

October 2007

WIRELESS SERVICE IMPACT ON BUSINESS CLIMATE - BACKGROUND MEMORANDUM

Section 28 of House Bill No. 1018 (attached as [Appendix A](#)) directs a study of the issues relating to wireless service providers in the state and how wireless service impacts the business climate in the state.

BACKGROUND

2005-07 Interim Recommendation

The study was originally included in House Bill No. 1027, which was recommended by the Legislative Council's interim Economic Development Committee. House Bill No. 1027, which did not pass, also included provisions that would have provided a sales tax exemption for the gross receipts from sales of wireless service provider equipment that is an integral part of a new or expanding wireless service provider. The sales tax exemption would have been effective until 2011. Testimony before the interim Economic Development Committee indicated that there may be a perception of or a complete lack of wireless service in some areas of the state, which may hinder business development in those areas. Therefore, the committee recommended the study and proposed the sales tax exemption to encourage investment. Although many of the provisions of House Bill No. 1027 were incorporated into House Bill No. 1018, the wireless service provider sales tax exemption was not included in the bill. The fiscal note for House Bill No. 1027 indicated that the Tax Department was unable to determine the fiscal impact of the proposed sales tax exemption.

Wireless Industry Growth

Statistics from the Federal Communications Commission (FCC) indicate the number of mobile wireless subscribers in the United States has increased from 92,000 in 1984 to over 217,000,000 in June 30, 2006. By June 2005 the percentage of wireless subscribers per 100 population in the United States exceeded the percentage of wire telephone lines. The FCC also reports that the number of wireless subscribers in North Dakota has increased from 388,609 in June 2005 to 481,655 in June 2006. In 2006 the Public Service Commission reported that the number of wireless accounts had surpassed the number of traditional wire telephone lines in the state. According to the Commission on International Trans-Regional Accreditation (CITA), the international wireless association, the current estimated number of wireless subscribers in the United States is over 245,000,000. CITA also reports that by the end of 2006, there were over 195,000 cell sites in the United States.

Universal Service Fund

In 1996 the United States Congress adopted the Telecommunications Act of 1996 to require interstate telecommunications carriers to contribute to a Universal Service Fund to subsidize telephone service to low-income households and rural and high-cost areas. During the first 10 years of the existence of the Universal Service Fund, over \$44 billion was collected as a result of surcharges assessed on consumers' telephone bills. Distributions from the Universal Service Fund support four purposes: (1) high-cost areas, (2) low-income households and individuals, (3) schools and libraries, and (4) rural health care. A majority of the distributions have been for the purpose of high-cost support. In 2006 approximately \$4.1 billion was distributed through the high-cost support program. Under the high-cost support program, funds are distributed directly to telecommunications providers that operate in high-cost areas. Distributions under the high-cost support program are made to providers on a per subscriber basis and may be made to landline and wireless providers. Records of the FCC indicate that the share of distributions to wireless carriers increased from 3.3 percent in 1997 to approximately one-third of the total by early 2006.

High-cost payments to providers for subscribers in this state increased from about \$21 million in 1998 to nearly \$80 million in 2006. According to the 2006 FCC *Monitoring Report on Universal Service* (see [Appendix B](#)), Western Wireless was the recipient of the largest share of payments in North Dakota for 2003, 2004, 2005, and 2006. The report indicates that Western Wireless received \$17,824,152 in payments in 2006. The North Dakota provider receiving the second largest amount of payments for 2006 was Northwest Dakota Cellular of North Dakota LP with payments of \$7,275,264. Two other carriers received over \$5 million in payments in 2006, BEK Communications Cooperative (\$5,167,026) and SRT Communications, Inc. (\$5,003,316).

Public Service Commission Role

Although the Public Service Commission has no specific regulatory authority over wireless providers operating in the state, the commission has launched a program designated as the *Wireless Outreach Initiative: Zap the Gap/Connecting Consumers*. After launching the initiative in 2005, the commission held forums throughout the state regarding wireless service and held a statewide wireless conference in September 2005. The commission describes the *Zap the Gap* portion of the initiative as being designed to:

- Encourage wireless investment in North Dakota, especially currently underserved areas through the collection of information from consumers to determine areas where there is demand but low wireless coverage.
- Provide a clearinghouse of useful planning information for wireless companies, including approximations of the number of wireless telephones per capita in different counties in the state, traffic counts on major roads, and lists of suitable structures for wireless antennas.
- Help facilitate discussions between communities that want wireless service and providers that may be able to fill the gap.
- Identify strategies to advocate the state's interests in wireless matters with other government agencies.

The *Connecting Consumers* portion of the initiative is described by the commission as being designed to:

- Help consumers with wireless questions and concerns that they may have with their current service.
- Assist consumers by reserving an e-mail address for consumers wishing to contact the commission with questions and concerns over wireless telephone issues.

POSSIBLE STUDY APPROACH

In undertaking this study, the committee may choose to:

1. Receive testimony from representatives of the Public Service Commission regarding the role and authority of the commission with respect to wireless providers in the state.
2. Obtain additional information from wireless providers regarding levels of service in the state.
3. Receive information from the Department of Commerce and other economic development officials regarding the impact of wireless service on attracting businesses to the state.
4. If it is determined that the lack of wireless service negatively impacts business development, determine if business incentives or other assistance may be an appropriate solution or if there are other potential solutions.
5. Develop recommendations and draft legislation, if necessary to implement the recommendations, to provide solutions to address concerns identified.

ATTACH:2