one from each involved party. He feels that this is the only way that they can get floor support in later sessions.

Rep. Dorso motioned for the House to recede from the House amendments to SB2307.

Senator Thompson seconded his motion. The motion carried with a 6-0-0 vote.

(Bill Number) SB 2307 (, as (re)engrossed):

Your Conference Committee

For the Senate:			For the House:				
	<u>HERE</u>	YES	NO		<u>HERE</u>	YES	NO
KREBSBACH	X		X	S BELTER	X	X	
KUEN	X		X	M GROSZ	X	X	
THOMPSON	X		X	FROELICH	X		X

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)  
723/724      725/726      S724/H726      S723/H725  
 the (Senate/House) amendments on (SJ/HJ) page(s) \_\_\_\_\_ - \_\_\_\_\_

and place \_\_\_\_\_ on the Seventh order.  
727

, adopt (further) amendments as follows, and place  
 \_\_\_\_\_ on the Seventh order:

having been unable to agree, recommends that the committee be discharged  
 and a new committee be appointed. 690/515

((Re)Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar.

DATE: 4/9/99

CARRIER: \_\_\_\_\_

LC NO. \_\_\_\_\_ . \_\_\_\_\_ of amendment

LC NO. \_\_\_\_\_ . \_\_\_\_\_ of engrossment

Emergency clause added or deleted \_\_\_\_\_

Statement of purpose of amendment \_\_\_\_\_

(1) LC (2) LC (3) DESK (4) COMM.

2

(Bill Number) \_\_\_\_\_ (, as (re)engrossed):

Your Conference Committee

For the Senate:

	YES	NO
KLEISSBACH		X
KUEN		X
THOMPSON		X

For the House:

	YES	NO
S BELTEL	X	
m GROSZ	X	
FROELICH		X

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)  
723/724 725/726 S724/H726 S723/H725  
the (Senate/House) amendments on (SJ/HJ) page(s) \_\_\_\_\_ - \_\_\_\_\_

and place \_\_\_\_\_ on the Seventh order.  
727

, adopt (further) amendments as follows, and place  
\_\_\_\_\_ on the Seventh order:

having been unable to agree, recommends that the committee be discharged  
and a new committee be appointed. 690/515

((Re)Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the  
calendar.

DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

CARRIER: \_\_\_\_\_

LC NO. \_\_\_\_\_ . \_\_\_\_\_ of amendment

LC NO. \_\_\_\_\_ . \_\_\_\_\_ of engrossment

Emergency clause added or deleted \_\_\_\_\_

Statement of purpose of amendment \_\_\_\_\_

(1) LC (2) LC (3) DESK (4) COMM.

REPORT OF CONFERENCE COMMITTEE  
(ACCEDE/RECEDE) - 420

07398

3

(Bill Number) SB 2307 (, as (re)engrossed):

Your Conference Committee

For the Senate:	PRESENT	YES	NO
KREBSBORN	X		
KLEIN	X		
THOMPSON	X		

For the House:	PRESENT	YES	NO
BELTER	X		
GROSZ	X		
FROELICH	X		

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)  
723/724      725/726      S724/H726      S723/H725  
the (Senate/House) amendments on (SJ/HJ) page(s) \_\_\_\_\_ - \_\_\_\_\_

and place \_\_\_\_\_ on the Seventh order.  
727

, adopt (further) amendments as follows, and place  
\_\_\_\_\_ on the Seventh order:

having been unable to agree, recommends that the committee be discharged  
and a new committee be appointed. 690/515

((Re)Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the  
calendar.

DATE: H/ 12/99

CARRIER: \_\_\_\_\_

LC NO. \_\_\_\_\_ . \_\_\_\_\_ of amendment

LC NO. \_\_\_\_\_ . \_\_\_\_\_ of engrossment

Emergency clause added or deleted \_\_\_\_\_

Statement of purpose of amendment \_\_\_\_\_

(1) LC (2) LC (3) DESK (4) COMM.

REPORT OF CONFERENCE COMMITTEE  
(ACCEDE/RECEDE) - 420

4

07398

(Bill Number) SB 207 (, as (re)engrossed): SR 677112

Your Conference Committee

For the Senate:	PRESENT	YES	NO	For the House:	PRESENT	YES	NO
KREBSBACH	X	X		m DUKSO	X	X	
KLEIN	X	X		CLARK	X	X	
THOMPSON	X	X		FREEDON	X	X	

recommends that the (SENATE HOUSE) (ACCEDE to) (RECEDE from)  
723/724      725/726      8724/H726      8723/H725  
 the (Senate/House) amendments on (SJ/HJ) page(s) \_\_\_\_\_ - \_\_\_\_\_

and place \_\_\_\_\_ on the Seventh order.  
727

, adopt (further) amendments as follows, and place 9622.0212  
 \_\_\_\_\_ on the Seventh order:

having been unable to agree, recommends that the committee be discharged  
 and a new committee be appointed. 690/515

((Re)Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar.

DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

CARRIER: \_\_\_\_\_

LC NO. \_\_\_\_\_ . \_\_\_\_\_ of amendment

LC NO. \_\_\_\_\_ . \_\_\_\_\_ of engrossment

Emergency clause added or deleted \_\_\_\_\_

Statement of purpose of amendment \_\_\_\_\_

(1) LC (2) LC (3) DESK (4) COMM.

**REPORT OF CONFERENCE COMMITTEE**

**SB 2307, as engrossed:** Your conference committee (Sens. Krebsbach, Klein, Thompson and Reps. Dorso, Clark, Froelich) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1008-1009, adopt amendments as follows, and place SB 2307 on the Seventh order:

That the House recede from its amendments as printed on pages 1008 and 1009 of the Senate Journal and pages 980 and 981 of the House Journal and that Engrossed Senate Bill No. 2307 be amended as follows:

Page 1, line 1, replace the second "and" with a comma and after "57-40.6-02.2" insert ", and 57-40.6-10"

Page 1, line 2, replace the first "and" with a comma and after "fund" insert ", and planning committee"

Page 2, line 24, replace "one dollar" with "forty cents"

Page 3, line 22, replace "Twenty-five percent of the revenues" with "Revenues from twenty-five cents per month per telephone service number from the fee imposed under section 57-40.6-02.1"

Page 4, line 1, replace "Seventy-five percent of the revenues" with "Revenues remaining after the allocation under subsection 1"

Page 6, after line 17, insert:

**"SECTION 7.** Section 57-40.6-10 of the North Dakota Century Code is created and enacted as follows:

**57-40.6-10. Enhanced 911 wireless service planning committee.** An enhanced 911 wireless service planning committee is created to consist of five members. The governor shall appoint one member to represent commercial mobile radio service providers, one member to represent telecommunications companies providing land-line or fixed-line service, one member to represent a county served by state radio communications in the emergency services communication system, and one member from the information technology committee of the legislative council. The North Dakota association of counties shall appoint one member of the committee. The governor shall designate the chairman of the committee. The state radio communications office shall provide staff services to the committee.

The committee shall develop proposed legislation for implementation of a statewide plan regarding enhanced 911 wireless service and fees, administration, and allocation of revenues. Before November 1, 2001, the proposed legislation must be presented by the committee to the budget section of the legislative council for consideration."

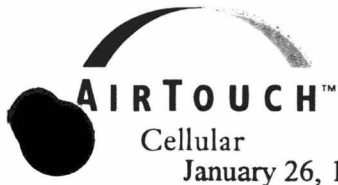
Renumber accordingly

Engrossed SB 2307 was placed on the Seventh order of business on the calendar.

**1999 TESTIMONY**

**SB 2307**





Richard C. Nelson  
Director  
Government Relations

AirTouch Cellular  
One California Street, 29th Floor  
San Francisco, CA 94111

Telephone: 415 658-2059  
Facsimile: 415 658-2283

Chairman Duane Mutch  
Senate Industry, Business & Labor Committee  
North Dakota State Senate  
Bismarck, North Dakota 58505-0480

Re: **Senate Bill 2307**

Dear Chairman Mutch:

AirTouch Cellular opposes SB 2307 because it is unfair to impose a new tax on wireless customers who already pay for 911 service on their residential and business lines unless legislation will clearly facilitate the implementation of the federal mandate for Wireless Enhanced 911 Service. AirTouch has expended considerable effort over the past three months to work with the North Dakota 911 Association on crafting legislation which would ensure the smooth and efficient implementation of Wireless Enhanced 911 Service. However, SB 2307 provides no certainty that wireless customers will obtain the benefits of Wireless Enhanced 911 Service.

The bill omits any reference to the Federal Communications Commission's Docket 94-102 wherein the Wireless Enhanced 911 Service and its two phase implementation is described along with the conditions which must be satisfied in order to implement the federal mandate. The bill is very ambiguous regarding the reimbursement of wireless carriers' costs to implement Wireless Enhanced 911 Service (one of the preconditions described in the FCC Order). Thirdly, the bill does not provide for limitation of liability protection for wireless carriers' service and equipment vendors with whom carriers have entered into contracts to implement the federal mandate across the United States. Finally and most importantly, the 911 Association has not negotiated in good faith with the industry and has recently demonstrated that it does not intend to enter into contracts with wireless carriers to implement the federal mandate. Instead, association representatives have stated that they intend to implement a solution with third party vendors who can intercept wireless customers' 911 calls. This is a serious misunderstanding of the federal mandate. Moreover, it is illegal to intercept wireless calls.

There is no way that AirTouch can advise its customers in North Dakota that this new tax will provide them with the benefits of Wireless Enhanced 911 Service. In fact the existing 911 tax of \$1.00 is one of the highest in the nation. Rather than extending such a tax to wireless customers, legislators may want to study and, perhaps, conduct an audit of the existing 911 program. Studies in other states such as Texas and South Dakota have revealed significant cost savings are available through consolidation of 911 operations. We urge you to oppose this new tax measure which does not provide any guarantee that the citizens of North Dakota will receive the benefits of Wireless Enhanced 911 Service.

Very truly yours,

cc: Senate Industry, Business & Labor Committee Members

Western Wireless  
CellularOne  
Tom Dikelsch

NORTH DAKOTA  
E911 BILL HB 2307  
TALKING POINTS TO OPPOSE BILL

SENATE INDUSTRY BUSINESS AND LABOR COMMITTEE

- **HB 2307 Ignores the carriers obligations for implementation of Phase I and Phase II pursuant to the FCC's Report and Order**
- **The \$1.00 proposed in the Bill is an excessive tax - especially since no explicit cost recovery for carriers is included in the Bill.**
- **The Association of Counties and PSAPs are attempting to impose their own network solutions for Phase II and bypass the carriers. This will not work because the carriers networks must be modified to work with any Phase II solution currently available today.**
- **The Association of Counties and PSAPs failed to negotiate in good faith with the North Dakota wireless carriers on reaching a compromise bill.**
- **This Bill would merely fund the existing PSAP 911 landline system with no corresponding benefit to the wireless subscriber.**
- **Wireless customers already pay for the 911 landline network via their residential landline phone service.**
- **The PSAP and Association of Counties do not understand and are not educated on wireless E911 or the FCC's Report and Order which mandates carriers to provide the service, conditioned upon certain requirements being in place prior to initiation of service.**
- **Prior to passage of another 911 funding measure the state should conduct an audit of the existing 911 system to determine if any waste and/or inefficiency in operation of the network is occurring. An audit would determine if the existing funding amounts are adequate and/or being spent wisely to meet the demands for emergency services in North Dakota.**

TESTIMONY

TO: SENATE INDUSTRY, BUSINESS & LABOR COMMITTEE

DATE: January 27, 1999

FROM: Jerry Bergquist, Co-Chairman of the Legislative Committee for the ND 9-1-1 Association and Stutsman County 9-1-1 Coordinator

Concerning Senate Bill #2307

Thank-you Mr. Chairman and members of the Committee for the opportunity to express support for Senate Bill #2307.

The original 9-1-1 tax law in place today allows for a tax to be placed on wire-line telephones only. At the time the law was written, the idea of taxing wireless telephone communications was too far into the future to even be considered. Today, the PSAP's, or 9-1-1 Communication Centers, around the state are experiencing an ever increasing number of calls originating from cellular and mobile telephones. In Stutsman County, of the total 9-1-1 calls received, wireless 9-1-1 calls have jumped from 30% in June of 1998, to 34% at the end of December. Some areas of the state are experiencing 40% and more.

These calls create a tremendous work load for the dispatchers. Unlike the 9-1-1 technology for wire-line telephones, current wireless phone technology does not provide a call-back number or any type of location information. If a person using a wireless phone dials 9-1-1 and immediately hangs-up, or is physically forced to hang-up, the dispatcher cannot send help.

The increased number of wireless 9-1-1 calls is also creating an inequity between taxed wire-line phones and untaxed wireless phones. In some cases, citizens are

canceling their wire-line telephone and opting to use a wireless phone for all of their telephone communication. When this happens, less revenue is produced to run a 9-1-1 Communications Center, and a wireless 9-1-1 caller may not get the Public Safety support they need in an emergency because of lack of caller information.

Senate Bill #2307 has been written with the help of both the wire-line and wire-less industries, the ND 9-1-1 Association, the ND Association of Counties and legislative members. This bill will establish a dedicated fund to allow North Dakota counties to accumulate the funds needed to buy the technology required to identify call-back numbers and location information for wireless 9-1-1 callers. The legislation has been written to take advantage of the most suitable Enhanced 9-1-1 Wireless technologies for North Dakota, not a specific technology offered by a specific vendor.

In the early days of wire-line 9-1-1, North Dakota law allowed wire-line phone subscribers to be taxed years before a 9-1-1 system would become operational. This was done to allow time for the funds to be accumulated to pay for the equipment and services, without reference as to who would provide the equipment and service.

Today, North Dakota is experiencing the early days of wireless 9-1-1, and the growing pains are the same. Senate Bill #2307 will allow wireless phone subscribers to be taxed so that funds can be accumulated, over time, to pay for equipment and services, without reference as to who provides the equipment and service.

I welcome any questions you may have at this time. I would like to end by urging your support of Senate Bill #2307.



# NORTH DAKOTA SENATE

STATE CAPITOL  
600 EAST BOULEVARD  
BISMARCK, ND 58505-0360

Senator Karen K. Krebsbach  
District 40  
Box 1767  
Bismarck, ND 58702-1767



COMMITTEES:  
Industry, Business  
and Labor  
Government and  
Veterans Affairs,  
Chairman

IBL COMMITTEE - January 27, 1999

SB 2307

Chairman Mutch & Committee Members:

The County/City 911 Coordinators have been meeting periodically with representatives of the cellular phone industry in an attempt to craft legislation that would address the following:

1. 911 fee equity between the wireless and land line industries, (\$1 per line)
2. Adequate revenue to begin to address Phase I and Phase II of the federal mandate regarding locate capabilities for wireless callers,
3. A system of fee collection and allocation that is simple for the industry and as fair as reasonably possible to the various counties and cities operating PSAPs, (Statewide collection & allocation primarily by population)
4. Some level of liability protection for 911 agencies and wireless phone companies, similar to that allowed for the land-line 911 systems, and
5. Dedication and use of the revenue generated for specific 911 purposes.

Others here today will address specific details of the issues, and I would defer questions to them, the experts.

Thank you for your consideration on this bill.

## Presentation Notes for 911 Wireless Excise Tax

My name is Barry Cox, a Benson County Commissioner. I am here today representing the Lake Region 911 Authority. The Lake Region 911 Authority is comprised of the five counties of Benson, Eddy, Nelson, Ramsey and Towner. It is the largest 911 system in miles covered than any other in the state with the exception of the counties served by State Radio.

I am here today in support of SB 2307. I would like to give you a brief history of our 911 system and go over some of the difficulties we encountered financially putting our system on line. As we have found out in the Lake Region getting a 911 system up and running is a very expensive undertaking (refer to attachment # 1). Further, once the system is in place with the equipment purchased, mapping and addressing completed and personnel hired the day to day operation is very expensive to operate.

In our particular situation our income from the \$1.00 Excise Tax per line amounts to a total of \$174,500.00. Our annual operating costs totals \$223,450.00 for an annual loss of \$48,950.00. To overcome this deficit the Lake Region Law Enforcement Center subsidizes the 911 system with \$50,000.00 per year. We are able to subsidize the system because the same 5 counties make up the Lake Region Law Enforcement Center as do the 911 Authority.

Some of costs of maintaining a system is the circuit charges. These are charges by the telephone companies for transporting the calls over their lines from the point of origin to the PSAP (Public Safety Answering Point). In our particular case, this amounts to an annual cost of \$28,700.00. Our cost is so high because of the large area we service, but it should be remembered that proportionately it costs as much per county as it does for us collectively. Many counties that we have visited with struggle with this monthly expense.

As you might expect the biggest expense we have is wages and benefits. We currently charge off 4 full time dispatchers, a Coordinator and a half time data processing clerk. The total wages and benefits approximates 150,750.00. As you can see without any other expenses our income is almost all taken up by personnel related expenses. Again, in our particular situation the Lake Region Law Enforcement Center pays for 4 dispatchers and one supervisor which is really a 911 expense. If we had to hire the 4 dispatchers through 911 funds we would not be able to afford a system as the monies would not be available without getting some mill levy support from the 5 counties. Our budget for 911 is very bare bones with many of our office supplies and expenses not being charged off to the 911 system.

We have many concerns on the horizon for 911 systems and the necessary funds to keep them operational.

In tracking our records we find that there has been a doubling of cell phone originated 911 calls over the past three years. Our first year of operation 6.13% of 911 calls were from cell phones. The second year of operation that percentage elevated to 12.96% and our third year of operation indicates that 22.28% of 991 calls originated from cellular phones (see attachment 2). It is my understanding that projections indicate a 20% to 25% increase per year in cell phones for the next few years.

This increase is alarming as the cell phone calls generate more work than a hard wired line because the ali and ani information is not displayed for our communicators. With cell phones becoming more affordable it is very possible that we could see a decrease in the wire line phones which would cause a decrease in revenue for our PSAP.



## **EXPENSES INCURRED FOR DISPATCH & E9-1-1**

### **DISPATCH CONSOLE**

Console Addition	\$26,850.00	
Original Console Cost	\$140,000.00	
<hr/>		
		\$166,850.00

### **SPECIALIZED ITEMS**

TTY Communicator	\$ 600.00	
Digital Data Recorder	\$23,500.00	
ANI Controller	\$33,984.00	
Telephone System	\$16,181.00	
Computers (6)	\$ 9,000.00	
Engineering Fees	\$13,730.00	
Digital Mapping Of (5) Counties	\$59,000.00	
<hr/>		
		\$155,995.00

### **TELEPHONE TRUNKING CHARGES**

Non-Recurring Set-up Charges	\$53,531.00	
<hr/>		
		\$53,531.00

\$376,376.00

Attachment # 2

**CELLULAR CALLS TO LAKE REGION E9-1-1**

<b><u>DATE</u></b>	<b><u>TOTAL CALLS</u></b>	<b><u>CELL</u></b>	<b><u>PERCENT</u></b>
1997 01 FEB - 31 DEC	2495	153	6.13%
1998 01 JAN - 31 DEC	3147	408	12.96%
1999 01 JAN - 20 JAN	184	41	22.28%
<hr/>			
Totals	5826	602	Avg = 10.33%

**GROWTH OF CELL-PHONE CALLS**

<b>1<sup>st</sup> Year Of Operation</b>	<b>at 6.13%</b>	
<b>2<sup>nd</sup> Year Of Operation</b>	<b>at 12.96%</b>	<b>increase of 6.83%</b>
<b>Start Of 3<sup>rd</sup> Year</b>	<b>at 22.28%</b>	<b>increase of 9.32%</b>

# STATEMENT OF REVENUE AND EXPENDITURES

1999 BUDGET

APPROVED 09/09/1998

## BUDGET

### REVENUE

BENSON COUNTY	33,250.00		
EDDY COUNTY	16,250.00		
NELSON COUNTY	25,100.00		
RAMSEY COUNTY	81,000.00		
TOWNER COUNTY	18,900.00	174,500.00	total from 5 counties 911 Excise Tax
INTEREST INCOME	300.00		
LEC SUBSIDY	50,000.00	←	*** These funds come from the Law Enforcement Gen Fund
MISC. INCOMES	100.00		
TRANSFERS IN	0.00		

**TOTAL INCOME 224,900.00**

**TOTAL INCOME +  
TRANSFERS IN 224,900.00**

### EXPENSES

PAYROLL-SALARIES	100,800.00
PAYROLL-TAXES	9,450.00
PENSION	2,800.00
HEALTH INSURANCE	23,800.00
RECURRING ANI/SR FEES	9,100.00
RENT	3,350.00
PHONE CHARGES	1,150.00
MILEAGE/MEALS/LODGING	1,200.00
PHOTOCOPIES	1,200.00
OVERTIME/HOLIDAY PAY	13,900.00
HOLIDAY PAY	0.00
MISC EXPENSES	200.00
OFFICE SUPPLIES	200.00
POSTAGE/FREIGHT	600.00
CIRCUIT CHARGES	28,700.00
911 SEMINAR	1,000.00
911 EQUIPMENT	0.00
EQUIP DEP. (RESERVE)	26,000.00
TRANSFER OUT	0.00

**TOTAL EXPENSES 223,450.00**

**TOTAL EXPENSES +  
TRANSFERS OUT 223,450.00**

### REVENUE OVER (UNDER)

**EXPENSES 1,450.00**

**(48,950.00) Deficit if only money from excise tax was used**

E911 PROJECTED ANNUAL OPERATIONAL COSTS

INCOME

ACUTAL BASED ON FIRST 6 MONTHS OF 1996	181,150.00
TOTAL ANNUAL INCOME	181,150.00

EXPENSES

DISPATCH SALARIES/BENEFITS (5)	107,595.00
911 COORDINATORS SALARY/BENEFITS	36,850.00
DATA PROCESSOR	19,385.00
RECURRING ANI/SR, ETC.	9,500.00
RENT	3,350.00
PHONE	1,200.00
MILEAGE/MEALS/LODGING	2,400.00
PHOTOCOPIES	600.00

TOTAL ANNUAL EXPENSES	180,880.00
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REVENUE OVER EXPENSES	270.00
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**EXPENSES INCURRED FOR DISPATCH & E9-1-1**

**RADIO COMMUNICATIONS**

	<b><u>COST</u></b>	<b><u>SUB TOTAL</u></b>	<b><u>TOTAL</u></b>
7 Transmitter Sites	\$70,155.00		
Transceivers	\$ 1,200.00		
Radio Paging Extenders	\$ 2,200.00		
		\$73,555.00	

**DISPATCH CONSOLE**

Console Addition	\$26,850.00		
Original Console Cost	\$140,000.00		
		\$166,850.00	

**SPECIALIZED ITEMS**

TTY Communicator	\$ 600.00		
Digital Data Recorder	\$23,500.00		
ANI Controller	\$33,984.00		
Telephone System	\$16,181.00		
Computers (6)	\$ 9,000.00		
Engineering Fees	\$13,730.00		
Digital Mapping Of (5) Counties	\$59,000.00		
		\$155,995.00	

**TELEPHONE TRUNKING CHARGES**

Non-Recurring Set-up Charges	\$53,531.00		
		\$53,531.00	

\$449,931.00

LAKE REGION E-911 AUTHORITY  
1999 BUDGET  
APPROVED 09/09/1998

<b>TOTAL INCOME</b>	
BENSON COUNTY	33,250.00
EDDY COUNTY	16,250.00
NEILSON COUNTY	25,100.00
RAMSEY COUNTY	81,000.00
TOWNER COUNTY	18,900.00
INTEREST INCOME	300.00
LEC SUBSIDY	( 50,000.00 ) →
MISC INCOMES	100.00
TRANSFERS IN	0.00

**TOTAL INCOME** 224,900.00 *174,900 Without 50,000 Subsidy*

<b>TOTAL EXPENSES</b>	
MISC EXPENSES	200.00
LODGING/MEALS	1,200.00
MILEAGE EXP.	0.00
OFFICE SUPPLIES	200.00
POSTAGE/FREIGHT	600.00
PAYROLL SALARIES	100,800.00
PAYROLL TAXES	9,450.00
BLUE CROSS/SHIELD	23,800.00
PHOTOCOPIES	1,200.00
OVERTIME/HOLIDAY	13,900.00
ANI/SR RECORD CHG	9,100.00
OFFICE RENT	3,350.00
RETIREMENT	2,800.00
N.D. UNEMPLOYMENT	0.00
WORKERS COMP INS	0.00
PHONE	1,150.00
911 EQUIPMENT	0.00
CIRCUIT CHARGES	28,700.00
911 SEMINAR	1,000.00
EQUIP DEP (RES)	26,000.00
TRANSFERS OUT	0.00

**TOTAL EXPENSES** 223,450.00

**TOTAL DEFICIT** 1,450.00

*48,550.00 Short fall ANNUALLY  
without help from LEC*

**TESTIMONY TO THE  
SENATE INDUSTRY, BUSINESS, & LABOR COMMITTEE  
Prepared January 26, 1999 by Pete Eggimann, Director of the  
Grand Forks County 911 Communications Center**

**Concerning Senate Bill No. 2307**

Thank you Chairman Mutch and members of the Committee for the opportunity to speak this morning. My name is Pete Eggimann and I am the Director of the Grand Forks County 911 Communications Center. Our center provides 911 service for the entire County and public safety radio communication services to the County, City of Grand Forks, and the University of North Dakota. I want to speak in support of Senate Bill 2307 this morning.

From an administrative perspective this bill is vital to the continued success of 911 in North Dakota. As you are aware, the communications industry is undergoing tremendous change. This is particularly true of the telecommunications industry. The 911 system that we currently all depend upon was designed in the 1960's and 1970's. That technology has proved to be very reliable and was a good investment.

While the current 911 technology with wired phones does a good job of helping us locate callers in an emergency, it does not work very well with wireless or cellular phones.

With a cellular call, we do not get the telephone number of the phone being used; we do not get the name of the person to whom the phone belongs; we do not get the address where the call is coming from; we do not get the names of police, fire, and ambulance services that should respond to the call; and we don't even get the name of the telephone

company that is sending us the call. If the caller doesn't know where they are, our dispatchers are in trouble. Valuable time will be lost while the dispatchers try to help that caller figure out where they are. About 30 to 35% of the 911 calls in Grand Forks County currently fall into that category.

We desperately need to upgrade our equipment to better handle wireless 911 calls. The technology already exists to provide us with the telephone number of the wireless phones being used and which cellular tower is receiving the call. Even that limited information can be a great help to the dispatcher.

Around the country there a number of wireless technology experiments being conducted that will allow the wireless 911 callers location to be identified to within 100 meters. Several of these experiments have identified different types of technology that will work. Soon we hope an affordable standard is adopted by the industry that will allow us to get that vital information.

Without the funding provided by this bill, none of these changes will occur in the near future. The number of wireless phones is predicted to double within the next 5 years. Some of you may be aware of the recent Cellular One venture in Regent where they were offering residents an alternative to traditional telephone service utilizing wireless technology. This trend will accelerate. Any of the wireless companies serving Grand Forks could offer this service today. The infrastructure already exists. We can't do our job without being able to handle wireless 911 calls quickly and efficiently. This bill



gives us the structure to make that possible. Please help us get people the emergency help they need and expect. Please support this bill.

Thank you.

**TESTIMONY TO THE  
SENATE INDUSTRY, BUSINESS, & LABOR COMMITTEE  
Prepared January 26, 1999 by Pete Eggimann, Director of the  
Grand Forks County 911 Communications Center**

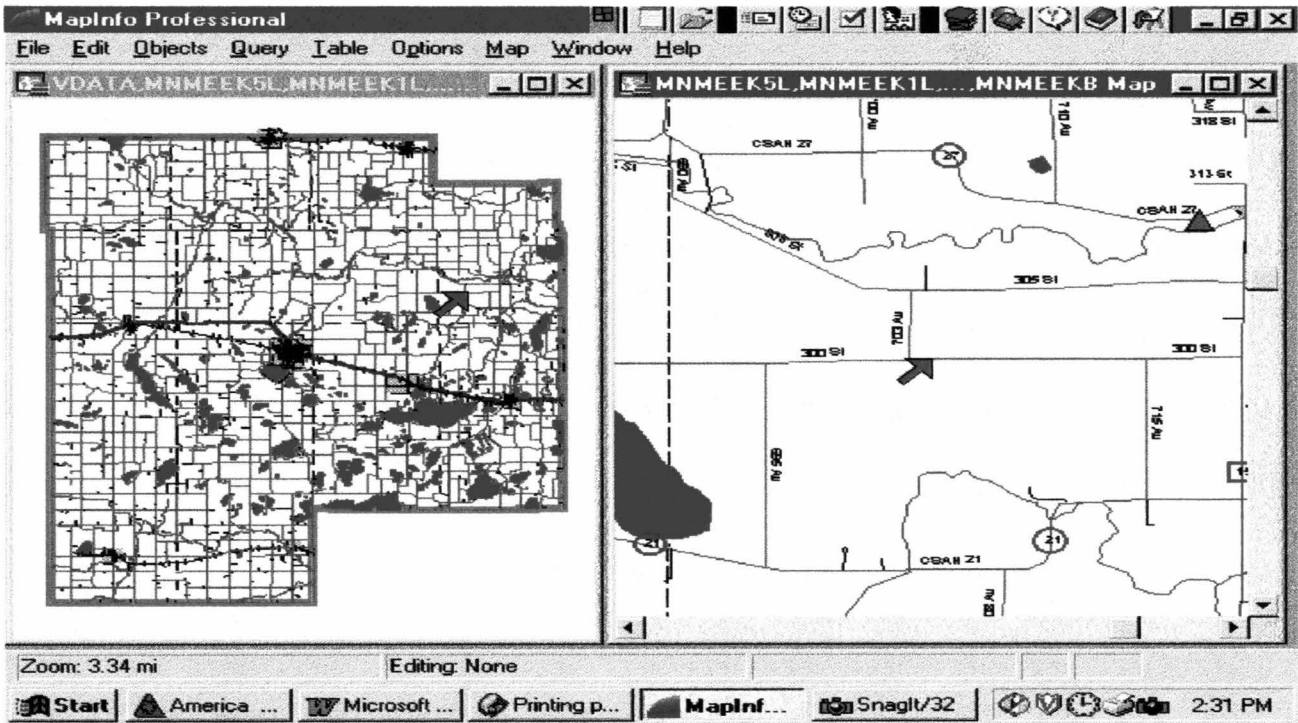
**Summary Outline**

Please support Senate Bill #2307 because:

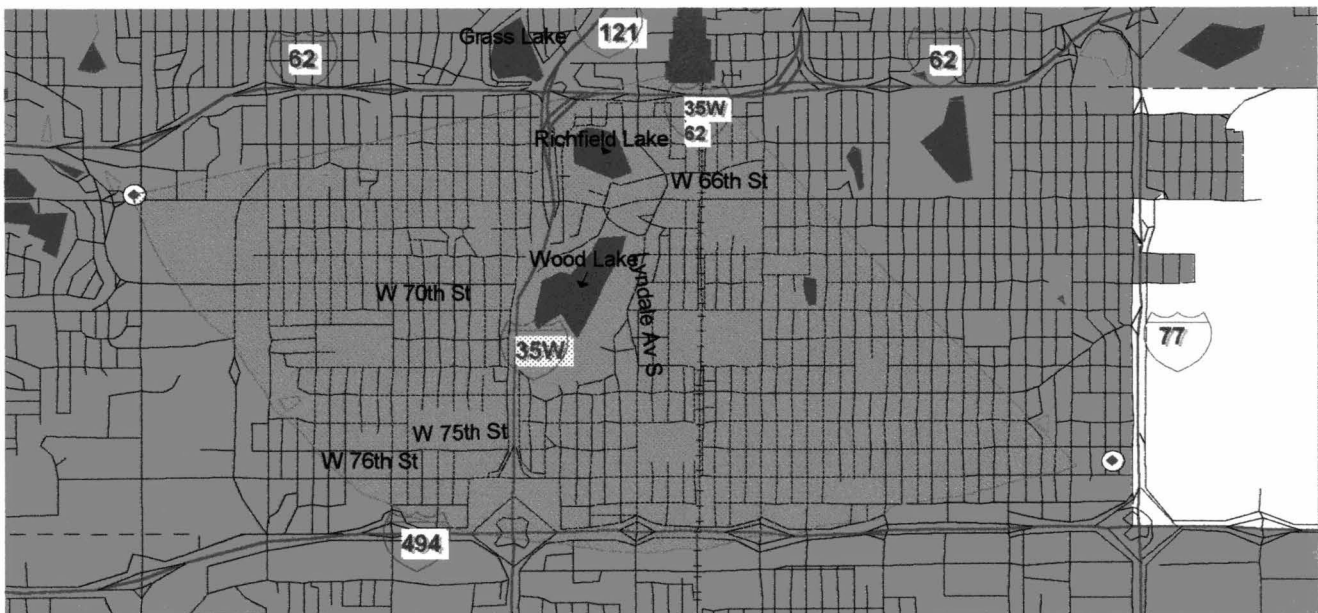
- The telecommunications industry has undergone tremendous change – our equipment has not. (60's and 70's technology)
- Our current equipment only works well when we know where the end of the wire is.
- See “911 Call Information” handout
  - We get a tremendous amount of information automatically with a “land line” or traditional 911 call.
  - We get no information with wireless or cellular 911 calls.
- The technology currently exists to provide the wireless 911 callers telephone number and the location of the cellular tower handling that call.
- See “Wireless 911 Call Map” handout
  - By upgrading our equipment we can receive the location of the wireless 911 caller automatically.
- The number of wireless phones is predicted to double within 5 years.
- Wireless telephone service is already in direct competition with traditional telephone companies for local dial tone service
  - Cellular One in Regent

- Could be implemented tomorrow in Grand Forks – the infrastructure is already in place.
- We can't do our jobs without being able to properly handle wireless 911 calls.
- This bill gives us the structure we need to meet peoples needs into the future.

Now, Geo Comm brings some common sense and handy “pictures” to this daunting task of locating wireless E9-1-1 callers. Beginning with the foundation of our widely deployed *GeoLynx*™ wired E9-1-1 caller location mapping system (shown below), we are offering the *GeoCell*™ add-on. With *GeoLynx*, the location of a wired E9-1-1 call is automatically extracted from the ALI data display and plotted by a red arrow (➔ on the maps below) on both a full jurisdiction map (for general geographic placement) as well as an automatic zoom-in to the specific neighborhood from which the wired 9-1-1 call is coming.



To *GeoLynx*, we now bring in a *GeoCell* representation of that earlier wireless E9-1-1 call. In the screen below, the red icon is the cell tower at 6000 Pleasant, and the shaded “pie slice” is the 120° sector coverage area running from a 210° “azimuth” from true North. **This wireless E9-1-1 caller is very likely to be located within this “pie slice”.**



**TESTIMONY TO THE  
SENATE INDUSTRY, BUSINESS, & LABOR COMMITTEE**  
Prepared January 27, 1999 by the  
North Dakota Association of Counties  
Terry Traynor, NDACo Assistant Director

**Concerning Senate Bill No. 2307**

Thank you Chairman Mutch and members of the Committee for the opportunity to begin the explanation of Senate Bill 2307, and to present the strong support of counties and county officials. We believe that this is a very important piece of legislation because it addresses equity, and more importantly, because it addresses public safety.

Yesterday we spoke briefly to this Committee about a minor change to the E911 fee that has been available to support emergency communications since 1985. The current E911 fee is placed on regular "land-line" telephones. This bill would create a similar fee statewide, for all two-way, wireless communication services. Section 1 of the bill defines these services and identifies the issue this fee is to address.

Sub-section 3 of this first Section defines Enhanced 911 wireless service, which is the ultimate ability for emergency service dispatchers to locate a cellular 911 call geographically, with sufficient detail to respond to an emergency. Right now, the number of 911 calls coming from cellular phones into many emergency centers is approaching 30-40%. I will leave the discussion of the problems this is causing to the experts that will follow me, but through this legislation we hope to fund the solution to those problems. The sample of 911 budgets attached however clearly shows that the "land-line" fees are insufficient to cover current costs, and property taxes are picking up the burden.

Although the wireless industry has some disagreements with our approach to this legislation, we have met with them and this bill contains a number of compromises

that were made to address their concerns. The first compromise is the statewide nature of the fee. Due to the peculiarities of the wireless industry, we were asked to draft this as a statewide, centrally collected fee. Section 2 of the bill creates this fee and places the collection with the State Tax Department, granting the Department the authority to direct its administration.

The sub-sections that follow allow the wireless providers to retain 2% of the fee for their costs of collection (sub-section 2), and 1% for the State Tax Department for its administrative efforts (sub-section 4). The 2% figure was arrived at in discussions with the industry and it corresponds to the current arrangements with the land-line carriers. The 1% was suggested by the Tax Department.

Sub-section 5 directs that the remaining funds be placed in a special Wireless 911 Service Fund. Section 3 of the bill describes the allocation of the revenue in this fund. This area was also one of some compromise with the industry, however our bill preserves local governments' ultimate discretion on how the revenue is used to accomplish enhanced wireless 911 service. County officials and some of our Legislative sponsors could not support the industry's request that a significant portion of the revenue be transferred back to the private companies for their infrastructure costs. We believe that such a provision would have created an inequity with the land-line providers that were given no such guarantee.

Sub-section 1 of section 3 allocates 25% of the revenue in the fund to the 24 public safety answering points or PSAPs, in equal shares. This revenue would flow as soon as the law became effective, and would begin to address the costs of responding to the wireless 911 calls now coming in.

Sub-section 2 will escrow the remaining 75%, to be released once a PSAP begins to implement the agreements, procedures, and technologies that are necessary to locate a wireless caller. At that time the local governing bodies can individually agree to pay wireless providers for their services and to support their

infrastructure, if that is what is necessary to achieve Enhanced 911 Service. This 75%, rather than in equal shares, would be distributed based upon population. Table 2 illustrates our estimation of this distribution, based on 100,000 wireless devices.

The remainder of the bill contains corrections to ensure that both land-line and wireless services are both included, and the new language of Section 5 and 6 is there primarily at the request of the industry. Section 5 and sub-section 5 of Section 6 were offered to provide some protection for the information the industry feels must not be disclosed for competitive purposes. Sub-section 4 of Section 6 limits the industry's liability for giving phone numbers and names to the PSAP.

I hope my testimony has provided an adequate explanation of the bill and a clear indication of the strong county support that exists for its passage. Several city and county officials would like to express their support, and briefly describe why such legislation is so important. I will however, attempt to answer any questions you may have. I would like to end however by saying that county government would greatly appreciate your support of Senate Bill 2307.

### **SAMPLE OF CURRENT E911/EMERGENCY MANAGEMENT BUDGETS**

**Budgets are 1998 Expenses for all Staff, Operating, & Equipment Costs Unless Noted**

	Unit's E911 Expenses	"Land-line" Excise Tax Revenue	Revenue over (under) Expenses
1 Wells County - Part of State PSAP	44,890	38,400	(6,490)
2 Pembina County PSAP	62,025	55,000	(7,025)
3 Pierce County PSAP	93,137	59,769	(33,368)
4 Walsh County PSAP	107,534	77,457	(30,077)
5 Lake Region PSAP (5-Counties)	223,450	174,500	(48,950)
6 Stutsman County PSAP	275,000	66,994	(208,006)
7 Morton County PSAP	341,107	72,000	(269,107)
8 City of Minot/Ward County PSAP	403,074	-	(403,074)
9 Grand Forks City/County PSAP	970,324	183,264	(787,060)

**Notes:**

2. Pembina figures are the approved CY99 budget, but do not include 5 dispatchers in the Sheriff's budget totally funded with other sources.
3. Pierce data is for 2 years due to large capital costs in 1997 - does not include dispatchers which are totally funded with other sources.
5. Lake Region data is the approved 1999 budget.
8. City of Minot/Ward County PSAP is totally funded with local property tax revenue

**PROJECTED ALLOCATION OF E911 WIRELESS REVENUE**  
**Based on 100,000\* Wireless devices**

100,000 Devices @ \$1/month Would Generate \$1,200,000

25% of the Funds to be distributed to the operating PSAPs in equal shares

(By August 1, 1999 there is estimated to be 24 PSAPs - They would receive \$12,500 each)

75% of the Funds to be escrowed and distributed based upon population

(Once implementation of enhanced 911 wireless begins)

County	1990 Census	Estimated Share of 75%
Adams	3,174	\$ 4,529
Barnes	12,545	\$ 17,899
Benson	7,198	\$ 10,270
Billings	1,108	\$ 1,581
Bottineau	8,011	\$ 11,430
Bowman	3,596	\$ 5,131
Burke	3,002	\$ 4,283
Burleigh	60,131	\$ 85,792
Cass/Fargo	90,587	\$ 129,245
West Fargo	12,287	\$ 17,531
Cavalier	6,064	\$ 8,652
Dickey	6,107	\$ 8,713
Divide	2,899	\$ 4,136
Dunn	4,005	\$ 5,714
Eddy	2,951	\$ 4,210
Emmons	4,830	\$ 6,891
Foster	3,983	\$ 5,683
Golden Valley	2,108	\$ 3,008
Grand Forks	70,683	\$ 100,847
Grant	3,549	\$ 5,064
Griggs	3,303	\$ 4,713
Hettinger	3,445	\$ 4,915
Kidder	3,332	\$ 4,754
LaMoure	5,383	\$ 7,680
Logan	2,847	\$ 4,062
McHenry	6,528	\$ 9,314
McIntosh	4,021	\$ 5,737
McKenzie	6,383	\$ 9,107
McLean	10,457	\$ 14,920
Mercer	9,808	\$ 13,994
Morton	23,700	\$ 33,814
Mountrail	7,021	\$ 10,017
Nelson	4,410	\$ 6,292
Oliver	2,381	\$ 3,397
Pembina	9,238	\$ 13,180
Pierce	5,052	\$ 7,208
Ramsey	12,681	\$ 18,093
Ransom	5,921	\$ 8,448
Renville	3,160	\$ 4,509
Richland	18,148	\$ 25,893
Rolette	12,772	\$ 18,223
Sargent	4,549	\$ 6,490
Sheridan	2,148	\$ 3,065
Sioux	3,761	\$ 5,366
Slope	907	\$ 1,294
Stark	22,832	\$ 32,576
Steele	2,420	\$ 3,453
Stutsman	22,241	\$ 31,732
Towner	3,627	\$ 5,175
Trail	8,752	\$ 12,487
Walsh	13,840	\$ 19,746
Ward	57,921	\$ 82,639
Wells	5,864	\$ 8,366
Williston City	13,131	\$ 18,735
	630,802	\$ 900,000

\* More than 100,000 wireless devices are very likely but due to industry confidentiality a number is not available



**COMMNET CELLULAR, INC.**  
8350 East Crescent Parkway, Suite 400  
Englewood, CO 80111  
(303) 694-3234

January 26, 1999

Senator Duane Mutch, Chairman  
Industry, Business, and Labor Committee  
P.O. Box 416  
Larimore, ND 58251-0416

***Re: Opposition to Senate Bill No. 2307***

Dear Chairman Mutch and Members of the Industry, Business, and Labor Committee:

CommNet Cellular Inc. (CommNet) owns, operates and manages cellular telecommunications systems in the state of North Dakota. CommNet is the managing agent for the B-side cellular licensees in the Bismarck MSA, ND RSAs 1, 2, 4 and 5, and has ownership interests in the ND-3 RSA. CommNet provides wireless telecommunications services to over half of the 55 counties in North Dakota. CommNet is excited about the possibility of offering enhanced wireless emergency communications services to the people of North Dakota, and over the past three months has been working diligently in concert with other wireless operators in North Dakota in an attempt to make this possibility a reality. However, the legislation you have before you will not result in ensuring that the residents of North Dakota have wireless enhanced emergency services available to them. We appreciate the opportunity to be heard on this matter.

Enhanced wireless 9-1-1 with Automatic Number Identification (ANI) and Automatic Location Identification capability (ALI) permits rapid response in situations where callers are disoriented, disabled, unable to speak, or do not know their location. Communication with Public Safety Answering Points (PSAPs) that are enhanced with wireless capabilities by dialing 9-1-1 saves lives and property by helping emergency services personnel do their jobs more quickly and efficiently. These regulatory provisions are to take effect only if PSAPs are able to receive and process ANI and ALI, and a mechanism for the recovery of costs to wireless carriers relating to the provision of such services is in place. The Federal Communications Commission (FCC) Order in Docket 94-102 issued in June, 1996 very clearly states that Commercial Mobile Radio Service (CMRS) provider's costs to provide enhanced 9-1-1 services must be fully reimbursed.

CommNet recognizes from previous experience that in order for enhanced wireless emergency 9-1-1 services to be available to the citizens of North Dakota, it is imperative the wireless carriers and the public safety community work together. CommNet has expended considerable resources while working with the North Dakota 911 Association Legislative Committee (Committee) and the North Dakota Association of Counties (Association) for over three months to provide them with the essential elements a bill such as this must have in order to receive support from the wireless community and to ensure next generation wireless emergency services are provided to the public.

In early October 1998 the Committee invited wireless operators to provide input. Representatives from AirTouch Communications, Western Wireless, and Wireless Alliance as well as CommNet appeared before the Committee in Bismarck on October 26 and discussed how the legislation should be written to best ensure the offering of enhanced wireless emergency services in North Dakota. Subsequent to the meeting, we participated in several conference calls with the Committee and the Association to work on modifications proposed by the carriers. Our modifications were suggested to make this legislation one that supports cooperation between wireless carriers and the public safety community throughout the state and provides a framework for implementing and handling wireless enhanced 9-1-1 services. Even though CommNet was confident our concerns were not given substantial consideration throughout the process, we continued trying to reach consensus among the interested parties concerned with the many complexities surrounding this issue.

Unfortunately, based on the legislation as it is proposed today, our concerns were completely ignored. We found the Committee unwilling to compromise in hopes of finding common ground among all of the interested parties. Obviously, our suggestions were not taken seriously by the Committee.

CommNet supports the implementation of wireless 9-1-1 capabilities; however, we also have an obligation to our customers to assure that they are treated equitably. We feel very strongly that taxes paid should be related to services received. Under the proposed bill, our customers will be paying an additional tax without receiving any additional benefits. The bill does not even provide the opportunity for wireless users to have the same level of 9-1-1 service as wireline users.

In addition, CommNet cannot concede to a bill that does not guarantee cost recovery. Therefore, as currently written, CommNet is unable to support the proposed legislation.

CommNet strongly supports providing enhanced 9-1-1 services to our customers, and we are committed to the continued development and enhancement of basic 9-1-1 service. It is our belief that the Committee did not negotiate in good faith to achieve a piece of legislation that would allow North Dakota to establish a wireless enhanced 9-1-1 program that complies with the federal requirements while acknowledging the unique environment of wireless telecommunications

Therefore, we would urge you to vote **against** this bill and send a message that you support our efforts to implement wireless enhanced 9-1-1 in the state of North Dakota.

Thank you for your consideration.

Sincerely,

Handwritten signature of Arnold C. Pohs in cursive script, followed by the initials "by GME" in a smaller, less legible cursive script.

Arnold C. Pohs  
Chairman & Chief Executive Officer

Cc: Senator Byron L. Dorgan

TESTIMONY

TO: SENATE APPROPRIATIONS COMMITTEE

DATE: February 12, 1999

FROM: Jerry Bergquist, Co-Chairman of the Legislative Committee for the ND 9-1-1 Association and Stutsman County 9-1-1 Coordinator

Concerning Senate Bill #2307

Thank-you Mr. Chairman and members of the Committee for the opportunity to express support for Senate Bill #2307.

The original 9-1-1 tax law in place today allows for a tax to be placed on wire-line telephones only. At the time the law was written, the idea of taxing wireless telephone communications was too far into the future to even be considered. Today, the PSAP's, or 9-1-1 Communication Centers, around the state are experiencing an ever increasing number of calls originating from cellular and mobile telephones. In Stutsman County, 9-1-1 calls originating from wireless phones currently make up 34% of the total 9-1-1 call volume. Some areas of the state are experiencing a call volume of 40% and more.

These calls create a tremendous work load for the dispatchers. Unlike the 9-1-1 technology for wire-line telephones, current wireless phone technology does not provide a call-back number or any type of location information. If a person using a wireless phone dials 9-1-1 and immediately hangs-up, or is physically forced to hang-up, the dispatcher cannot send help.

The increased number of wireless 9-1-1 calls is also creating an inequity between taxed wire-line phones and untaxed wireless phones. In some cases, citizens are canceling their wire-line telephone and opting to use a wireless phone for all of their

telephone communication. When this happens, less revenue is produced to run a 9-1-1 Communications Center, and a wireless 9-1-1 caller may not get the Public Safety support they need in an emergency because of lack of caller information.

Senate Bill #2307 has been written with the help of both the wire-line and wire-less industries, the ND 9-1-1 Association, the ND Association of Counties and legislative members. This bill will establish a dedicated fund to allow North Dakota counties to accumulate the funds needed to buy the technology required to identify call-back numbers and location information for wireless 9-1-1 callers. The legislation has been written to take advantage of the most suitable Enhanced 9-1-1 Wireless technologies for North Dakota, not a specific technology offered by a specific vendor.

In the early days of wire-line 9-1-1, North Dakota law allowed wire-line phone subscribers to be taxed years before a 9-1-1 system would become operational. This was done to allow time for the funds to be accumulated to pay for the equipment and services, without reference as to who would provide the equipment and service.

Today, North Dakota is experiencing the early days of wireless 9-1-1, and the growing pains are the same. Senate Bill #2307 will allow wireless phone subscribers to be taxed so that funds can be accumulated, over time, to pay for equipment and services, without reference as to who provides the equipment and service.

I welcome any questions you may have at this time. I would like to end by urging your support of Senate Bill #2307.

**TESTIMONY TO THE  
SENATE APPROPRIATIONS COMMITTEE  
Prepared February 12, 1999 by the  
North Dakota Association of Counties  
Terry Traynor, NDACo Assistant Director**

**Concerning Senate Bill No. 2307**

Thank you Chairman Nething and members of the Committee for the opportunity to begin the explanation of Senate Bill 2307, and to present the strong support of counties and county officials. We believe that this is a very important piece of legislation because it addresses equity, and more importantly, because it addresses public safety.

In 1985, this Assembly first passed legislation authorizing cities and counties to place before their local voters, ballot questions regarding 911 fees on standard phone lines. Since that time we have seen 911 services expand to where this summer it is expected that the 24 Public Safety Answering Points (PSAPs) will cover 95% of the land area and close to 99% of the regular phones in the State. Locally enacted fees, ranging from 30-cents per phone per month in Fargo to \$1 per phone per month in most of the rest of the State, fund these services.

This bill would create a similar fee statewide, for all two-way, wireless communication services. Section 1 of the bill defines these services and identifies the issue this fee is to address. Sub-section 3 of this first Section defines Enhanced 911 wireless service, which is the ultimate ability for emergency service dispatchers to locate a cellular 911 call geographically, with sufficient detail to respond to an emergency. Right now, the number of 911 calls coming from cellular phones into many emergency centers is approaching 30-40%. I will leave to a 911 Coordinator to explain the problems that this causes, but through this legislation we hope to fund the solution to those problems. The sample of 911 budgets attached however clearly shows that the "land-line" fees are insufficient to cover current costs, and property taxes are picking up the burden.

Although the wireless industry has some disagreements with our approach to this legislation, we have met with them and this bill contains a number of compromises that were made to address their concerns. The first compromise is the statewide nature of the fee. Due to the peculiarities of the wireless industry, we were asked to draft this as a statewide, centrally collected fee. Section 2 of the bill creates this fee and places the

collection with the State Tax Department, granting the Department the authority to direct its administration.

The sub-sections that follow allow the wireless providers to retain 2% of the fee for their costs of collection (sub-section 2), and 1% for the State Tax Department for its administrative efforts (sub-section 4). The 2% figure was arrived at in discussions with the industry and it corresponds to the current arrangements with the land-line carriers. The 1% was suggested by the Tax Department.

Sub-section 5 directs that the remaining funds be placed in a special Wireless 911 Service Fund. Section 3 of the bill describes the allocation of the revenue in this fund. This area was also one of some compromise with the industry, however our bill preserves local governments' ultimate discretion on how the revenue is used to accomplish enhanced wireless 911 service. County officials and some of our Legislative sponsors could not support the industry's request that a significant portion of the revenue be transferred back to the private companies for their infrastructure costs. We believe that such a provision would have created an inequity with the land-line providers that were given no such guarantee.

In the IBL Committee, industry representatives suggested that the federal FCC order addressing wireless 911 requires that funds be guaranteed to the industry. The order however only requires that 911 agencies have a means to reimburse those wireless companies **if** they are requested to provide services or improve technologies for enhanced wireless 911. We believe this bill provides that mechanism.

Sub-section 1 of section 3 allocates 25% of the revenue in the fund to the 24 public safety answering points or PSAPs, in equal shares. This revenue would flow as soon as the law became effective, and would begin to address the costs of responding to the wireless 911 calls now coming in.

Sub-section 2 will escrow the remaining 75%, to be released once a PSAP begins to implement the agreements, procedures, and technologies that are necessary to locate a wireless caller. At that time the local governing bodies can individually agree to pay wireless providers for their services and to support their infrastructure, if that is what is necessary to achieve Enhanced 911 Service. This 75%, rather than in equal shares, would



be distributed based upon population. Table 2 illustrates our estimation of the distribution of this 75%, based on 100,000 wireless devices.

The remainder of the bill contains corrections to ensure that both land-line and wireless services are both included, and the new language of Section 5 and 6 is there primarily at the request of the industry. Section 5 and sub-section 5 of Section 6 were offered to provide some protection for the information the industry feels must not be disclosed for competitive purposes. Sub-section 4 of Section 6 limits the industry's liability for giving phone numbers and names to the PSAP.

I hope my testimony has provided an adequate explanation of the bill and a clear indication of the strong county support that exists for its passage. Several city and county officials would like to express their support, and briefly describe why such legislation is so important. I will however, attempt to answer any questions you may have. I would like to end however by saying that county government would greatly appreciate your support of Senate Bill 2307.

**SAMPLE OF CURRENT E911/EMERGENCY MANAGEMENT BUDGETS**  
**Budgets are 1998 Expenses for all Staff, Operating, & Equipment Costs Unless Noted**

	Unit's E911 Expenses	"Land-line" Excise Tax Revenue	Revenue over (under) Expenses
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4 Walsh County PSAP	107,534	77,457	(30,077)
5 Lake Region PSAP (5-Counties)	223,450	174,500	(48,950)
6 Stutsman County PSAP	275,000	66,994	(208,006)
7 Morton County PSAP	341,107	72,000	(269,107)
8 City of Minot/Ward County PSAP	403,074	-	(403,074)
9 Grand Forks City/County PSAP	970,324	183,264	(787,060)

**Notes:**

2. Pembina figures are the approved CY99 budget, but do not include 5 dispatchers in the Sheriff's budget totally funded with other sources.
3. Pierce data is for 2 years due to large capital costs in 1997 - does not include dispatchers which are totally funded with other sources.
5. Lake Region data is the approved 1999 budget.
8. City of Minot/Ward County PSAP is totally funded with local property tax revenue

6A



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February 12, 1999

Chairman David Nething  
Senate Appropriations Committee  
North Dakota State Senate  
Bismarck ND 58505-0480

RE: Senate Bill 2307

Dear Senator Nething:

AirTouch Cellular provides commercial mobile radio service ("CMRS") in the greater Fargo and Grand Forks metropolitan areas. I am writing to urge you and your committee members to amend SB 2307 because it is unfair to impose a new tax on wireless customers who already pay for 911 service on their residential and business lines unless such legislation will clearly facilitate the implementation of the federal mandate for Wireless Enhanced 911 Service. Air Touch has expended considerable effort over the past several months to work with the North Dakota 911 Association on crafting legislation which would ensure the smooth and efficient implementation of Wireless Enhanced 911 Service for North Dakota. However, SB 2307 provides no certainty that wireless customers will obtain the benefits of Wireless Enhanced 911 Service.

SB 2307 omits any reference to the Federal Communications Commission's Docket 94-102 wherein the Wireless Enhanced 911 Service and its two phase implementation is described along with the conditions which must be satisfied in order to implement the federal mandate. SB 2307 is ambiguous regarding the reimbursement of wireless carriers for costs to implement Wireless Enhanced 911 Service in North Dakota which is one of the preconditions described in the FCC Order. Another concern is that the 911 Association has recently demonstrated that it does not intend to enter into contracts with wireless carriers to implement the federal mandate for Wireless Enhanced 911 Service. Instead, representatives have stated that they intend to implement a solution with third party vendors who can intercept wireless customers' 911 calls. This is a serious misunderstanding of the federal mandate, and moreover, it is illegal to intercept wireless calls.

On behalf of AirTouch Cellular, I have included with my testimony Proposed Amendments to Senate Bill 2307 which address several of the major areas that are required under the federal mandate for Wireless Enhanced 911 Service. Also included is a set of attachments with various references to relevant federal law regarding wireless 911 services. I urge you to consider and adopt the amendments which I believe are necessary and required in order to implement Wireless Enhanced 911 Service in North Dakota.

Sincerely,

Richard C. Nelson

c: Senate Appropriation Committee Members



If the committee should decide to proceed forward with SB 2307, AirTouch requests the following amendments be adopted. Without these amendments it is very uncertain whether the federal mandate will be implemented.

The definition of wireless Enhanced 911 service should be expanded to include the conditions described in the FCC's order. On page 2, line 3 after 2001, the following should be inserted:

The federal communications commission order requires that certain conditions be met before wireless enhanced 911 service can be provided. These conditions are that the PSAP must formally request that the CMRS providers implement phase I and phase II, the PSAP must indicate it has the capability to process the information transmitted, and a cost recovery mechanism that fully reimburses CMRS providers for their costs to provide wireless enhanced 911 services must be in place.

The ambiguity surrounding the use of the wireless 911 service fund in Section 3 should be addressed by clarifying that the funds are to be used solely for the implementation of wireless enhanced 911 service. Page 3, lines 29 through 31 should be replaced by the following:

Revenue received under this subsection must be used by the political subdivision for establishing and operating enhanced 911 wireless service.

Page 4, lines 14 through 17 should be replaced by the following:

The political subdivision shall retain funds in an account designated for reimbursing wireless carriers for their costs to implement enhanced 911 wireless service. The political subdivision shall provide for the reimbursement of wireless carriers on a monthly basis. Distributions shall be made to wireless providers in a fair and nondiscriminatory manner. If the total amount requested by wireless carriers exceeds the amount held by the political subdivision, wireless providers which have invoices for payment shall receive a pro rata share of the account and the balance of payment shall be carried over to the following month or months until all of the payments are made. No wireless provider shall be denied reimbursement for a submitted invoice solely because there are insufficient funds in the account. The political subdivision shall remit an amount to each wireless carrier equal to the percentage of such carrier's eligible expenses as compared to the total of all eligible expenses for all wireless carriers for the calendar quarter during which such expenses were submitted.

We believe that the extension of the existing liability provision in Section 6 to wireless carriers is fair and reasonable. However, the limited protections for officers, agents or employees should also extend to those subcontractors with whom wireless carriers contract to implement wireless Enhanced 911 service. Therefore, we request that line 18 on page 5 be amended to include "subcontractors" as follows:

~~or~~ employee or subcontractor of any public agency, public safety agency, commercial radio service provider, or local exchange telecommunications company, . . .

In addition, lines 5 and 6 on page 6 should also be amended as follows:

. . . any officer, agency, or employee or subcontractor of any public agency, public safety agency, commercial mobile radio service provider, or local exchange telecommunications company . .

In short, AirTouch believes that there should not be a new tax on wireless customers unless there is certainty that these customers will receive the benefits of wireless enhanced 911 service. The implementation of the federal mandate is either greatly delayed due to endless negotiations between wireless carriers and PSAP operators or never occurs when generalized legislation is passed. For example, in Minnesota, wireless customers have paid \$0.27 per month since July 1997 and still do not have wireless enhanced 911 service.

**Senate Bill 2307 is bad because its fiscal impact of more than \$6 million for the 1999-2001 biennium is extreme.**

Under the terms of the bill, approximately \$61,000 will go into the general fund. It is unclear why supporters of this bill believe that this amount of tax revenues is necessary to implement wireless E911 service. The \$1.00 tax per wireless customer contained in this bill is the second highest rate in the United States. Only a couple of southern states have considered a tax at this level. The highest rate is \$2.00 in Tennessee. Most states which have proceeded to implement wireless E911 have settled on a tax in the range of \$.50 to \$.65. Here is a review of several midwestern states which have either adopted or are considering legislation to implement the federal mandate:

Indiana	\$0.65	Iowa	\$0.50
Minnesota	\$0.27	South Dakota	\$0.75
Ohio	\$0.65 (proposed)	Michigan	\$0.47 (proposed)

The explanation that it should be \$1.00 because that is the rate landline customers pay simply doesn't get at the underlying question: why so much? AirTouch proposes that a study be conducted to determine if there are opportunities for cost savings such as identified in other states. For example, a recent Texas State Auditor's report on the Texas 911 system cites many situations where efficiencies could be obtained through consolidation and estimated 31% of all 911 revenues (\$29.2 million) could be saved annually. Among the findings in the Texas study are:

- 54% of Public Safety Answering Points reported less than 10 emergency calls per day
- Only 3% of PSAPs reported more than 100 calls per day.
- Duplicative administrative costs of \$4.9 million due to overlaps between regional and local entities.

Similar opportunities to achieve economies may be available in North Dakota. In short, the proposed \$1.00 tax appears unnecessarily high.

**Recommendation**

This bill imposes a tax which is simply unjustified. AirTouch believes that North Dakota tax payers would be better served if the legislature established a committee to conduct a study of the existing 911 system and provide recommendations for improving the efficiency of the landline system along with a proposal for implementing wireless Enhanced 911 service. AirTouch is prepared to participate in any task force effort to develop a plan to cost effectively implement the federal mandate. Should the committee elect to proceed with Senate Bill No. 2307, I have identified amendments which should be adopted in order to improve the bill and the likelihood that wireless Enhanced 911 service is implemented efficiently and expeditiously in North Dakota.

I would be happy to entertain any questions you may have or elaborate on any of the points I have covered.

## PROPOSED AMENDMENTS TO SENATE BILL NO. 2307

Page 1, line 11, replace “any” with “a”

Page 1, line 12, after “service” insert “as defined in 47 C.F.R. § 20.18(a)”

Page 1, remove line 13

Page 1, line 15, overstrike “lines” and insert immediately thereafter “line and wireless”

Page 1, line 19, replace “has the meaning provided” with “is defined”

Page 1, line 20, replace “commission” with “commission’s” and insert immediately thereafter “order in Docket 94-102 where service is provided”

Page 2, line 3, after “2001” insert “The federal communications commission order requires that certain conditions be met before enhanced 911 wireless service can be provided. These conditions are that the PSAP must formally request that the CMRS providers implement phase I and phase II, the PSAP must indicate it has the capability to process the information transmitted, and a cost recovery mechanism that fully reimburses CMRS providers for their costs to provide enhanced 911 wireless services must be in place”

Page 2, line 25, replace “number provided” with “subscriber located” and after “state” insert “whose address is in those portions of the governing body’s jurisdiction for which emergency services shall be provided”

Page 3, after line 21 insert:

- “1. Forty-seven percent of the Wireless 911 Service Fee collected from each subscriber will be allocated to the political subdivisions and public service answering points as follows:

Page 3, line 22, replace “1.” with “a.”

Page 4, line 1, replace “2.” with “b.”

Page 4, after line 14 insert:

- “2. Three percent of the Wireless 911 Service Fee collected from each subscriber must be held in an interest bearing escrow account or maintained in the existing 911 account to be used for implementation of phase II of the federal communications order.
3. Forty-seven percent of the Wireless 911 Service Fee collected from each subscriber must be used to reimburse CMRS providers for the actual costs incurred by the

CMRS providers in complying with the wireless 911 requirements established by the federal communication commission's order.

- a. A wireless carrier will be reimbursed for all expenses but payment will not exceed one hundred twenty-five percent of the total amount contributed to the wireless E911 fund by the wireless provider. Distributions shall be made to wireless providers in a fair and nondiscriminatory manner.
- b. If the total amount of money requested by wireless providers exceeds the amount in the account, wireless providers which have invoices for payment shall receive a pro rata share of the account and the balance of payment shall be carried over to the following month or months until all of the payments are made. No wireless provider shall be denied reimbursement for a submitted invoice solely because there are insufficient funds in the account"

Page 5, line 13, after "officer," insert "vendor."

Page 6, line 10, after "agency" insert "is confidential. General information collected by a public agency, public safety agency, political subdivision, or state agency"

Page 6, line 11, after "identify" insert "subscribers" after "of" insert "the"

Renumber accordingly

ATTACHMENTS

1. 47 CFR Section 20.18(a) et seq.;
2. Notation from FCC Rules regarding interception of wireless communications;
3. Partial text of the Electronic Communication Privacy Act of 1986;
4. Notation from FCC Rules regarding scanning receivers;
5. Partial text of FCC Report and Order regarding radio scanners capable of intercepting cellular conversations;
6. Partial text of FCC Report and Order regarding prerequisite of a cost recovery mechanism for wireless carriers.

1ST SECTION of Level 1 printed in FULL format.

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\*\*\* THIS SECTION IS CURRENT THROUGH THE 12/31/98 ISSUE OF \*\*\*  
\*\*\* THE FEDERAL REGISTER \*\*\*

TITLE 47 -- TELECOMMUNICATION  
CHAPTER I -- FEDERAL COMMUNICATIONS COMMISSION  
SUBCHAPTER A -- GENERAL  
PART 20 -- COMMERCIAL MOBILE RADIO SERVICES

47 CFR 20.18

@ 20.18 911 Service.

(a) Scope of section. The following requirements are only applicable to Broadband Personal Communications Services (part 24, subpart E of this chapter), Cellular Radio Telephone Service (part 22, subpart H of this chapter), and Geographic Area Specialized Mobile Radio Services and Incumbent Wide Area SMR Licensees in the 800 MHz and 900 MHz bands (included in part 90, subpart S of this chapter). In addition, service providers in these enumerated services are subject to the following requirements solely to the extent that they offer real-time, two way switched voice service that is interconnected with the public switched network and utilize an in-network switching facility which enables the provider to reuse frequencies and accomplish seamless hand-offs of subscriber calls.

(b) Basic 911 Service. Licensees subject to this section must transmit all wireless 911 calls without respect to their call validation process to a Public Safety Answering Point, provided that "all wireless 911 calls" is defined as "any call initiated by a wireless user dialing 911 on a phone using a compliant radio frequency protocol of the serving carrier."

(c) TTY Access to 911 Services. Licensees subject to this section must be capable of transmitting 911 calls from individuals with speech or hearing disabilities through means other than mobile radio handsets, e.g., through the use of Text Telephone Devices (TTY).

Note to paragraph (c): Enforcement of the provisions of this paragraph is suspended until October 1, 1998, in the case of calls made using a digital wireless system that is not compatible with TTY calls, provided that the licensee operating such a digital system shall make every reasonable effort to notify current and potential subscribers who use or may use such a system that they will not be able to make a 911 call over such system through the use of a TTY device.

(d) Phase I enhanced 911 services. (1) As of April 1, 1998, licensees subject to this section must provide the telephone number of the originator of a 911 call and the location of the cell site or base station receiving a 911 call from any mobile handset accessing their systems to the designated Public Safety Answering Point through the use of ANI and Pseudo-ANI.

(2) When the directory number of the handset used to originate a 911 call is not available to the serving carrier, such carrier's obligations under the Paragraph (d) (1) extend only to delivering 911 calls and available calling

## 47 CFR 20.18

party information to the designated Public Safety Answering Point.

Note to paragraph (d): With respect to 911 calls accessing their systems through the use of TTYs, licensees subject to this section must comply with the requirements in paragraphs (d)(1) and (d)(2) of this section, as to calls made using a digital wireless system, as of October 1, 1998.

(e) Phase II enhanced 911 services. As of October 1, 2001, licensees subject to this section must provide to the designated Public Safety Answering Point the location of all 911 calls by longitude and latitude such that the accuracy for all calls is 125 meters or less using a Root Mean Square (RMS) methodology.

(f) Conditions for enhanced 911 services. The requirements set forth in paragraphs (d) and (e) of this section shall be applicable only if the administrator of the designated Public Safety Answering Point has requested the services required under those paragraphs and is capable of receiving and utilizing the data elements associated with the service, and a mechanism for recovering the costs of the service is in place.

(g) Dispatch service. A service provider covered by this section who offers dispatch service to customers may meet the requirements of this section with respect to customers who utilize dispatch service either by complying with the requirements set forth in paragraphs (b) through (e) of this section, or by routing the customer's emergency calls through a dispatcher. If the service provider chooses the latter alternative, it must make every reasonable effort to explicitly notify its current and potential dispatch customers and their users that they are not able to directly reach a PSAP by calling 911 and that, in the event of an emergency, the dispatcher should be contacted.



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(4) Section 605 of the Communications Act, 47 USC §605, provides, in part, that "no person not being authorized by the sender shall intercept any communication [by wire or radio] and divulge or publish the existence, contents, substance, purport, effect, or meaning of such intercepted communications to any person." In executing its responsibilities, the Commission regularly monitors radio transmission (see §0.116). Except as required for the enforcement of the communications laws, treaties and the provisions of this chapter, or as authorized in Section 605, the Commission is prohibited from divulging information obtained in the course of these monitoring activities; and such information, and materials relating thereto, will not be made available for public inspection.

[This is the ECPA as approved. A clearer version, giving the ECPA as it stands on the books, with the text of relevant sections of other laws that were modified by ECPA, can be found in the file ftp://ftp.eff.org/pub/EFF/Legislation/ecpa.law A version of ECPA as a senate bill is also available as ecpa.bill in this directory.]

PUBLIC LAW 99-508--OCT 21, 1986

ELECTRONIC COMMUNICATIONS PRIVACY  
ACT OF 1986

100 STAT. 1848 PUBLIC LAW 99-508--OCT. 21, 1986

PUBLIC LAW 99-508  
99th Congress

An Act

Oct. 21, 1986 To amend title 18, United States Code, with respect to the interception of certain communications, other forms of surveillance, and for other purposes.

Electronic Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

1986  
18 USC 2510  
note.

SECTION 1.SHORT TITLE.

This Act may be cited as the "Electronic Communications Privacy Act of 1986".

TITLE I--INTERCEPTION OF COMMUNICATIONS AND RELATED MATTERS

SEC. 101. FEDERAL PENALTIES FOR THE INTERCEPTION OF COMMUNICATIONS.

- (a) DEFINITIONS--(1) Section 2510(1) of title 18, United States Code is amended--
- (A) by striking out "any communications" and inserting "any aural transfer" in lieu thereof;
  - (B) by inserting "(including the use of such connection in a switching station)" after "reception".
  - (C) by striking out "as a common carrier" and
  - (D) by inserting before the semicolon at the end the following: "or communications affecting interstate or foreign commerce and such term includes any electronic storage of such communication, but such term does not include the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit".

(2) Section 2510(2) of title 18, United States Code, is amended by inserting before the semicolon at the end the following: "but such term does not include any electronic communication".

(3) Section 2510(4) of title 18, United States Code, is amended---

(A) by inserting "or other" after "aural"; and

(B) by inserting ",electronic," after "wire".

(4) Section 2510(5) of title 18, United States Code, is amended in clause (a)(i) by inserting before the semicolon the following: "or furnished by such subscriber or user for connection to the facilities of such service and used in the ordinary course of its business".

(5) Section 2510(8) of title 18, United States Code, is amended by striking out "identify of the parties to such communication or the existence,".

(6) Section 2510 of title 18, United States Code, is amended---

(A) by striking out "and" at the end of paragraph (10);

(B) by striking out the period at the end of paragraph (11) and inserting a semicolon in lieu thereof; and

(C) by adding at the end the following: "(12) 'electronic communication' means any transfer of signs, signals,

writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photooptical system that affects interstate or foreign commerce, but does not include---

"(A) the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit;

"(B) any wire or oral communication;

"(C) any communication made through a tone-only paging device; or

"(D) any communication from a tracking device (as defined in section 3117 of this title);

"(13) 'user' means any person or entity who---

"(A) uses an electronic communication service; and

"(B) is duly authorized by the provider of such service to engage in

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**§15.121 Scanning receivers and frequency converters designed or marketed for use with scanning receivers.**

(a) Except as provided in paragraph (b) of this section, scanning receivers, and frequency converters designed or marketed for use with scanning receivers, must be incapable of operating (tuning), or readily being altered by the user to operate, within the frequency bands allocated to the Domestic Public Cellular Radio Telecommunications Service in Part 22 of this chapter (cellular telephone bands). Receivers capable of "readily being altered by the user" include, but are not limited to, those for which the ability to receive transmissions in the cellular telephone bands can be added by clipping the leads of, or installing, a simple component such as a diode, resistor and/or a jumper wire; replacing a plug-in semiconductor chip; or programming a semiconductor chip using special access codes or an external device, such as a personal computer. Scanning receivers, and frequency converters designed or marketed for use with scanning receivers, must also be incapable of converting digital cellular transmissions to analog voice audio.

(b) Scanning receivers, and frequency converters designed or marketed for use with scanning receivers, that are manufactured exclusively for, and marketed exclusively to, entities described in 18 USC Section §2512(2) are not subject to the requirements of paragraph (a) of this section.

Historical Note

Section added by order in Docket No. 93-1, effective April 26, 1993, 58 FR 25574. For Report see 72 RR 2d 540.

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**Amendment of Parts 2 and 15 to Prohibit Marketing of Radio Scanners  
Capable of Intercepting Cellular Telephone Conversations**

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72 RR 2d 540, 8 FCC Rcd 2911, 1993 FCC LEXIS 2031  
(April 22, 1993)

**Citator  
Digest  
Select this Case**

FCC 93-201

ET Docket No. 93-1

Released: April 22, 1993

Adopted: April 19, 1993

**REPORT AND ORDER**

**By the Commission**

**INTRODUCTION**

1. By this action, the Commission amends Parts 2 and 15 of its rules to prohibit the manufacture and importation of radio scanners capable of receiving frequencies allocated to the Domestic Public Cellular Radio Telecommunications Service. 1 This action implements statutory requirements set forth in the Telephone Disclosure and Dispute Resolution Act (TDDRA), Pub. L. 102-556. The rules being adopted are intended to increase the privacy protection of cellular telephone users without unduly restricting legitimate uses of scanners.

**BACKGROUND**

2. The Domestic Public Cellular Radio Telecommunications Service ("Cellular Radio Service") provides telephone service to mobile customers. Cellular telephones use frequencies in the bands 824-849 MHz and 869-894 MHz to connect their users to other cellular system users and to the Public Switched Telephone Network.

3. As defined within our rules, scanning receivers, or "scanners," are radio receivers that can automatically switch between four or more frequencies anywhere within the 30-960 MHz band. 2 In order to control their potential to cause harmful interference to authorized radio communications, the rules require that scanners receive an equipment authorization (certification) from the Commission prior to marketing. 3 The Electronic Communications Privacy Act of 1986, Pub. L. 99-508, in part, made it illegal to intentionally intercept cellular communications or to manufacture equipment primarily useful for the surreptitious interception of cellular communications. 4 However, the Commission was not given specific authority to deny equipment authorization to scanners that receive cellular frequencies. As a result, we have routinely authorized scanners capable of receiving cellular frequencies. 5

4. On October 28, 1992, the President signed the TDDRA into law. Section 403 of the TDDRA amends Section 302 of the Communications Act of 1934 (47 U.S.C. Section 302(d)(1) and (2)) by requiring that by April 26, 1993 (180 days after enactment of the TDDRA), the Commission prescribe and make effective regulations denying equipment authorization for any scanning

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receiver that is capable of:

- receiving transmissions in the frequencies allocated to the domestic cellular radio service,
- readily being altered by the user to receive transmissions in such frequencies, or
- being equipped with decoders that convert digital cellular transmissions to analog voice audio.

Further, Section 302(d)(2), as amended by the TDDRA, provides that, beginning one year after the effective date of the regulations adopted pursuant to paragraph (d)(1), no receiver having such capabilities shall be manufactured in the United States or imported for use in the United States. 6

5. In accordance with the TDDRA, we adopted a Notice of Proposed Rule Making (Notice) proposing to deny equipment authorization to scanning receivers that: 1) tune frequencies used by cellular telephones; 2) can be readily altered by the user to tune such frequencies; or, 3) can be equipped with decoders that convert digital cellular transmissions to analog voice audio. 7 The Notice requested comment on a proposed definition of "readily altered by the user." The Notice also proposed to deny equipment authorization (notification) to frequency converters that tune, or can be readily altered by the user to tune, cellular telephone frequencies. 8 To assist us in determining compliance with these requirements, we proposed to require applicants for certification of scanners, and for notification of frequency converters used with scanners, to include in their applications a statement stating that the device cannot be easily altered to enable a scanner to receive cellular transmissions.

6. Some 46 parties filed comments on the Notice and 6 parties filed reply comments. 9 A large number of commenters, presumably most of them scanner enthusiasts, oppose adoption of any rules that would restrict the tuning capabilities of scanners. 10 Manufacturers of scanners and cellular service providers in general support the Commission's proposed changes. However, several commenters ask for clarification or expansion of the rules. Issues raised in the comments are discussed below.

## DISCUSSION

7. In accordance with the TDDRA, we are adopting new rules restricting scanners and associated frequency converters generally as proposed in the Notice. Based on the comments, we are adopting several minor changes to the rules as proposed.

8. Scanning receivers: Although many commenters request that we decline to enact rules denying equipment authorization to scanning receivers capable of receiving cellular telephone transmissions, enactment of such rules is required by the TDDRA. Several commenters request that we also prohibit scanners from being able to receive signals from other similar radio services, such as the Personal Communications Service and the Specialized Mobile Radio Service. 11 Such action goes beyond the requirements of the TDDRA and, as such, is beyond the scope of this proceeding. Accordingly we are amending our rules to provide that scanning receivers must be incapable of operating (tuning) within the frequency bands allocated to the Domestic Public Cellular Radio Telecommunications Service.

9. Frequency converters: As discussed above, we also proposed to deny equipment authorization to frequency converters used with scanning receivers that can tune, or be readily altered by the user to tune, cellular telephone frequencies. A number of commenters suggest that the TDDRA does not give us authority to ban frequency converters that can be used with scanners to monitor

cellular telephone transmissions. 12 Grove Enterprises and others indicate that restricting frequency converters from being able to tune cellular frequencies would require significant design changes and could cause financial hardship to companies that manufacture and market frequency converters. Uniden America Corporation ("Uniden"), a scanner manufacturer, argues that frequency converters, which are currently subject to the equipment authorization procedure of notification, should be subject to certification, just like scanning receivers.

10. While the TDDRA does not specifically address frequency converters it does prohibit the authorization of scanning receivers that are capable of being readily altered by the user to receive cellular transmissions. Frequency converters that tune cellular frequencies can be easily and readily used, with virtually any existing scanner, to intercept cellular communications. Rather than prohibit all scanners because of the availability of frequency converters, we believe it is more prudent to restrict the tuning capability of these converters. 13

11. We recognize that frequency converter designs are typically not very sophisticated compared to those of scanning receivers, and that banning frequency converters capable of converting cellular transmissions will significantly increase the design complexity necessary for converters to comply with our technical standards. We further recognize, as several commenters note, that there are very legitimate uses for converters that convert 800 MHz and 900 MHz signals down to lower frequencies. 14 Even though the restrictions we proposed for converters will undoubtedly make it more difficult and expensive to purchase 800 MHz and 900 MHz converters for legitimate purposes, we believe the intent of the TDDRA leaves us no choice but to adopt them. 15

12. Regarding Uniden's suggestion to require certification of frequency converters, we do not believe that adding this additional burden is necessary. Scanners are subject to a more comprehensive application process than frequency converters because we have determined that scanners are more likely to cause interference to authorized radio communications than converters. We believe we can properly enforce the ban on reception of cellular frequencies by converters if they remain under the notification procedure, and thus we see no need for converters to be certified.

13. Definition of "readily altered by the user": In the Notice, we proposed to require that scanning receivers and frequency converters capable of being "readily altered by the user" include, but not be limited to, those for which the ability to receive transmissions in the cellular bands can be added by clipping the leads of, or installing, a simple component such as a diode, resistor and/or jumper wire; or by replacing a plug-in semiconductor chip. There is general support for the proposed definition. The Cellular Telecommunications Industry Association ("CTIA") requests that we, in addition, require that: 1) microprocessors be used to control the tuning circuitry of all scanners and frequency converters; and, 2) blocking out of cellular frequencies be done internal to these microprocessors. Uniden and the Consumer Electronics Group of the Electronic Industries Association ("EIA/CEG") argue that manufacturers should be granted a reasonable amount of discretion in their receiver designs as long as they are consistent with the statutory objective. Furthermore, Frank Carson and Jeffrey Krauss suggest that requiring significant changes to scanners, such as modifying the microprocessor in order to block out cellular frequencies, could add significantly to the cost of scanners without providing a significant protection against the interception of cellular telephone calls. Finally, BellSouth Corporation, et al. ("BellSouth") requests that our definition of devices that can be "readily altered by the user" include scanners and converters that can be programmed to receive cellular transmissions by entry of an access code or by reprogramming a memory module.



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14. After reviewing the comments, we conclude that our proposal will adequately prohibit the use of scanner and frequency converter designs that can be easily altered by the user to receive cellular frequencies. However, to add clarity to the rules, we are adopting BellSouth's suggested changes. 16 We are rejecting the changes proposed by CTIA, because they would severely and unnecessarily restrict the ability of scanning receiver manufacturers to produce new and innovative product designs and to respond in a cost-effective manner to the requirements of the TDDRA. As proposed, we are also requiring that scanners be incapable of converting digital cellular transmissions to voice audio.

15. Documentation: In the Notice, we proposed to require applicants for equipment authorization of scanners and frequency converters to include in their applications a statement that their devices cannot be readily altered to receive cellular telephone transmissions. We also solicited comments on whether additional information, such as why the device cannot be readily altered, should be required. Vanguard Cellular Systems, Incorporated ("Vanguard") and Southwestern Bell Mobile Systems, Incorporated ("Southwestern Bell"), both cellular service providers, and CTIA ask that applicants be required to submit detailed explanations of why their devices cannot be easily modified to receive cellular frequencies. Uniden, a scanner manufacturer, objects to such a requirement, adding that the current FCC rules (47 CFR Section 2.939) dictate the circumstances under which an equipment authorization might be revoked and provide sufficient incentive for the grantee to ensure compliance.

16. It is very important that we review the designs of scanner and frequency converter equipment before granting equipment authorizations because, should we authorize a model that is later found to be easily modified, it would be very difficult and costly for the grantee to recall the units that had already been sold. Consequently, we will require that information be provided by applicants for scanning receiver certification and frequency converter notification describing why their devices cannot be easily modified. We note that we currently require a similar statement with regard to security coding features on cordless telephones, 17 and that requirement seems to have been effective in that case.

17. Transition provisions: We proposed to deny equipment authorization to all scanners and converters whose applications for equipment authorization do not comply with the rules adopted herein and are filed on or after April 26, 1993. We also proposed to ban the manufacture and importation, effective April 26, 1994, of all scanners and converters that do not comply with the rules adopted herein including ones that we have granted equipment authorizations to. The proposed rules would allow existing authorized scanners and frequency converters that can receive cellular frequencies to be sold and used indefinitely, provided they are manufactured and imported prior to April 26, 1994. BellSouth recommends that we deny authorization to all scanners and converters that have applications pending on April 26, 1993. EIA/CEG objects to this proposal, stating that it is inappropriate for us to deny an equipment authorization to a product that complies with the rules in effect at the time its application is submitted. Since the TDDRA requires us to "make effective regulations denying equipment authorization" to affected scanners and converters by April 26, 1993, 18 [emphasis added] we are modifying our rules in accordance with BellSouth's recommendation.

18. BellSouth further requests that, on April 26, 1994, we revoke the grants of equipment authorization for all scanning receivers and converters that do not comply with the technical standards ultimately adopted in this proceeding, thus prohibiting the sale of all such devices after April 26, 1994. This would place a significant hardship on all manufacturers, retailers and users that might wish to sell existing scanners and converters, and would be extremely difficult to enforce. Furthermore, as EIA/CEG points out, such action would go beyond what is required by



the TDDRA. Accordingly, we are denying this aspect of BellSouth's request. 19

19. Cellular scanners for legitimate users: Harris Corporation ("Harris"), GTE Service Corporation ("GTE"), Electronic Equipment Bank ("EEB"), NYNEX Mobile Communications Company ("NYNEX"), McCaw Cellular Communications, Incorporated ("McCaw"), CTIA and Uniden request that we clarify our rules to specifically exempt scanners and converters that are marketed exclusively to law enforcement agencies and cellular system operators from the technical standards adopted in this proceeding. Such an exemption is provided for by Section 403(c) of the TDDRA. 20 We agree with these commenters that an exemption is needed for devices intended to be marketed to law enforcement agencies and cellular system operators and are modifying the proposed Section 15.121, accordingly. 21

20. Enforcement of new rules: Tandy Corporation ("Tandy") and EIA/CEG express concern about our intended methods of enforcing the rules adopted in this proceeding. Tandy, which sells scanners through Radio Shack, Computer City and other affiliated stores, requests that we not hold retailers strictly liable for marketing scanners that can be readily altered by the user to receive cellular frequencies, provided such scanners have been FCC-certified.

21. Generally, we will not hold retailers responsible for marketing scanners that were certified and are subsequently found to be readily alterable. However, we may require that retailers cease marketing such products, and a violation of such a requirement would be grounds for enforcement action. Furthermore, any retailer marketing a scanner that also performs alterations to that scanner so customers can receive cellular frequencies will be violating FCC rules and the Communications Act, and therefore will be subject to appropriate enforcement sanctions.

#### PROCEDURAL MATTERS

22. Final Regulatory Flexibility Analysis. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 603, our final analysis is as follows:

I. Need for and purpose of this action: This action is required by the Telephone Disclosure and Dispute Resolution Act (Pub L. 102-556).

II. Summary of issues raised by the public comments in response to the Initial Regulatory Flexibility Analysis: Jeffrey Krauss argues that the rules proposed in the Notice could affect far more small entities than the 50 or fewer manufacturers we have suggested. Mr. Krauss says users of scanning receivers, including thousands of small businesses and tens of thousands of individual citizens, could be affected because the new rules will require manufacturers to redesign their products and these manufacturers will likely pass the redesign cost along to end users.

III. Significant alternatives considered and rejected: While it is possible that the rules being adopted in this proceeding may raise the cost to consumers of certain types of scanners, this action is required by law, and we have found no less burdensome method of complying with the TDDRA.

#### EFFECTIVE DATE

23. The TDDRA requires that the rules adopted in this proceeding become effective on or before April 26, 1993. Accordingly, due to the limited time available to meet this requirement, we find good cause for the rules adopted herein to become effective upon publication in the Federal

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.

In the Matter of )  
)  
Revision of the Commission's Rules ) CC Docket No. 94-102  
To Ensure Compatibility with ) RM-8143  
Enhanced 911 Emergency Calling Systems )

REPORT AND ORDER  
AND  
FURTHER NOTICE OF PROPOSED RULEMAKING

Adopted: June 12, 1996 Released: July 26, 1996  
Comment Date: August 26, 1996 Reply Date: September 10, 1996

By the Commission: Commissioner Chong is issuing a statement.

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45. We also recognize that there will be certain limitations to the requirement that all 911 calls be transmitted. Wireless mobile access to 911 will be limited, depending on the availability of 911 service in the geographic area. Moreover, the unique characteristics of wireless mobile services might preclude access in particular circumstances. Therefore, we have decided to seek further comment on the issue of how to increase the availability of wireless 911 communications in the Further Notice of Proposed Rulemaking.

46. As we have noted,<sup>66</sup> we are requiring that cost recovery mechanisms must be in place as a prerequisite to the imposition of enhanced 911 service requirements upon covered carriers. We note, however, that we are not adopting such a requirement as a prerequisite to compliance by covered carriers with the requirements we adopt in this section regarding the transmission of 911 calls with code identification numbers and non-code identification 911 calls. We recognize, however, that the establishment of regulatory requirements, especially regarding provision of basic 911 service to non-subscribers, might result in a carrier incurring additional costs related to the provision of such service to non-subscribers that may have a negative effect on levels of service and overall competition. Thus, a carrier may seek reimbursement, for its reasonable costs to provide basic 911 service to non-subscribers, at the state and local level. If any disputes arise in connection with recovery of these costs, the carrier may petition the Commission for relief.

## 2. 911 Access to Text Telephone Devices

### a. Background, Pleadings, and Consensus Agreement

47. Title II of the Americans with Disabilities Act (ADA) requires access to state and local government services, such as 911, to people with hearing and speech disabilities on a non-discriminatory basis.<sup>67</sup> Further, the Telecommunications Act of 1996 requires manufacturers of telecommunications equipment or providers of telecommunications services to ensure that the equipment or services are accessible and usable by individuals with disabilities, if readily achievable.<sup>68</sup> In the *Notice*, we proposed that, within one year of the effective date of the Order adopting rules in this proceeding, radio services must be capable of permitting access by individuals with speech or hearing disabilities through means other than mobile radio handsets, *e.g.*, through the use of a TTY device. We sought comment on how to ensure access to 911 service by TTY-type devices that use wireless services, and requested

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<sup>66</sup> See Section II.B.1, *supra*.

<sup>67</sup> See 42 U.S.C. Section 12131-34.

<sup>68</sup> Telecommunications Act of 1996, Pub. L. 104-104, 110 Stat. 56 (1996), Section 101, adding Section 255.

SB 2307  
2/12/99 (13)

**TESTIMONY TO THE  
SENATE APPROPRIATIONS**  
Prepared February 12, 1999 by Pete Eggimann, Director of the  
Grand Forks County 911 Communications Center

**Concerning Senate Bill No. 2307**

Thank you Mr. Chairman and members of the Committee for the opportunity to speak this morning. My name is Pete Eggimann and I am the Director of the Grand Forks County 911 Communications Center. Our center provides 911 service for the entire County and public safety radio communication services to the County, City of Grand Forks, and the University of North Dakota. I want to speak in support of Senate Bill 2307 this morning.

From an administrative perspective this bill is vital to the continued success of 911 in North Dakota. As you are aware, the communications industry is undergoing tremendous change. This is particularly true of the telecommunications industry. The 911 system that we currently all depend upon was designed in the 1960's and 1970's. That technology has proved to be very reliable and was a good investment.

While the current 911 technology with wired phones does a good job of helping us locate callers in an emergency, it does not work very well with wireless or cellular phones.

With a cellular call, we do not get the telephone number of the phone being used; we do not get the name of the person to whom the phone belongs; we do not get the address where the call is coming from; we do not get the names of police, fire, and ambulance services that should respond to the call; and we don't even get the name of the telephone

✓

company that is sending us the call. If the caller doesn't know where they are, our dispatchers are in trouble. Valuable time will be lost while the dispatchers try to help that caller figure out where they are. About 30 to 35% of the 911 calls in Grand Forks County currently fall into that category. (Please refer to the attached 911 printout.)

We desperately need to upgrade our equipment to better handle wireless 911 calls. The technology already exists to provide us with the telephone number of the wireless phones being used and which cellular tower is receiving the call. Even that limited information can be a great help to the dispatcher.

Around the country there a number of wireless technology experiments being conducted that will allow the wireless 911 callers location to be identified to within 100 meters. Several of these experiments have identified different types of technology that will work. Soon we hope an affordable standard is adopted by the industry that will allow us to get that vital information.

Without the funding provided by this bill, none of these changes will occur in the near future. The number of wireless phones is predicted to double within the next 5 years. We can't do our job without being able to handle wireless 911 calls quickly and efficiently. This bill gives us the structure to make that possible. Please help us get people the emergency help they need and expect. Please support this bill.

Thank you.

\*\*\*\*\* DATE: 01/22/99 TIME: 21:00:00 \*\*\*\*\*

09110000 03 21:42:09 C02 21:42:14 D02 21:42:45 21:42:47  
(701) 911-0000 BUSN P#911-0000 ANONYMOUS CALL NO ANI 003 21:40 01/22  
ANI DID  
ORIGINATION UNKNOWN ND E911  
PSAP=\*\*VERIFY\*\*VERIFY\*\*VERIFY

09110000 02 21:43:22 C02 21:43:27 T09 21:43:46 C58 21:43:46 D02 21:43:56 D58 21:43:59 21:43:59  
(701) 911-0000 BUSN P#911-0000 ANONYMOUS CALL NO ANI 003 21:41 01/22  
ANI DID  
ORIGINATION UNKNOWN ND E911  
PSAP=\*\*VERIFY\*\*VERIFY\*\*VERIFY

*"land line" 911 call*

07809190 01 21:45:03 C01 21:45:11 D01 21:46:16 21:46:19  
(701) 780-9190 RESD P#780-9190 ANDERSON, HUNTER 547 21:43 01/22  
901 UNIVERSITY AV.  
APT 205 ND GRAND FORKS  
PSAP=GFKS\*\*GRAND FORKS POLICE\*\*GRAND FORKS CITY\*\*UNITED

*Ambulance Serv.*

\*\*\*\*\* DATE: 01/22/99 TIME: 22:00:00 \*\*\*\*\*

07728700 03 22:44:24 C02 22:44:30 D02 22:44:58 22:45:01  
(701) 772-8700 BUSN P#772-8700 DIAMOND LOUNGE 547 22:42 01/22  
1607 DEMERS AV  
ND GRAND FORKS  
PSAP=GFKS\*\*GRAND FORKS POLICE\*\*GRAND FORKS CITY\*\*UNITED

\*\*\* DATE: 01/22/99 TIME: 23:00:00 \*\*\*\*\*

07953651 02 23:06:36 C03 23:06:41 C02 23:06:45 D02 23:07:04 D03 23:07:45 23:07:48  
(701) 795-3651 RESD P#795-3651 DOWERS, BARRY 547 23:04 01/22  
2250 34 ST S  
APT 623 ND GRAND FORKS  
PSAP=GFKS\*\*GRAND FORKS POLICE\*\*GRAND FORKS CITY\*\*UNITED

09110000 01 23:32:07 C02 23:32:14 C01 23:32:14 D01 23:32:23 C01 23:32:29 D01 23:32:32 D02 23:33:19 23:33:23  
(701) 911-0000 BUSN P#911-0000 ANONYMOUS CALL NO ANI 003 23:30 01/22  
ANI DID  
ORIGINATION UNKNOWN ND E911  
PSAP=\*\*VERIFY\*\*VERIFY\*\*VERIFY

*"wireless" 911 call*

\*\*\*\*\* DATE: 01/23/99 TIME: 00:00:00 \*\*\*\*\*

09110000 03 00:28:45 C03 00:28:52 T01 00:29:33 C50 00:29:33 D03 00:29:40 D50 00:29:44 00:29:44  
(701) 911-0000 BUSN P#911-0000 ANONYMOUS CALL NO ANI 003 00:27 01/23  
ANI DID  
ORIGINATION UNKNOWN ND E911  
PSAP=\*\*VERIFY\*\*VERIFY\*\*VERIFY

09110000 02 00:29:47 C03 00:29:54 T01 00:30:32 C50 00:30:32 D03 00:30:39 D50 00:30:43 00:30:43  
(701) 911-0000 BUSN P#911-0000 ANONYMOUS CALL NO ANI 003 00:28 01/23  
ANI DID  
ORIGINATION UNKNOWN ND E911  
PSAP=\*\*VERIFY\*\*VERIFY\*\*VERIFY

**Testimony in support of SB 2307**  
**Prepared by Janelle Pepple, ND 9-1-1 Association**

Thank you, Chairman Nething, and members of this committee, for the opportunity to speak to you today in support of SB 2307. I am the 9-1-1 coordinator in Wells County, and the past president of the North Dakota 9-1-1 Association.

Mr. Chairman, members of this committee, one issue that the rural 9-1-1 coordinators have become aware of, and are concerned with, is the significant increase in the number of wireless emergency calls that their 9-1-1 dispatch centers are receiving.

Presently, wireless calls average 30 - 40 percent of all emergency calls received in most dispatch centers across the state. It is projected that this percentage will rise, in correlation with the number of citizens purchasing wireless phones. I believe people are sold on the use of wireless phones, not only for convenience, but for safety and peace of mind. How often have you heard of someone venturing out in a North Dakota winter, comforted by the fact that they have their cell phone in case they run into trouble and need help?

I recently became aware of just how significantly wireless telephones could affect our rural 9-1-1 systems when I read about a new pilot project recently introduced in Regent, ND. A wireless service provider in North Dakota began selling a new service called wireless residential service in the Hettinger County area.

Wireless residential service means a customer disconnects their present land-line home telephone and plugs their phone into a new device installed in their home, which is about the size of a lap top computer. This device turns their residential telephone into a wireless home telephone.

What needs to be understood is every time a residential land-line customer converts over to this service the 9-1-1 fee that was being collected by that city or county for that land-line telephone is being lost. As you know, the law currently does not allow me to collect a \$1 service fee on any wireless telephone. So, not only is the county losing that revenue to run their 9-1-1 systems, but that customer is losing their 9-1-1 public safety information that we currently tie to their home land-line telephone number.

This wireless service provider was reported as saying their primary goal is to replace land-line providers in rural communities. As legal issues regarding this pilot project are resolved, I believe wireless residential service will expand and find its way across rural North Dakota. I understand this particular wireless provider had purchased 2000 numbers for this wireless residential service. I do not know how many land-line telephones are in Hettinger County, but I do know that there is currently just less than 3200 in Wells County. We, and other counties just like mine, could stand to lose a significant number of revenue dollars for my system, should this new technology branch out into our area.



I believe it is only fair to collect a service fee on wireless telephones because they can, and are, using our 9-1-1 systems at no charge, and the potential is there for systems such as mine to fail without it.

The wireless industry is asking for a level playing field in competing with our land-land service providers. We, as 9-1-1 service providers, are asking this committee for the same level playing field regarding emergency 9-1-1 services in North Dakota. When accessing a Public Safety Answering Point, if we can agree that a phone is a phone, why should wireless 9-1-1 be funded any differently than wired-line 9-1-1. Please support SB 2307 to help ensure that anyone dialing 9-1-1 receives the same appropriate level of services, even if there is no wire attached to their telephone.

# Regent goes wireless

## ■ N.D. community hosts pilot program

JOE GARDYASZ  
*Bismarck Tribune*

An innovative wireless telephone system could give rural North Dakota residents a new option for local and long-distance service.

With its Wireless Residential Services, CellularOne will be able to offer home telephone service using the same wireless network that carries cellular phone calls — without using a cellular phone.

Customers simply plug their existing home phone into a CellularOne wireless unit installed in their home to access the service.

On Thursday CellularOne began a two-month free trial program of the service in Regent, where Gov. Ed Schafer made the first call out to Federal Communications Chairman Bill Kennard in Washington, D.C.

For \$14.99 monthly, customers in Regent only will have access to an extended local calling area, and pay a flat 10 cents a minute for long distance calls.

It's a service that would compete directly with rural telephone cooperatives throughout the state.

A group of RTCs are contesting CellularOne's application with the state Public Service Commission to receive federal funding assistance as unfair, and one cooperative may sue to compel the company to pay for access to its lines.

CellularOne, owned by Western Wireless Corp. of Bellevue, Wash., invested about \$350,000 for an additional cellular tower, equipment and antennas that make the service possible in Regent, said RaeAnn Kelsch, CellularOne's western North Dakota district manager.

"Regent will be the first rural community in the country where  
(More on WIRELESS, Page 12A)

## Wireless: Carrier status opposed

FROM PAGE 1A

consumers will be able to receive the residential wireless service," she said.

A wireless unit, about the size of a laptop computer, will be installed inside each customer's home in a place that will maximize reception. Customers will keep their area code and prefix, but their last four digits will change if they sign up for the service.

The company's primary goal with the wireless residential service is to replace land-line local and long-distance providers in rural communities, said Kim Schmidt, CellularOne's special projects manager.

"We'll be going into the rural residential areas and offering a more competitive rate," she said, "and give them a much larger calling scope than what they're used to using."

Most towns' local telephone service only enables customers to reach about two communities without a long-distance charge; the new service will enable them to reach about 10 different communities, she said.

With the service, Regent customers will be able to make a 55-mile call to Dickinson's three prefixes as a local call. They can also call 16 other North Dakota prefixes that include Mott, New England, Elgin, Burt and New Leipzig. They'll be able to reach three South Dakota prefixes as local calls as well.

The new service was made possible by the Telecommunications Act of 1996, intended to deregulate telephone services and open up the markets to competition.

Why Regent, N.D.?

"It's a good area because it's a small test market," Kelsch said. "Also, it's the home of Sen. Byron Dorgan, and he was very instrumental in the Telecommunications Act."

An added benefit is that the tower allows the company to provide cellular service for the first time in Regent.

If the pilot program is successful, CellularOne officials say they will introduce the wireless service to rural customers throughout the state as well as in other markets.

"We're pretty confident that they're going to love it out here," Kelsch said. When the service may be rolled out to other rural communities hasn't been determined, she said.

Western Wireless Corp. has applied for eligible carrier status with the North Dakota Public Service Commission. If approved, the status would allow the company to receive a share of federal universal service funds. A decision is expected in February.

Consolidated Telephone Cooperative in Dickinson is among the rural telephone cooperatives that oppose eligible carrier status for Western Wireless.

If the wireless companies start receiving universal service fund dollars, that means less funds for the cooperatives and consequently higher rates to maintain local service, said L. Dan Wilhelmson, Consolidated's general manager.

"And that's blatantly unfair," he said. "Just because (customers) live in a rural area doesn't mean they should have to pay higher rates than someone in a metropolitan area — who has a calling scope that's significantly higher (in population) than the whole state of North Dakota in most instances."

Those universal service funds are designed to support the companies that have invested in lines to serve rural areas, not wireless services that aren't required to serve the entire area, he said.

"We are the telephone carrier of last resort in all of our service areas; that means we have to serve them," Wilhelmson said. "If things don't work out for (CellularOne) they can fly the coop. That's probably what's going to happen — they aren't going to serve every area."

Western Wireless has no competitive interconnection agreement with Consolidated, meaning it does not pay Consolidated for access to its customers. Wilhelmson hinted that Consolidated may take legal action to compel an interconnection agreement.

Bismarck Tribune  
1-27-99

## MY VIEW

# 'Wireless' asks level playing field

JOHN UHLMANN, *Fargo*

Your Jan. 14 editorial, referring to the "war" between CellularOne and Consolidated Telephone Cooperative, is misleading to the consumer. I would like to take this opportunity to more accurately reflect the goals of CellularOne.

On Jan. 7, CellularOne began offering Wireless Residential Services to the consumers of Regent. CellularOne's objective is to provide consumers with a choice for local telephone service. Our goal is not to replace wireline cooperatives but to enter the local telephone market and compete with the incumbent provider. Consumers ultimately will determine the success of this enterprise by choosing which communications provider better suits their needs.

As a result of our multimillion dollar investment in wireless infrastructure in North Dakota, CellularOne is now in a position to offer competitive residential wireless services as well as traditional cellular service to Regent consumers. The action by Consolidated to disconnect the 2,000 telephone numbers we purchased from them has left our customers without the full benefits of wireless residential services and without adequate 911 service.

This illustrates the approach a company like Consolidated, which has a monopoly in the local market, takes when a competitive local provider attempts to enter the market. Consolidated's unwillingness to compete harms consumers by not allowing them to decide which service best meets their needs. We believe competition should be embraced and the consumers of Regent should not be denied the opportunity to access new technology.

Further, we disagree with your position that CellularOne should not be entitled to participate in universal service funds established to provide consumers with affordable telecommunications service.

CellularOne and its customers contribute to



John Uhlmann, Fargo, is general manager of CellularOne, the telecommunications company.

the funding of universal service. The goal of universal service should not be to insulate incumbent carriers from competition and deprive rural consumers of the benefits of competition, but to allow consumers access to new and innovative telecommunications services that are available only in a competitive market. CellularOne has invested, at its own risk, millions of dollars in North Dakota, and the \$350,000 you refer to as our total investment is only the latest installment of our continuing investment in the state, all without subsidies from taxpayers.

In contrast, Consolidated has operated under a guaranteed rate of return, and is the recipient of various subsidies, including taxpayer-subsidized loans. The Telecommunications Act of 1996 mandates reform of the archaic subsidy system that allows companies like Consolidated to maintain their stranglehold on local telephone markets and requires establishment of a competitive universal-service system that allows all carriers — incumbents and competitors — to compete for the right to serve consumers.

Universal service funds will come directly from state and federal tax dollars. This means that a significant amount of the cost of providing service to rural North Dakota will be paid for by the tax dollars of the citizens of North Dakota. Because CellularOne — in many, if not all cases — can provide rural phone service less expensively than can incumbent rural

telephone companies, the cost of universal service — and the taxes paid by consumers — will be significantly reduced by allowing competitive carriers, like CellularOne, to provide local service and receive universal-service funding.

To make this happen, however, competitive carriers must be able to compete on a level playing field with incumbents. Ultimately, the tax burden on the citizens of North Dakota will be reduced if competitors with lower cost structures — requiring lower taxpayer subsidies — are allowed to compete to provide service to rural communities.

Consolidated's claim that CellularOne needs an interconnection agreement to provide wireless residential services is simply not true.

In August 1998, CellularOne and Consolidated agreed to interconnect their respective networks. Since then, CellularOne has paid Consolidated for the line interconnecting the two companies and has paid Consolidated for local telephone numbers. Consolidated is using the interconnection agreement to mislead consumers and draw attention from the real issue, which is Consolidated's attempt to prevent a competitive carrier from operating in its market. Consolidated is simply attempting to protect its taxpayer-funded monopoly.

CellularOne has, at all times, operated in an appropriate manner. Prior to introducing its wireless residential services offering, CellularOne was involved in a hearing before the state Public Service Commission in which its offering was discussed. During the hearing, neither Consolidated nor the commission suggested that CellularOne needed an interconnection agreement or a Certificate of Public Convenience and Necessity to provide wireless residential services.

Consolidated's claims are simply a smoke-screen to hide its anti-competitive and, I believe, unlawful actions.

John Uhlmann, Fargo, is general manager of CellularOne, the telecommunications company.

Commercial  
Mobile  
Radio  
Service

# COMMNET CELLULAR <sup>Inc.™</sup>

John O/Soro

February 26, 1999

Representative Wes Belter, Chairman  
North Dakota House Finance and Tax Committee  
North Dakota House of Representatives  
Bismarck, North Dakota

**Re: Opposition to Senate Bill No. 2307**

Dear Chairman Belter and Members of the House Finance and Tax Committee:

CommNet Cellular Inc. (CommNet) owns, operates and manages cellular telecommunications systems in the state of North Dakota. CommNet is the managing agent for the B-side cellular licensees in the Bismarck MSA, ND RSAs 1, 2, 4 and 5, and has ownership interests in the ND-3 RSA. CommNet provides wireless telecommunications services to over half of the 55 counties in North Dakota. CommNet is excited about the possibility of offering enhanced wireless emergency communications services to the people of North Dakota, and over the past four months has been working diligently in concert with other wireless operators in North Dakota in an attempt to make this possibility a reality. However, the legislation you have before you will not result in ensuring that the residents of North Dakota have wireless enhanced emergency services available to them.

CommNet recognizes from previous experience that in order for enhanced wireless emergency 9-1-1 services to be available to the citizens of North Dakota, it is imperative the wireless carriers and the public safety community work together. CommNet has expended considerable resources while working with various committees and associations in North Dakota for over four months to provide them with the essential elements a bill such as this must have in order to receive support from the wireless community and to ensure next generation wireless emergency services are provided to the public. This has been, and will continue to be, our intent throughout this legislative process. We appreciate the opportunity to be heard on this matter.

The Federal Communications Commission (FCC) Order in Docket 94-102 issued in June 1996 very clearly states that Commercial Mobile Radio Service (CMRS) providers' costs to provide enhanced 9-1-1 services must be fully reimbursed. An explicit cost recovery mechanism for wireless carriers is an absolute minimum requirement necessary for the implementation of both Phase I and Phase II E91-1-1 in the State of North Dakota. To ensure that the cost recovery mechanism will be efficient, fair and accurate, some systems and controls are necessary to guarantee its success. Some of these include examination of accounts, specifics that govern the disbursement and collection of funds and a mechanism for adjustment of the fee, if required. All of which this bill does not provide.

The legislation is unnecessarily vague about both the funding mechanism and the cost recovery mechanisms necessary to implement E9-1-1. It is not clear that the revenue collected is targeted specifically for the purpose of providing wireless enhanced emergency services. The legislation as currently drafted would require wireless customers to pay into the basic 9-1-1 fund without any guarantee that wireless enhanced emergency services will be implemented. Does not the North Dakota

**SB 2307**

***Pohs testimony***

House Finance and Tax Committee have an obligation to the citizens of North Dakota to ensure that the taxes they pay are related to services they receive? Under the proposed bill, wireless customers will be paying an additional tax without any guarantee of receiving any additional benefits. The bill does not even provide the opportunity for wireless users to have the same level of 9-1-1 service as wireline users.

Enactment of similar vague legislation in other states has led to the indefinite postponement of the provision of wireless enhanced 9-1-1 services due to the fact that the legislation leaves countless issues unaddressed and to be negotiated between the authority boards and the wireless providers and does not provide clear guidance toward the goal of enhancing wireless emergency services.

In addition, the issue of the amount of the tax being \$1.00 is questionable. According to the fiscal note, this tax will generate six million dollars over the next two years. CommNet is perplexed about the public safety community establishing the arbitrary tax amount at \$1.00 without any guarantee of how the money is to be spent. CommNet is very concerned about the impact of the tax on our customers who ultimately bear the burden of these taxes and demand to know how their money is being used. CommNet's experience with other states indicates this \$1.00 amount is the second highest in the United States. Tennessee is the only other state that has a higher tax, which leads CommNet to question why the tax in North Dakota is so high. Has the public safety community in North Dakota provided documentation that substantiates it will indeed require six million dollars over the next two years to implement wireless enhanced emergency services? Perhaps a study is required to determine the efficiencies of the North Dakota public safety answering points (PSAPs). How many calls are taken during a twenty-four hour period at the PSAPs that are manned twenty-four hours a day seven days a week? Would consolidation of PSAPs make more sense than imposing a high tax on the citizens of North Dakota to continue to fund operations that may not currently be ran as efficiently and effectively as possible?

This past year, the Governor of South Dakota established a South Dakota 9-1-1 Task Force to report to the Governor and provide guidance to the Office of Governor and the South Dakota Legislature with respect to improving and enhancing the present delivery of emergency services through 9-1-1 centers throughout South Dakota. The report they presented to the Governor on November 30, 1998 makes the following recommendations:

- There is a current and immediate need for a statewide integrated and coordinated interoperable public safety communications network.
- The State of South Dakota should integrate telecommunications functions and facilities of those agencies that currently operate their own systems into one cohesive and integrated network.



*SB 2307*

*Pohs testimony*

- Enhanced 9-1-1 services should be available from every telephone in South Dakota. All wireline and wireless customers should reach an E9-1-1 center when they initiate a request for emergency services, by dialing 9-1-1.
- The provisioning and delivery of all Enhanced 9-1-1 services and facilities with the State should conform to minimum technical, operational, and procedural standards, as determined by a statewide 9-1-1 governing body.
- Universal statewide access to Enhanced 9-1-1 services can be provided by a fewer number of currently operational and planned public safety answering points, without causing any loss or degradation in the quality and level of service presently received by the public.
- There is a present need for a Comprehensive Telecommunications Plan to facilitate and optimize the structure and utilization of statewide integrated telecommunications networks and services.

North Dakota's House Finance and Tax Committee has the opportunity to provide a vehicle by which the many questions surrounding this bill could be answered and possibly achieve similar monetary savings in your State. CommNet recommends that a committee be established to address and report to the Governor of North Dakota on the following issues:

- Evaluate all current 9-1-1 PSAPs' systems
- Prepare a cost benefit analysis for the above
- Evaluate consolidation
- Prepare coordination and consolidation plan
- Report of the current system
- Revenues and budgets
- Report of alternate financing

Also of great importance is the expansion of language in the bill regarding indemnification to include wireless carriers' subcontractors. As currently written, unnecessary exposure to 9-1-1 database subcontractors exists.

This legislation as written would result in many problems that would unnecessarily delay and interfere with the implementation of wireless enhanced emergency services in some counties in the state. The only way to achieve the goal of implementing the wireless E9-1-1 solution is for the legislation to reflect that, pursuant to the federal mandate as required in the FCC's Order, certain requirements must be in place prior to implementation of wireless E9-1-1.

CommNet strongly supports providing enhanced 9-1-1 services to our customers, and we are committed to the continued development and enhancement of basic 9-1-1 service. It is our belief that the public safety community in North Dakota chose to ignore our input gained from experience

**SB 2307**

**Pohs testimony**

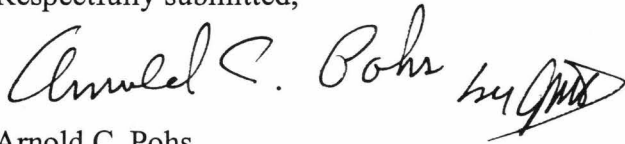
and did not negotiate in good faith to achieve legislation that would allow North Dakota to establish a wireless enhanced 9-1-1 program that complies with the federal requirements while acknowledging the unique environment of wireless telecommunications.

CommNet is confident the House Finance and Tax Committee will make a good faith effort and give substantial consideration to our concerns and further our efforts to clarify the many complexities surrounding this issue. You have the opportunity to ensure wireless enhanced emergency services are introduced to the citizens of North Dakota in the most efficient manner and in compliance with the FCC's federal mandate.

Therefore, we would urge you to vote **against** this bill as written but should the Committee elect to proceed with this bill, provide a legislative mandate **to establish a committee** to determine the state of the 9-1-1 system in North Dakota and the cost of providing wireless emergency response. By doing so you would send a message that you support our efforts to implement wireless enhanced 9-1-1 in the State of North Dakota.

Thank you for your consideration.

Respectfully submitted,

A handwritten signature in cursive script that reads "Arnold C. Pohs" followed by a stylized flourish or mark.

Arnold C. Pohs  
Chairman & Chief Executive Officer

# UNICEL®

Uniting Cellular & Digital

Todd Kranda

P.O. Box 2000  
Alexandria, MN 56308  
(320) 762-2000  
(320) 808-2466 Fax

February 26, 1999

Chairman Wes Belter  
House Finance and Tax Committee  
600 East Boulevard Avenue  
North Dakota State Senate  
Bismarck, ND 58505-0480

Re: Senate Bill 2307

Dear Chairman Belter:

Unicel is a provider of PCS services in the Fargo and Grand Forks markets of North Dakota.

We strongly oppose SB 2307 for the following reasons:

1. The bill does not reference the FCC docket 96-102 mandate in its context.
2. The bill does not guarantee the reimbursement of implementation costs to wireless carriers as the FCC docket requires.
3. The bill does not provide for limitation of liability of the wireless carriers vendors who will assist them in implementation of the E 911 Services relative to the FCC docket.
4. The tax burden to the wireless customers is among the highest in the nation.

The wireless carriers, including myself on behalf of Unicel, in North Dakota first met with the 911 Legislative Committee on October 26, 1998. The meeting was to discuss the successful drafting and implementation of legislation for E 911 services as described in the FCC docket 96-102 for our customers and your constituents. We have had conference calls with the association since the October 26<sup>th</sup> meeting to consensually build this process. We proposed legislation to the Association based on the successful implementation of Wireless E 911 in various states. The Association has chosen to ignore our efforts. The North Dakota E 911 Association has given Unicel no options but to oppose this bill.

Unicel supports the testimony of Richard Nelson of AirTouch Communications and Jim Bundell of Western Wireless given before the House Finance and Tax Committee on Monday, March 1, 1999.

In closing we can not advise our customers and your constituents to support this E 911 legislation.

Sincerely,



Dean Polkow  
Carrier Relations Manager





**TESTIMONY TO THE HOUSE FINANCE AND TAXATION COMMITTEE**  
**by Richard Nelson, Director - Government Relations, AirTouch Communications**  
**for March 1, 1999 Hearing Concerning Senate Bill No. 2307**

Thank you very much Chairman Belter and members of the Committee for the opportunity to speak to you about wireless E911 service and Senate Bill No. 2307 which is before you today. I wish I could tell you that AirTouch enthusiastically endorses this bill. I wish I could tell you that this bill will ensure the expeditious and economically efficient implementation of wireless E911 service in North Dakota. I wish I could explain why a new tax of \$1.00 per wireless customer is necessary to implement the federal mandate for wireless E911 service when other states have been able to do so at a much lower cost. Unfortunately, I cannot tell you these things. However, what I can tell you in a few minutes is what wireless E911 service is and you will understand the benefits it offers. I would also like to share with you concerns my company and other wireless companies have regarding Senate Bill No. 2307 and give you a couple of suggestions to consider.

**Wireless E911 Service**

The Federal Communications Commission issued a decision in 1996 in its Docket 94-102 which set forth a plan to improve the 911 service which wireless customers receive. Because of the mobile nature of wireless communications, calls from wireless customers are not the same as calls from landline customers. Unlike landline callers whose telephone number and street address location appears on the Public Safety Answering Point ("PSAP") attendant's screen, a wireless customer's telephone number does not appear nor does any location information. By its order, the FCC provided a framework for the implementation of wireless Enhanced 911 service in two phases. Phase I requires wireless carriers to be able to provide PSAPs with a caller's telephone number and the location of the cell site transmitting the call within six months of the PSAP's request for wireless Enhanced 911 service. Compliance by wireless carriers with the federal mandate is subject to three conditions: (1) a PSAP must make a formal request to wireless carriers for wireless Enhanced 911 service; (2) the PSAP must be capable of processing wireless customers' number and location data; and (3) a cost recovery mechanism for wireless carriers must be established. Phase II requires that carriers be able to identify the location of a wireless customer within 125 meters at least 67% of the time by October 1, 2001.

AirTouch and most wireless companies have made 911 calls free to their customers even though we still incur costs to process these calls including the interconnection fees we pay to local exchange companies. We continually inform our customers when a call to 911 is appropriate. As many of you know, wireless customers have played a major role in reporting traffic accidents, as well as reporting individuals who appear to be driving erratically. These are referred to as "good samaritan" calls which benefit the general public.

**Senate Bill 2307 is bad because it is unnecessarily ambiguous.**

The vagueness of the SB 2307 will hinder the implementation of wireless E911 service. AirTouch was first apprised of the North Dakota 911 Association's interest in sponsoring a 911 bill in late September. A group of carriers met with the association in October and participated in several subsequent conference calls to develop a bill which addresses the federal mandate. Unfortunately, many of the wireless carriers' most important suggestions were not incorporated in SB 2307 as it was introduced. The bill was amended in the senate but still omits important details. As the bill is currently drafted, there is no guarantee that wireless Enhanced 911 service will be implemented.

If the committee should decide to proceed forward with SB 2307, AirTouch requests the following amendments be adopted. Without these amendments it is very uncertain whether the federal mandate will be implemented.

The definition of wireless Enhanced 911 service should be expanded to include the conditions described in the FCC's order. On page 2, line 3 after 2001, the following should be inserted:

The federal communications commission order requires that certain conditions be met before wireless enhanced 911 service can be provided. These conditions are that the PSAP must formally request that the CMRS providers implement phase I and phase II, the PSAP must indicate it has the capability to process the information transmitted, and a cost recovery mechanism that fully reimburses CMRS providers for their costs to provide wireless enhanced 911 services must be in place.

The ambiguity surrounding the use of the wireless 911 service fund in Section 3 should be addressed by clarifying that the funds are to be used solely for the implementation of wireless enhanced 911 service. Page 3, lines 29 through 31 should be replaced by the following:

Revenue received under this subsection must be used by the political subdivision for establishing and operating enhanced 911 wireless service.

Page 4, lines 14 through 17 should be replaced by the following:

The political subdivision shall retain funds in an account designated for reimbursing wireless carriers for their costs to implement enhanced 911 wireless service. The political subdivision shall provide for the reimbursement of wireless carriers on a monthly basis. Distributions shall be made to wireless providers in a fair and nondiscriminatory manner. If the total amount requested by wireless carriers exceeds the amount held by the political subdivision, wireless providers which have invoices for payment shall receive a pro rata share of the account and the balance of payment shall be carried over to the following month or months until all of the payments are made. No wireless provider shall be denied reimbursement for a submitted invoice solely because there are insufficient funds in the account. The political subdivision shall remit an amount to each wireless carrier equal to the percentage of such carrier's eligible expenses as compared to the total of all eligible expenses for all wireless carriers for the calendar quarter during which such expenses were submitted.

We believe that the extension of the existing liability provision in Section 6 to wireless carriers is fair and reasonable. However, the limited protections for officers, agents or employees should also extend to those subcontractors with whom wireless carriers contract to implement wireless Enhanced 911 service. Therefore, we request that line 18 on page 5 be amended to include "subcontractors" as follows:

~~or~~ employee or subcontractor of any public agency, public safety agency, commercial radio service provider, or local exchange telecommunications company, . . .

In addition, lines 5 and 6 on page 6 should also be amended as follows:

. . . any officer, agency, or employee or subcontractor of any public agency, public safety agency, commercial mobile radio service provider, or local exchange telecommunications company . .

In short, AirTouch believes that there should not be a new tax on wireless customers unless there is certainty that these customers will receive the benefits of wireless enhanced 911 service. The implementation of the federal mandate is either greatly delayed due to endless negotiations between wireless carriers and PSAP operators or never occurs when generalized legislation is passed. For example, in Minnesota, wireless customers have paid \$0.27 per month since July 1997 and still do not have wireless enhanced 911 service.

**Senate Bill 2307 is bad because its fiscal impact of more than \$6 million for the 1999-2001 biennium is extreme.**

Under the terms of the bill, approximately \$61,000 will go into the general fund. It is unclear why supporters of this bill believe that this amount of tax revenues is necessary to implement wireless E911 service. The \$1.00 tax per wireless customer contained in this bill is the second highest rate in the United States. Only a couple of southern states have considered a tax at this level. The highest rate is \$2.00 in Tennessee. Most states which have proceeded to implement wireless E911 have settled on a tax in the range of \$.50 to \$.65. Here is a review of several midwestern states which have either adopted or are considering legislation to implement the federal mandate:

Indiana	\$0.65	Iowa	\$0.50
Minnesota	\$0.27	South Dakota	\$0.75
Ohio	\$0.65 (proposed)	Michigan	\$0.47 (proposed)

The explanation that it should be \$1.00 because that is the rate landline customers pay simply doesn't get at the underlying question: why so much? AirTouch proposes that a study be conducted to determine if there are opportunities for cost savings such as identified in other states. For example, a recent Texas State Auditor's report on the Texas 911 system cites many situations where efficiencies could be obtained through consolidation and estimated 31% of all 911 revenues (\$29.2 million) could be saved annually. Among the findings in the Texas study are:

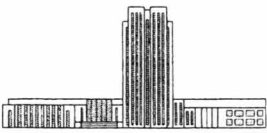
- 54% of Public Safety Answering Points reported less than 10 emergency calls per day
- Only 3% of PSAPs reported more than 100 calls per day.
- Duplicative administrative costs of \$4.9 million due to overlaps between regional and local entities.

Similar opportunities to achieve economies may be available in North Dakota. In short, the proposed \$1.00 tax appears unnecessarily high.

**Recommendation**

This bill imposes a tax which is simply unjustified. AirTouch believes that North Dakota tax payers would be better served if the legislature established a committee to conduct a study of the existing 911 system and provide recommendations for improving the efficiency of the landline system along with a proposal for implementing wireless Enhanced 911 service. AirTouch is prepared to participate in any task force effort to develop a plan to cost effectively implement the federal mandate. Should the committee elect to proceed with Senate Bill No. 2307, I have identified amendments which should be adopted in order to improve the bill and the likelihood that wireless Enhanced 911 service is implemented efficiently and expeditiously in North Dakota.

I would be happy to entertain any questions you may have or elaborate on any of the points I have covered.



# NORTH DAKOTA SENATE

STATE CAPITOL  
600 EAST BOULEVARD  
BISMARCK, ND 58505-0360



Senator Karen K. Krebsbach  
District 40  
Box 1767  
Minot, ND 58702-1767

COMMITTEES:  
Industry, Business  
and Labor  
Government and  
Veterans Affairs,  
Chairman

IBL COMMITTEE - March 1, 1999

SB 2307

Chairman Belter & Committee Members:

The County/City 911 Coordinators have been meeting periodically with representatives of the cellular phone industry in an attempt to craft legislation that would address the following:

1. 911 fee equity between the wireless and land line industries, (\$1 per line)
2. Adequate revenue to begin to address Phase I and Phase II of the federal mandate regarding locate capabilities for wireless callers,
3. A system of fee collection and allocation that is simple for the industry and as fair as reasonably possible to the various counties and cities operating PSAPs, (Statewide collection & allocation primarily by population)
4. Some level of liability protection for 911 agencies and wireless phone companies, similar to that allowed for the land-line 911 systems, and
5. Dedication and use of the revenue generated for specific 911 purposes.

Others here today will address specific details of the issues, and I would defer questions to them, the experts.

Thank you for your consideration on this bill.

**Testimony in support of SB 2307**  
**Prepared by Janelle Pepple, ND 9-1-1 Association**

Thank you, Chairman Belter, and members of this committee, for the opportunity to speak to you today in support of SB 2307. I am the 9-1-1 coordinator in Wells County, and the past president of the North Dakota 9-1-1 Association.

Mr. Chairman, members of this committee, one issue that the rural 9-1-1 coordinators have become aware of, and are concerned with, is the significant increase in the number of wireless emergency calls that their 9-1-1 dispatch centers are receiving.

Presently, wireless calls average 30 - 40 percent of all emergency calls received in most dispatch centers across the state. It is projected that this percentage will rise, in correlation with the number of citizens purchasing wireless phones. I believe people are sold on the use of wireless phones, not only for convenience, but for safety and peace of mind. How often have you heard of someone venturing out in a North Dakota winter, comforted by the fact that they have their cell phone in case they run into trouble and need help?

I recently became aware of just how significantly wireless telephones could affect our rural 9-1-1 systems when I read about a new pilot project recently introduced in Regent, ND. A wireless service provider in North Dakota began selling a new service called wireless residential service in the Hettinger County area.

Wireless residential service means a customer disconnects their present land-line home telephone and plugs their phone into a new device installed in their home, which is about the size of a lap top computer. This device turns their residential telephone into a wireless home telephone.

What needs to be understood is every time a residential land-line customer converts over to this service the 9-1-1 fee that was being collected by that city or county for that land-line telephone is being lost. As you know, the law currently does not allow me to collect a \$1 service fee on any wireless telephone. So, not only is the county losing that revenue to run their 9-1-1 systems, but that customer is losing their 9-1-1 public safety information that we currently tie to their home land-line telephone number.

This wireless service provider was reported as saying their primary goal is to replace land-line providers in rural communities. As legal issues regarding this pilot project are resolved, I believe wireless residential service will expand and find its way across rural North Dakota. I understand this particular wireless provider had purchased 2000 numbers for this wireless residential service. I do not know how many land-line telephones are in Hettinger County, but I do know that there is currently just less than 3200 in Wells County. We, and other counties just like mine, could stand to lose a significant number of revenue dollars for our systems, should this new technology branch out into our area.

I believe it is only fair to collect a service fee on wireless telephones because they can, and are, using our 9-1-1 systems at no charge, and the potential is there for systems such as mine to fail without it.

The wireless industry is asking for a level playing field in competing with our land-land service providers. We, as 9-1-1 service providers, are asking this committee for the same level playing field regarding emergency 9-1-1 services in North Dakota. When accessing a Public Safety Answering Point, if we can agree that a phone is a phone, why should wireless 9-1-1 be funded any differently than wired-line 9-1-1. Please support SB 2307 to help ensure that anyone dialing 9-1-1 receives the same appropriate level of services, even if there is no wire attached to their telephone.



TESTIMONY

TO: HOUSE FINANCE AND TAXATION COMMITTEE

DATE: March 1, 1999

FROM: Jerry Bergquist, Co-Chairman of the ND 9-1-1 Association Legislative Committee and Stutsman County 9-1-1 Coordinator

Concerning Engrossed Senate Bill 2307

Thank-you Mr. Chairman and members of the Committee. My name is Jerry Bergquist.

I am Co-Chairman of the ND 9-1-1 Association's Legislative Committee, and the 9-1-1 Coordinator for Stutsman County. I'm here today to express support for Engrossed Senate Bill 2307.

When the original 9-1-1 tax law was first written in 1985, the authority was given to counties or cities to impose a 9-1-1 excise tax on "telephone access lines", or wire-line telephones. However, this tax could only go into effect if a majority of the voters in each jurisdiction approved it. Today, 50 of the 53 counties in North Dakota, have voted to tax themselves, in order to bring 9-1-1 services to their area.

When the original 9-1-1 tax law was written, the idea of taxing wireless telephone communications was not considered, since that technology was still in the future. As wireless phones became popular, it was agreed to allow the wireless carriers to route their 9-1-1 calls to the closest PSAP, or 9-1-1 Communications Center. This was done, in the interest of public safety, by routing the wireless 9-1-1 calls through the existing wire-line phone network. Wireless phone users have always received this service free of charge.

Today, the 9-1-1 Communication Centers around the state are experiencing an ever

increasing number of calls originating from cellular and mobile telephones. In Stutsman County, 9-1-1 calls originating from wireless phones currently make up 34% of the total 9-1-1 call volume. Some areas of the state are experiencing a call volume of 40% and more.

These calls create a tremendous work load for the dispatchers. Unlike the 9-1-1 technology for wire-line telephones, current wireless phone technology does not provide a call-back number or any type of location information. Attached to the back of this testimony is an example of what type of information is provided to the dispatcher when a 9-1-1 wire-line call is received and when a 9-1-1 wireless call is received. If a person using a wireless phone dials 9-1-1 and immediately hangs-up, or is physically forced to hang-up, the dispatcher cannot send help because of lack of caller information.

Technology changes and mandates from the Federal Communications Commission will soon provide an answer for the wireless 9-1-1 problem. But, before agreements can be made and money can be spent, the FCC is mandating that a cost recovery mechanism be in place to reimburse the wireless carriers. And, that's why we are here today.

In an effort to accommodate the wireless carriers, the idea of imposing a wireless 9-1-1 tax county by county was discarded because of the many problems it entailed. Instead, the idea of having a single state-wide tax payable to the state tax commissioner was created in this bill. With 50 out of 53 counties voting to tax themselves for 9-1-1 services, there should be no question that there is support at the local level for a tax of

this nature.

Engrossed SB 2307 should not be looked at as a new tax, but a tax put in place to accommodate the changing way the public is utilizing available telephone services and technology. By eliminating the inequity between taxed wire-line phones and untaxed wireless phones, this bill will provide a more stable income for 9-1-1 Communications Centers. It will allow the state to comply with FCC requirements and give local governments the money it needs to pay for enhanced wireless 9-1-1 technology.

The wireless industry has made statements in the past that their customers shouldn't be charged for enhanced wireless 9-1-1 services they don't get. However, wireless customers will never get enhanced wireless 9-1-1 service if the money isn't there to pay for it. In the past, every county in North Dakota that voted for 9-1-1 wire-line services, did not get the actual service until there was sufficient money accumulated to pay for it.

When this bill was heard by the Senate Appropriations Committee, the wireless industry submitted a number of amendments that were added to the bill. Our preference would be to pass the original bill, without the amendments attached. However, in a continued effort to accommodate the wireless industry, we support Engrossed Senate Bill 2307 with its attached amendments. I welcome any questions you may have at this time.

\*\*\*\*\* DATE: 02/22/99 TIME: 11:00:00 \*\*\*\*\*

9-1-1 CALL INFORMATION — WIRELINE VS. WIRELESS

02525660 00 11:43:03 C00 11:43:08 D00 11:43:16 11:43:16  
(701) 252-5660 BUSN P#252-5660 CENTRAL DAKOTA VILLAGE 203 11:40 02/22  
501 19 ST NE  
OFFICE ND JAMESTOWN  
PSAP=LEC \*\*JAMESTOWN PD\*\*JAMESTOWN FD \*\*JAMESTOWN EMS

02525660 01 11:43:15 C00 11:43:21 D00 11:43:35 11:43:36  
(701) 252-5660 BUSN P#252-5660 CENTRAL DAKOTA VILLAGE 203 11:41 02/22  
501 19 ST NE  
RM OFFICE ND JAMESTOWN  
PSAP=LEC \*\*JAMESTOWN PD\*\*JAMESTOWN FD \*\*JAMESTOWN EMS

WIRELINE

\*\*\*\*\* DATE: 02/22/99 TIME: 12:00:00 \*\*\*\*\*

\*\*\*\*\* DATE: 02/22/99 TIME: 13:00:00 \*\*\*\*\*

\*\*\*\*\* DATE: 02/22/99 TIME: 14:00:00 \*\*\*\*\*

0000 00 14:11:01 C00 14:11:08 C01 14:11:23 T09 14:11:36 D01 14:11:41 D00 14:11:56  
(701) 911-0000 BUSN P#911-0000 ANONYMOUS CALL NO ANI 003 14:08 02/22  
ANI DID  
ORIGINATION UNKNOWN ND E911  
PSAP=\*\*VERIFY\*\*VERIFY\*\*VERIFY

WIRELESS

09110000 00 14:50:10 C00 14:50:17 T09 14:50:39 D00 14:51:04 14:51:06  
(701) 911-0000 BUSN P#911-0000 ANONYMOUS CALL NO ANI 003 14:48 02/22  
ANI DID  
ORIGINATION UNKNOWN ND E911  
PSAP=\*\*VERIFY\*\*VERIFY\*\*VERIFY

\*\*\*\*\* DATE: 02/22/99 TIME: 15:00:00 \*\*\*\*\*

09110000 00 15:31:56 C00 15:32:00 D00 15:32:19 15:32:20  
(701) 911-0000 BUSN P#911-0000 ANONYMOUS CALL NO ANI 003 15:29 02/22  
ANI DID  
ORIGINATION UNKNOWN ND E911  
PSAP=\*\*VERIFY\*\*VERIFY\*\*VERIFY

\*\*\*\*\* DATE: 02/22/99 TIME: 16:00:00 \*\*\*\*\*

**TESTIMONY BEFORE THE COMMITTEE ON  
FINANCE AND TAX OF THE  
NORTH DAKOTA HOUSE OF REPRESENTATIVES**

March 1, 1999

**Senate Bill 2307 – Wireless E911 Service and Fee**

Chairman Belter and Members of the House Finance and Tax Committee:

My name is Jim Blundell and I am Director of External Affairs at Western Wireless Corporation, a Bellevue, Washington company doing business in North Dakota under the brand name Cellular One.

Western Wireless is a cellular and personal communications service (or PCS) carrier specializing in providing high-quality, affordable, and reliable wireless services to subscribers in both rural, high-cost areas and higher density urban areas. Western Wireless currently provides service to more than 1,000,000 subscribers under licenses in North Dakota and 22 other states, covering over 60 percent of the continental United States as well as Hawaii. Western Wireless provides PCS service in 13 markets under the VoiceStream brand name.

Western Wireless opposes Senate Bill 2307. Western Wireless is eager to provide enhanced wireless 911 service to its customers in North Dakota, and I'm sure the counties and emergency telecommunications providers here today are equally eager. Unfortunately, this bill does not establish the framework in which enhanced wireless 911 service can be provided.

Moreover, the bill is a giant tax that raises millions of dollars from the citizens of North Dakota, with minimal assurance that those dollars will be used to defray the costs of E911 which they are intended to defray.

Wireless carriers in North Dakota are preparing to deliver E911 service. Several barriers must first be removed, and one of

them is cost recovery. Senate Bill 2307 provides cost recovery for counties and public service answering points, but absolutely no guaranty of cost recovery for wireless carriers. Unfortunately, even if a PSAP were to request E911, if Senate Bill 2307 passes in its current form, carriers will be precluded from offering it.

Senate Bill 2307 imposes a tax on wireless carriers in the amount of \$1.00 per month. So that the Committee is aware of the relative size of this tax, North Dakota will be tied with Georgia for the highest wireless E911 tax in the country. No other state collects that much. And the fiscal note predicts that this tax will raise \$6 million dollars. Just to place this revenue in perspective, Washington state is considering a tax of 45 cents for 1.2 million wireless customers and the fiscal note is \$8 million. The fiscal note in North Dakota places the price tag at \$6 million for less than 1/4 of the customers.

Senate Bill 2307 combines a massive fiscal impact, a lack of cost recovery, creating a risk that \$6 million in state taxes will be collected from the taxpayers of North Dakota, and the taxpayers will not get the E911 services they expect. For these reasons, we oppose Senate Bill 2307, unless improving amendments can be made.

We would suggest that North Dakota go the way of several other states and conduct an interim study of wireless E911 service and funding. We believe the state and its citizens would benefit considerably by a study.

Chairman Belter and Members of the House Finance and Tax Committee, thank you for your time this morning on this important subject. We would be delighted to work with the committee on these and other issues. I am available for any questions you might have. On behalf of Western Wireless and Cellular One, I request that you vote for a **DO NOT PASS** on Senate Bill 2307, as it is currently written. Thank you.

March 1, 1999

Submitted by  
Jerry Manschke

Chairman Belter  
House Finance and Taxation Committee

Re: Testimony in opposition to ENGROSSED SB 2307


Dear Chairman Belter and Committee Members:

There were some factual errors in the testimony presented in opposition to ENGROSSED SB 2307. Please consider these clarifications/corrections before voting on the bill.

1. The wireless industry representatives implied they did not get an adequate chance to present their amendments in the Senate. The ND 9-1-1 Association has never been provided with copies of their proposed amendments prior to their submission to the Senate Committees. In reviewing them after the fact we found that all of their proposed amendments have been submitted either orally (the IBL committee) and in writing to the Senate Appropriations Committee. Again, the ND 9-1-1 Association was not provided with copies of the amendments presented to you this morning; however, based on the industry testimony, the amendments are the same ones that were rejected by the ND 9-1-1 Association, the ND Association of Counties, and by the Senate.
2. The wireless industry representatives testified that Burleigh County was only collecting \$.50/month on the wireline phone bills. Actually Bismarck and Burleigh County have been collecting \$1.00 since 1995. To the best of our knowledge, the counties charging less than \$1.00/month are Adams County, Cass County, Slope County, Morton County, Grand Forks County, Hettinger County, Bowman County, and the City of Fargo
3. The fiscal note presented in the Senate is based purely on a "guess" regarding the number of cellular phones in the State (260,000). The estimate was made by a member of the ND 9-1-1 Association in one of our earlier meetings with the wireless industry. The wireless industry has refused to provide actual numbers for a more accurate estimation.
4. The wireless industry suggested a study be conducted to identify possible new efficiencies in the delivery of 9-1-1 service. A statewide study was conducted at the request of the legislature in 1995. Our current system is based on the recommendations made from that study.
5. The wireless industry's testimony did not allow consideration for costs to modify existing 911 equipment and other associated costs within the communications centers.

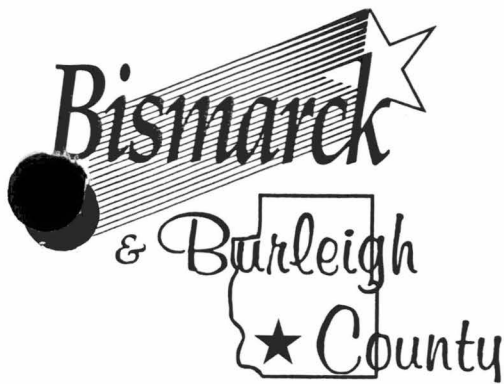
Thank you for your careful consideration in this matter.

Sincerely,

  
Jerry Bergquist and Pete Eggimann  
Co-Chairs of the ND 911 Association  
Legislative Issues Subcommittee



cc: John Dorso



## Emergency Management & Combined Communications

700 S. 9th St.

Bismarck, ND 58504-5821

Phone: 701-222-6727

FAX: 701-221-6804

Representatives:

Wes Belter	Ray Wikenheiser
Earl Rennerfeldt	Rod Froelich
Byron Clark	Joe Kroeber
Bette Grande	Arlo Schmidt
Mick Grosz	John Warner
Gil Herbel	Lonny Winrich
Stacey Mickelson	Dennis Renner
Gene Nicholas	

Please refer to SB2307 which adds a \$1.00 per month service fee to cell phone owners. Some people prefer to call it a tax. It is placed on the owner of the cell phone – not on the cell companies.

Line phone users have been paying for 9-1-1 service for many years and cell phone users receive the service free. 9-1-1 equipment is very expensive therefore these funds are in heavy demand. It is only fair that everyone who uses 9-1-1 pay their fair share.

We do not have excess dollars in our 9-1-1 account. These accounts are carefully watched by County Commissioners, User Boards and States Attorneys.

Cell phones are a small percentage of total phones today. We think this ratio is about one in five (20%). Cell phones do not provide us with number and location identification therefore they create extra effort for the customer and our center. The new service fee will help solve the problem.

Cell phone companies advertise 9-1-1 and I sincerely believe that their customers expect this service and are willing to pay a small fee to support it.

Please vote “YES” for SB2307. It’s a matter of fairness.

Sincerely  
Jerry Marschke  
9-1-1 Coordinator  
Bismarck, ND 58504 222-6727  
222-6727



# VOTE "YES" FOR SB2307

## Support 911 Wireless Legislation

Current **wireline** info. received by a 911 Center.

1999/03/15

(701)222-6727 CNTX 03/10 12:00  
 BISMARCK CITY OF  
 700  
 9 ST S

E911 DISPATCH CENTER  
 ND BISMARCK

PSAP=BIS

BISMARCK PD  
 BISMARCK FD  
 METRO AMB

Current **wireless** info. received by a 911 Center.

1999/03/15

(701)911-0000 BUSN 03/09 12:00  
 ANONYMOUS CALL NO ANI  
 ANI DID  
 ORIGINATION UNKNOWN

ND E911

PSAP=

VERIFY  
 VERIFY  
 VERIFY

### Wireline

Receive Automatic Number Information (ANI) for call back.

Receive Automatic Location Information (ALI).

Indicates appropriate responders to send.

\$1 fee in 46 of the 53 counties.

### Wireless

Receive pseudo number, unable to call back.

Receive no address. Rely on information provided by the caller.

Dispatcher verifies location and determines responders based on caller information.

No fee.

**Supporting Information:** The number of wireless calls has been rapidly increasing across the State (30-40% in some counties). Senate Bill 2307 would place a tax on wireless devices to accommodate the technological change in telecommunications as utilized by the citizens while eliminating the fee inequity between wireline and wireless devices. The moneys collected from wireline phones supports the purchase of equipment, database services, telephone line charges, training, and may also support personnel to implement, maintain, and operate the system. The proposed \$1 fee on wireless devices would support FCC regulations by providing the wireless caller's direct number and the location of the cell site transmitting the call. In the future, it would also support the capability to identify the location of a wireless device. The wireless fee would also help compensate equipment, database services, wireless carrier fees, training, and may also support personnel to implement, maintain, and operate similar to landline.

**TESTIMONY TO THE  
HOUSE FINANCE & TAXATION COMMITTEE**

**Prepared March 1, 1999 by the  
North Dakota Association of Counties  
Terry Traynor, NDACo Assistant Director**

**Concerning Senate Bill No. 2307**

Thank you Chairman Belter and members of the Committee for the opportunity to begin the explanation of Senate Bill 2307, and to present the strong support of counties and county officials. We believe that this is a very important piece of legislation because it addresses equity, and more importantly, because it addresses public safety.

In 1985, this Assembly first passed legislation authorizing cities and counties to place before their local voters, ballot questions regarding 911 fees on standard phone lines. Since that time we have seen 911 services expand to where this summer it is expected that the 24 Public Safety Answering Points (PSAPs) will cover 95% of the land area and close to 99% of the regular phones in the State. Locally enacted fees, ranging from 30-cents per phone per month in Fargo to \$1 per phone per month in most of the rest of the State, fund these services.

This bill would create a similar fee statewide, for all two-way, wireless communication services. Section 1 of the bill defines these services and identifies the issue this fee is to address. Sub-section 3 of this first Section defines Enhanced 911 wireless service, which is the ultimate ability for emergency service dispatchers to locate a cellular 911 call geographically, with sufficient detail to respond to an emergency. Right now, the number of 911 calls coming from cellular phones into many emergency centers is approaching 30-40%. I will leave to a 911 Coordinator to explain the problems that result from these calls without location information, but through this legislation we hope to fund the solution to those problems. The sample of 911 budgets attached however clearly shows that the "land-line" fees are insufficient to cover current costs, and property taxes are picking up the burden.

Although the wireless industry has some disagreements with our approach to this legislation, we met with them prior to the Session and this bill contains a number of compromises that were made to address their concerns. The first compromise is the statewide nature of the fee. Due to the peculiarities of the wireless industry, we were asked to draft this as a statewide, centrally collected fee. Section 2 of the bill creates this fee and places the collection with the State Tax Department, granting the Department the authority to direct its administration.

The sub-sections that follow allow the wireless providers to retain 2% of the fee for their costs of collection (sub-section 2), and 1% for the State Tax Department for its administrative efforts (sub-section 4). The 2% figure was arrived at in discussions with the industry and it corresponds to the current arrangements with the land-line carriers. The 1% was suggested by the Tax Department.

Sub-section 5 directs that the remaining funds be placed in a special Wireless 911 Service Fund. Section 3 of the bill describes the allocation of the revenue in this fund. This area was also one of some compromise with the industry, however our bill was introduced to preserve local governments' ultimate discretion on how the revenue is used to accomplish enhanced wireless 911 service. County officials and some of our Legislative sponsors could not support the industry's request that a significant portion of the revenue be transferred back to the private companies for their infrastructure costs. We believe that such a provision would have created an inequity with the land-line providers that were given no such guarantee. At the request of the industry, the Senate Appropriations Committee did amend the bill to require contracts with the wireless providers, increasing the restrictions on local government's use of this funding.

In the Senate, industry representatives suggested additional amendments that rebated 47% of the funds back to the wireless carriers, claiming that the federal FCC order addressing wireless 911 requires that funds be guaranteed to the industry. The order however only requires that 911 agencies have a means to reimburse those wireless companies if they are requested to provide services or improve technologies for enhanced wireless 911. We believe this bill provides that mechanism. We strongly oppose further amendments creating a state appropriation of funds directly to these private companies.

Sub-section 1 of section 3 allocates 25% of the revenue in the fund to the 24 public safety answering points or PSAPs, in equal shares. This revenue would flow as soon as the law became effective, and would begin to address the costs of responding to the wireless 911 calls now coming in.

Sub-section 2 will escrow the remaining 75%, to be released once a PSAP begins to implement the agreements, procedures, and technologies that are necessary to locate a wireless caller. As amended by the Senate Appropriations Committee, these agreements must be with the wireless providers. At that time the local governing bodies will individually agree to pay wireless providers for their services and to support their infrastructure, at the level that is necessary to achieve Enhanced 911 Service. This 75%, rather than in equal

shares, would be distributed to the cities and counties involved in PSAP's based upon population. Just as with land land-line provisions, allowing 911 agencies to collect revenue for two years, prior to implementation, this bill will keep 75% of the funds in escrow until they can afford to implement these enhanced services. Table 2 illustrates our estimation of the distribution of this 75%, based on 100,000 wireless devices.

The remainder of the bill contains corrections to ensure that both land-line and wireless services are both included, and the new language of Section 5 and 6 is there primarily at the request of the industry. Section 5 and sub-section 5 of Section 6 were offered to provide some protection for the information the industry feels must not be disclosed for competitive purposes. Sub-section 4 of Section 6 limits the industry's liability for giving phone numbers and names to the PSAP.

I hope my testimony has provided an adequate explanation of the bill and a clear indication of the strong county support that exists for its passage. Several city and county officials would like to express their support, and briefly describe why such legislation is so important. I will however, attempt to answer any questions you may have. I would like to end however by saying that county government would greatly appreciate your support of Senate Bill 2307.

**SAMPLE OF CURRENT E911/EMERGENCY MANAGEMENT BUDGETS**  
**Budgets are 1998 Expenses for all Staff, Operating, & Equipment Costs Unless Noted**

	Unit's E911 Expenses	"Land-line" Excise Tax Revenue	Revenue over (under) Expenses
1 Wells County - Part of State PSAP	44,890	38,400	(6,490)
2 Pembina County PSAP	62,025	55,000	(7,025)
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4 Walsh County PSAP	107,534	77,457	(30,077)
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6 Stutsman County PSAP	275,000	66,994	(208,006)
7 Morton County PSAP	341,107	72,000	(269,107)
8 City of Minot/Ward County PSAP	403,074	-	(403,074)
9 Grand Forks City/County PSAP	970,324	183,264	(787,060)

**Notes:**

2. Pembina figures are the approved CY99 budget, but do not include 5 dispatchers in the Sheriff's budget totally funded with other sources.
3. Pierce data is for 2 years due to large capital costs in 1997 - does not include dispatchers which are totally funded with other sources.
5. Lake Region data is the approved 1999 budget.
8. City of Minot/Ward County PSAP is totally funded with local property tax revenue

**PROJECTED ALLOCATION OF E911 WIRELESS REVENUE**  
Based on 100,000\* Wireless devices

200,000 Devices @ \$1/month Would Generate \$1,200,000

25% of the Funds to be distributed to the operating PSAPs in equal shares

(By August 1, 1999 there is estimated to be 24 PSAPs - They would receive \$12,500 each)

75% of the Funds to be escrowed and distributed based upon population

(Once implementation of enhanced 911 wireless begins)

County	1990 Census	Estimated Share of 75%
Adams	3,174	\$ 4,529
Barnes	12,545	\$ 17,899
Benson	7,198	\$ 10,270
Billings	1,108	\$ 1,581
Bottineau	8,011	\$ 11,430
Bowman	3,596	\$ 5,131
Burke	3,002	\$ 4,283
Burleigh	60,131	\$ 85,792
Cass/Fargo	90,587	\$ 129,245
West Fargo	12,287	\$ 17,531
Cavalier	6,064	\$ 8,652
Dickey	6,107	\$ 8,713
Divide	2,899	\$ 4,136
Dunn	4,005	\$ 5,714
Eddy	2,951	\$ 4,210
Emmons	4,830	\$ 6,891
Foster	3,983	\$ 5,683
Golden Valley	2,108	\$ 3,008
Grand Forks	70,683	\$ 100,847
Grant	3,549	\$ 5,064
Griggs	3,303	\$ 4,713
Hettinger	3,445	\$ 4,915
Kidder	3,332	\$ 4,754
LaMoure	5,383	\$ 7,680
Logan	2,847	\$ 4,062
McHenry	6,528	\$ 9,314
McIntosh	4,021	\$ 5,737
McKenzie	6,383	\$ 9,107
McLean	10,457	\$ 14,920
Mercer	9,808	\$ 13,994
Morton	23,700	\$ 33,814
Mountrail	7,021	\$ 10,017
Nelson	4,410	\$ 6,292
Oliver	2,381	\$ 3,397
Pembina	9,238	\$ 13,180
Pierce	5,052	\$ 7,208
Ramsey	12,681	\$ 18,093
Ransom	5,921	\$ 8,448
Renville	3,160	\$ 4,509
Richland	18,148	\$ 25,893
Rolette	12,772	\$ 18,223
Sargent	4,549	\$ 6,490
Sheridan	2,148	\$ 3,065
Sioux	3,761	\$ 5,366
Slope	907	\$ 1,294
Stark	22,832	\$ 32,576
Steele	2,420	\$ 3,453
Stutsman	22,241	\$ 31,732
Towner	3,627	\$ 5,175
Traill	8,752	\$ 12,487
Walsh	13,840	\$ 19,746
Ward	57,921	\$ 82,639
Wells	5,864	\$ 8,366
Williston City	13,131	\$ 18,735
	630,802	\$ 900,000

\* More than 100,000 wireless devices may be in operation but due to industry confidentiality a number is not available

# Grand Forks County PSAP

## Costs for Enhanced Wireless 911 Service

### (PSAP Costs Only)

The costs are based on the assumption the wireless companies will integrate their equipment with the existing 911 network and deliver the information through the existing network equipment.

Cost Estimate:                    \$62,000      One-time Install  
   \$12,370/year Ongoing Expense

911 Controller Upgrade	\$0.00*
Digital Map	\$45,000.00
Map to CAD Interface	\$5,000.00
Map Workstations (4 @ \$3,000)	\$12,000.00
Software Maintenance	\$6,000.00
MSAG (addressing) updates/corrections (350 hours @ \$18.20)	\$ 6,370.00

\*The 911 equipment at Grand Forks was all replaced following the 1997 flood.

We believe the only changes we will need to make will be some minor software upgrades.

# Burleigh County PSAP

## Costs for Enhanced Wireless 911 Service

	Yearly	Cellular Usage	
Console Upgrade (\$50,000), 5-year life	\$ 10,000.00	25%	\$ 2,500.00
Software Maintenance Contract	\$ 15,232.00	25%	\$ 3,808.00
Frame Relay Charges	\$ 6,840.00	25%	\$ 1,710.00
State Interface Monthly Service Fee	\$ 720.00	25%	\$ 180.00
	\$ 32,792.00		\$ 8,198.00
	One-Time Fee		
Digital Acceptance per Console	\$ 4,100.00	25%	\$ 1,025.00
Digital Recorder	\$ 39,204.80	25%	\$ 9,801.20
Computer Aided Dispatch and Related Equipment	\$ 300,000.00	25%	\$ 75,000.00
Centracom Gold Update	\$ 22,161.62	25%	\$ 5,540.41
GPS Mapping and Address Correlation	\$ 10,000.00	25%	\$ 2,500.00
State Interface	\$ 19,444.60	25%	\$ 4,861.15
	\$ 394,911.02		\$ 98,727.76

NOTE: This is a sample estimate only which may not include all incurring costs.

## Stark County PSAP

Dispatch Telephone Equipment	\$ 62,000.00
Yearly Maintenance	\$ 10,000.00
Dispatch Radio Equipment	\$ 32,000.00
Digital 911 Mapping and Interface	\$ 49,000.00
License and Upgrade Workstations (4 @ \$4,000)	\$ 16,000.00
Software Maintenance	\$ 4,000.00
MSAG Maintenance	\$ 3,000.00

Dispatch equipment upgrade forthcoming  
1999 due to Y2K issues.





Richard C. Nelson  
Director  
Government Relations

AirTouch Cellular  
One California Street, 29th Floor  
San Francisco, CA 94111

Telephone: 415 658-2059  
Facsimile: 415 658-2283

March 10, 1999

Representative Mick Gross  
House Finance and Taxation Committee  
House of Representatives  
Bismarck, ND

*Presented  
3-24-99*

Dear Representative Gross:

I very much appreciated the opportunity to testify before your committee on AirTouch's concerns regarding SB 2307. AirTouch believes that if the bill was amended as we proposed and the fee reduced to a more reasonable level then deployment of Phase I of wireless enhanced 911 service could move forward. I am also writing to respond to your request for more information regarding the location technology which may be deployed for Phase II.

There are two different approaches that wireless carriers may utilize to meet the location requirements of Phase II. One is a Global Positioning System ("GPS") handset-based solution. Under this approach the handset would incorporate a GPS receiver (perhaps, a chip in the phone) into the wireless telephone. The GPS device would receive transmissions from several satellites and perform triangulation calculations to generate location information of the unit. This information, most likely in latitude/longitude format, would be sent over the wireless network to a central processor at the Mobile Telephone Switching Office (MTSO), the wireless equivalent of a local exchange company's central office.

The second solution is a network-based solution, commonly referred to as facilities-based. Location finding equipment (LFE) would be placed into each network cell site and a central processor would be located at the MTSO. Although calls from wireless phones are normally handled by the cell site with the best signal, wireless phone transmissions are typically received by multiple sites. The LFE at these sites would gather information and forward it to the central processor located at the MTSO. The central processor would perform triangulation calculations to determine the location of the phone. The location would be expressed either in latitude/longitude or X-Y coordinates. Once the location information is obtained, via either GPS or LFE, it can be forwarded on to the appropriate public safety entity. Typically either the PSAP or a Value Added Service Provider would translate the location coordinates into a usable map location. Regardless of the approach employed by the wireless carrier, Phase II location determining technology will be an overlay to Phase I (i.e., identification of the wireless caller's phone number and cell site address).

The wireless industry is working with multiple manufacturers to develop the technology to meet the requirements of Phase II. We are confident that this technology will be available to enhance the public safety and welfare within the next two to three years.

I hope that this information addresses your questions. Again, thank you for allowing me to share AirTouch's suggestions on how SB 2307 could be improved to deliver the benefits of wireless enhanced 911 service.

Very truly yours,

*Richard C. Nelson*  
Richard C. Nelson *by Thomas Nelson*

**TESTIMONY TO THE  
HOUSE APPROPRIATIONS COMMITTEE  
Prepared March 29, 1999 by the  
North Dakota Association of Counties  
Terry Traynor, NDACo Assistant Director**

**Concerning Engrossed Senate Bill No. 2307**

Chairman Dalrymple and members of the Committee, thank you for the opportunity to begin the explanation of Senate Bill 2307, and to present the strong support of counties and county officials. We believe that this is a very important piece of legislation because it addresses equity, and more importantly, because it addresses public safety.

In 1985, this Assembly first passed legislation authorizing cities and counties to place ballot questions before their local voters, regarding 911 fees on standard phone lines. Since that time we have seen 911 services expand to where this summer it is expected that the 24 Public Safety Answering Points (PSAPs) will cover 95% of the land area and close to 99% of the regular phones in the State. Locally enacted fees, ranging from 40-cents per phone per month in Fargo to \$1 per phone per month in most of the rest of the State, fund these services.

This bill would create a similar fee, statewide, for all two-way, wireless communication services. As passed by the Senate this bill created a \$1 per phone per month fee, but the House Finance and Taxation Committee amended this fee to 25-cents. Section 1 of the bill defines these services and identifies the issue this fee is to address. Sub-section 3 of this first Section defines Enhanced 911 wireless service, which is the ultimate ability for emergency service dispatchers to locate a cellular 911 call geographically, with sufficient detail to respond to an emergency. Right now, the number of 911 calls coming from cellular phones into many emergency centers is approaching 30-40%. The problems that result from calls without location information can be easily imagined, and through this legislation we hope to fund the solution to those problems. The sample of 911 budgets attached however clearly shows that the "land-line" fees are insufficient to cover current costs, and property taxes are picking up the burden. As we move to locate these callers, these costs will only increase.

Although the wireless industry has some disagreements with our approach to this legislation, we met with them prior to the Session and this bill contains a number of compromises that were made to address their concerns. The first compromise is the statewide nature of the fee, and the reason the bill is before this Committee. Due to the peculiarities of the wireless industry, we were asked to draft this as a statewide, centrally collected fee. Section 2 of the bill creates this fee and places the collection with the State Tax Department, granting the Department the authority to direct its administration.

The sub-sections that follow allow the wireless providers to retain 2% of the fee for their costs of collection (sub-section 2), and 1% for the State Tax Department for its administrative efforts (sub-section 4). The 2% figure was arrived at in discussions with the industry and it corresponds to the current arrangements with the land-line carriers. The 1% was suggested by the Tax Department.

Sub-section 5 directs that the remaining funds be placed in a special Wireless 911 Service Fund. Section 3 of the bill describes the allocation of the revenue in this fund. This area was also one of some compromise with the industry, however our bill was introduced to preserve local governments' ultimate discretion on how the revenue is used to accomplish enhanced wireless 911 service. County officials and some of our Legislative sponsors could not support the industry's request that a significant portion of the revenue be transferred back to the private companies for their infrastructure costs. We believe that such a provision would have created an inequity with the land-line providers that were given no such guarantee. At the request of the industry, the Senate Appropriations Committee did amend the bill to require contracts with the wireless providers, increasing the restrictions on local government's use of this funding.

Both the Senate and the House Finance and Taxation Committee rejected industry amendments that rebated 47% of the funds back to the wireless carriers. It was claimed that the federal FCC order addressing wireless 911 requires that funds be guaranteed to the industry. The order however only requires that 911 agencies have a means to reimburse those wireless companies if they are requested to provide services or improve technologies for enhanced wireless 911. We believe this bill provides that mechanism. We strongly opposed (and still oppose) further amendments creating a state appropriation of funds directly to these private companies.

Sub-section 1 of section 3 allocates 25% of the revenue in the fund to the 24 public safety answering points or PSAPs, in equal shares. This revenue would flow as soon as the law became effective, and would begin to address the costs of responding to the wireless 911 calls now coming in.

Sub-section 2(a) escrows the remaining 75%, to be released once a PSAP begins to implement the agreements, procedures, and technologies that are necessary to locate a wireless caller. As amended by the Senate Appropriations Committee, these agreements must be with the wireless providers. At that time the local governing bodies will individually agree to pay wireless providers for their services and to support their infrastructure, at the level that is necessary to achieve Enhanced 911 Service. This 75%, rather than in equal shares, would be distributed to the cities and counties involved in PSAP's based upon population. Similar to current land line provisions that allow 911 agencies to collect revenue for two years prior to implementation, this bill escrows 75% of the funds until the PSAPs can afford to implement these enhanced services. Table 2 illustrates our estimation of the distribution of this 75%, based on the current language of the bill and the 260,000 wireless devices estimated by the Tax Department.

Subsections 2(b) and (c) were amended into the bill by the House Finance and Taxation Committee, and I would like to briefly comment on those changes. Subsection 2(b) provides an 18-month "window" during which the PSAP's must begin implementation of the enhanced wireless services, otherwise the escrowed funds must be returned to the provider and ultimately the customer. While we strongly agree that if the services are not developed, the funds should be returned; the deadlines coupled with the dramatically reduced fee, may give some of our PSAP's insufficient time to escrow enough revenue to begin. Subsection 2(c) requires the Tax Commissioner to reduce the fee to "reflect the funds returned in subsection b. Unfortunately, this subsection, does not change the distribution of the revenue and sets in place a process of annual, can continued reductions to the fee, even if all but one PSAP has begun implementation. While we continue to urge passage of the bill, we are hopeful that these amendments can be improved and the fee can be raised.

The remainder of the bill contains corrections to ensure that both land-line and wireless services are both included, and the new language of Section 5 and 6 is there primarily at the request of the industry. Section 5 and sub-section 5 of Section 6 were offered to provide some protection for the information the industry feels must not be disclosed for competitive purposes. Sub-section 4 of Section 6 limits the industry's liability for giving phone numbers and names to the PSAP.

I hope my testimony has provided an adequate explanation of the bill and a clear indication of the strong county support that exists for its passage. I will attempt to answer any questions you may have. I would like to end however by saying that county government would greatly appreciate your support of Senate Bill 2307.

**SAMPLE OF CURRENT E911/EMERGENCY MANAGEMENT BUDGETS**  
**Budgets are 1998 Expenses for all Staff, Operating, & Equipment Costs Unless Noted**

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**Notes:**

2. Pembina figures are the approved CY99 budget, but do not include 5 dispatchers in the Sheriff's budget totally funded with other sources.
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5. Lake Region data is the approved 1999 budget.
8. City of Minot/Ward County PSAP is totally funded with local property tax revenue

**PROJECTED ALLOCATION OF E911 WIRELESS REVENUE  
Based on 260,000\* Wireless devices**

260,000 Devices @ \$0.25/month would generate \$780,000

25% of the Funds to be distributed to the operating PSAPs in equal shares

(By August 1, 1999 there is estimated to be 24 PSAPs - They would receive \$8,125 each)

75% of the Funds to be escrowed and distributed based upon population

(Once implementation of enhanced 911 wireless begins)

County	1990 Census	Estimated Share of 75%
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Walsh	13,840	\$ 12,835
Ward	57,921	\$ 53,715
Wells	5,864	\$ 5,438
Williston City	13,131	\$ 12,178
	630,802	\$ 585,000

\* The number of wireless devices is estimated - due to industry confidentiality a number is not available

# CELLULARONE

April 8, 1999

4417 13<sup>th</sup> Avenue SW  
Fargo, ND 58103  
Phone (701) 281-2800  
Fax (701) 281-2778

Fax Memo To: Jessica Karley  
Fax # 701-328-2872

RE: E911 Bill

Jessica,

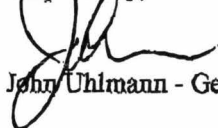
As a follow up to our discussion this morning following are the concerns we have regarding the current E911 Bill. Currently the bill is asking for a tax per line of \$1.00 which is not acceptable to the industry.

We believe the tax is excessive and should be in the .25 cents range or not at all until a clear appropriations and need for the additional tax is justified and specific allocation of the money is determined.

The additional tax burden this places on wireless users is excessive particularly for large companies and large agricultural farming operations with multiple phones currently in use.

If I can be of any further assistance to you please don't hesitate to contact me on 701-281-2800.

Respectfully,



John Uhlmann - General Manager Cellularone