

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1479

2001 HOUSE FINANCE AND TAXATION

HB 1479

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1479

House Finance and Taxation Committee

Conference Committee

Hearing Date February 13, 2001

Tape Number	Side A	Side B	Meter #
1	X		36
Committee Clerk Signature <i>Jamie Stein</i>			

Minutes:

REP. AL CARLSON, CHAIRMAN, Opened the hearing and read the fiscal note.

REP. RAE ANN KELSCH, DIST. 34, MANDAN, Introduced the bill as the prime sponsor.

See attached written testimony.

REP. KELSCH Asked what a "bucket of minutes" was.

REP. KELSCH A "bucket of minutes" is a plan that includes four hundred minutes for \$39.99.

You are taxed on the \$39.99, if you don't go over your minutes.

REP. CARLSON Asked that she explain what the address jurisdiction is.

REP. KELSCH It would be the primary place of use. If you had a post office box in Fargo, ND, and that is where your primary place of use is, you would be taxed in Fargo, ND. If you use your phone in Fargo, and you had a P. O. Box in Bismarck, that is where the problem comes in, now you are paying Bismarck city sales tax, and you are actually using your phone in Fargo, so we say, where is your local address.

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REP. CARLSON We have a lot of border businesses in Fargo, and many of the businesses have moved their businesses to Fargo because of tax advantages, but their principal residence is in Moorhead, but they claim a post office box in Fargo, does this mess things up?

REP. KELSCH It would be their primary place of use, whether it be their business or their residence.

REP. CARLSON The point of the whole bill is to get the primary residence, whether it be business or personal?

REP. KELSCH Correct, and to avoid the double taxation.

REP. CARLSON Asked that she enlighten the committee as to what type of taxes are on mobile communications at this point in time.

REP. KELSCH Our taxes in Bismarck are between 11% and 14 %, you are paying gross receipts tax, city and state sales tax, and a mobile tax.

REP. CARLSON Was the roaming charges the basic charge you were fighting?

REP. KELSCH, No, the same thing happens when you are traveling from Bismarck to Fargo, who gets the benefit of those dollars, does Fargo get it just because you are traveling through Fargo, it makes it cleaner and easier.

REP. KROEBER If they choose to do this, why would a state choose to develop their own data base and then maintain it.

REP. KELSCH I don't know why the state would want to do that.

REP. WINRICH My primary residence and billing address is in Grand Forks, but because the primary tower for the company that I subscribe to is in Minnesota, that would not affect this, the taxation would go with the primary residence?

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REP. KELSCH That is correct.

REP. WINBICH This would essentially bring North Dakota into harmony with the national standard?

REP. KELSCH Yes, this bill was passed by Congress last year. It was a bill that was co-sponsored by Sen. Dorgan. This was probably one of the most well received pieces of legislation.

REP. CARLSON On page 4, it does talk about the Public Service Commission may provide an electronic data base to a home service provider, etc. what is that about?

REP. KELSCH Unfortunately, this is model legislation. It is being used in all of the states, and some of the states, apparently, do this.

REP. CARLSON Right now, you as a wireless provider, are collecting the taxes and submitting it to the tax commissioner?

REP. KELSCH That is correct.

TOM KELSCH , WESTERN WIRELESS CORPORATION, MANDAN, Testified in support of the bill. Western Wireless Corporation was involved in the national legislation, and support this legislation on a state level.

REP. CARLSON From your perspective, do we need all of this language with the data base and such for the Public Service Commission?

TOM KELSCH My understanding is, they are just giving them that option, I don't know if North Dakota would ever adopt that, if you would want to take it out, it probably wouldn't affect the bill. It is permissive. The way the cellular industry is changing, they may want to do that at some future date.

TODD KRANDA, LOCAL ATTORNEY, VERIZON WIRELESS, Testified in support of the bill, See attached written testimony.

REP. CARLSON Has this been adopted by most states so far?

REP. KELSCH Answered, stating it is just in the process of being adopted by some of the states. About nine states have adopted it.

REP. CARLSON Asked that a copy of a bill from another state be submitted to see what they were doing.

With no further testimony, the hearing was closed.

COMMITTEE ACTION 2-14-01, TAPE #1, Side B, Meter #1269

REP. GROSZ Gave an explanation of his research on the bill.

REP. KELSH Also gave information on cell phones.

REP. RENNER Made a motion for a do pass

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

15 YES 0 NO 0 ABSENT

REP. KELSH Was given the floor assignment.

FISCAL NOTE
 Requested by Legislative Council
 02/09/2001

Bill/Resolution No.: HB 1479

Amendment to:

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

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

HB 1479 sources mobile telecommunications for tax purposes according to the place of primary use.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*
A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

For sales tax purposes, HB 1479 is consistent with current procedures. For telecommunications tax purposes, there may be a slight positive impact, the amount of which cannot be determined.

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

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

Name:	Kathryn L. Strombeck	Agency:	Tax Department
Phone Number:	328-3402	Date Prepared:	02/12/2001

Date: 2-14-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1479

House FINANCE & TAXATION Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Renner Seconded By Rep. Clark

Representatives	Yes	No	Representatives	Yes	No
CARLSON, AL, CHAIRMAN	✓		NICHOLAS, EUGENE	✓	
DROVDAL, DAVID, V-CHAIR	✓		RENNER, DENNIS	✓	
BRANDENBURG, MICHAEL	✓		RENNERFELDT, EARL	✓	
CLARK, BYRON	✓		SCHMIDT, ARLO	✓	
GROSZ, MICHAEL	✓		WIKENHEISER, RAY	✓	
HERBEL, GIL	✓		WINRICH, LONNY	✓	
KELSH, SCOT	✓				
KROEBER, JOE	✓				
LLOYD, EDWARD	✓				

Total (Yes) 15 No 0

Absent 0

Floor Assignment Rep. Kelsh

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

REPORT OF STANDING COMMITTEE (410)
February 14, 2001 4:17 p.m.

Module No: HR-27-3420
Carrier: S. Kelsh
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1479: Finance and Taxation Committee (Rep. Carlson, Chairman) recommends DO PASS (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1479 was placed on the Eleventh order on the calendar.

2001 SENATE TRANSPORTATION

HB 1479

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1479

Senate Transportation Committee

Conference Committee

Hearing Date 3-22-01;3-23-01;3-29-01

Tape Number	Side A	Side B	Meter #
1	x		0.0-31.2
3-23	x		0.0-17.7
3-29	x		0.0-4.1
Committee Clerk Signature <i>Suzette Schaefer</i>			

Minutes: **HB 1479** relates to the taxation of mobile telecommunications; and to provide an effective date.

Rep. Rae Ann Kelsch: (District 34; Supports) See attached testimony. A couple of questions came up. One being if we needed to have the database in statute. The state does not have to develop a database. So basically, the tradeoff is that there is more database, then carriers utilize the nine digit zip code to establish the taxing jurisdictions for each of the customers. Then the carrier is held harmless against any liability for collecting the incorrect tax it receives. So the state would be unable to access a carrier. Basically that is the tradeoff for the database. This bill is model registration, it is being implemented nationally. The reason this bill came in on short notice was due to the fact that wireless tax people realized that this bill needed to be implemented because ND does not have a legislative session next year. This bill needs to go into effect by 2002. Another question asked was whether or not we need to enact this bill. There are no penalties per say, but what does happen is that the state will lose the ability to charge tax on

out of state roaming. The state would lose revenue. That's our penalty for not implementing this legislation. Whether we have the database language in there or not is up to you. Public Service Commission is not overly excited about having to develop a database.

Senator Trenbeath: You indicated that this need to go into effect by 2002, I take it that "needs" part is in order to maximize the revenue?

Rep. Kelsch: Congress enacted this Uniform Sourcing Act in 2000. They gave an implementation date of 2002 for all states to come into compliance.

Senator Trenbeath: So are you saying if we didn't enact this now, that we will not be able to enact this in 2003?

Rep. Kelsch: You would be able to do this but we would also be losing that revenue.

Sen. Kelsch: Why do we need to know what city the person lives in if we are only worried about out of state roaming. All we would need to know at that point is that the person is from ND.

Rep. Kelsch: The reason you need to know where the person's primary place of use is so that you get taxed at the correct city's sale tax rate.

Senator Stenehjem: Couldn't we limit it to the 5% state tax and exclude any other jurisdictional taxes as far as city or county, etc. sales tax?

Rep. Kelsch: If you would like to do that then that would make our life a lot easier. We have to tax according to each different city. I'm not sure exactly how the city's would feel about that losing the additional revenue. Right now you are being taxed at 11% on your wireless bill.

Sen. Stenehjem: Most residents do not know their 9 digit zip code. Where are they going to find out?

Rep. Kelsch: We would be able to tell most likely by their address what it is.

Sen. Stenehjem: If I am out in New York state and roaming if this bill is passed, will New York be able to charge a state sales tax on it too?

Rep. Kelsh: No. Potentially New York could tax before Congress enacted the Uniform Sourcing Act. You could be taxed in New York as well as in ND. That's why we want to implement this legislation and not have our consumers be double taxed.

Sen. Stenehjem: Currently the way it is today, if I am in MN, am I paying ND sales tax on roaming charges?

Rep. Kelsh: Yes you are.

Tom Kelsch: (Western Wireless; Cellular One; Lobbyist 224; Supports) Hands out proposed amendment. Also hands out testimony from Todd Kranda (Lobbyist for Verizon Wireless)

Sen. Stenehjem: In the proposed amendment, will faxing be included in "in writing" part?

Tom Kelsch: Faxed would be considered a writing. It is in other provisions of the code.

Senator Stenehjem: Do you have any breakdown or information regarding the revenue of the cities, counties, and the state for the sales tax collected on cell phones?

Tom Kelsch: Each cell company and city would have that information. I will try to get that information.

Senator Stenehjem: We have the Public Service Commission performing a duty and there is no fiscal note.

Tom Kelsch: There is no fiscal note because it is optional to create the database and my understanding is that the PSC doesn't want to establish the database and remove themselves from the bill and just put "state" on there.

