

**2013 SENATE FINANCE AND TAXATION**

**SB 2262**

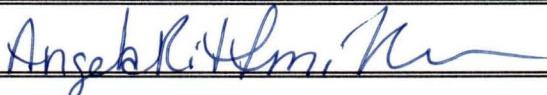
# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee  
Lewis and Clark Room, State Capitol

SB 2262  
1/30/2013  
Job Number 17952

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact sections 57-40.6-01 and 57-40.6-08, subdivision i of subsection 1 of section 57-40.6-10, and section 57-40.6-12 of the North Dakota Century Code, relating to fees for 911 services; to repeal sections 57-40.6-02, 57-40.6-03, 57-40.6-03.1, 57-40.6-04, and 57-40.6-05 of the North Dakota Century Code, relating to fees for 911 services; and to provide an appropriation.

Minutes:

Testimony Attached

**Chairman Cook** opened the hearing on SB 2262.

**Chairman Cook** introduced SB 2262.

**Nancy Riedel, Director of State Tax Policy, Verizon Wireless** - See attached testimony 1.

**Chairman Cook** - Its constant burden on the telecomm industry, is that not correct, to actually get it?

**Nancy Riedel** - North Dakota is I think 19<sup>th</sup> in terms of states across the country for taxes and fees imposed on wireless consumers.

**Chairman Cook** - You have to know the 911 fee for every different taxing jurisdiction do you not?

**Nancy Riedel** - Right. North Dakota has locally imposed that 911 fee, so it's an administrative burden to comply with all those individual impositions. Many states have wireless fees set at the state level so it's the same fee across all the local jurisdictions, but North Dakota does have the additional individual imposition in collecting authority.

**Cheryl Riley, AT&T** - I'm also here in support of the bill for the same reasons that was just stated by Nancy Riedel.

**Mike Rud, ND Retail Association** - On behalf of our 400 members we certainly stand in support of SB 2262. This is an essential service, we think the state should fund essential

services and we don't want to be responsible for collecting and remitting anymore sales taxes but we will do what we have to do as we do stand in support of SB 2261 as well. We think this is a job that the state should take care of in terms of funding and not put more pressure on the consumers.

**Terry Traynor, ND Association of Counties** - See attached testimony 2 opposed to SB 2262.

**Chairman Cook** - You talk about the citizens that voted to support the 911 fees. I would argue that they never had another choice of having the state pay for that 911 fee instead of themselves. What do you think the citizens of North Dakota would say if they were given that choice?

**Terry Traynor** - Possibly if you could explain it to them they would agree. I would say that \$12 a year is not a high price to pay for what they are getting there and by the votes you can tell. Most votes for 911 fees have passed by 60-80%. People want this service and they see a user fee is appropriate.

**Chairman Cook** - I would say \$18 a year on my line based phone and then we have to start adding up all the different cell phones in the family and I think most families are in the same position. You also argue that there's not another state that does it. What's wrong with the argument that we are better and the first to do it? I like to set a standard; don't you think there would be a lot of them envious of us?

**Terry Traynor** - We would be the first, that would be exciting in some ways, but as I point out, there's a number of states that collect user fees at the state level and then appropriate them and a number of states have seen them not get to their purpose, that is our concern.

**Chairman Cook** - You correctly said North Dakota has never rated the 911 fees, other states have, I'm aware of that. I wish you would judge us by what we do here and not what they do in Michigan.

**Senator Burckhard** - You made reference to compensation going to the telephone companies with this fee. Wouldn't the compensation go to the Telco's if it was funded through the state to the counties and then to the Telco's anyway?

**Terry Traynor** - The compensation for collecting the fee obviously would not because they wouldn't collect the fee. Right now the Telco's are allowed to collect up to 5% based on their actual costs of collecting which of course would go away in SB 2262. But, yes a good share of the money would go back to the Telco's as payment for the services that are necessary for 911.

**Brent Nelson, Director of Communication for Walsh County** - See attached testimony 3 opposed to SB 2262.

**Senator Miller** - If we had a funding mechanism that was permanent and always was constant, what would your opinion of the bill be then? Rather than 1 time \$20 million, if we had a distribution formula.

**Brent Nelson** - That would make the bill a little more appealing if there was, but it's still a state process that would require every 2 years to allocate money to that fund so there is no guarantee as to how much money is going to be placed into that fund to distribute through whatever process is developed.

**Senator Triplett** handed out testimony on behalf of **Becky Ault, Grand Forks Public Safety Answering Point** (attachment 4).

**Chairman Cook** closed the hearing on SB 2262.

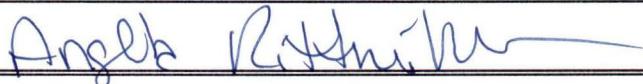
# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee  
Lewis and Clark Room, State Capitol

SB 2262  
2/4/2013  
Job Number 18228

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact sections 57-40.6-01 and 57-40.6-08, subdivision i of subsection 1 of section 57-40.6-10, and section 57-40.6-12 of the North Dakota Century Code, relating to fees for 911 services; to repeal sections 57-40.6-02, 57-40.6-03, 57-40.6-03.1, 57-40.6-04, and 57-40.6-05 of the North Dakota Century Code, relating to fees for 911 services; and to provide an appropriation.

**Minutes:**

Committee Work

**Chairman Cook** opened discussion on SB 2262.

**Senator Miller** - I'll move a **Do Not Pass**.

Seconded by **Senator Triplett**.

**Roll Call Vote 5-2-0**

Carried by **Senator Miller**.

Date: 7-4-13  
Roll Call Vote #: 1

**2013 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2262**

Senate Finance & Taxation Committee

Check here for Conference Committee

## Legislative Council Amendment Number

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerrefer to Appropriations  Reconsider

Motion Made By Senator Miller Seconded By Senator Triplett

Total (Yes) 5 No 2

Absent 6

Floor Assignment Senator Miller

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

**REPORT OF STANDING COMMITTEE**

**SB 2262: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **DO NOT PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2262 was placed on the Eleventh order on the calendar.

**2013 TESTIMONY**

**SB 2262**

Testimony in Support of SB 2262

Nancy Riedel, Director State Tax Policy, Verizon

Senate Finance & Taxation Committee

January 30, 2013

Chairman Cook, Vice Chairman Campbell and members of the Committee, thank you for the opportunity to provide comments in support of SB 2262 which would repeal 911 fees on consumers of telecommunication services and fund emergency communication systems with a general fund appropriation.

Verizon commends Senator Cook for bringing forth this legislation and believes that state legislatures everywhere should affirm that 911 is an essential government service that should receive priority funding from a state's general revenues.

In today's rapidly changing telecommunications environment, communication services are being provided and accessed well beyond the commonly recognized boundaries of traditional telecommunication services. Telecommunication consumers no longer represent the reliable and predictable base they did in the days of regulated monopolies. Changes in technology will continue to expand the menu of how telecommunication services are provided in the future. As more options become available, more users will deviate from the traditional models.

The operating platforms for many of these emerging services are not compatible with the traditional model that is based on a consumer paying a monthly bill for telecommunications services. For example, prepaid consumers are rapidly gaining market share in the wireless market and there is not a reliable mechanism currently in place in North Dakota to collect a 911 fee from those users. Consequently, sustaining the revenues necessary to support 911 services from a declining base will continue to be a challenge. Emergency communication services are a necessity for all citizens regardless of how, or if, they consume telecommunications services and accordingly those services should be included in the general fund budget.

Testimony to the  
**Senate Finance and Taxation Committee**

Prepared January 30, 2013 by  
 Terry Traynor, Assistant Director  
 North Dakota Association of Counties

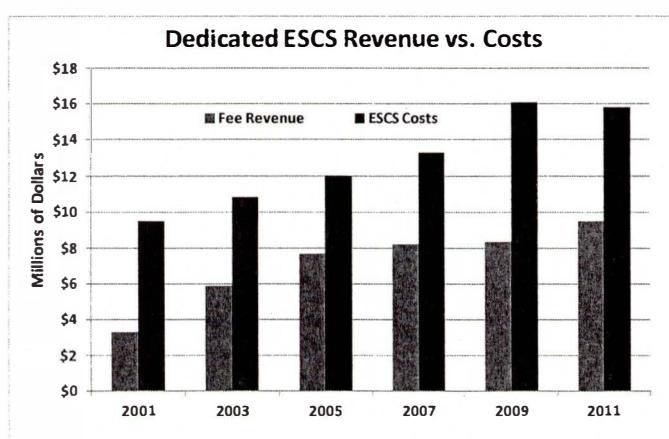
**Regarding: SB2262 – ESCS Fee Elimination**

Mr. Chairman and Committee Members, the North Dakota Association of Counties is supportive of a number of the efforts by the Legislature to reduce the taxes our citizens pay. However, the dedicated revenue replacement concept of Senate Bill 2262, like a similar House bill replacing the motor fuels taxes supporting road construction, we believe, must be opposed.

While not a user-fee in its purest sense, the Emergency Services Communications System (or 9-1-1) fee is clearly established by statute and enacted by over 100 separate citizen votes to dedicate funds to a very specific and vital service.

Without this fee, it would have been extremely difficult (if not impossible) to develop one of the nation's most complete, most efficient, and most advanced statewide 9-1-1 systems, at a time when government revenues were stretched.

To eliminate a funding strategy that grows with the telecommunications industry and the needs of local government, and which has widespread citizen support, with a one-time, fixed, biennial appropriation does not seem prudent.



The biennial reports prepared for the Legislature since the extension of 9-1-1 to wireless service in 2001 show continued growth that has maintained the property tax subsidy of this service at a fairly constant level – allowing local government to address the growing expenses of this essential local service.

It cannot be argued that as we move into more, and more varied, types of personal communication, that a per-device fee is less than ideal. Those involved in North Dakota's emergency communications system recognize that at some point it may need to be replaced – but we don't believe that time has come. And we are not alone.

Surveys indicate that 9-1-1 jurisdictions in all but one state have some form of a device fee to fund emergency communications. At the national level, there is a concerted effort to examine this funding model – both its strengths and weaknesses – in order to recommend a uniform model for the future. Attached to this testimony is this fall's announcement regarding this issue from the U.S. Department of Transportation, (USDOT/NHTSA) National 911 Program Office. This is the federal coordination office, which works in conjunction with the FCC and numerous national voluntary organizations on 911 issues. As you can see, the attachment is calling for assistance with the creation of a national Blue Ribbon Panel on 911 Funding.

County officials do not believe that North Dakota should unilaterally move away from the current national funding model before a new one has been identified. Not when it would be moving to a biennial debate over the appropriate level of state funding, and a continual debate over the equitable distribution of these funds.

And finally, while it does not seem to be an immediate issue, the experience of other states suggests that 9-1-1 funding is easily diverted to other state needs when it is handled as an appropriation. Since passage of the NET911 Act of 2008, the FCC has been monitoring dedicated 9-1-1 revenue nationwide, and in their 2011 report issued last week (Cited in the attached news article), the FCC indicates that legislatures in six states and one territory had diverted this revenue to general fund purposes – it is with pride that North Dakota has reported no diversions – ever.

Mr. Chairman and committee members, our Association urges a Do Not Pass recommendation. Thank you.

## **NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION – National 9-1-1 Program**

The U.S. Department of Transportation, National Highway Traffic Safety Administration's (USDOT/NHTSA) Office Emergency Medical Services (OEMS), National 911 Program engages in national programs and products designed to enable the vision of Next Generation (NG) 911 as a nationwide network of interconnected 911 systems. The focus of the program is on enhancing and improving collaboration among all 911 stakeholders, providing information and resources on 911 technology and operations, and the administration of a grant program specifically for 911 Public Safety Answering Points (PSAPs).

The National 911 Program is interested in funding a project to conduct a Blue Ribbon Panel on 911 Funding. The Panel was recommended by Working Group 4B of the Federal Communications Commission's (FCC's) Communications Security, Reliability and Interoperability Council (CSRIC), a formal FCC advisory group whose report to the FCC was delivered in March of 2011. The primary objective of this project is to utilize stakeholder input to complete a document containing options for local, State and national 911 funding and oversight models, specifically developed by an organization with expertise in economics.

Multiple organizations both public and private have produced reports stating the deficiencies of current models in providing adequate funding and oversight for the provision of 911 services. Present methods of funding 911 systems vary widely, are shifting as the public's methods of communication evolve, and are challenged by a variety of other factors, including inequity in collections across types of telecommunication service, collection challenges with services such as prepaid wireless, auditing issues, and diversion of funds for non-911 purposes. While there is no consensus on how to fund and/or oversee 911 services, there is agreement that the transition to the Next Generation of 911 will require the development of new funding models. As stated in the 4B report, "Without implementation of new funding models to provide an adequate alternate and additional source of revenue for NG9-1-1 systems, the transition period to NG9-1-1 will be protracted and compromised, service to our citizens will be jeopardized, and Public Safety's ability to keep pace with technological developments will be hampered."

NHTSA would like to answer the following question: What funding and oversight models currently exist for 911 services at the local, State and national levels?

1. What is the contractor's economic analysis of current funding and oversight models?
2. Are current funding and oversight models or portions of current models adaptable as 911 services migrate to NG911?
3. What economic principles and/or theories should be applied in developing funding and oversight models for local, State and national 911 authorities?
4. Are there examples of other funding and oversight models from other public or private entities that could be adopted or adapted for us by 911 services?
5. Given the current status of 911 nationwide and the goal of migrating to NG911, which models show promise in providing consistent funding and oversight in the provision of 911 services?

# **FCC: 7 States, Territories Divert 9-1-1 Fees in 2011**

## **Mission Critical Communications (1/15/13)**

Seven U.S. states and territories used at least a portion of 9-1-1 fees and charges for non-9-1-1 related purposes during 2011, according to a new FCC report. The number of states diverting funds is the same as last year.

Five states, Arizona, Illinois, Maine, Rhode Island and New York, reported that they assigned collected 9-1-1 fees and charges to their state's general fund. Guam used collected fees for other public safety-related purposes. Georgia reported that it didn't use funds collected from prepaid phones for 9-1-1 use, but didn't specify how it used the collected money.

Two states, New Jersey and West Virginia, said they used 9-1-1 fees for other public-safety-related purposes consistent with state funding statutes. The commission didn't receive responses from the District of Columbia or Louisiana.

The report is the fourth-annual 9-1-1 fee report submitted to Congress as required by the New and Emerging Technologies 911 Improvement Act of 2008 (NET 911 Act).

The FCC also asked for comment on the newly released report and on the specific responses submitted by states and other reporting entities. The commission is especially interested in comments on the collection and distribution of 9-1-1 and enhanced 9-1-1 fees and charges in the non-responding jurisdictions. Comments are due Feb. 13, and reply comments are due March 15.

# WALSH COUNTY EMERGENCY SERVICES COMMUNICATIONS (9-1-1)

Administrative Bldg., 638 Cooper Ave., Grafton, ND 58237  
Phone: (701) 352-2311 Fax: (701) 352-5072

## SENATE BILL 2262 Senate Finance and Taxation Committee January 30, 2013

**Chairman Cook, Vice Chairman Campbell, members of the committee. My name is Brent Nelson and I am currently the Director of Communication (9-1-1) for Walsh County, ND. I am here today in opposition to SB2262, which will basically replace local funding with a onetime state allocation, for the next two years.**

My first concern with this bill is that it removes the process that has served North Dakota since 1985. In the beginning of ND 9-1-1, the state of ND made it clear that they were supportive of implementing 9-1-1 in the state, but wanted no part of funding such an effort on a continuous base. The local jurisdiction adopted the current funding system, which is the funding system the majority of states use nationwide and has been locally supported time after time by over 100 affirmative elections. This bill discards that system and replaces it with a onetime state allocation, with no plan on how to distribute the funds or how to sustain the funding into the future.

North Dakota has been one of the leading states in implementing new technologies to enhance 9-1-1 service throughout ND. We have done this by working together as a group, in cooperation with the North Dakota Association of Counties (NDACo). All 53 counties have entered into a Joint Powers Agreement with NDACo for the implementation of what is often referred to as "Next Generation 9-1-1" which represents the next major step in 9-1-1 Service. How often can you say all 53 counties agreed on one idea? This next step in 9-1-1 service will allow Counties to implement new services, share resources, share costs and provide a more efficient system to the citizens of ND.

SB 2261 (The next bill on your agenda) is a step in the right direction for North Dakota, but SB 2262 is taking what overall is a working system, maybe not a perfect system, but one that has kept ND as one of the leading states in 9-1-1 service. It places the strong Emergency Communication System in ND at risk for future funding, setting up another layer of state government that will certainly divide the state's 53 counties rather than building on the unity they share with 9-1-1 service today.

Thank you for your time and consideration and I urge you NOT TO SUPPORT SB 2262.

Brent Nelson, Director  
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## Testimony in OPPOSITION OF SB 2262

Becky Ault, Director  
Grand Forks Public Safety Answering Point

Finance and Taxation Committee

Senator Dwight Cook, Chair  
Wednesday, January 30 9:00 a.m.

Good morning Chairman Cook and Members of the Senate Finance and Taxation Committee. I am Becky Ault, and I am the director of the Grand Forks Public Safety Answering Point. I was not able to be here in person today, but am writing to oppose Senate Bill 2262.

Senate Bill 2262 would eliminate the local fee collection per device and replace with a sum of \$20,000,000 to the state treasurer for the purpose of providing funding for 911 services primarily based upon the population of each county and secondarily on other factors for the biennium beginning July 1 2013 and ending June 30 2015.

We are concerned that removal of local control to a central state based system could in the future have the potential to decrease in funding or change in funding priorities which would negatively impact our local budget. Currently we have a large state surplus, but when revenues shrink, funding to local government is a target for early reduction, since local government has property tax to fall back on.

Our voters have recognized the critical nature of emergency communications services through their support of the local fee collection. A General Fund appropriate would set counties and cities up for disagreement and competition amongst ourselves for funds.

Local emergency communication officials have worked collaboratively over the past 10 years on the implementation of Wireless 9-1-1, and as of January 1, 2013 will be embarking on a joint, statewide effort to transition to Next Generation 9-1-1, which will be a migration of our circuitry based systems to an IP environment. NG9-1-1 is critically important locally as well as nationally, and the counties and cities have proven they can manage a statewide implementation with state coordination but without state control. State control of the funding mechanism for this crucial advancement has the very real potential to delay implementation.