

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1257

2005 HOUSE FINANCE AND TAXATION

HB 1257

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1257**

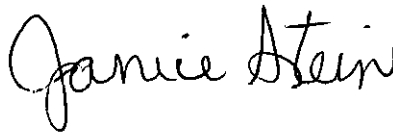
House Finance and Taxation Committee

Conference Committee

Hearing Date **January 18, 2005**

Tape Number	Side A	Side B	Meter #
1		X	2.4

Committee Clerk Signature



Minutes:

**REP. WES BELTER, CHAIRMAN** Called the committee hearing to order.

**REP. TODD PORTER, DIST. 34, MANDAN** Introduced the bill. Stated during the off season, one of his responsibilities in Bismarck and Burleigh County is to chair the 9 1 1 user board, which is comprised of the users of the 9 1 1 system. It is a board that oversees the operations of not only 9 1 1, but the communications. Some of the members of the board are the police chief, the sheriff, rural fire department, city fire department, ambulance services, emergency management, etc. During some of our meetings we discussed and looked at some of the situations that are happening with technology and taxing. One of the things that came up, we dealt with the automatic notification situation. Some companies are selling prepaid services for cell phones. By doing that, they do not have an actual subscription to a cell phone carrier. They are avoiding the cell phone tax which we have in place in the state. This bill closes that loop hole to avoiding that tax. It makes those companies pay the tax.

**REP. DROVDAL** Do you envision this bill to say, I buy a prepaid plan at whatever rate the county has set on the 9 1 1 service be charged per phone, by the minutes, would you envision this to be per plan sold?

**REP. PORTER** I think from the actual collection procedure that is spelled out in section 2, I will let Mr. Dannenfelzer go through that.

**MIKE DANNENFELZER, MANAGER OF THE BISMARCK/BURLEIGH, COMBINED COMMUNICATIONS CENTER** Testified in support of the bill. See attached written testimony.

**REP. IVERSON** This was a tax that was paid by the prepaid, then the attorneys decided it didn't meet the definition, and now are not currently remitting the tax that they are supposed to pay?

**MIKE DANNENFELZER** Yes, that is correct. It became a national issue with a couple of companies. We determined that it is best to go through our attorneys, and since there was some question as to whether they were right or not, now was the time to tackle that issue.

**REP. BELTER** Does a prepaid wireless service work almost identical to buying a long distance calling card?

**MIKE DANNENFELZER** My understanding of the prepaid wireless industry is, you buy a phone, whether you buy it from K-mart, Target or go to the Verizon store to get a phone. You have that activated, then you can buy X number of minutes which are good for sixty days. At the end of the sixty day period, if you have not reupped your minutes, your service is void.

**REP. BELTER** If I have Verizon and my contract runs out, or I just quit paying the bill, I could buy one of these cards, and continue to use my telephone?

**MIKE DANNENFELZER** I believe you would have to have it reactivated under a prepaid plan, and then you have to recharge on a basis of sixty days, if you have minutes unused in sixty days, you reup, which kind of sets into play, the tax collection, which they are able to track the minute usage.

**REP. BRANDENBURG** Related to roaming charges, do you understand how that works?

**MIKE DANNENFELZER** Stated he would not speak on behalf of the wireless companies, related to his own experiences, stating the coverage shown on the map, is not necessarily the coverage you are going to get when you travel.

**REP. OWENS** Related to Section 2, some of those prepaid cards you passed around, are from providers who are not in North Dakota, I am curious about buying a prepaid plan on the internet, will this section cover that?

**MIKE DANNENFELZER** Speaking to the issue of the internet, they would have an associated area that they will be operating through carrier needs. Looking at the map that is available on the internet, they do indicate that they have roaming areas in North Dakota. My assumption is, they do have agreements with current carriers in North Dakota. The way most of these work, they have two units instead of one unit for roaming users. I am not clear how they do that.

**REP. WRANGHAM** Is the one dollar per month tax we pay now, is that figured when I purchase the phone, or when I purchase the minutes?

**MIKE DANNENFELZER** When you sign a contract, as it is today, no matter if it is prepaid or not, the provider will determine a charge, whether or not they will charge additional money, then pay that to the county or city, whoever is collecting.

**REP. WRANGHAM** The provider is who, the person who sells me the minutes, or the person that sells me the phone?

**MIKE DANNENFELZER** The provider is the person you have the service through. If you have a track phone, it is a provider even though they are roaming on someone else's network, it is not the network they are roaming on, it would be the track phone as the provider.

**REP. WRANGHAM** How is track phone going to know if I purchased any minutes in a month?

**MIKE DANNENFELZER** They have the ability to track that.

**REP. WRANGHAM** If I take a contract for a phone for six months, and they don't know if I will actually use it for six months, or for five minutes or two months, do we have to assume that they will charge the dollar per month for six months up front?

**MIKE DANNENFELZER** I wouldn't take a guess if they are going to charge back the dollar to the consumer, that is an issue for them. The way this is written, if it is known by the provider, that they have a balance useage of the phone, in month number one, you have to submit a dollar to the requesting jurisdiction. If you still have a balance of minutes the next thirty day period, you have to submit another dollar. If you reup your minutes, and you have an additional month, or additional minutes of service, it will continue on a monthly basis.

**REP. IVERSON** When you buy these track phone cards, it is very much like buying a phone card, they activate when you purchase it, that's how they know how much minutes you have, and that's when the fees are taken out of it.

**REP. GRANDE** I have a cell phone, and I know I am coming to the end of my minutes, if I buy one of these cards, I punch that in, I already paid one dollar per month for the phone, now I have to pay a dollar more to use the card?

**MIKE DANNENFELZER** If you have a cellular service through a carrier, I do not think they have anything offered today which would allow you to buy a card to have more minutes to your two year cellular plan. If you choose to go prepaid, and you are buying additional minutes as you need them. I see it as, if I have a teenager, I am giving them a prepaid, because I don't want them going over on their minutes.

**REP. GRANDE** As I look at this bill, the idea behind paying this dollar is the 9 1 1 call, my concern is I don't have 9 1 1 service as I drive down Hwy. 94 right now, so I am not sure I want to keep paying for it, until I can have service all the way down the highway. My dead spots are what bother me.

**MIKE DANNENFELZER** I cannot comment on the coverage, or what is provided by the carriers.

**GARY KOSTELECKY, STARK COUNTY, 9 1 1 DIRECTOR, DICKINSON** Testified in support of the bill. See attached written testimony.

**SUSAN REINERTSON, DEPUTY DIRECTOR, NORTH DAKOTA DIVISION OF EMERGENCY MANAGEMENT.** Testified in support of the bill. See attached written testimony.

With no further testimony, the committee hearing was closed.

**COMMITTEE ACTION** Tape #2, Side B, Meter 23.9

**REP. OWENS** Related an experience he has with cell phone plans, and how the dollar is due as long as you have minutes left on your phone plan.

**REP. WRANGHAM** Questioned whether the dollar is triggered by the minutes in your plan.

**RICK CLAYBURGH** Answered questions from the sidelines. Stating if you buy a phone, no matter from where, that is the time the transaction occurs between the consumer and the merchant, unless it runs out of minutes, that would be the next opportunity in which tax could be addressed somehow.

**REP. DROVDAL** Asked whether we are asking the retailer to collect this tax, or who will remit it.

**TERRY TRAYNOR** Returned to answer some of the questions. He stated the law says the service provider pays the tax. They have to build it in their rates. As long as a prepaid card is still alive, you pay another dollar for the month. Every time you recharge that card, there is an expiration date.

**REP. HEADLAND** Made a motion for a **DO PASS**.

**REP. IVERSON** Second the motion. **MOTION CARRIED.**

**10 YES      3 NO      1 ABSENT**

**REP. OWENS** Was given the floor assignment.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1257**

House Finance and Taxation Committee

Conference Committee

Hearing Date **February 7, 2005**

Tape Number	Side A	Side B	Meter #
1	X		49.8

Committee Clerk Signature

*Janice Stein*

Minutes:

**COMMITTEE ACTION**

**REP. BELTER** Asked for a motion to reconsider the action by which HB1257 was passed out of committee.

**REP. IVERSON** Made a motion to reconsider the bill.

**REP. OWENS** Second the motion. **MOTION CARRIED BY VOICE VOTE.**

**REP. BELTER** Presented amendments which were prepared for Rep. Kelsch.

**REP. HEADLAND** Made a motion to adopt the amendments, which would make sure somebody pays the one dollar.

**REP. OWENS** Second the motion. Motion carried.

Some of the committee members felt it would probably be harder to audit, with the amendment.

Page 2  
House Finance and Taxation Committee  
Bill/Resolution Number **HB 1257**  
Hearing Date **February 7, 2005**

**REP. HEADLAND** Made a motion for a **do pass as amended**.

**REP. CONRAD** Second the motion. **MOTION CARRIED**.

**9 YES      5 NO      0 ABSENT**

**REP. OWENS** Was given the floor assignment.

**FISCAL NOTE**  
 Requested by Legislative Council  
 02/09/2005

Amendment to: HB 1257

1A. **State fiscal effect:** Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds

Revenues  
 Expenditures  
 Appropriations

1B. **County, city, and school district fiscal effect:** Identify the fiscal effect on the appropriate political subdivision.

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

No data has been collected by State Radio and no estimate of a fiscal impact can be calculated at this time.

3. **State fiscal effect detail:** For information shown under state fiscal effect in 1A, please:

A. **Revenues:** Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

B. **Expenditures:** Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

C. **Appropriations:** Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

**Name:** Ross Mushik  
**Phone Number:** 328-8107

**Agency:** Division of Emergency Management  
**Date Prepared:** 02/10/2005

**FISCAL NOTE**  
 Requested by Legislative Council  
 01/17/2005

Bill/Resolution No.: HB 1257

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

No data has been collected by State Radio and no estimate of a fiscal impact can be calculated at this time.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name: Ross Mushik

Agency: ND Division of Emergency Management

Phone Number: 328-8100

Date Prepared: 01/17/2005



**REPORT OF STANDING COMMITTEE (410)**  
January 18, 2005 4:24 p.m.

**Module No: HR-11-0671**  
**Carrier: Owens**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1257: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO PASS (10 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). HB 1257 was placed on the Eleventh order on the calendar.**



REPORT OF STANDING COMMITTEE (410)  
February 8, 2005 9:35 a.m.

Module No: HR-25-2094  
Carrier: Owens  
Insert LC: 50515.0101 Title: .0200

**REPORT OF STANDING COMMITTEE**

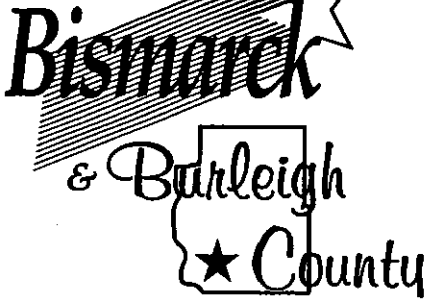
**HB 1257: Finance and Taxation Committee (Rep. Belter, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (9 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1257 was placed on the Sixth order on the calendar.**

Page 3, line 21, after the underscored comma insert "unless the fee is paid by another wireless provider."

Renumber accordingly

2005 TESTIMONY

HB 1257



## Emergency Management & Combined Communications

2301 University Dr., Bldg 21

Bismarck, ND 58504-7595

Phone: 701-222-6727

FAX: 701-221-6804

January 18, 2004                      HB 1257  
House Finance and Taxation Committee  
Honorable Chairman Wes Belter

Mr. Chairman and members of the Committee, for the record my name is Mike Dannenfelzer. I am the Manager of the Bismarck/Burleigh Combined Communications Center. We handle 911 services and public safety communication services for Burleigh County and a portion of McLean County, including the City of Wilton. I am here in support of this bill.

As you recall, just four years ago local governments began extending the 911 fee to wireless communication devices (i.e. cellular phones) to jump start North Dakota on the path of enhancing wireless 911 services and improving our ability to find those in need of emergency services. I stand here now to say that North Dakota serves as an example with its speed and efficiency in deploying wireless enhanced 911.

In 2001, prepaid wireless services were really a new and "rough" option for those wanting a cellular phone but didn't want to be tied into a contract. It didn't seem like the idea would catch on. Well, in just four years prepaid wireless has become a relatively popular option for those wishing to avoid an extended contract and avoid excess minute usage. In fact, with more and more teenagers having phones paid by their parents, what better way to make sure that they manage their usage.

Initially, we received payments from prepaid providers but late 2003 were informed by the companies that they did not meet the North Dakota definition. As they say, if it walks like a duck and quacks like a duck...to me, wireless service is wireless service whether it is through a contract or purchased as prepaid. Realizing that North Dakota was not the only State dealing with the issue I decided to pose the question to our Attorneys. After they had the opportunity to review the issue we agreed that the best way to react to it was to clarify the definitions under the law. That is what this bill does.

The bill creates definitions for "prepaid wireless telephone service," "active prepaid wireless telephone," and also clarifies the procedure for collection. These changes are consistent with the operations of the prepaid industry looking at their calling plans. The purchaser is required by each example company that I have to "reup" or recharge before an expiration date causes their minutes to be forfeited. If the purchaser adds minutes prior to the expiration date, they may continue to use the service as well as carry over the remaining minutes from the prior period.

There are actually several prepaid providers carried by local merchants in North Dakota. This bill does not tie the merchant into anything more than it does today. The collection and remittance would still be the responsibility of the provider. I believe this clarification is important to treat wireless service the same regardless of the package in which it is sold.

Thank you and I will answer any questions you might have.

Mike Dannenfelzer, Communications Manager  
President, Dakota NENA (National Emergency Number Association)

Fifty-ninth  
Legislative Assembly  
of North Dakota

Finance and Taxation  
Committee Members

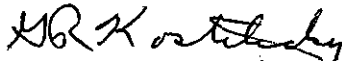
CHAIRMAN BELTER AND MEMBERS OF THE COMMITTEE

MY NAME IS GARY KOSTELECKY, STARK COUNTY 9-1-1 DIRECTOR FROM DICKINSON. I AM IN FAVOR OF HOUSE BILL 1257 BECAUSE, ALTHOUGH WE HAVE MADE MUCH PROGRESS THE PAST FEW YEARS IN UPGRADING OUR STATEWIDE 9-1-1 SYSTEMS, WE COULD NOT FORSEE THE TREMENDOUS AMOUNT OF MONEY THAT A UNIVERSAL SYSTEM WOULD COST AND WE DID NOT KNOW HOW FAST TECHNOLOGICAL CHANGES WOULD OCCUR. WE WERE TOLD BY THE TELE-COMMUNICATION PROVIDERS THAT PRE-PAID CELLULAR SERVICE WOULD PROBABLY NEVER HAPPEN BECAUSE OF THE ADMINISTRATIVE NIGHTMARE THAT IT WOULD TAKE TO TRACK THIS KIND OF SERVICE. THEY SOON REALIZED THAT PRE-PAID SERVICE WAS POSSIBLE AND PROBABLY A SOURCE OF REVENUE, AND TODAY, WE DO HAVE PRE-PAID CELLULAR SERVICE! SINCE THIS SERVICE HAS ACCESS TO THE 9-1-1 NETWORK, IT SHOULD BE REQUIRED TO PAY THE SAME MONTHLY FEE AS OTHER WIRELINE AND WIRELESS SERVICES.

WE ARE STILL TRAVELING AN UNKNOWN ROAD WITH THE CONTINUOUS CHANGES IN THE TELECOMMUNICATIONS WORLD. WE KNOW WE STILL HAVE TO FIGURE OUT A BETTER SOLUTION FOR PBX TELEPHONE

SYSTEMS, VOIP (VOICE OVER INTERNET PROTOCOL) WHERE IT IS POSSIBLE TO CALL 9-1-1 FROM YOUR COMPUTER ANYWHERE IN THE WORLD, AND BE ABLE TO REACH FIRST RESPONDERS WHERE YOU ARE AT, NOT WHERE YOUR HOME OFFICE IS. THERE ARE NEW COMMUNICATION DEVICES INTRODUCED ALMOST DAILY AND WE ARE TRYING TO LOOK AHEAD SO THAT WE CAN MEET THE 9-1-1 CHALLENGES. WE FEEL THAT ANYONE THAT HAS ACCESS TO AND DEMANDS GOOD 9-1-1 SERVICE MUST SHARE IN THE RESPONSIBILITY OF FUNDING IT.

THANK YOU FOR YOUR TIME AND I WILL TRY TO ANSWER ANY QUESTIONS THAT YOU MAY HAVE.

  
GARY KOSTELECKY  
(701) 456-7605  
grkost@state.nd.us

North Dakota

# Division of Emergency Management




JOHN HOEVEN  
GOVERNOR

Maj Gen MICHAEL J. HAUGEN  
ADJUTANT GENERAL

DOUGLAS C. FRIEZ  
STATE DIRECTOR

**To:** Wesley R. Belter, Chair  
Finance and Taxation Committee

**From:** Susan K. Reinertson, Deputy Director 

**Subject:** Testimony on House Bill 1257 – Relating to prepaid wireless telephone tax for emergency services

**Date:** January 18, 2005

Mister Chairman and Members of the Committee:

I am Susan Reinertson, Deputy Director of the North Dakota Division of Emergency Management. I am here today representing the Division and to testify in support of House Bill 1257.

A pre-paid wireless service that is activated by advance payment for a defined amount of time, as a matter of fairness to all wireless users, should be subject to the 911 fee required under NDCC 57-40.6-02 during the time of activation.

Thank you for the opportunity to speak to House Bill 1257 today.