

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2249

2005 SENATE JUDICIARY

SB 2249

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2249

Senate Judiciary Committee

Conference Committee

Hearing Date January 5, 2005

Tape Number	Side A	Side B	Meter #
1	X		4023-4079
Committee Clerk Signature			

Minutes: Relating to restrictions on electronically printed credit card receipts, regulation of home solicitation sales, and prohibited telephone solicitations; penalty

Senator John (Jack) T. Traynor, Chairman called the Judiciary committee to order. All

Senators were present. The hearing opened with the following:

Sen. Nelson made the motion to Do Pass SB 2249 and **Senator Hacker** seconded the motion.

All members were in favor and the motion passes

Carrier: **Sen. Nelson**

Senator John (Jack) T. Traynor, Chairman closed the Hearing

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2249

Senate Judiciary Committee

Conference Committee

Hearing Date February 1, 2005

Tape Number	Side A	Side B	Meter #
1	X		2651 - 4970
Committee Clerk Signature <i>Maria L. Solberg</i>			

Minutes: Relating to restrictions on electronically printed credit card receipts, regulation of home solicitation sales, and prohibited telephone solicitations; penalty.

Senator John (Jack) T. Traynor, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following testimony:

Testimony In Support of the Bill:

Wayne Stenehjem - ND Attorney General - Introduced the bill. (meter 2630) Chief among the problems this bill is designed to address is the growing difficulties of Identity theft. ID Theft is the fastest growing white collar crime in the US. Evidence indicates the 500,000 American this year alone will be will be victims of ID theft. It takes about 600 hours for the average victim to undo the damage that is done. The average perpetrator nets approximately \$40-92 thousand dollars. We need to have legislation in ND to meet the challenge of the originality of the thief. Due to the Internet no one is safe. An operation called dumpster diving-were they literally go into your dumpster for your information. Another new process on the scene is called "phishing".

See Att. #2. It appears to be a "security" type of issue on your computer asking you to confirm you personal information. (meter 2890). 5-10% of emails fall for this trick. The following two bills are to protect you from these scams. Last session we eliminated credit card numbers being on the cash register receipts. We also removed social security numbers off of all documents ie. drivers licenses

Do Not Call loop- hole. We have had 249 calls of violation. We have had 53 do not call investigations. 60% of ND is on the do not call list. ND has one of the best, broadest do not call list in the nation. Federal trade commission used to enforce it for 90 days. The FCC has changed it to 30 days. We would like to track the same time frame of 30 days.

We have fines of \$28,000 against violators.

I.D. theft is more of a violation then steeling a car or a bike. People who have had their ID stolen strongly feel that their privacy has been violated. It is a serious and personal crime. This bill also consolidated venues of counties. The judge can be aware of how far reaching the perpetrators crimes go.

Sen. Trenbeath questioned section 5, is chapter 51-15 some sort of civil remedy? Yes that is the Attorney Generals enforcement for consumer protection violations.

Perrell D. Grossman - Attorney Generals Consumer Protection Division. (meter 3858) Gave testimony - Att. #3. While we have received many calls on this problem we have no penalty for this and this bill will do that.

Sen. Trenbeath asked what the definition of a seller is? They stated that (meter 565) in a context that is being used is a "sales event" even if a sale (exchange of money) does not take place.

Date: 1/5/05
 Roll Call Vote #: 1

**2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. SB 2249**

Senate Judiciary Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Sen Nelson Seconded By Sen. Hacker

Senators	Yes	No	SenatorsSen. Nelson	Yes	No
Sen. Traynor	✓		Sen. Nelson	✓	
Senator Syverson	✓		Senator Triplett	✓	
Senator Hacker	✓				
Sen. Trenbeath	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen Nelson

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

REPORT OF STANDING COMMITTEE (410)
February 1, 2005 10:37 a.m.

Module No: SR-21-1524
Carrier: Nelson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2249: Judiciary Committee (Sen. Traynor, Chairman) recommends DO PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2249 was placed on the
Eleventh order on the calendar.

2005 HOUSE JUDICIARY

SB 2249

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2249

House Judiciary Committee

Conference Committee

Hearing Date 3/8/05

Tape Number	Side A	Side B	Meter #
1	xx		0-2.2
Committee Clerk Signature <i>Shaun Penrose</i>			

Minutes: 12 members present, 2 members absent (Reps. Charging & Onstad).

Chairman DeKrey: Mr. Grossman is here to explain about SB 2249.

Parrell Grossman, AG's Office: I believe at yesterday's hearing on SB 2249, there was some concerns raised about the duplicity of credit card numbers. I wanted to correct any misconceptions in that regard. I spoke to Hugh Jacobson, Director of Card Services at Independent Community Bankers of ND, and ICBND processes credit cards and handles about 20,000 accounts for 48 banks in ND, MN, and SD; he has provided me with some information that I think will be helpful to the committee. There are 16 numbers on the credit card, the first nine digits are of no value to anyone attempting to use the account. If someone otherwise had the first twelve digits of a credit card, there are 9,999 potential combinations for the last four digits. The only numbers that are the same are the first digit on certain credit cards, for instance, Visa uses a 4, MasterCard uses a 5 and Discover uses a 6, etc. So other than the first digits on those credit cards, the numbers would not be the same, and I would just remind the committee that the

last four digits are of no value by themselves. The credit card cannot be used without the expiration date, or the CVV number, a pin number on the back of the credit card, you probably had to provide that number when you purchase over the phone or Internet. There is no risk to a credit card holder, when the last four digits appear on the receipt. We would respectfully request that the committee adopt the proposed amendments to SB 2249, and give this legislation a Do Pass.

Chairman DeKrey: Thank you.

(Reopened later in the same session)

Chairman DeKrey: What are the committee's wishes in regard to SB 2249.

Representative Meyer: I move a Do Pass.

Representative Delmore: Seconded.

12 YES 0 NO 2 ABSENT

DO PASS

CARRIER: Rep. Maragos

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2249

House Judiciary Committee

Conference Committee

Hearing Date 3/7/05

Tape Number	Side A	Side B	Meter #
1	xx		16.5-33.8
Committee Clerk Signature <i>Dawn Penrose</i>			

Minutes: 14 members present.

Chairman DeKrey: We will open the hearing on SB 2249.

Parrell Grossman, Director, Consumer Protection and Antitrust Division, AG's Office:

Support (see written testimony).

Representative Galvin: On the first page of your testimony, on Sections 2, 3, 4, and 5, near the end of the paragraph. It says if the buyer is age 65 or older, and the purchase exceeds \$50, then the seller must provideWhy would you zero in on this particular age.

Parrell Grossman: Because our experiences show that elderly consumers are most vulnerable, in these kinds of tactics and these kinds of sales. So the legislature at the time they enacted this, adopted a provision that would give them some additional time. So if you're less than age of 65 years, then you have three days, but the legislature at that time, felt that elderly consumers should have 15 business days or more. Frankly in the investigations and prosecutions we do under the statute, we find it very helpful, because it is most often a family member, a child

or someone who discovers this after Mom or Dad have been victimized, and it may be a week or more before they bring it to our attention, and we're able to explain to them that they have the 15 day right of cancellation. Frankly, it comes in very handy to have that extended protection for our seniors.

Representative Delmore: I really applaud your office and all that you've done. I've referred people from Grand Forks numerous times and I've never had one that has not been happily pleased at the information you provided and things you've done. How many cases do you have in a typical month.

Parrell Grossman: I'll put it in terms of this, we probably receive between 100-150 telephone calls a day, we handle probably between 1,000-1,200 complaint files and investigation files during a biennium and so, at any one time, each investigator might have 50-75 of these files that he or she are handling. I think a substantial portion of what the AG does, in his Consumer Protection Division, is focus on the elderly, because they are so frequently victimized for sweepstakes, illegal lotteries, solicitations for bogus grants and contracts, where they offer you the chance to get grants, free grants between \$8,000-25,000, merely for paying \$250. We do focus our efforts to protect the elderly consumers, but certainly our elderly consumers are not the only consumers that are victims in this state.

Representative Koppelman: With respect to Representative Galvin's question, I think we all applaud what you're attempting to do there, but do you run into, run afoul of any constitutional issues, when you say we're going to protect the 65 year old this way, and a 64 year old doesn't get that same level.

Parrell Grossman: I have never had that issue raised. It's an interesting point, but I think it would withstand judicial scrutiny, because of the state's ability to provide additional protections for its most vulnerable citizens.

Representative Koppelman: Beyond that, if I'm understanding you correctly, in the area regarding credit cards, you're basically inserting a penalty, and then it looks like the meat of this, is kind of in section 5, in that you allow your office under this legislation, in addition to the states attorney, I assume before that the states attorney was the only one who enforced this, you are kind of allowing your Consumer Protection Division to go after these folks, rather than putting the burden on all of the states attorney. Am I understanding that correctly.

Parrell Grossman: A couple of comments there. Actually the penalties apply to the enforcement of the whole statute, not just the credit card, and actually I would suggest that while it gives the AG the statutory authority to proceed with a civil prosecution, the AG's the only agency or entity that actually enforces this statute. The states attorneys simply don't have the resources and so we enforce it under our statute, by bootstrapping it into the consumer fraud law. We say that these practices are prohibited by the statute; therefore, if you are engaging in these practices, they must be a deceptive act or practice. I think the AG would just appreciate some clear authority, so for the most part, we can avoid states attorneys having to grapple with these particular issues.

Representative Koppelman: So the reason you have states attorney still named in the new language, is just in case, because they are the ones that typically enforce any violation of the law.

Parrell Grossman: I think it serves a good purpose to continue to have the states attorney involved in these kinds of situations. With the ongoing case that we have with this travel and

telemarketer, despite the fact that the AG issued a cease and desist order, they actually continued to engage in this conduct and there's only so much reach that a civil law enforcement process has. I think in a case like that, where they are engaged in particularly egregious conduct, I think it would be nice if the states attorney would have the ability to criminally prosecute those kinds of offenders. By and large, it is not the usual course to refer these individuals for criminal prosecution. I think since I've been in this position in 1996, I would be surprised if I have referred more than 3-5 of these kinds of violations of the home solicitation sales statute for criminal action. For the most part, we are able to take effective action enforcement.

Representative Charging: In Section 1, line 11, that's already in statute, where it says no more than, when the receipt is given back, no more than the last five digits of the credit card account will be printed on that receipt. I was shocked when I made a purchase over the phone and discovered that with my Discover card, that everyone has the same number except for the last 4 digits. That the processing numbers are all identical on the Discover card. Does that mean, if the receipt only prints my last few digits, then that means what.

Parrell Grossman: I guess I'm not familiar with that. I have not discovered that to the situation. I'm surprised to hear that. It doesn't make sense to me that they would have all those last 4 digits to be the same for every credit card.

Representative Charging: No, not the last four. The last four are what makes mine unique from yours. The first digits are all the same, which means the last four digits are the digits that actually give you access to my personal account.

Representative Zaiser: Visa and Mastercard, have a standard first seven digits, and I know the credit card companies I have, they simply ask for the last four digits and that defines your credit

card. If Visa has one set of first 7 numbers, Mastercard has one set, Discover has one set, but the last four, she's correct.

Parrell Grossman: Again, that kind of surprises me, I will take no credit for this particular statute, but I had understood it was patterned after federal law, so I just thought I was making it better. So I think that's something I need to look into.

Representative Charging: Maybe I'm wrong, could we check into that before we take action.

Representative Kretschmar: If that were true, the company could only issue 10,000 cards, then they would have to duplicate numbers. My credit cards have 16 digits on them. I'm sure that there's differences in the first 12.

Representative Zaiser: Maybe there's a code, yes. I don't know.

Representative Maragos: Don't they ask you a few questions before they get to the 4 digit code.

Representative Charging: Your zip code.

Chairman DeKrey: Thank you. Further testimony in support, testimony in opposition. We will close the hearing.

Date: 3/8/05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2249

HOUSE JUDICIARY COMMITTEE

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Meyer Seconded By Rep. Delmore

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Representative Delmore	✓	
Representative Maragos	✓		Representative Meyer	✓	
Representative Bernstein	✓		Representative Onstad	✓	
Representative Boehning	✓		Representative Zaiser	A	
Representative Charging	✓				
Representative Galvin	✓				
Representative Kingsbury	✓				
Representative Klemin	✓				
Representative Koppelman	A				
Representative Kretschmar	✓				

Total (Yes) 12 No 0

Absent 2

Floor Assignment Rep. Maragos

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

REPORT OF STANDING COMMITTEE (410)
March 8, 2005 3:46 p.m.

Module No: HR-42-4448
Carrier: Maragos
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2249: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS
(12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2249 was placed on the
Fourteenth order on the calendar.

2005 TESTIMONY

SB 2249

SENATE BILL NO. 2249

Section 1 of the bill addresses restrictions on electronically printed credit card receipts. Section 51-07-27, enacted last session, helps to protect consumers and credit card holders by prohibiting electronically printed receipts from containing more than the last five digits of the credit card account number, and from containing the credit card's expiration date. This law protects a consumer's personal financial information and helps limit inadvertent disclosure of credit card numbers, when credit card receipts are lost, misplaced, etc. Section 51-07-27, however, provides no penalty for violation of the statute. For enforcement purposes, this legislation would make violations a class B misdemeanor. The Consumer Protection Division has received numerous complaints about potential violations of this statute, but is unable to take any action.

Sections 2, 3, 4, and 5 all relate to Chapter 51-18, "Regulation of Home Solicitation-Sales." This chapter has provided my Consumer Protection Division with substantial enforcement authority over primarily out-of-state telemarketing companies that engage in abusive, questionable, or disreputable sales practices in areas including, among others, magazine sales, travel and vacation sales, coupon book sales, etc.

The changes in this legislation clarify the definition of a seller, prohibit taking advance payments from consumers' bank accounts, and provide clear enforcement authority by my office.

Section 5 in particular clarifies that violations of chapter 51-18 are violations of chapter 51-15, the "Consumer Fraud Law." State's Attorneys often do not have the resources or expertise necessary to prosecute such violations. Therefore, violations of chapter 51-18 do not have priority. This legislation ensures continued enforcement by my office.

Section 6 requests a change to North Dakota's Do Not Call law. When the legislature enacted North Dakota's Do Not Call laws, the corresponding federal law enforced by the Federal Trade Commission required telemarketers to scrub their telemarketing lists to remove any telephone subscribers that signed up in the prior 3 months (or ninety days); calling a consumer who had been registered on the federal do not call list for the past three months was a violation.

North Dakota adopted the same ninety day period. Currently, it is a violation to call subscribers that have been on the Do Not Call list for more than ninety days.

Effective January 1, 2005 the FTC changed its rules to require telemarketers to scrub their lists every thirty-one days instead of every 3 months. I would like the legislature to make this same change in North Dakota for consistency. Without

this change it would be a violation of federal law to call North Dakota subscribers signed up on the Do Not Call list thirty-one days or more prior to the call, but it would not be a violation of North Dakota's Do Not Call law. These telemarketers could continue to call North Dakota subscribers until they have been signed up for at least ninety days. While the FTC could prosecute such violations, under state law, I could not.

Subscribers that sign up for the Do Not Call list do not want to receive telephone solicitations in violation of federal or state law. I am vigorously enforcing our state Do Not Call laws. It is far more likely that my office – not the FTC - will take enforcement action for violations. The law should be changed to be consistent with the federal law to provide this very popular protection from unwanted solicitations. Thank you.

AH #2

Phishing Scams



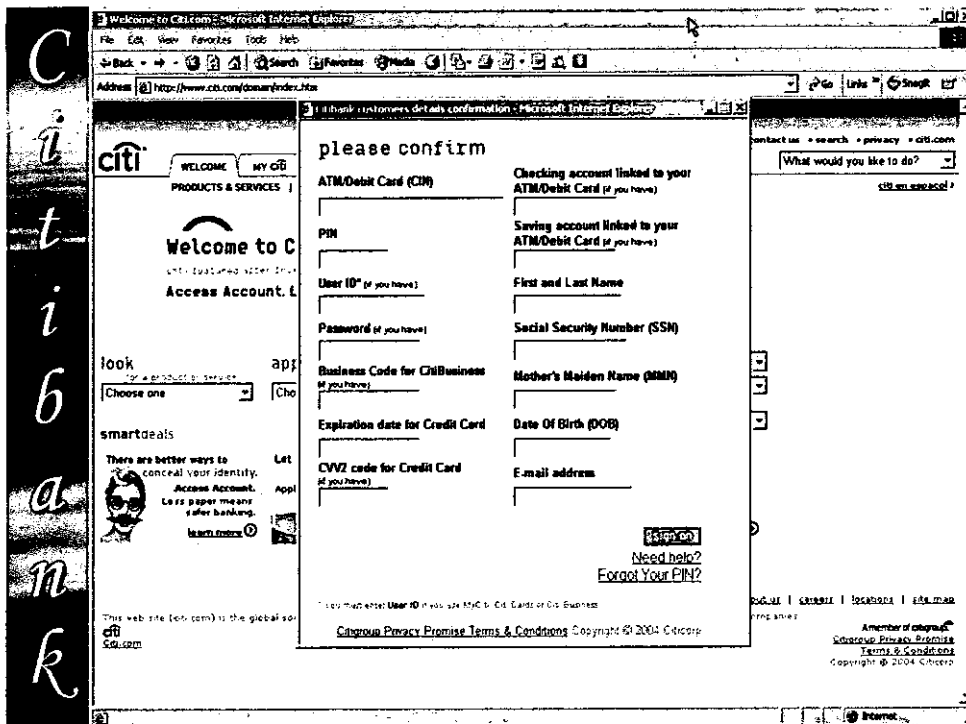
Dear client of the Citi,

As the Technical service of the Citibank have been currently updating the software, We kindly ask you to follow the reference given below to confirm your data, otherwise your access to the system may be blocked.

https://web.da-us.citibank.com/signin/scripts/login2/user_setup.jsp

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SENATE JUDICIARY COMMITTEE
JOHN T. TRAYNOR, CHAIRMAN
FEBRUARY 1, 2005

*Same
Sent to
House*

TESTIMONY BY
PARRELL D. GROSSMAN
DIRECTOR, CONSUMER PROTECTION AND ANTITRUST DIVISION
OFFICE OF ATTORNEY GENERAL
IN SUPPORT OF
SENATE BILL NO. 2249

Mr. Chairman and members of the Senate Judiciary Committee. I am Parrell Grossman, Director of the Consumer Protection and Antitrust Division of the Attorney General's Office. The Attorney General and the Consumer Protection Division support Senate Bill No. 2249.

Section 1 of the bill addresses restrictions on electronically printed credit card receipts. Section 51-07-27 was enacted last session by the Fifty -eighth Legislative Assembly and became effective August 1, 2003. This statute helps to protect consumers and credit card holders by prohibiting electronically printed receipts from containing more that the last five digits of the credit card account number, and from containing the credit card's expiration date. This law protects a consumer's personal financial information and helps limit inadvertent disclosure of credit card numbers, when credit card receipts are lost, misplaced, or left in open view of others who would use such information for illegal purposes. Section 51-07-27, however, provides no penalty for violation of the statute. For enforcement purposes, this legislation would make violations a class B misdemeanor. Without a penalty this statute can't be enforced and is meaningless. The Consumer Protection Division has received numerous complaints about potential violations of this statute, but is unable to take any action. A criminal penalty would greatly assist in enforcement of this statute.

Sections 2, 3, 4, and 5 all relate to Chapter 51-18, "Regulation of Home Solicitation Sales." This chapter has provided the Attorney General's Consumer Protection Division with substantial enforcement authority over primarily out-of-sate telemarketing companies that engage in abusive, questionable, or disreputable sales practices in areas including, among others, magazine sales, travel and vacation sales, coupon book sales, etc. This law has also provided protection to consumers that purchase vacuum cleaners and air filtration or purifier systems from unscrupulous door-to-door sales persons. The law requires that sellers provide consumers a three day cancellation right, and must inform the buyers of this right both orally and in writing. If the buyer is age 65 or older, and the purchase exceeds \$50, then the seller must provide the buyer a right to cancel within fifteen business days, and must provide both oral and written notice.

You would be surprised how frequently sellers do not comply with notice of these cancellation rights (particularly in the instance of elderly consumers) in oppressive sales of magazines, travel and vacation offers, etc. Consumers thought they agreed to purchase 2 to 4 magazines on a monthly basis, when, in fact, because or slick, fast sales pitches, they agreed to purchase several magazines on a weekly basis, for hundreds of dollars.

Pursuant to this chapter, the Consumer Protection Division is able to require the sellers to rescind these contracts for noncompliance with the chapter.

We are now suing one out-of-state travel company and its telemarketer for practices that violated, among other laws, chapter 51-18. In addition, when an elderly woman purchases a \$2,500 vacuum cleaner, (most often called by the salesman an air filtration or purifier system) for the third time in about two years, it is this statute that often provides some protection for those consumers.

The changes in Section 2 clarify the definition of a seller and seller's representative to bring offending sales practices within this statute.

The changes in Section 3 prohibit not only advance credit card charges, but also would prohibit the frequent practice of withdrawals (unauthorized or otherwise) directly from the consumer's checking or savings bank account. Again, this involves a practice in dispute in the lawsuit against the travel company and its telemarketer (now pointing fingers at each other).

Section 4 again clarifies that sales in violation of the chapter are void and unenforceable.

Section 5 provides the Attorney General with more enforcement authority as it makes violations of chapter 51-18 violations of chapter 51-15, the "Consumer Fraud Law." Currently businesses engaged in practices in violation of chapter 51-18 can argue that the violations are only subject to a criminal sanction of a class B misdemeanor. State's Attorneys usually are prosecuting more egregious violations of the law such as prosecution of drugs, crimes against persons and property, etc. Therefore, violations of chapter 51-18 do not have priority. We currently argue that violations of chapter 51-18 are violations of chapter 51-15. We would like the legislature to recognize the violations are, in fact, violations of the consumer fraud law.

Section 6 requests a change to North Dakota's Do Not Call law. When the Fifty-eighth Legislative Assembly enacted its Do Not Call laws, including section 51-28-06, the corresponding federal law enforced by the Federal Trade Commission required telemarketers to scrub their telemarketing lists to remove any telephone subscribers that signed up in the prior 3 months (or ninety days). It would be a violation for a telemarketer to call a subscriber/consumer who had been registered on the federal Do Not Call list for three months. For consistency in enforcement, North Dakota law, in section 51-28-06 adopted the same ninety day period. It is a violation to call subscribers that have been on the Do Not Call list for more than ninety days. The Attorney General's North Dakota Do Not Call list is the same as the federal Do Not Call list maintained by the Federal Trade Commission.

Effective January 1, 2005 the Federal Trade Commission changed its Telemarketing Sales Rule to require telemarketers to scrub their lists every thirty-one days instead of every 3 months. The Attorney General is requesting the legislature to make this same change in North Dakota for consistency. Without this change it would be a violation of federal law to call North Dakota subscribers signed up on the Do Not Call list thirty-one days or more

prior to the call, but it would not be a violation of North Dakota's Do Not Call law. These telemarketers could continue to call North Dakota subscribers until they have been signed up for at least ninety days. While the Federal Trade Commission could prosecute such violations the Attorney General could not prosecute these violations under state law. Subscribers that sign up for the Do Not Call list do not want to receive telephone solicitations in violation of federal or state law. The Attorney General vigorously enforces North Dakota's Do Not Call laws. It is far more likely that the Attorney General will take enforcement action before the Federal Trade Commission. The law should be changed to be consistent with the federal law to provide this very popular protection from unwanted solicitations.

For these reasons, the Attorney General and his Consumer Protection Division urge this committee to give Senate Bill 2249 a "do pass" recommendation.

Thank you for your time and consideration. I will try and answer any questions.