

MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

2192

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10/17/03

2003 SENATE JUDICIARY

SB 2192

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10/17/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2192

Senate Judiciary Committee

☐ Conference Committee

Hearing Date 01/29/03

Tape Number	Side A	Side B	Meter #
1	X		42.5 - End
2	X		0.0 - 10
Committee Clerk Signature <i>Mona L. Solberg</i>			

Minutes: Senator John T. Traynor, Chairman, called the meeting to order. Roll call was taken and all committee members present. Sen. Traynor requested meeting starts with testimony on the bill:

Testimony Support of SB 2192

Sen. Krebsbach - Introduced the bill (meter 40.5) Discussed the Minot train wreck disaster

January 18, 2001. Phone liability and providing services.

Jerry Hjelmstad - Behalf of ND League of Cities. (Attachment #1a) reviewed bill and discussed (attachment 1b) definitions. (meter 43.9)

Senator Thomas L. Trenbeath (meter 45.7) asked what the liability would be of someone using this on a non-emergency bases.

Harold Haugstad - Minot Fire chief (Attachment #2) Read (meter 49.8).

Discussion on (meter 53) why the current method failed due to the 1:00 a.m. time when people were asleep.

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Senate Judiciary Committee
Bill/Resolution Number SB 2192
Hearing Date 01/29/03

Senator Dick Dever discussed (tape 2, side 1 meter 0.1) the legal issues.

Senator Dennis Bercier asked if this was a part of Homeland Security (meter 1.6).

Discussion on how the revers 911 process would happen.

Mike Donpher - Technician discussed some of the challenges. (meter 5.0)

Senator Dick Dever asked who the phone carrier would be. (meter 7)

Discussed that Jerry Hjelmstad would put an amendment together re Senator Thomas L.

Trenbeath concerns. He agreed.

Testimony in opposition of SB 2192

None

Testimony Neutral to SB 2192

None

Senator John T. Traynor, Chairman closed the hearing.

Senator John T. Traynor, Chairman reopened the hearing.

Discussion

Motion Made to Amend SB 2192 by Senator Thomas L. Trenbeath and seconded by

Senator Dick Dever

Roll Call Vote: 6 Yes. 0 No. 0 Absent

Motion Passed

Motion Made to DO PASS SB 2192 as amended by Senator Dick Dever and seconded by

Senator Thomas L. Trenbeath

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01/17/03
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Senate Judiciary Committee
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Roll Call Vote: 6 Yes. 0 No. 0 Absent

Motion Passed

Floor Assignment: Sen. Dever

Senator John T. Traynor, Chairman closed the hearing

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01/17/03
Date

38266.0101
Title.0200

Adopted by the Judiciary Committee
January 29, 2003

JS
1-31-03

PROPOSED AMENDMENTS TO SENATE BILL NO. 2192

Page 1, line 8, after "means" insert "that portion of"

Renumber accordingly

Page No. 1

38266.0101

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10/17/03
Date

Date: January 29, 2003
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2192

Senate JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Move Amendment

Motion Made By Senator Thomas L. Trenbeath Seconded By Senator Dick Dever

Senators	Yes	No	Senators	Yes	No
Sen. John T. Traynor - Chairman	X		Sen. Dennis Bercier	X	
Sen. Stanley Lyson - Vice Chair	X		Sen. Carolyn Nelson	X	
Sen. Dick Dever	X				
Sen. Thomas L. Trenbeath	X				

Total (Yes) SIX (6) No ZERO (0)

Absent Zero (0)

Floor Assignment _____

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

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10/17/03
Date

Date: January 29, 2003
Roll Call Vote #: 2

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2192

Senate JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Move DO PASS with one amendment

Motion Made By Senator Dick Dever Seconded By Sen. Trenbeath

Senators	Yes	No	Senators	Yes	No
Sen. John T. Traynor - Chairman	X		Sen. Dennis Bercier	X	
Sen. Stanley Lyson - Vice Chair	X		Sen. Carolyn Nelson	X	
Sen. Dick Dever	X				
Sen. Thomas L. Trenbeath	X				

Total (Yes) SIX (6) No ZERO (0)

Absent Zero (0)

Floor Assignment Senator Dick Dever

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

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10/17/03
Date

REPORT OF STANDING COMMITTEE (410)
February 3, 2003 7:53 a.m.

Module No: SR-20-1478
Carrier: Dever
Insert LC: 38266.0101 Title: .0200

REPORT OF STANDING COMMITTEE

SB 2192: Judiciary Committee (Sen. Traynor, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2192 was placed on the Sixth order on the calendar.

Page 1, line 8, after "means" insert "that portion of"

Renumber accordingly

(2) DESK, (3) COMM

Page No. 1

SR-20-1478

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10/17/03
Date

2003 HOUSE JUDICIARY

SB 2192

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10/17/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2192

House Judiciary Committee

☐ Conference Committee

Hearing Date 3-17-03

Tape Number	Side A	Side B	Meter #
1	xx		0-26
2	xx		16.2-18.7
Committee Clerk Signature <i>A. Penrose</i>			

Minutes: 11 members present, 2 members absent (Rep. Galvin and Rep. Klemin).

Chairman DeKrey: We will open the hearing on SB 2192.

Sen. Krebsbach: Introduced the bill.

Chairman DeKrey: Thank you. Further testimony in support of SB 2192.

Jerry Hjelmstad, ND League of Cities: Support (see attached testimony).

Rep. Delmore: Can you walk us through a situation where this would be useful, how it would affect the public, how it would be used as a notification system?

Mr. Hjelmstad: I guess the situation that occurred up in Minot would be the best example, the train derailment. There was an anhydrous spill there. There was a cloud of anhydrous smoke that went over part of the city. Under this system, the local officials have been working with their telephone company could set up a system where there would be notification. They would be able to notify them, who they wanted notified, and under the automated notification system, they would be able to notify portions of the city of an emergency situation. Where the call would

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House Judiciary Committee
Bill/Resolution Number SB 2192
Hearing Date 3-17-03

go out to those people in that portion of the city. They would be able to designate certain areas operating through their automated notification system.

Rep. Delmore: One of the problems that take place, most of us are familiar with the TV things that are plastered on weather, etc. In the early morning hours, before people are watching TV, awake and alert, this would then supply the notification, how?

Mr. Hjelmstad: In this case, the telephone would ring. So they would get notification even if they're not up watching TV or something like that. It would be a broadcast notification to them.

Rep. Bernstein: So, then it would be to private citizens; not only emergency services, but to private citizens.

Mr. Hjelmstad: The notification would go out to the general public and they'd be able to target certain areas doing that, and what happened in Minot was that in their discussions with their local telephone company, they were on the verge of being able to provide this type of system, but the telephone company realized that they might be exposing themselves to some liability that they weren't currently. If something were to go wrong with the system, and they thought that it would be fair to have the same type of limited immunity that is provided for the incoming calls as well.

Rep. Kretschmar: Would I get the call if I'm on the No Call list.

Mr. Hjelmstad: Yes, I would hope that there are provisions built into that that would ensure that emergency calls would be an exception to that.

Rep. Delmore: Is there a large cost to the city for this.

Mr. Hjelmstad: In this particular instance, in Minot, the telephone company was willing to provide this service at no cost to the city, but they were afraid of the cost that they may have been exposed to if something would go wrong with the delivery of the system.

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Rep. Onstad: How does it work if the one telephone company is providing that, are they going out only to their own land lines within the county, to the county line. If the disaster was right on the division line, is there going to be something worked out with the telephone companies.

Mr. Hjelmstad: I believe they would have to. In this particular instance, the telephone company provided service well beyond the area that they were working with. I suppose you could have that, you might have to have different jurisdictions and different companies working together to cover an entire area.

Rep. Boehning: I guess to follow up on Rep. Onstad's question, living in Fargo, we've probably got 3 or 4 different major telephone companies. Would they be able to ring all of them, etc.

Mr. Hjelmstad: I believe in Fargo that they have an answering point that provides service for all incoming 911 calls. So by working through that, public safety answering points, they would be able to disperse those calls to designated areas, and that is something that they would have to work out with their telecommunications provider in how they do that. But apparently, there are systems that would allow them to select different areas that would be notified within their system.

Chairman DeKrey: Thank you.

Mr. Hjelmstad: I believe there are some amendments that will be proposed. We don't have any objections to them as long as, in the judgment of the committee, they won't endanger what we are trying to accomplish here.

Chairman DeKrey: Thank you. Further testimony in support.

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3/17/03
Date

Harold Haugstad, Director, ND Fire Chief's Association, Fire Chief in Minot: Support (see attached testimony).

Rep. Kretschmar: Would this system be put in place, for example, a tornado that may be bearing down on the city. Would you use it then.

Mr. Haugstad: Certainly. The reverse 911 or automated notification system has a wide variety of abilities, not only to deal with something like we had in Minot, but any emergency be it tornado, chemical spill, etc. The system uses a mapping system, where we can draw a circle around the city, or that portion of the city, and send those calls out to notify that certain area. Certainly if we do have whatever type of emergency, maybe some areas might need to be evacuated, where other ones would want the shelter in place. That would give us the ability to put that information out and at night, when people aren't out, this gives us a means of contacting them when they aren't watching TV. It just enhances the overall ability of the notification.

Rep. Bernstein: Who would make the final determination as to who would use this.

Mr. Haugstad: They would be based on certain people identified within the community. Normally it would be the shift commander in charge of the Central Dispatch, that handles emergency communications, the fire chief, police chief, there would be a certain designated number of people, County Emergency Manager, etc. that would be set up with the system. That would be set up prior to an emergency.

Rep. Boehning: Can they track cell phones. Are they mapped out, is there any way to be able to call those as well.

Mr. Haugstad: At this time, I think that's something that's coming with the new 911 enhancement that is coming. In the future, I think we will be able to do that. At this point in time, I don't believe that they would have that ability.

Rep. Grande: If you take on a large area, such as for a tornado and we get a reverse call with that, and I pick up my phone, is it going to be a recording or a live call.

Mr. Haugstad: It can be done either way. They would have the ability to do a live broadcast or put in a canned message. Whatever the situation needs.

Rep. Onstad: Take the city of Minot, 30,000 people, and you want to contact them all. I guess you would probably have 10,000 telephone lines, how long would it take to run through that whole list of numbers.

Mr. Haugstad: What we're asking for here, and the reason that we're asking for it, is if we place this system administration and the hardware within the telephone exchange, we're only limited by the number of phone lines they have within their hub. The other option we have, is if it isn't located at the telephone exchange, we can house it at the Central Dispatch, but then we're limited by the number of phone lines going out. Each phone line, a T1 line, which runs is limited to 24 phone lines per T1 line, and thus to try and call everybody in Minot would take either an extended amount of time or a lot of T1 lines, which it is hard to justify that financial outlay for the once in a 100 year happening. So most people would cut back on the T1 line, but what this allows by putting it in the telephone exchange, is that we allow them to handle it, and they aren't limited by the T1 lines, they can put it in whatever their system can handle, so the ability is more than what we can do through Central Dispatch.

Chairman DeKrey: Thank you. Further testimony in support.

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Dale Niezwaag, Basic Electric Power Coop & Dakota Gasification Company: Support (see attached testimony and amendments).

Rep. Delmore: Did you offer these amendments in the Senate.

Mr. Niezwaag: No, we did not. I became aware of the bill after it had gone through there.

Rep. Delmore: What types of individuals or public companies would want to get involved in this process. I can understand in your circumstances why it would be a logical thing to do, but how many other people would you see adding this type of company.

Mr. Niezwaag: I really couldn't say. I know that other electric coops have offered to do that. I know that in the Minot instance, that the Renville Electric had made overtures to offer any assistance they could to help put the system in. A lot of it would probably be goodwill is a big part of it, and let them use their technology to help.

Rep. Grande: Are the messages recorded or live.

Mr. Niezwaag: To my knowledge, normally what you do is put a recorded message on, and then these calls would go out and in the case of the DGC system, we have the ability to send out 48 calls at one time. Once the call is answered, then it moves on to the next line. We've got it set up where if there is a leak on a portion of the pipeline, the people at DGC can know where that's at, the telephone numbers are programmed into the system and they can say we need these calls made and it will send calls out to a small area where it is affected first, once those calls are made it is then expanded out 48 at a time.

Rep. Grande: In that case, on that 48 calls and five come up as busy signals, do the calls continue in that line.

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Michael Zimmerman, Basin Electric: The system would call the initial 48 calls. If it reaches a busy signal, they are designed to retry a certain number of times that is programmed into the system. Will leave a text message for deaf people, and if no answer, will leave the recorded message on the answering machine. If no answer, it will try again every 5 minutes or so for a certain number of times, which is set.

Chairman DeKrey: Thank you for appearing. Further testimony in support.

Debra Ness, Bismarck Police Dept.: Support. For the past 2 ½ years, I know personally, I've been working with Basin Electric to try and come up with a system to where we could automatically notify people of an emergency. The Minot incident, of course, just reinforced how important this is for us to accomplish. The most frustrating part of getting this accomplished was the liability issue. We had several plans that we put into place and each time it came back to the liability issues, who is going to take responsibility if something goes wrong. As a result of that, Basin Electric gave us \$30,000 to implement a system ourselves. Similar companies would probably do that across the state; however, what I have found is that private industry has the resources that really can help us in public safety do what we need to do. Especially in these situations, these are very, very large systems. In working with people such as Mike, at Basin Electric, I find that they have the expertise not only to implement the system, but to keep and maintain the system, to make sure that it's going to be working properly. We don't necessarily have the resources to maintain that on an ongoing basis may become a difficulty, especially considering the resources that he has to do this. If we can marry the private industry with public safety, I think what we're going to do is offer to our communities a thank you, and that is some way of notifying them in case of emergency. This is very similar to what the Amber alert is

Debra Ness
Operator's Signature

3/17/03
Date

all about. Being able to notify the public as quickly as possible of an emergency. It can be something as simple as a lost child situation. About a year and a half ago, we had an arson situation where we had a number of arsons happen one right after the other, where if we could have notified the people in that area, perhaps it would have helped us capture the person before more damage was done. It can fulfill about anything you can imagine with the system, and can notifying public safety people themselves when they have to respond to an emergency. This is another avenue that we are looking at. As long as we have this liability issue, that keeps it from happening. It becomes very hard for us to move forward and put a system in place. This is probably one of the few states that has actually taken a look at marrying private industry with public safety and getting something accomplished. I hope you will give every consideration to SB 2192 simply because it brings everybody together in trying to accomplish this.

Rep. Boehning: What comes up on the caller ID, in this instance. What will it say.

Ms. Ness: I don't know.

Mr. Zimmerman: We did some testing and can put in whatever they want, the name can be assigned to the number, whether Bismarck Police Dept., 911, etc.

Rep. Grande: I know that when you have a gas leak they tell you not to use the telephone, but to leave the premises. If you have a gas leak, how can you take the phone call.

Mr. Zimmerman: If you smell gas, it is probably on your property. I am assuming you would leave the premises. However, there are a lot of circumstances for which you could be called and not be in risk. In cases such as a lost child, or to leave the premises, or take cover, etc.

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

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House Judiciary Committee

Bill/Resolution Number SB 2192

Hearing Date 3-17-03

(Reopened later in the same session)

Chairman DeKrey: What are the committee's wishes in regard to SB 2192.

Rep. Klemin: We don't need the last amendment that they are talking about on page 1, line 22.

That is covered in another section of the Civil Code in 1-01-28 and 1-01-35. I move the amendments except removing page 1, line 22.

Rep. Onstad: I second.

Voice vote: Carried.

Rep. Klemin: I move a Do Pass as amended.

Rep. Delmore: Seconded.

12 YES 0 NO 1 ABSENT DO PASS AS AMENDED CARRIER: Rep. Bernstein

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10/17/03
Date

38266.0201
Title.

Prepared by the Legislative Council staff for
Senator Krebsbach
March 13, 2003

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2192

Page 1, line 9, remove "through a"

Page 1, line 10, remove "public safety answering point"

Page 1, line 16, overstrike "or" and after the second "provider" insert ", or person"

Page 1, line 19, overstrike "or" and after the second comma insert "or person"

Page 1, line 22, after the period insert "As used in this section, "person" includes any individual, firm, partnership, association, or corporation and includes the plural as well as the singular."

Renumber accordingly

1-01-28
1-01-35

Deanne Bell
Operator's Signature

10/17/03
Date

Date: 3/17/03
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2192

House Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 38266.0202 .0300

Action Taken Do Pass as Amended

Motion Made By Rep. Klemm Seconded By Rep. Delmore

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Rep. Delmore	✓	
Vice Chairman Maragos	✓		Rep. Eckre	✓	
Rep. Bernstein	✓		Rep. Onstad	✓	
Rep. Boehning	✓				
Rep. Galvin	AB				
Rep. Grande	✓				
Rep. Kingsbury	✓				
Rep. Klemm	✓				
Rep. Kretschmar	✓				
Rep. Wrangham	✓				

Total (Yes) 12 No 0

Absent 1

Floor Assignment Rep. Bernstein

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

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Deanne Hall 3/17/03
Operator's Signature Date

REPORT OF STANDING COMMITTEE (410)
March 17, 2003 4:18 p.m.

Module No: HR-47-4965
Carrier: Bernstein
Insert LC: 38266.0202 Title: .0300

REPORT OF STANDING COMMITTEE

SB 2192, as engrossed: Judiciary Committee (Rep. DeKrey, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2192 was placed on the Sixth order on the calendar.

Page 1, line 9, remove "through a"

Page 1, line 10, remove "public safety answering point"

Page 1, line 16, overstrike "or" and after the second "provider" insert ".or person"

Page 1, line 19, overstrike "or" and after the second comma insert "or person"

Renumber accordingly

2003 TESTIMONY

SB 2192

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Operator's Signature

10/17/03
Date

To: Senate Judiciary Committee
From: North Dakota League of Cities
Date: January 29, 2003
Re: Senate Bill No. 2192

Same testimony given to House

#1a

Mr. Chairman and members of the Senate Judiciary Committee, my name is Jerry Hjelmstad and I am here on behalf of the North Dakota League of Cities in support of Senate Bill 2192.

The issues addressed by Senate Bill 2192 were brought to our attention by the Fire Chief in the City of Minot. After the train derailment disaster near Minot in January of 2002, the local telephone company discussed plans with Minot officials to implement a "reverse 911 system" to provide notification to area residents of dangerous situations. Upon the company's review of the potential liability of such a system, however, plans for implementing the system were put on hold.

Senate Bill 2192 adds another definition section to Chapter 57-40.6 of the North Dakota Century Code. "Automated notification system" means a telecommunications system that provides rapid notice of emergency situations to the public through a public safety answering point. "Automated notification system" is also added in section 2 of the bill to provide that this type of "reverse 911 system" would have the same type of liability protection as the regular 911 or emergency services communication system. The bill provides that there would be no liability for civil damages as a result of any act or omission except willful and wanton misconduct or gross negligence.

An automated notification system could be a life-saver in an emergency situation. We ask that you give a "do pass" recommendation to Senate Bill No. 2192.

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10/17/03
Date

16.

CHAPTER 57-40.6

EMERGENCY SERVICES COMMUNICATION SYSTEMS

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

1. "Emergency services communication system" means a statewide, countywide, or citywide radio system, land lines communication network, wireless service network, or enhanced 911 (E911) telephone system, which provides rapid public access for coordinated dispatching of services, personnel, equipment, and facilities for law enforcement, fire, medical, or other emergency services.
2. "FCC order" means federal communications commission order 94-102 (961 Federal Register 40348) and any other FCC order that affects the provision of wireless enhanced 911 service.
3. "Public safety answering point" or "PSAP" means a communications facility operated on a twenty-four hour basis which first receives 911 calls from persons in a 911 service area and which, as appropriate, may directly dispatch public safety services or extend, transfer, or relay 911 calls to appropriate public safety agencies.
4. "Subscriber service address" means, for purposes of wire line subscribers, the address where the telephone subscriber's wire line telephone device is used and, for purposes of wireless subscribers, the place of primary use, as that term is defined in the Mobile Telecommunications Sourcing Act (Pub. L. 106-252; 4 U.S.C. 124(8)).
5. "Telephone access line" means the principal access to the telephone company's switched network including an outward dialed trunk or access register.
6. "Telephone exchange access service" means service to any wire line telephone access line identified by a unique telephone number that provides local wire line access to the telecommunications network to a service subscriber and which enables the subscriber to access the emergency services communications system by dialing the digits 9-1-1 on the subscriber's telephone device.
7. "Unpublished" means information that is not published or available from directory assistance.
8. "Wireless access line" means each active wireless telephone number assigned to a commercial mobile radio service subscriber, including end users of resellers.
9. "Wireless enhanced 911 service" means the service required to be provided by wireless service providers pursuant to the FCC order.
10. "Wireless service" means commercial mobile radio service as defined in 47 U.S.C. 332(d)(1) and includes:
 - a. Services commonly referred to as wireless; and
 - b. Services provided by any wireless real time two-way voice communication device, including radio-telephone communications used in:
 - (1) Cellular telephone service;
 - (2) Personal communications service; or
 - (3) The functional or competitive equivalent of a radio-telephone communications line used in cellular telephone service, personal communications service, or a network radio access line.
11. "Wireless service provider" means any entity authorized by the federal communications commission to provide wireless service within the state of North Dakota.

Source: S.L. 1985, ch. 645, § 1; 1991, ch. 686, § 1; 2001, ch. 545, § 1; 2001, ch. 546, § 1.

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Deanne Hall
Operator's Signature

10/17/03
Date

#2

Testimony on Senate Bill 2192

Senate Judiciary Committee

By Harold Haugstad

January 29, 2003

Same testimony given to House

Mr. Chairman and members of the Committee, my name is Harold Haugstad, Minot Fire Chief and also a Director with the North Dakota Fire Chief's Association. I appear before you today in support of Senate Bill 2192.

On January 18, ²⁰⁰¹~~2000~~, Minot experienced a disastrous train derailment. The resulting poisonous cloud of anhydrous ammonia covered thousands of homes and led to one death and hundreds of injuries. An after action critique of the incident clearly identified the benefits that an **automated notification system** could have provided. (This system is often more recognized by the term "reverse 911").

Our local telephone exchange carrier began the research process of putting together a system that could offer this automated notification service. The system would not have been limited to Minot, but to the twenty-four exchanges in their service territory, including 30 North Dakota communities and surrounding rural areas. Unfortunately, their legal council, citing liability as the obstacle, put a halt on this planning process.

Through passage of Senate Bill 2192, the obstacle would no longer remain. This proposed legislation uses the same common sense approach as North Dakota's current "Good Samaritan Law". (That law limits civil liability when someone, in good faith, renders aid to another. The law would not remove their liability concerning gross negligence or willful and wanton misconduct.)

Mr. Chairman and members of the committee, Senate Bill 2192 offers the ability to enhance emergency communications, not only to the Minot area, but also throughout North Dakota. I thank you for the opportunity to testify before this committee and urge a "do pass" on Senate Bill 2192. I would be happy to answer any questions you may have concerning this important piece of legislation.

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Testimony in support of SB 2192
Dale Niezwaag
Legislative Representative
Basin Electric Power Cooperative
Before the House Judiciary Committee
March 17, 2003


Mr. Chairman and Members of the Committee, my name is Dale Niezwaag and I am here today representing Basin Electric Power Cooperative and Dakota Gasification Company in our support of Senate Bill 2192.

In 2000, Dakota Gasification Company (DGC) began operating a 205-mile pipeline from the Great Plains Synfuels Plant to Weyburn, Saskatchewan. The pipeline carries carbon dioxide that is used for enhanced oil recovery. Canadian regulations required that an automated telephone notification system be put in place to notify residents living along the pipeline path in Canada in the event of an emergency associated with the pipeline. The management and board of Basin Electric and DGC made the decision to extend the capabilities of this notification system to the North Dakota portion of the pipeline. In case of an emergency, the system now in place can be activated by personnel at the Synfuels Plant to notify all persons living or working along the path of the pipeline or around the plant.

In an effort to extend the usefulness of this notification system, Basin Electric contacted the Bismarck and Mandan Police Departments to see if they would have an interest in utilizing this notification system for their purposes. It was Basin Electric's intent to own and maintain the system and allow the Police Departments to independently access the system for their use. After several months of work, it was determined that if Basin Electric allowed the Police Departments to use our system, we could be held liable in the event a call was not completed to a resident and the resident was harmed in some way. Given the potential liability, the Bismarck Police Department was forced to purchase, install, and operate their own system. The city of Beulah has also contacted Basin Electric to discuss using our system in case of an emergency. Because of the liability question, DGC and Basin Electric have had to decline Beulah's request.

Basin Electric and DGC strongly endorse SB 2192. The intent of this bill, as we see it, is to encourage the use of technology without the threat of additional liability to increase the safety and well being of people of North Dakota by warning or informing the public of an emergency.

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What we would like to do is extend the applicability of the bill to encourage more public/private partnerships utilizing this technology. The bill as written gives this incentive to only certain private companies entering into public/private arrangements. Without an amendment, telephone access service providers and wireless service providers are encouraged to help, but other companies are not. We have prepared an amendment that would extend the protection provided by the bill to any individual, firm, partnership, association, corporation or company entering into a public/private notification system partnership.

Lets be very clear what this bill does and doesn't do. It does not provide any immunity from liability for acts or incidents that may cause harm to the public. It does avoid, the potential for additional liability if the organization is using or providing access to an automated notification system.

Technology is often touted as having the capability to make our lives better and safer. In this instance it has the ability to do so, but the threat of liability is holding it back.

To summarize,

1. Basin Electric and DGC support SB 2192 ,
2. The intent of the bill is to encourage the development and use of systems that will notify the public of hazardous or emergency situations. The bill as written provides incentives only to public agencies, public safety agencies, and telephone and wireless service providers.
3. Our amendment would extend this incentive to all private companies entering into public/private partnerships utilizing emergency automated notification systems.
4. The bill does not create any immunity for acts or situations they create. It only avoids, the potential for additional liability if an organization is using or providing access to an automated notification system.

In conclusion, Mr. Chairman and members of the committee we would ask the committee to support our amendment and vote for a "Do Pass" recommendation on SB 2192. Thank you Mr. Chairman. I'd be happy to answer any questions you or the committee members might have.