

Introduced by

Senator Krebsbach

1 A BILL for an Act to create and enact a new section to chapter 57-40.6 of the North Dakota  
2 Century Code, relating to the study of coordination of public safety answering points coverage;  
3 to amend and reenact sections 57-40.6-01, 57-40.6-02, 57-40.6-03, 57-40.6-03.1, 57-40.6-04,  
4 57-40.6-05, 57-40.6-06, and 57-40.6-08 of the North Dakota Century Code, relating to a fee on  
5 telephone exchange access service and application of that fee to wireless service for support of  
6 wireless enhanced 911 service; and to provide an effective date.

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

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

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

- 12 1. "Emergency services communication system" means a statewide, countywide, or  
13 citywide radio system, land lines communication network, wireless service  
14 network, or emergency enhanced 911 (E911) telephone system, which provides  
15 rapid public access for coordinated dispatching of services, personnel, equipment,  
16 and facilities for law enforcement, fire, medical, or other emergency services.
- 17 2. "FCC order" means federal communications commission order 94-102 (961  
18 Federal Register 40348) and any other FCC order that affects the provision of  
19 wireless enhanced 911 service.
- 20 3. "Public safety answering point" or "PSAP" means a communications facility  
21 operated on a twenty-four hour basis which first receives 911 calls from persons in  
22 a 911 service area and which, as appropriate, may directly dispatch public safety  
23 services or extend, transfer, or relay 911 calls to appropriate public safety  
24 agencies.

- 1           4. "Subscriber service address" means, for purposes of wire line subscribers, the  
2           address where the telephone subscriber's wire line telephone device is used and,  
3           for purposes of wireless subscribers, the place of primary use, as that term is  
4           defined in the Mobile Telecommunications Sourcing Act (Pub.L. 106-252; 4 U.S.C.  
5           124(8)).
- 6           5. "Telephone access line" means the principal access to the telephone company's  
7           switched network including an outward dialed trunk or access register.
- 8           6. "Telephone exchange access service" means service to any wire line telephone  
9           access line identified by a unique telephone number that provides local wire line  
10           access to the telecommunications network to a service subscriber and which  
11           enables the subscriber to access the emergency services communications system  
12           by dialing the digits 9-1-1 on the subscriber's telephone device.
- 13           7. "Wireless access line" means each active wireless telephone number assigned to  
14           a commercial mobile radio service subscriber, including end users of resellers.
- 15           8. "Wireless enhanced 911 service" means the service required to be provided by  
16           wireless service providers pursuant to the FCC order.
- 17           9. "Wireless service" means commercial mobile radio service as defined in 47 U.S.C.  
18           332(d)(1) and includes:
- 19           a. Services commonly referred to as wireless; and
- 20           b. Services provided by any wireless real time two-way voice communication  
21           device, including radio-telephone communications used in:
- 22                   (1) Cellular telephone service;
- 23                   (2) Personal communications service; or
- 24                   (3) The functional or competitive equivalent of a radio-telephone  
25                   communications line used in cellular telephone service, personal  
26                   communications service, or a network radio access line.
- 27           10. "Wireless service provider" means any entity authorized by the federal  
28           communications commission to provide wireless service within the state of North  
29           Dakota.

30           **SECTION 2. AMENDMENT.** Section 57-40.6-02 of the North Dakota Century Code is  
31 amended and reenacted as follows:

1           **57-40.6-02. Authority of counties or cities to impose ~~excise tax~~ fee on telephone**  
2 **exchange access lines service and on wireless service - Procedure.** The governing body  
3 of a county or city may impose ~~an excise tax~~ a fee on the use of telephone exchange access  
4 ~~lines service and on the use of wireless service~~ in accordance with the following requirements:

5           1. The governing body shall adopt a resolution that proposes the adoption of the  
6 ~~excise tax~~ fee permitted under this section. The resolution must specify an  
7 effective date for the ~~tax~~ fee which is no more than two years before the expected  
8 implementation date of the emergency services communication system to be  
9 funded by the ~~excise tax~~ fee. The resolution must include a provision for  
10 submitting the proposed ~~excise tax~~ fee to the electors of the county or city before  
11 the imposition of the ~~tax~~ fee is effective. The resolution must specify a ~~tax~~ fee that  
12 does not exceed one dollar per month per telephone access line and per wireless  
13 access line.

14           2. The question of the adoption of the ~~excise tax~~ fee must be submitted on a ballot on  
15 which the ballot title of the proposition includes the maximum monthly rate of the  
16 proposed ~~tax~~ fee authorized under subsection 1. The question of the adoption of  
17 the ~~excise tax~~ fee may be submitted to electors at a general, primary, or special  
18 election or at a school district election if the boundaries of the school district are  
19 coterminous with the boundaries of the governing body adopting the resolution  
20 proposing the adoption of the ~~excise tax~~ fee. The ~~tax~~ fee is not effective unless it  
21 is approved by a majority of the electors voting on the proposition. The ballot must  
22 be worded so that a "yes" vote authorizes imposition of the ~~tax~~ fee for an initial  
23 six-year period.

24           3. Any political subdivision that desires to increase the ~~tax~~ fee, subject to the  
25 limitations in subsection 1, before the end of the six-year term, must use the same  
26 ballot procedure originally used to authorize the ~~tax~~ fee. The new ballot question  
27 may apply to only the proposed increase and not to the original amount or the  
28 original term. If the increase is approved, the new amount may be collected for the  
29 balance of the original six-year term. If the ~~tax~~ fee authorized by this section is  
30 approved by the electors, the ~~tax~~ fee may be reimposed for six additional years  
31 without resubmitting the question to the electors.

- 1           4.    In any geographic area, only one political subdivision may impose the ~~excise tax~~  
2           fee and imposition must be based on the subscriber service address.
- 3           5.    In the interest of public safety, where the ~~customers exchange~~ subscriber's  
4           telephone exchange access service boundary and the boundary of the political  
5           subdivision imposing the ~~tax fee~~ do not coincide, and where all of the political  
6           subdivisions within the ~~exchange~~ subscriber's telephone exchange access service  
7           boundary have not complied with subsection 1, and where a majority of the E911  
8           subscribers within the ~~exchange~~ subscriber's telephone exchange access service  
9           boundary have voted for the ~~tax fee, an exchange customer residing a telephone~~  
10          exchange access service subscriber whose subscriber service address is outside  
11          the political subdivision may receive E911 services by signing a contract  
12          agreement with the political subdivision providing the emergency  
13          ~~telecommunications system~~ services communications system. The telephone  
14          ~~company exchange access service provider~~ may collect an additional ~~tax fee~~,  
15          equal in amount to the basic ~~tax fee~~ on those subscribers within the exchange  
16          boundary. The additional ~~tax fee~~ amounts collected must be remitted as provided  
17          in this chapter.
- 18          6.    A fee imposed under this section before August 1, 2001, may be extended to all  
19          wireless service at each subscriber service address within the area in which the  
20          fee is imposed only if that extension of the fee has been approved by a majority  
21          vote of the governing body of the city or county upon at least thirty days' prior  
22          notice in the official newspaper of the city or county that the governing body will  
23          consider the issue or by majority vote of the electors of the city or county voting on  
24          the question upon placement of the question on the ballot by the governing body of  
25          the city or county at a regular or special city or county election.

26           **SECTION 3. AMENDMENT.** Section 57-40.6-03 of the North Dakota Century Code is  
27    amended and reenacted as follows:

28           **57-40.6-03. Payment of ~~tax fee~~ by telephone ~~company~~ exchange access service**  
29    **and wireless service subscriber.** The resolution imposing a ~~tax fee~~ under section 57-40.6-02  
30    must include a requirement that the telephone ~~company~~ exchange access service provider and  
31    the wireless service provider collect the ~~tax fee~~ from the subscriber. In its billing statement or

1 invoice to the subscriber, the telephone ~~company~~ exchange access service provider and the  
2 wireless service provider shall state the amount of the ~~tax~~ fee separately.

3 **SECTION 4. AMENDMENT.** Section 57-40.6-03.1 of the North Dakota Century Code  
4 is amended and reenacted as follows:

5 **57-40.6-03.1. Enhanced 911 data base management charges.** Any telephone  
6 ~~company~~ exchange access service provider charges for enhanced 911 data base management  
7 must be on a per telephone exchange access line service basis.

8 **SECTION 5. AMENDMENT.** Section 57-40.6-04 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **57-40.6-04. Tax Fee collection procedure.** A resolution adopted under section  
11 57-40.6-02 must include adequate procedures for the administration and collection of the ~~tax~~  
12 fee, including a provision for reimbursement to the telephone ~~company~~ exchange access  
13 service provider and the wireless service provider for the actual costs of administration in  
14 collection of the ~~tax~~ fee, not to exceed five percent of the fee collected. The resolution must  
15 also include a provision that the ~~tax~~ fee be paid by the telephone ~~company~~ exchange access  
16 service provider and the wireless service provider within thirty days after it is collected from the  
17 subscriber.

18 **SECTION 6. AMENDMENT.** Section 57-40.6-05 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20 **57-40.6-05. Restriction on use of tax fee proceeds.** The ~~county~~ governing body  
21 may not use the proceeds of the ~~tax~~ fee imposed under section 57-40.6-02 for any purpose  
22 other than ~~establishing or operating the emergency services communication system as~~  
23 provided in this section.

- 24 1. Within twenty-four months after the extension of the fee to wireless access lines  
25 under subsection 6 of section 57-40.6-02, the governing body shall request  
26 enhanced 911 service from all wireless carriers providing service as of that date  
27 within the governing body's jurisdiction.
- 28 2. The governing body shall hold the portion of the revenues from the fee on wireless  
29 service unexpended in a separate fund until such time as the governing body  
30 makes a request for wireless enhanced 911 service or adopts a statement  
31 certifying that it is capable of receiving and utilizing wireless enhanced 911 service,

- 1           whichever is earlier, provided that those revenues may not be expended until the  
2           agreements required under subsection 3 have been executed.
- 3           3. The governing body or its designee shall enter into agreements directly with each  
4           wireless service provider for only that provider's services necessary to implement,  
5           maintain, and operate wireless enhanced 911 service as provided by law. A  
6           governing body may not reimburse a wireless service provider for tower  
7           construction or for the extension of a wireless service provider's infrastructure  
8           which is not directly related to providing wireless enhanced 911 service.
- 9           4. Revenues in excess of the obligations incurred under the agreements specified by  
10           this section, as determined on a monthly basis, may only be used for  
11           implementing, maintaining, or operating the emergency services communication  
12           system.
- 13           5. The governing body or its designee shall keep records to show expenditures for  
14           wireless service providers separately from expenditures for telephone exchange  
15           access service providers.

16           **SECTION 7. AMENDMENT.** Section 57-40.6-06 of the North Dakota Century Code is  
17 amended and reenacted as follows:

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

27           **SECTION 8. AMENDMENT.** Section 57-40.6-08 of the North Dakota Century Code is  
28 amended and reenacted as follows:

29           **57-40.6-08. Emergency services communication system or emergency**  
30 **instructions - Liability.**

- 1           1.    A public agency, public safety agency, ~~or local exchange telecommunications~~  
2           ~~company~~ telephone exchange access service provider, or wireless service  
3           provider that provides access to an emergency system ~~at or below cost~~, or any  
4           officer, agent, or employee of any public agency, public safety agency, ~~or local~~  
5           ~~exchange telecommunications company~~ telephone exchange access service  
6           provider, or wireless services provider, is not liable for any civil damages as a  
7           result of any act or omission except willful and wanton misconduct or gross  
8           negligence in connection with developing, adopting, operating, or implementing  
9           any plan or system as provided under this chapter.
- 10          2.    A person who gives emergency instructions through a system as provided under  
11          this chapter, to persons rendering services in an emergency at another location, or  
12          any person following such instructions in rendering such services, is not liable for  
13          any civil damages as a result of issuing or following the instructions, unless issuing  
14          or following the instructions constitutes willful and wanton misconduct or gross  
15          negligence.
- 16          3.    This section does not waive, limit, or modify any existing immunity or other defense  
17          of the state or any political subdivision, or any of its agencies, departments,  
18          commissions, boards, officers, or employees, nor does it create any claim for relief  
19          against any of these entities.

20           **SECTION 9.** A new section to chapter 57-40.6 of the North Dakota Century Code is  
21    created and enacted as follows:

22           **Reports of coordination of public safety answering points coverage.** The  
23    governing body of a city or county, which adopted a fee on telephone exchange access service  
24    and wireless service under this chapter, shall make an annual report of the income,  
25    expenditures, and status of its emergency services communication system. The annual report  
26    must be submitted to the state radio division and to the public safety answering points  
27    coordinating committee. The committee is composed of three members, one appointed by the  
28    North Dakota 911 association, one appointed by the North Dakota association of counties, and  
29    one appointed by the office of management and budget to represent the state radio division.  
30    The public safety answering points coordinating committee shall file its report with the  
31    legislative council by November first of each even-numbered year.

1           **SECTION 10. EFFECTIVE DATE.** This Act becomes effective on August 1, 2001.