

May 2010

Introduced by

1 A BILL for an Act to create and enact chapter 57-34.2 of the North Dakota Century Code,
2 relating to a separate and additional telecommunications carriers gross receipts tax for support
3 of emergency services communication systems; to amend and reenact section 37-17.3-09 of
4 the North Dakota Century Code, relating to references to emergency services communication
5 systems provisions; to repeal chapter 57-40.6 of the North Dakota Century Code, relating to
6 emergency services communication systems administration and fees; to provide a continuing
7 appropriation; and to provide an effective date.

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

9 **SECTION 1. AMENDMENT.** Section 37-17.3-09 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **37-17.3-09. Public safety answering point service and fees.** The division may
12 provide 911 services to a political subdivision with a population of fewer than twenty thousand
13 and shall charge the apportioned amount consistent with the actual costs of providing the
14 service per telephone access line and wireless access line for 911 services provided to political
15 subdivisions. The fee for 911 wireless services must be charged to and paid by the political
16 subdivision receiving services from the division under this section from and after the date of the
17 agreement entered into by the political subdivision or its designee under section 57-34.2-06 or
18 57-40.6-05, whether the date of that agreement is before or after April 4, 2003. Each county
19 currently receiving 911 services from the division shall abide by the standards established by
20 law.

21 **SECTION 2.** Chapter 57-34.2 of the North Dakota Century Code is created and
22 enacted as follows:

23 **57-34.2-01. Definitions.** Words used in this chapter have the same meaning as
24 defined in chapter 57-34. In addition, in this chapter, unless the context otherwise requires:

- 1 1. "Automated notification system" means that portion of a telecommunications
2 system that provides rapid notice of emergency situations to the public.
- 3 2. "Emergency services communication system" means a statewide, countywide, or
4 citywide radio system; land lines communication network; wireless service network;
5 or enhanced 911 telephone system, which provides rapid public access for
6 coordinated dispatching of services, personnel, equipment, and facilities for law
7 enforcement, fire, medical, or other emergency services.
- 8 3. "FCC order" means federal communications commission order 94-102 [961
9 Federal Register 40348] and any other FCC order that affects the provision of
10 wireless enhanced 911 service.
- 11 4. "Governing body" means the governing body of a city or county with jurisdiction
12 over an emergency services communication system.
- 13 5. "Public safety answering point" means a communications facility or combination of
14 facilities operated on a twenty-four-hour basis which first receives 911 calls from
15 persons in a 911 service area and which, as appropriate, may directly dispatch
16 public safety services or extend, transfer, or relay 911 calls to appropriate public
17 safety agencies.
- 18 6. "Subscriber service address" means, for purposes of wire line subscribers, the
19 address where the telephone subscriber's wire line telephone device is used and,
20 for purposes of wireless subscribers, the place of primary use, as that term is
21 defined in section 57-34.1-02.
- 22 7. "Telephone access line" means the principal access to the telephone company's
23 switched network, including an outward dialed trunk or access register.
- 24 8. "Telephone exchange access service" means service to any wire line telephone
25 access line identified by a unique telephone number that provides local wire line
26 access to the telecommunications network to a service subscriber and which
27 enables the subscriber to access the emergency services communication system
28 by dialing the digits 9-1-1 on the subscriber's telephone device.
- 29 9. "Unpublished" means information that is not published or available from directory
30 assistance.

1 10. "Wireless access line" means each active wireless and prepaid wireless telephone
2 number assigned to a commercial mobile radio service subscriber, including end
3 users of resellers.

4 11. "Wireless enhanced 911 service" means the service required to be provided by
5 wireless service providers pursuant to the FCC order.

6 12. "Wireless service" means commercial mobile radio service as defined in 47 U.S.C.
7 332(d)(1) and includes:

8 a. Services commonly referred to as wireless; and

9 b. Services provided by any wireless real-time two-way voice communication
10 device, including radio-telephone communications used in:

11 (1) Cellular telephone service;

12 (2) Personal communications service; or

13 (3) The functional or competitive equivalent of a radio-telephone
14 communications line used in cellular telephone service, personal
15 communications service, or a network radio access line.

16 13. "Wireless service provider" means any entity authorized by the federal
17 communications commission to provide wireless service within the state of North
18 Dakota.

19 **57-34.2-02. Administration.** Except as otherwise provided in this section, all of the
20 provisions of chapter 57-34 not in conflict with this chapter apply to the tax imposed under this
21 chapter. The provisions that do not apply to this chapter are:

22 1. The tax rate and exemption under section 57-34-03.

23 2. Section 57-34-05.

24 3. Section 57-34-06.

25 **57-34.2-03. Separate and additional gross receipts tax.** At the time and in the
26 manner provided in section 57-34-03, the tax commissioner shall compute a separate and
27 additional tax to be assessed against each telecommunications carrier in this state at a rate of
28 _____ percent of adjusted gross receipts.

29 **57-34.2-04. Deposit of tax revenues - Allocation to emergency services**
30 **communication systems - Continuing appropriation.** All revenues from the tax imposed
31 under section 57-34.2-03 must be deposited in a special fund in the state treasury known as the

1 emergency services communication system fund. The tax commissioner shall allocate moneys
2 in the emergency services communication system fund among emergency services
3 communication systems in the proportion that fees collected under chapter 57-40.6 by the
4 emergency services communication system were of the total of all such fees collected by all
5 emergency services communication systems during calendar year 2011. Before the first day of
6 March of each year, the tax commissioner shall certify for payment to the state treasurer an
7 amount determined to be due to each emergency services communication system. The state
8 treasurer shall remit the certified amounts to emergency services communication systems
9 according to the allocation made by the tax commissioner not later than the tenth working day
10 in March of each year. The balance in the emergency services communication system fund is
11 appropriated as a standing and continuing appropriation to the state treasurer for annual
12 allocation to emergency services communication systems under this section.

13 **57-34.2-05. Enhanced 911 database management charges.** Any telephone
14 exchange access service provider charges for enhanced 911 database management must be
15 on a per telephone exchange access service basis.

16 **57-34.2-06. Restriction on use of tax proceeds.** The governing body may use the
17 proceeds of the tax allocation under section 57-34.2-04 solely for implementing, maintaining, or
18 operating the emergency services communication system and may enter agreements for that
19 purpose. The governing body or its designee shall deposit the tax proceeds in a separate fund
20 and keep records to show all expenditures from the fee proceeds.

21 **57-34.2-07. Database.** Any telephone exchange access service provider providing
22 emergency 911 service shall provide current customer names, addresses, and telephone
23 numbers to each 911 coordinator, the coordinator's designee, or public safety answering point
24 within each 911 system. Information provided under this section must be provided in
25 accordance with the transactional record disclosure requirements of the federal Electronics
26 Communications Privacy Act of 1986 [18 U.S.C. 2703(c)(1)(B)(iii)] and in a manner that
27 identifies the names and telephone numbers that are unpublished. The provider shall report
28 database information regarding new service or a change of service within two business days of
29 the actual service change unless a longer period is permitted by the jurisdiction. The provider
30 shall report database information regarding dropped service at least monthly.

1 **57-34.2-08. Use of the furnished information.** Unpublished names and telephone
2 numbers generated by a 911 coordinator or 911 public safety answering point or provided to a
3 911 coordinator or public safety answering point under section 57-34.2-07 are confidential and
4 may be used only for verifying the location or identity, or both, for response purposes, of a
5 person calling a 911 answering point for emergency help or by the 911 coordinator or public
6 safety answering point for the purpose of a public safety agency notifying a person of an
7 emergency. Published names and telephone numbers maintained by a 911 coordinator or
8 public safety answering point are exempt records as defined in section 44-04-17.1 but must be
9 provided upon request to the treasurer and auditor of the county served by the 911 coordinator
10 for the purpose of verifying and correcting names and addresses used for official purposes. A
11 record obtained for the purpose of providing services in an emergency and which reveals the
12 address of a person requesting emergency service or reporting an emergency by accessing an
13 emergency telephone number 911 system is exempt from section 44-04-18 and may be
14 redacted from the record before it is released.

15 **57-34.2-09. Emergency services communication system, automated notification**
16 **system, or emergency instructions - Liability.**

- 17 1. A public agency, public safety agency, assessed communications service provider,
18 or person that provides access to an emergency services communication system
19 or an automated notification system, or any officer, agent, or employee of any
20 public agency, public safety agency, assessed communications service provider, or
21 person is not liable for any civil damages as a result of any act or omission except
22 willful and wanton misconduct or gross negligence in connection with developing,
23 adopting, operating, or implementing any plan or system as provided under this
24 chapter.
- 25 2. An individual who gives emergency instructions through a system as provided
26 under this chapter to persons rendering services in an emergency at another
27 location, or any person following such instructions in rendering such services, is
28 not liable for any civil damages as a result of issuing or following the instructions,
29 unless issuing or following the instructions constitutes willful and wanton
30 misconduct or gross negligence.

- 1 3. This section does not waive, limit, or modify any existing immunity or other defense
2 of the state or any political subdivision, or any of its agencies, departments,
3 commissions, boards, officers, or employees, nor does it create any claim for relief
4 against any of these entities.

5 **57-34.2-10. Standards and guidelines.**

- 6 1. The governing body shall be or shall designate a governing committee of the
7 emergency 911 telephone system which shall:
- 8 a. Designate a 911 coordinator.
 - 9 b. Enter written agreements with participating organizations and agencies.
 - 10 c. Designate lines of authority.
 - 11 d. Provide for a written plan for rural addressing, if applicable, which has been
12 coordinated with the local postal authorities. A rural plan must conform to the
13 modified burkle addressing plan. A plan in use before January 1, 1993, does
14 not have to conform with the modified burkle addressing plan. If
15 implemented, all rural addressing signs must comply with the manual on
16 uniform traffic control devices standards.
 - 17 e. Provide for an update of the emergency 911 telephone system's database
18 annually by obtaining current records from the appropriate
19 telecommunications company.
 - 20 f. Define a records retention plan for all printed and recorded records in
21 accordance with jurisdictional requirements.
 - 22 g. Encourage that coin-free dialing is available for 911 calls.
 - 23 h. Define a mechanism to differentiate emergency 911 telephone calls from
24 other calls.
 - 25 i. Provide for written operating procedures.
 - 26 j. Require the public safety answering point that initially receives an emergency
27 call to be responsible for handling that call. If a transfer of an emergency call
28 is made to a secondary public safety answering point, the initial public safety
29 answering point may not disconnect from the three-way call unless mutually
30 agreed upon by the two public safety answering point dispatchers. Upon this

- 1 agreement, the secondary public safety answering point becomes responsible
2 for the call.
- 3 k. Ensure that the closest available emergency medical service is dispatched to
4 the scene of medical emergencies regardless of city, county, or district
5 boundaries. The state department of health shall provide emergency 911
6 telephone systems with necessary geographical information to assist in the
7 implementation of this subdivision.
- 8 l. Ensure that fee proceeds collected under this chapter are expended in
9 accordance with guidelines developed pursuant to section 57-34.2-11 and
10 implement an accounting system sufficient to meet the requirements of
11 section 57-34.2-06.
- 12 2. The governing committee may:
- 13 a. Require appropriate liability protection.
- 14 b. Create a user advisory board.
- 15 c. Conduct an annual statistical evaluation of services.
- 16 d. Publish an annual financial report in the official county newspaper.
- 17 3. An emergency 911 telephone system must access and dispatch the following
18 services:
- 19 a. Law enforcement.
- 20 b. Fire service.
- 21 c. Emergency medical service.
- 22 4. An emergency 911 telephone system may access and dispatch the following
23 services:
- 24 a. Poison control.
- 25 b. Suicide prevention.
- 26 c. Emergency management.
- 27 d. Any other related service in subsection 3 or this subsection.
- 28 5. The governing committee of an emergency 911 telephone system shall provide
29 that that system:
- 30 a. Provides twenty-four-hour, seven-day-a-week coverage.
- 31 b. Dispatches and communicates with service identified in subsection 3.

- 1 c. Records all incoming 911 calls and related radio and telephone
- 2 communications.
- 3 d. Provides alternate measures in the event of an emergency 911 telephone
- 4 system failure, including an alternate public safety answering point seven-digit
- 5 number.
- 6 e. Ensures an adequate grade of service that is statistically based by population
- 7 to assure access to an emergency 911 telephone system.
- 8 f. Does not accept one-way call-in alarms or devices.
- 9 g. Provides access to an emergency 911 telephone system through specialized
- 10 telecommunications equipment as defined under section 54-44.8-01.
- 11 6. An emergency 911 telephone system may:
- 12 a. Locate the emergency caller utilizing electronic equipment.
- 13 b. Provide a mechanism for investigating false or prank calls.
- 14 7. An emergency 911 telephone system must include at least one public safety
- 15 answering point.
- 16 8. A cellular 911 call must be routed to the appropriate 911 public safety answering
- 17 point.
- 18 9. An emergency 911 telephone call must be answered by a dispatcher who has
- 19 completed training through an association of public safety communications officials
- 20 course or equivalent course. An emergency 911 dispatch center is required to
- 21 offer emergency medical dispatch instructions on all emergency medical calls.
- 22 Prearrival instructions must be offered by a dispatcher who has completed an
- 23 emergency medical dispatch course approved by the division of emergency health
- 24 services. Prearrival medical instructions may be given through a mutual aid
- 25 agreement.

26 **57-34.2-11. Emergency services communications coordinating committee -**

27 **Membership - Duties.**

- 28 1. The governing body shall make an annual report of the income, expenditures, and
- 29 status of its emergency services communication system. The annual report must
- 30 be submitted to the emergency services communications coordinating committee.
- 31 The committee is composed of four members, one appointed by the North Dakota

- 1 911 association, one appointed by the North Dakota association of counties, one
2 appointed by the chief information officer of the state, and one appointed by the
3 adjutant general to represent the division of state radio.
- 4 2. The committee shall:
- 5 a. Develop guidelines regarding the allowable uses of the fee revenue collected
6 under this chapter;
- 7 b. Request, receive, and compile reports from each governing body on the use
8 of the proceeds of the fee imposed under this chapter, analyze the reports
9 with respect to the guidelines, file its report with the legislative council by
10 November first of each even-numbered year regarding the use of the fee
11 revenue, and recommend to the legislative assembly the appropriate
12 maximum fee allowed by section 57-40.6-02;
- 13 c. Periodically evaluate chapter 57-40.6 and recommend changes to the
14 legislative management; and
- 15 d. Serve as the governmental body to coordinate plans for implementing
16 emergency 911 services and internet protocol enabled emergency
17 applications for 911.
- 18 3. The committee may initiate and administer statewide agreements among the
19 governing bodies of the local governmental units with jurisdiction over an
20 emergency 911 telephone system to coordinate the procurement of equipment and
21 services, fund the research, administration, and activities of the committee, and
22 contract for the necessary staff support for committee activities.

23 **SECTION 3. REPEAL.** Chapter 57-40.6 of the North Dakota Century Code is
24 repealed.

25 **SECTION 4. EFFECTIVE DATE.** This Act is effective for taxable events occurring after
26 December 31, 2010.