

PERFORMANCE AUDIT REPORT

911 Fees – Collection and Use

November 18, 2005

Report No. 3023-2
(Report 2 of 2)

November 18, 2005

Honorable John Hoeven, Governor

Members of the North Dakota Legislative Assembly

Transmitted herewith is the performance audit report on aspects of the collection and use of 911 fees. This report contains the results of our review of determining whether 911 fees were properly used and the sufficiency of the 911 fee amount.

The audit was conducted pursuant to Chapter 16 of the 2005 North Dakota Session Laws. We conducted this audit under the authority of North Dakota Century Code Chapter 54-10. Included in the report are the goals and scope, findings and recommendations, conclusions, and management responses. A number of areas identified within this report needing improvement require public policy makers' review and action. As such, specific recommendations are not offered but possible solutions for consideration are provided.

Sincerely,

Robert R. Peterson
State Auditor

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Executive Summary

Purpose and Authority of the Audit

The performance audit of aspects of the collection and use of 911 fees was conducted pursuant to Chapter 16 of the 2005 Session Laws. The purpose of this report is to provide our analysis, findings, and recommendations regarding our limited review of 911 fees.

Background Information

A monthly \$1 fee for each telephone access line and wireless access line is charged customers by phone providers who submit the fees, less an administration cost, to respective political subdivisions. The 911 fees received by political subdivisions are to be used for implementing, maintaining, or operating the emergency services communication system.

Results and Findings

We reviewed applicable state laws, obtained information from political subdivisions receiving 911 fees, and performed limited reviews of information at selected political subdivisions. All recommendations are included in Appendix A. Discussions relating to individual recommendations are included in Chapter 3 of this report.

Reasonableness of 911 Fee Amount

Due to a lack of a uniform system for tracking the use of 911 fees and inconsistencies in how 911 fees are used, no political subdivision had information to enable us to determine the reasonableness of the 911 fee charged residents. Thus, we are unsure whether residents are paying too much or not enough of a 911 fee. Until significant changes are made to the accounting of 911 fees and clarification is provided by public policy makers, a definite conclusion as to whether the 911 fee amount is sufficient can not be made. However, our limited review of information indicates the 911 fee amount is more than sufficient to cover the 911 costs.

Use of 911 Fees

Through a limited review of expenditure information, we determined significant improvements are needed with how 911 fees are being used by political subdivisions. There is a lack of adequate guidance provided to political subdivisions on what 911 fees are to be used for or what they should not be used for. Improvements are needed to ensure the use of 911 fees comply with legislative intent. Certain political subdivisions need to improve the accounting for 911 fees. Public policy makers will need to review information related to 911 and take appropriate action to create a more unified system and to enhance consistency on how 911 fees are used.

Collection of 911 Fees

Through a review of information related to how political subdivisions receive 911 fees, we determined significant improvements are needed. Improvements are needed to ensure phone providers are withholding a reasonable amount of 911 fees for administration costs. Public policy makers will need to review information related to 911 and take appropriate action to make improvements with how 911 fees are collected by the state and to requirements related to phone providers.

Introduction

Purpose and Authority of the Audit

The performance audit of aspects of the collection and use of 911 fees and of the Division of Emergency Management including State Radio was conducted by the Office of the State Auditor pursuant to Chapter 16 of the 2005 Session Laws. This Session Law required a performance audit be conducted of Department of Emergency Services (formerly the Division of Emergency Management including State Radio) including a review of fees collected for 911 services and the utilization of the fees during the biennium beginning July 1, 2005 and ending June 30, 2007. The results of the audit are required to be presented to the Legislative Audit and Fiscal Review Committee and filed with the Appropriations Committees during the 60th Legislative Assembly.

A performance audit is an objective and systematic examination of evidence for the purpose of providing an independent assessment of the performance of a government organization, program, activity, or function in order to provide information to improve public accountability and facilitate decision-making by parties with responsibility to oversee or initiate corrective action.

The purpose of this report is to provide our analysis, findings, and recommendations regarding our limited review of the collection and use of 911 fees. An additional report was issued for our analysis, findings, and recommendations regarding our limited review of the Division of Emergency Management (report entitled *Division of Emergency Management Including State Radio*).

Background Information

A monthly \$1 fee for each telephone access line and wireless access line is charged customers by phone providers who submit the fees, less an administration cost, to respective political subdivisions. The 911 fees received by political subdivisions are to be used for implementing, maintaining, or operating the emergency services communication system.

A 911 call placed within the state is answered by a Public Service Answering Point (PSAP). There are 23 PSAPs within the state, 22 of which are locally operated with one operated by the state's Division of State Radio. Additional information related to PSAPs and the history of 911 is included in Chapter 2.

Goals of the Audit

North Dakota Century Code Section 54-10-01 requires our office to conduct performance audits in accordance with generally accepted government auditing standards. The goals of our audit include the necessary elements of a performance audit conducted in accordance with generally accepted government auditing standards. Information related to the second goal is included in this report and an additional report entitled *Division of Emergency Management Including State Radio* contains information related to the first goal.

Chapter 1

Introduction

Goal One Has management established effective processes and procedures to fulfill the Division of Emergency Management's purposes, functions, and responsibilities?

Goal Two Are 911 fees properly used and sufficient for the costs incurred with operating the 911 system?

Scope and Methodology

This audit was conducted in accordance with generally accepted government auditing standards and includes appropriate performance auditing and evaluation methods. Audit fieldwork was conducted from the middle of May 2005 to the middle of November 2005. The audit period for which information was collected and reviewed was July 1, 2002 through April 30, 2005. Specific methodologies are identified in the respective chapters of this report.

Information Related to 911

Introduction

This chapter provides statewide information related to 911 as well as certain information provided by political subdivisions regarding 911 fee fund balance amounts. Recommendations or solutions for improvement are noted within Chapter 3 of this report and no such information is included in this chapter.

PSAPs

A Public Service Answering Point (PSAP) is a communications facility operated on a 24-hour basis which first receives 911 calls from individuals 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. There are 23 PSAPs within the state, one of which is state operated within the Division of State Radio. The remaining 22 PSAP locations are operated by local political subdivisions. Sioux County receives services from a PSAP location in Mobridge, South Dakota. Rolette County is not included in a PSAP coverage area.

The coverage areas served by all 23 PSAP locations can be seen in Appendix B. A breakdown of the 23 PSAPs by coverage area is below.

- 15 PSAPs provide coverage for one county. For example, the PSAP in Grafton provides service to the county of Walsh.
- 4 PSAPs provide coverage for two counties. For example, the PSAP in Hillsboro provides services to Steele and Traill County.
- The PSAP in Devils Lake provides coverage for five counties (Benson, Eddy, Nelson, Ramsey, and Towner).
- The PSAP in Fargo provides coverage for Cass County and Clay County (Minnesota) excluding the city of West Fargo.
- The PSAP in West Fargo provides coverage for just the city.
- The PSAP operated by the state's Division of State Radio provides coverage to 22 counties.

The majority of the 22 locally operated PSAPs are physically located and operated within a law enforcement building with others located in court houses and commercial buildings. The PSAP operated by the Division of State Radio is located in the basement of a building at the Fraine Barracks.

911 History

Chapter 645 of the 1985 Session Laws established that a governing body could adopt a resolution to adopt an excise tax not to exceed 50 cents per month per telephone access line for the purposes of an emergency services communication system. This amount was increased to a maximum of \$1 in 1991 and could be assessed on wireless access lines beginning in 2001. A flowchart related to the collection, distribution, and use of 911 fees can be seen in Appendix C.

Pursuant to state law, a nine member Emergency Services Communication System Advisory Committee was required to be

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appointed by the Governor in 1987 (the size was increased to 11 members in 1991). This committee was to establish standards and guidelines for the development and operation of emergency 911 telephone systems. The committee required submission and approval of a written 911 operations plan prior to 911 fees being spent. The committee was abolished in 1996.

In 1991, four counties began receiving 911 service from the state through the Division of State Radio. By 1995, State Radio served as the Public Service Answering Point (PSAP) for 11 counties and today provides services to 22 counties. Rolette County has no emergency 911 system and Sioux County receives 911 services from South Dakota. The remainder of the state is provided 911 coverage through 22 locally operated PSAPs.

To implement wireless 911 within the state, all political subdivisions receiving 911 fees entered into contracts with the North Dakota Association of Counties (NDACo) to coordinate the implementation of the networking, non-premise equipment upgrades, testing, and ongoing services necessary for wireless 911. As of June 2005, North Dakota's wireless project had implemented Phase II wireless service meaning most cell phones equipped with GPS chips can be physically located when dialing 911.

In 2001, Legislators made a change to North Dakota Century Code modifying the term "excise tax" to "fee." In a March 2004 formal opinion, the Attorney General noted the \$1 amount is a tax and not a fee. However, to use the same terminology as exists in state law, this audit report identifies this tax as a 911 fee.

North Dakota Century Code Requirements

North Dakota Century Code (NDCC) Chapter 57-40.6 establishes the requirements related to 911 fees. This chapter identifies requirements related to the establishment of 911 fees, how fees are to be collected, and restrictions on the use of the fees. Each of these requirements is addressed below.

Establishing a 911 Fee

The governing body of a county or city is authorized to impose a fee on the use of telephone exchange access service and on the use of wireless service. A resolution is to be adopted which is to specify a fee amount not to exceed \$1 per month per telephone access line and per wireless access line (all political subdivisions impose the maximum \$1 amount). The adoption of the fee is required to be voted on by residents. If electors approve the fee, it may be imposed for a six year period and can be extended another six years by the political subdivision.

Collecting 911 Fees

NDCC requires telephone exchange access service providers and wireless service providers to collect the 911 fees from customers and

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submit the fees to the appropriate political subdivision within 30 days of collection. Phone providers are allowed to retain a portion of the fees, not to exceed 5% of what is collected, for the actual costs of administration in collection of the fee. Our review of a sample of fees submitted to political subdivisions identified almost all providers retain the maximum of 5%.

Use of 911 Fees

North Dakota Century Code Section 57-40.6-05, Subsection 4 states after the 911 fees have been used to get the 911 system up and running, the revenues in excess of those obligations may only be used for “implementing, maintaining, or operating the emergency services communication system.” An emergency services communication system is defined in NDCC as a “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.”

911 Financial Information

Requests were made of political subdivisions receiving 911 fees to identify certain 911 revenue, expenditure, and fund balance information. The information provided by the political subdivisions was, for the most part, not audited. Limited reviews were performed of information provided and a limited review of documentation supporting revenue and expenditure information was conducted during on-site visits of selected political subdivisions.

Requests for Information

Political subdivisions receiving 911 fees were contacted and requested to provide monthly 911 revenue and expenditure information from July 2002 through April 2005. While most political subdivisions were able to provide such information, Cavalier and LaMoure Counties were unable to provide expenditure information. All political subdivisions were also requested to provide the fund balance, or cash on hand, of their 911 account(s). Three counties (Cavalier, LaMoure, and Richland) were unable to identify fund balance information. These areas are further addressed in Chapter 3 in the section entitled “Improving the Accounting of Landline Fees.”

Adjustments were made to information provided by political subdivisions for various reasons in an attempt to have only the 911 fees collected identified as revenue and only the 911 fees expended identified as expenditures. Adjustments were made to information when it was determined that political subdivision information provided included revenue and expenditure information related to grants received and expended. Other adjustments to information were made for interest and transfers of 911 fees between 911 accounts within the same political subdivision, and transfers of 911 fees between various political subdivisions (when one PSAP location served more than one county). In addition, adjustments were made to information for those political

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subdivisions not on a cash basis to identify revenue and expenditure information on a cash basis for comparison purposes with other political subdivisions.

Limitations of 911 Expenditure Information from Political Subdivisions

While the majority of political subdivisions receiving 911 fees were able to identify monthly expenditure information as requested, we identified concerns which limited the usefulness of the expenditure information. We noted noncompliance issues with legislative intent regarding the use of 911 fees. Also, we noted differences in how 911 fees were used to pay the expenditures of locally operated PSAPs (additional information related to the use of 911 fees is identified in the section entitled “Making Improvements with the Use of 911 Fees” in Chapter 3). Based on the concerns noted with 911 expenditure information, we concluded the expenditure data maintained at the political subdivisions is not reflective of actual 911 costs. Due to the concerns identified with 911 expenditure information provided by political subdivisions, no such data is included within this report.

Locally Operated PSAPs’ Financial Information

For the 22 locally operated PSAPs, monthly 911 revenue information was provided to us for 34 months. For certain PSAP locations, 911 revenue information from two or more political subdivisions was combined. For example, the PSAP located in Dickinson provides services to both Dunn and Stark County and each county individually receives 911 fees. The amounts of 911 fees received by both counties were combined to identify a 911 revenue amount for the PSAP coverage area. Also, certain revenue information provided by political subdivisions included interest and grants. We removed these amounts to identify 911 revenue amounts that were specific to the amount of 911 fees received. In calendar year 2003, the amount of 911 fees received was approximately \$6.2 million and was approximately \$6.7 million for calendar year 2004. The 911 fees received by each PSAP location in calendar year 2004 is included in Appendix D.

Selected year end and April 30, 2005 911 fund balance amounts were provided by political subdivisions for each PSAP location. Again, when a PSAP coverage area involved two or more political subdivisions, fund balance information was combined to identify one amount. The PSAP locations of Langdon and Wahpeton are unable to identify a fund balance for wired/landline 911 fees received. The total fund balance amount for the remaining 20 PSAP locations as of April 30, 2005 was approximately \$4.7 million. Year end fund balances for four years and the fund balances as of April 30, 2005 for each PSAP location are included in Appendix E. However, caution should be used when reviewing fund balance information. In certain instances, 911 fees have been used inappropriately which results in a lower fund balance amount. Also, 911 costs incurred may not have been paid with 911 fees which results in a higher fund balance amount.

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Other Counties' Financial Information

For the 22 counties who use State Radio as their PSAP, monthly 911 revenue information was provided to us for 34 months. Adjustments were made to exclude interest and grants to identify the amount of 911 fees received. In calendar year 2003, the amount of 911 fees received was approximately \$745,000 and approximately \$850,000 for calendar year 2004. The 911 fees received by each county in calendar year 2004 is included in Appendix F.

Selected year end and April 30, 2005 911 fund balance amounts were provided by 21 of the 22 counties (LaMoure County is unable to identify a fund balance for wired/landline 911 fees received). The total fund balance amount for the 21 counties as of April 30, 2005 was over \$1 million. Year end fund balances for four years and the fund balances as of April 30, 2005 for each county are included in Appendix G. Again, caution should be used when reviewing fund balance information. In certain instances, 911 fees have been used inappropriately which results in a lower fund balance amount. Also, 911 costs incurred may not have been paid with 911 fees which results in a higher fund balance amount.

Collection and Use of 911 Fees

Introduction

A goal of this performance audit was to answer the following question:

“Are 911 fees properly used and sufficient for the costs incurred with operating the 911 system?”

We determined in some instances 911 fees were not properly used by political subdivisions. The 911 accounting structures within the state are decentralized and are in need of improvements. Due to a lack of a uniform system for tracking the use of 911 fees and inconsistencies in how 911 fees are used, a definite conclusion as to whether the 911 fee amount is sufficient could not be made. However, there was evidence to suggest and indicate the 911 fee amount is more than sufficient. Significant improvements related to the collection and use of 911 fees are included within this chapter of the report. Improvements of less significance were communicated to management in separate letters.

Throughout this performance audit, the work performed relating to 911 concentrated on the accounting of and use of 911 fees. Very limited work was performed regarding actual operations of Public Service Answering Points (PSAPs), with how 911 calls were answered and how appropriate units and personnel were being dispatched.

To determine whether 911 fees were properly used and sufficient for the costs incurred with operating the 911 system, we:

- Reviewed applicable 911 laws;
- Obtained information from political subdivisions regarding the accounting processes for 911 fees;
- Obtained 911 revenue and expenditure information from political subdivisions;
- Reviewed 911 revenue and expenditure supporting documentation at seven counties who use State Radio as their PSAP (Bowman, Foster, Golden Valley, LaMoure, McHenry, Ransom, and Wells); and
- Reviewed 911 revenue and expenditure supporting documentation at nine locally operated PSAP locations (cities of Bismarck, Devils Lake, Fargo, Grand Forks, Mandan, Minot, Stanton, Wahpeton, and Washburn).

Reasonableness of 911 Fee Amount

Within the state, all telephone access lines and wireless access lines are charged \$1 per month (maximum amount allowed by state law). We attempted to determine whether the \$1 fee charged residents of the state was sufficient for covering the costs of the various 911 systems within the state. Due to a lack of a uniform system for tracking the use of 911 fees and inconsistencies in how 911 fees are used, no political subdivision had information to enable us to determine the reasonableness of the 911 fee charged residents. Thus, we are unsure whether residents are paying the appropriate amount for a 911 fee. Until significant changes are made to the accounting of 911 fees and

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clarification is provided by public policy makers, a definite conclusion as to whether the 911 fee amount is sufficient can not be made. However, our limited review of cost information indicates the 911 fee amount is more than sufficient to cover the 911 costs.

We attempted to identify the costs associated with the operations of four locally operated Public Service Answering Points (PSAPs). A PSAP location is a communications center or facility which receives 911 calls in a particular service area and dispatches appropriate public safety units and personnel. The analysis performed attempted to identify costs rather than expenditures since expenditures would include capital payments and major equipment purchases which can fluctuate from year to year. Capital payments and major equipment purchases were allocated over a period of time in which the benefits of the expenditures are realized (i.e. depreciation expense). We also needed to use a number of estimates in determining costs as such information is not maintained by PSAP locations. For example, to determine a salary and benefit cost of dispatchers, we used an estimated amount of time (12 minutes) for each 911 call received. This amount was conservatively estimated and the actual average amount of time spent on a 911 call could be less. Also, certain costs included in the analysis were included regardless of whether they were paid for by 911 fees or not. For example, most PSAP locations do not use 911 fees to pay a rental amount but an estimated rent cost was included for the analysis.

Estimated costs for PSAP locations were determined for calendar year 2004. Estimates used included input from local 911 representatives and the costs identified were reviewed by applicable political subdivision representatives. The costs included in the analysis included salary and benefits of dispatchers for taking 911 calls, receiving 911 training, and performing 911 administrative duties. Time spent in these areas had to be estimated as such information is not maintained. Salary and benefit costs for other personnel involved with 911 at the local level were also included and estimated information was used. Estimated costs for telecommunication charges (telephone bills, trunking charges, circuit costs, etc.), towers and antennas, signs, office supplies, rent, and equipment were included in the analysis. Also included were payments made to the North Dakota Association of Counties for purposes of implementing wireless 911.

Calendar year 2004 estimated costs for PSAP locations in Grand Forks, Mandan, and Washburn were identified and compared to the 911 revenue for each location. An attempt was also made to identify information for the PSAP in Fargo. However, certain information regarding 911 infrastructure was not readily identifiable and would have taken a significant amount of time to identify. This is due to the fact that neither the city of Fargo nor Cass County, both of which pay for costs of the PSAP, use 911 fees for infrastructure costs and such costs are within different departments at the political subdivisions.

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For estimating costs, we used a very conservative approach. We also included the entire costs of certain cost categories regardless of whether there was non 911 use of assets or the costs benefited non 911 purposes. For example, the entire costs of towers and other equipment which are used by and benefit non 911 purposes were included. Also, an entire rental cost was included even though rental costs could be allocated to non 911 uses of the space. The estimated costs for calendar year 2004 are identified in Table 1. Revenue information for the year was identified by the political subdivisions.

Table 1 Estimated 911 Costs for Calendar Year 2004			
<i>PSAP Location</i>	<i>Estimated 911 Costs</i>	<i>911 Fees Received</i>	<i>Percent Fees Collected Over Costs</i>
Grand Forks	\$690,089	\$788,439	14.3%
Mandan	\$186,807	\$253,928	35.9%
Washburn	\$80,597	\$96,855	20.2%

*Additional Evidence
Suggesting 911 Fee Amount
is More Than Sufficient*

While a definite conclusion is not made regarding whether the 911 fee charged is sufficient to cover the costs of the 911 systems, a review of information related to the Grand Forks PSAP suggests the \$1 fee amount is more than sufficient. The method used by Grand Forks to determine the amount of 911 fees to be used for the expenses of the PSAP operations appears reasonable and justifies the amount of 911 fees used (additional information regarding inconsistencies and inappropriate uses of 911 fees for PSAP operations is addressed in the section entitled "Complying with Legislative Intent"). To determine the amount of 911 fees to be used for the Grand Forks PSAP expenditures, call history information for the past five years is identified and a determination is made as to what percent of 911 calls makes up the total calls received. This percentage is then applied to the PSAP budget to identify the amount of 911 fees to be used for PSAP costs. Remaining 911 fees are used to pay for all "infrastructure" type expenditures (towers, antennas, telephone costs, trunking, circuits, etc.). According to a Grand Forks representative, these infrastructure expenditures are necessary to operate a 911 system. However, it should be noted the infrastructure for 911 also appears necessary for non 911 services and benefits non 911 users.

In review of information provided by the Grand Forks PSAP, a significant fund balance of 911 fees was identified. As of April 30, 2005, Grand Forks identified a 911 fund balance of over \$1.1 million. The fund balance has been increasing significantly since December 31, 2001 when the fund balance was approximately \$367,000. In discussions with a representative of the Grand Forks PSAP, there are to be major 911 expenditures occurring with the purchase of new communications equipment and a possible move of the PSAP location.

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Since the method used by Grand Forks to allocate and use 911 fees is reasonable and revenues have exceeded expenditures over the past years, the \$1 fee amount appears sufficient. However, until a more uniform system is implemented and monitored for a period of time, a definite determination as to the reasonableness of the \$1 fee amount can not be made.

In Chapter 2, information related to 911 fund balances was identified. Significant 911 fund balance amounts were identified at a number of political subdivisions. However, caution should be used when reviewing fund balance information. In certain instances, 911 fees have been used inappropriately which results in a lower fund balance amount. Also, 911 costs incurred may not have been paid with 911 fees which results in a higher fund balance amount.

The National Emergency Number Association (NENA) surveyed all states and requested information regarding the amount of 911 surcharges for wireless and wire/landlines. The information on NENA's web site identified 25 states are charging less than \$1 for landlines and 34 states are charging less than \$1 for wireless. The three surrounding states were charging 75 cents or less for landline and wireless.

Making Improvements with the Use of 911 Fees

We determined significant improvements are needed in how 911 fees are being used by political subdivisions. There is a lack of adequate guidance provided to political subdivisions on what 911 fees are to be used for or what they should not be used for. Improvements are needed to ensure the use of 911 fees comply with legislative intent. Certain political subdivisions need to improve the accounting of 911 fees. Public policy makers will need to review information related to 911 and take appropriate action to create a more unified system and to enhance consistency on how 911 fees are used.

Complying with Legislative Intent

We conducted on-site visits of seven counties who use State Radio as their Public Service Answering Point (PSAP) and nine locally owned PSAP locations. Expenditure information of a six month period was reviewed. A number of expenditures were identified as being in apparent noncompliance with legislative intent for the use of the 911 fees. State Radio 911 issues needing improvement are included in the other report issued as part of this audit (report entitled *Division of Emergency Management Including State Radio*). We did determine the rate State Radio is charging the 22 counties does not appear sufficient to cover their costs associated with 911.

We noted differences in how 911 fees were used to pay for the expenditures of locally operated PSAPs. None of the nine locations used the same process or method for determining how much of the PSAP operations would be paid by 911 fees. Three examples are below:

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- The Red River Regional Dispatch Center in Fargo provides services to four entities – the city of Fargo, the city of Moorhead, Cass County, and Clay County. Each of these entities pays a certain percentage of the costs to operate the center. Cass County is responsible for 15% of the costs of the center. When Cass County receives the quarterly bill for the center's operations, the entire amount is paid with 911 fees. This is not an appropriate use of 911 fees since the expenditures of the center include non 911 costs such as non-emergency dispatching services and teletype inquiries.
- Certain PSAP locations use 911 fees to pay the salary and benefits of dispatchers. There is no support or time study to determine whether the amount of 911 fees is appropriate. The Lake Region PSAP (located in Devils Lake) pays four of eight dispatchers' salaries and benefits with 911 fees since dispatchers have other non 911 responsibilities (PSAP is located within the Lake Region Law Enforcement Center and dispatchers are responsible for opening doors and security of the facility as well as running motor vehicle and driver's license checks for law enforcement, answering administration calls, and non-emergency dispatching).
- The PSAP location in Grand Forks has established a process for allocating the total expenditures of the communication center to the various users of the center's services. Call history information for the past five years is identified and a determination is made as to what percent of 911 calls makes up the total calls received. This percentage (9.2% in 2005) is then multiplied by the budget for the center to arrive at an amount of 911 fees to be used. The remaining expenditures are allocated to Grand Forks County, the city of Grand Forks, and the University of North Dakota using the same allocation process. This appears to be a reasonable process for determining the amount of 911 fees to be used for PSAP expenditures. Remaining 911 fees are used to pay for "infrastructure" type expenditures (towers, antennas, telephone costs, trunking, circuits, etc.) regardless of whether the use benefited non 911 users or not.

A number of PSAP locations were unable to justify the use of 911 fees for PSAP operations. There is no consistency in how each PSAP location is using 911 fees to pay PSAP operational costs. It does not appear the 911 fees collected were intended to be used for non 911 purposes which is what has occurred at most PSAP locations. While we are unable to determine the amount of 911 fees inappropriately expended on non 911 functions, it should be noted the majority of time spent by dispatchers appears to be related to non 911 activities.

Additional examples identified in which the use of 911 fees appears to result in noncompliance with legislative intent are below.

- A locally operated PSAP used 911 fees to purchase a radio system for another state entity (approximate cost \$62,000). The state entity paid the PSAP five equal annual payments at 0% interest and the

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state entity has ownership of the system. This basically appears to be a financing arrangement using 911 fees.

- A locally operated PSAP was paying a monthly amount for leasing 911 equipment. This equipment was purchased by the PSAP in April 2003 but the monthly lease amount continued to be paid. Through April 2005, approximately \$14,700 of 911 fees was used to pay a monthly lease on equipment already owned by the PSAP. After this area was discussed with the political subdivision, a representative informed us that a transfer of funds occurred to reimburse the 911 account.
- One locally operated PSAP was identified as using 911 fees for a variety of purchases which do not appear to comply with legislative intent and are an inefficient and inappropriate use of funds. We identified 911 fees were used to place Christmas/holiday greeting ads in newspapers as well as for sponsoring various activities such as fire prevention, domestic violence, and farm safety. Also, a number of purchases were identified in which 911 fees paid for various items with 911 printed on them. Examples include the purchase of lollipops, tattoos, key chains, mints, magnets, coloring books, and various other items (approximately \$1,350 expended on the 6 items noted). A newspaper subscription for the 911 Coordinator was purchased with 911 fees.

We also identified other expenditures in which 911 fees were used to purchase supplies or other assets either used for or which benefited non 911 purposes. A county used \$3,000 of 911 fees to pay for maps of the county. The maps were used for tourism purposes but were also provided to emergency personnel. However, no information was maintained on the distribution of the maps and we were unable to determine the reasonableness of the amount of 911 fees used. Office supplies were also identified as being purchased with 911 fees but were used for non 911 purposes.

We identified certain political subdivisions that used 911 fees for certain expenditures while other political subdivisions used other funding sources for similar expenditures. For example, certain political subdivisions have used 911 fees to pay the costs of address or street signs while other political subdivisions have not used 911 fees for these expenditures. As a result, there are inconsistencies in how 911 fees are used between political subdivisions.

Recommendation 3-1

We recommend political subdivisions receiving 911 fees ensure the use of such funds comply with legislative intent.

Management's Response

This recommendation was provided to 10 political subdivisions to obtain management responses. Most responses provided disagreed as political subdivisions believe the uses of 911 fees have complied with legislative intent. There were three political subdivisions that appear to agree and one political subdivision noted the newspaper ads and various purchases of 911 items (lollipops, mints, etc.) will be stopped.

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Improving the Accounting of Wired/Landline Fees

All political subdivisions receiving 911 fees were requested to provide monthly 911 revenue and expenditure information from July 1, 2002 through April 30, 2005 (34 months). Concerns were noted with information from the following three counties:

- Cavalier County: 911 wireless fees are receipted into an account established specifically for wireless fees. The 911 landline or wired fees received are receipted into the general fund. Expenditure information related to the use of landline 911 fees can not be specifically identified. While an account is established for attempting to track landline use, this account also includes general fund expenditures.
- LaMoire County: 911 wireless fees are receipted into an account established specifically for wireless fees. The 911 landline fees received are receipted into the general fund. Expenditures related to landline fees are coded to a certain department number within the accounting system. This department number is used for purposes other than 911 and expenditure information related to landline fee use could not be properly identified.
- Richland County: 911 wireless fees are receipted into an account established specifically for wireless fees. The 911 landline fees received are receipted into the general fund. While a department number has been assigned to account for the use of the 911 landline fees, there is no accumulative information maintained and fund balance information could not be specifically identified.

Due to the above lack of adequate accounting for 911 landline fees, no expenditure information was identified for Cavalier County and LaMoire County, and 911 fund balance information for all three counties was unavailable.

Recommendation 3-2

We recommend Cavalier County, LaMoire County, and Richland County properly account for the use of 911 wired/landline fees received to identify 911 expenditures and fund balance information.

Management's Response

Cavalier County

We agree with the recommendation and are looking into new software for our accounting program that will report this for us.

LaMoire County

The county has established a separate budget department for E-911 expenses starting on January 1, 2006. LaMoire County will place all revenue from E-911 fees into a stand alone fund.

Richland County

The exception is based on the fact that our accounting system does not subtract the fees from the expenditures to give you the net deficit caused by the 911 system. As a "Home Rule" county the inclusion of various departments in our General Fund instead of setting up separate funds is one of our standard streamlining policies. Since the aforementioned

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deficit is funded by General Fund expenditures, it serves no purpose to set up a separate fund for 911 just so we can transfer money into it at year-end to zero it out.

Needed Improvements with How 911 Fees are Used

Based on a review of a sample of expenditures at selected political subdivisions, we determined improvements are needed to ensure 911 fees are used in a consistent manner and used for purposes intended by public policy makers. Areas requiring improvement which involve public policy makers' input and actions are identified below.

Laws Related to the Use of 911 Fees

North Dakota Century Code Section 57-40.6-05, Subsection 4 states after the 911 fees have been used to get the 911 system up and running, the revenues in excess of those obligations may only be used for "implementing, maintaining, or operating the emergency services communication system." In discussing this section with representatives of the Office of the Attorney General, the law is broad and not very specific. An April 2004 formal Attorney General's Opinion addressed the question of whether certain equipment purchases made with 911 fees fell within the definition of state law. The Attorney General stated a governing body may authorize the expenditure of 911 fees in a manner that enhances and improves the E911 system, including the time for response, as long as the expenditure complies with the spending restrictions of NDCC Chapter 57-40.6. The opinion went on to state "[j]ust because the improved technologies may also incidentally aid non-emergency dispatching does not necessarily mean that the purchase of such technologies with E911 funds is not permissible."

During a review of a sample of expenditures at selected political subdivisions, differences in the use of 911 fees were identified. Certain political subdivisions used 911 fees for certain expenditures while other political subdivisions did not. This has created a lack of uniformity with how 911 fees are used.

911 Purchases Benefiting non 911 Purposes

Our review of a sample of expenditures identified areas in which it was unclear whether or not the use of the 911 fees were in compliance with legislative intent. These expenditures involved areas in which 911 fees were used to purchase items which are apparently necessary for the 911 system to operate but are used by other non 911 entities and personnel or benefited other non 911 users. Three examples noted included:

- Towers/antennas: a review of expenditures identified a number of uses of 911 fees for towers and/or antennas such as maintenance costs, rental costs, purchases of them, and fixing or moving them. These items are necessary for radio traffic and communication with appropriate law enforcement and emergency personnel in order to dispatch units when a 911 call is received. However, based on discussions with local representatives and through observations of PSAP operations, the majority of the radio traffic on the towers

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would relate to non 911 uses. It was noted, and appears reasonable, that the additional radio traffic on the towers does not depreciate the tower any faster than if just 911 traffic were on the tower. However, other users of the towers (such as law enforcement for radio traffic not related to 911) are obtaining a benefit of an item purchased with 911 fees. Certain costs related to the towers are significant. For example, one PSAP paid over \$35,000 in January 2003 for annual tower rent costs.

- **Loggers:** a review of expenditures identified certain PSAP locations had purchased and installed new loggers which are used to record phone calls and radio traffic. While the use of 911 fees for these loggers would appear reasonable since 911 calls and radio traffic are required by state law to be recorded, the majority of the information recorded appears to relate to non 911 activities. The costs of these loggers can be significant. For example, one PSAP paid almost \$20,000 for a new logger and installation while another PSAP paid almost \$16,000 for a new logger.
- **Office equipment and supplies:** a review of expenditures identified certain political subdivisions used 911 fees to purchase office equipment and supplies which were used for both 911 and non 911 purposes. For example, a PSAP purchased a fax machine with 911 fees but this fax machine is shared with the Sheriff's Office and use of the machine for non 911 purposes may exceed 50%. Numerous purchases were identified for printing supplies which would be used for both 911 and non 911 purposes.

No political subdivision was identified as charging non 911 users for the use of assets purchased exclusively with 911 fees and there was no recouping of costs.

Potential Solutions for Policy Makers' Consideration

Laws related to the use of 911 fees appear to be broad and a determination by public policy makers is required to determine whether 911 fees should be used for purchases which benefit non 911 purposes without recouping costs from non 911 users. Solutions for Legislators to consider are below.

Laws Related to the Use of 911 Fees

Legislative action could be taken to provide additional information and guidance regarding the use of 911 fees. This would assist in enhancing uniformity in the use of 911 fees and provide guidance to political subdivisions on the use of 911 fees. Clarification could be provided within NDCC related to the use of 911 fees. Also, requirements regarding a uniform method of accounting for 911 costs could be added.

Legislators could consider granting specific authority to a state agency and/or board/commission to establish guidelines and standards related to the use of 911 fees and/or being responsible for establishing a uniform system of accounting for 911 costs. One state agency which could be considered is the Public Service Commission (PSC). The PSC could establish rules for what is allowable and what is disallowed for use of

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911 fees. Other states were noted as having the equivalent of a PSC currently involved with 911. The legislature could also consider establishing a board or commission specifically authorized to establish standards and guidelines for the use of 911 fees. Whether a state agency or board/commission was to establish such guidance, the guidance should be required to be followed by all political subdivisions.

Regardless of what solution, or combination of solutions, is pursued by Legislators, clarification is needed to specifically identify what 911 fees can be used for. Until uniformity exists in the 911 area, adequate comparisons can not be made and a determination as to whether residents of the state are assessed an appropriate 911 fee can not be made. Once a uniform system is in place, an adequate review could be performed to make a determination as to the reasonableness of the fee amount.

911 Purchases Benefiting non 911 Purposes

Public policy makers will need to make a determination as to the reasonableness of using 911 fees to purchase assets which are used by or benefit non 911 users. In certain cases, the non 911 use of assets purchased with 911 fees exceeds the 911 use. Under a cost accounting system, costs are allocated based on actual usage of an asset. It would appear reasonable an accounting of the use of assets purchased with 911 fees be done and the non 911 users of such assets share in the costs of the assets.

Once a determination is made by Legislators, clarification could be provided within NDCC related to the use of 911 fees. This will enhance uniformity within the 911 area and will assist in determining whether residents of the state are assessed an appropriate 911 fee.

Task Force

During a review of other states' information, we noted Utah previously had a 911 system similar to North Dakota. A 1999 performance audit of Utah's 911 system identified similar concerns as our audit did (decentralized system, lack of uniformity in 911 spending, vague laws). The Utah audit identified a number of solutions to the problem areas noted and provided information related to four other states who had sparsely populated areas. Utah established a task force to obtain information and evaluate options. The establishment of a task force with appropriate representation of stakeholders should be considered by the Legislature to further review the 911 area and offer solutions for improvement.

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Making Improvements with Collection of 911 Fees

We determined significant improvements are needed with how 911 fees were being collected by political subdivisions. Improvements are needed to ensure phone providers are withholding a reasonable amount of 911 fees for administration costs. Public policy makers will need to review information related to 911 and take appropriate action to make improvements with how 911 fees are collected by the state and requirements related to phone providers.

Recouping 911 Fees Inappropriately Withheld

Phone providers are responsible for collecting 911 fees from customers and submitting the fees to the respective political subdivision. North Dakota Century Code Section 57-40.6-04 states phone providers may be reimbursed for the actual costs of administration in collection of the 911 fee not to exceed 5% of the fee collected. During on-site visits at selected counties and PSAP locations, we identified two phone providers who were withholding more than 5% of the 911 fee collected. One phone provider was identified as withholding 10% (or 10 cents per line) and another 17% of the 911 fees collected. The provider withholding 10% serves multiple counties and we projected those counties did not receive approximately \$8,300 of 911 fees in a year.

Recommendation 3-3

We recommend the counties of Adams, Bowman, Hettinger, Slope, and Stark and the city of Fargo take appropriate action to recoup 911 fees which were inappropriately withheld by phone providers.

Management's Response

All five counties and the city of Fargo agree with the recommendation. The five counties identified various actions to be taken (information would be provided to County Commissioners or State's Attorneys) and the city of Fargo noted a refund had been received from the phone provider.

Ensuring Administration Costs are Appropriate

While a 5% maximum amount exists in North Dakota Century Code for the amount phone providers can withhold for the administration in collection of the 911 fee, the amount to be withheld is to be for the actual costs of administration. In discussions with political subdivisions regarding the amounts retained by phone providers, none had requested or received documentation to determine whether the amount retained by phone providers is for the actual costs of administration. Also, in certain instances, the documentation provided to the political subdivisions when 911 fees are submitted does not identify the amount being withheld.

The maximum amount established in state law is what the majority of phone providers withhold. In discussions with representatives of 10 phone providers, none of the 10 providers had documentation to identify their actual costs incurred and were not aware of the actual costs of administration in collection of the 911 fee. However, most providers believed their actual costs are more than the 5% they retain.

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Recommendation 3-4

We recommend political subdivisions receiving 911 fees ensure the amounts retained by phone providers for administration costs are appropriate. Political subdivisions should, at a minimum:

- a) Ensure the maximum amount for administration costs is not exceeded; and
- b) Ensure the amount retained by phone providers is reasonable by requiring documentation or other information regarding their administration costs.

Management's Response

This recommendation was provided to 10 political subdivisions to obtain management responses. Most responses provided appear to agree. Concerns were noted regarding contacting phone providers on an individual basis so certain political subdivisions noted they would be in contact with the North Dakota Association of Counties to seek assistance.

Needed Improvements with How 911 Fees are Collected

During a review of revenue information at selected political subdivisions, we determined improvements are needed with the processes used in collecting and accounting for 911 fees. Areas requiring improvement which involve public policy makers' input and actions are identified below.

Number of Lines

Phone providers are required to collect 911 fees from customers by assessing a \$1 fee per month per telephone access line and per wireless access line. The amount collected, less an administration fee, is then provided to respective political subdivisions. In discussions with political subdivisions receiving 911 fees, none determine whether the amount of fees is accurate and there is no review or verification of the number of access lines in the applicable area. This is due, in part, to there being no independent source of information determining the number of access lines in an area as phone providers appear to be the only entities maintaining such information. Thus, political subdivisions rely solely on the phone providers to submit appropriate amounts and must rely on the providers having adequate systems and processes in place for properly collecting 911 fees and distributing the amount to the appropriate entities.

Through a limited review of information related to phone providers, we identified a phone provider who provided service to customers in the state but was not collecting the appropriate 911 fee. When this was addressed with the respective political subdivision, action was taken to have the provider submit 911 fees. While the number of customers of this phone provider was relatively low (less than 50), there was a loss of 911 revenue.

Decentralized Receipting Process

The receipting of 911 fees is very decentralized as fees are received by over 45 different political subdivisions within the state. Thus, phone providers who are providing service to customers in various areas are

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required to submit multiple checks each month. For example, one wireless provider submits over 50 checks a month to various political subdivisions. One landline provider was identified as submitting 18 checks a month to various political subdivisions. Also, this appears to create additional work and possible confusion for phone providers as they need to specifically track 911 fee collections by certain jurisdictions. A phone provider within Cass County will need to maintain proper information for three separate political subdivisions – city of Fargo, city of West Fargo, and Cass County.

The amount of wireless 911 revenue identified by Foster County appeared to be significantly high. When reviewing wireless revenue information and using population information of the county, the amount of 911 fees received by the county equated to each resident having over 2 cellular phones. This appears to be due to the fact that wireless 911 fees are submitted based on the primary point of usage (PPU) of customers and not on the location of where the bill is sent. The PPU is determined based on information provided by customers but an apparent problem exists when the PPU is not known by the cellular provider. In this case, cellular providers are able to submit collected fees to a default location determined by information in federal guidelines related to lowest taxed entity in a particular market area in the state. Foster County appears to be the political subdivision receiving wireless 911 fees collected from customers whose PPU is not known by cellular providers in a particular area. Thus, Foster County receives more wireless revenue and other political subdivisions are receiving less revenue. Purchases of new cellular service now require customers to specifically identify PPU information which, over time, should reduce the number of customers whose PPU information is not known.

Monthly Submission

North Dakota Century Code requires phone providers to submit the 911 fees collected to the respective political subdivisions within 30 days of collecting the fee from the customer. Phone providers typically submit a check to political subdivisions following the month 911 fees are collected which could lead to holding payments beyond 30 days if fees were collected from customers at the beginning of the month. However, we did identify certain wireless providers did not submit fees collected the following month after collection. For examples, fees collected from customers in February were not submitted to political subdivisions until the first part of April.

Since phone providers are required to submit 911 fees collected 30 days after collection, there are certain providers who are submitting checks to political subdivisions for very low amounts. For example, we identified providers submitting checks in the amount of 95 cents and \$1.90 (one or two lines and 5% withheld). This does not appear reasonable and the amount retained by the provider for administration would not even cover the cost of mailing the check to the political subdivision.

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5% Administration Amount

While North Dakota Century Code identifies the term “fee” in relation to 911, a March 2004 Attorney General’s Opinion states because “the assessments on telephone lines are imposed on all residents for maintaining governmental functions, and are not dependent on their consent, they are taxes, not fees.” With other taxes collected by businesses in the state, there is typically not an allowance for the business to maintain a certain amount for administration (phone providers are allowed to retain up to 5% of the fees collected). Also, in a limited review of other states’ fees and surcharges for 911, the 5% amount retained by phone providers in the state appears high. The average retained in 14 other states was less than 2% and a number of these states have a fee or surcharge less than \$1.

Potential Solutions for Policy Makers’ Consideration

Due to concerns noted with the requirements and the processes related to submission of 911 fees, a determination by public policy makers is required for improvements to be made. Solutions for Legislators to consider are below.

Centralization of Receipting 911 Fees

Legislative action could be taken to centralize the receipting process of 911 fees submitted by phone providers. With this possible solution, all 911 fees collected by phone providers would be sent to one central location. Having a central location where 911 fees are submitted appears to occur in a number of states. State agencies to consider for a central location would be the Public Service Commission, Office of the Tax Commissioner, or the Office of the State Treasurer all of which were identified as central locations in other states. Also, a specific board or commission related to 911 could be established with authority to receive 911 fees.

Centralizing the receipting process will reduce the number of checks phone providers must submit and could possibly reduce the amount of work providers currently perform. As a result, phone providers’ administration costs should be reduced which could result in additional 911 revenue. Also, centralizing the receipting process would allow one entity to begin reviewing information regarding the number of access lines in the state to ensure phone providers have reasonable accounting systems in place to properly collect and submit 911 fees. If centralizing the receipting process were not done, individual political subdivisions would need to perform such reviews or contract with an entity to conduct such reviews.

If a centralized receipting process would be implemented, a determination on how to distribute or allocate the 911 fees to political subdivisions will then need to be determined. In other states, various methods were identified including distributions based on a per capita ratio, a cost reimbursement basis, or a combination of the two. Grants could also be included in the process for major purchases of equipment and/or software. The entity responsible for distributing the 911 fees

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could also provide standards related to proper accounting of how 911 fees are to be used by political subdivisions to ensure uniformity exists within the 911 system.

It should be noted that under such a system, the actual control of PSAP operations and how PSAPs answer calls and dispatch appropriate units and personnel would not change. This solution would only relate to the funding and accounting processes involved with 911 fees.

Laws Related to Phone Providers

Legislative action could be taken to modify certain requirements related to phone providers. The requirement related to submitting 911 fees within 30 days from being collected could be modified to include a provision for those providers collecting a nominal amount of 911 fees in a month (such as requiring the 30 day submission to occur only when a minimum amount of 911 fees are collected). Also, a penalty could be established within law for phone providers who do not submit payments within a timely fashion. The maximum amount to be retained by phone providers for administration costs should also be reviewed.

Task Force

During a review of other states' information, we noted Utah previously had a 911 system similar to North Dakota. A 1999 performance audit of Utah's 911 system identified similar concerns as our audit did (decentralized system, no assurance phone providers were submitting the proper amounts, vague laws). The Utah audit identified a number of solutions to the problem areas noted and provided information related to four other states who had sparsely populated areas. Utah established a task force to obtain information and evaluate options. The establishment of a task force with appropriate representation of stakeholders should be considered by the Legislature to further review the 911 area and offer solutions for improvement.

Areas Not Charged a 911 Fee

We noted there are two areas in which 911 fees should be collected but currently are not. What appears to be an emerging trend in the cell phone industry is the purchase of cellular phone service minutes in certain blocks of time ("prepaid cellular service"). Once these minutes have been used, an individual may replenish them as needed. These plans are used by those individuals who use a cell phone for occasional use or do not want to enter into a lengthy contract for cell service. Voice over Internet Protocol (VoIP) or Voice over IP is a technology that allows an individual to make a telephone call typically using a broadband internet connection instead of a regular (or analog) phone line. No 911 fees are collected on either prepaid cellular phone service or Voice over IP. New FCC guidelines require Voice over IP vendors to allow individuals to call 911.

During the 2005 Legislative Session, House Bill 1257 was introduced which would have assessed a 911 fee for each active prepaid wireless

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telephone having a sufficient positive balance at the end of each month. The legislation would have required phone providers to monitor balances of such accounts which may have created additional work for providers. In a review of information from the National Emergency Number Association (NENA), recommended language for states to use to collect a fee on prepaid cellular service was to have the fee collected with each sale of a prepaid card or phone. For example, a fee could be collected for each 30 minute segment sold.

Both prepaid cellular services and Voice over IP are able to make 911 calls and benefit from the 911 system. Legislators should consider legislation to assess a 911 fee on prepaid cellular services. Legislators should consider obtaining additional information regarding Voice over IP and if this technology continues to expand, what options are available to obtain a fee for 911 services.

North Dakota Association of Counties

Each political subdivision receiving 911 fees entered into a contract with the North Dakota Association of Counties (NDACo) for NDACo to coordinate the implementation of the networking, non-premise equipment upgrades, testing, and ongoing services necessary for wireless 911. Political subdivisions were to remit to NDACo 50 cents per wireless access line per month. The contracts entered into between NDACo and political subdivisions are for five years and are to expire on June 30, 2007. The contract entered into by NDACo with the phone provider for implementing wireless 911 is to expire on June 30, 2008.

NDACo's role in the wireless implementation process was to negotiate a contract on behalf of all counties rather than have counties attempt to enter into individual contracts with a phone provider. This allowed the state to have one centralized contact for wireless implementation as well as combining the purchasing power of the counties in order to negotiate a lower rate.

On May 24, 2005, our office contacted NDACo and requested NDACo to provide monthly revenue and expenditure information beginning when NDACo started receiving 911 fees through April 30, 2005. On June 3, an additional contact was made requesting the financial information and NDACo provided the information on June 15. The information provided by NDACo identified 911 collections of approximately \$4.5 million and 911 expenditures of approximately \$2.3 million. The fund balance as of April 30, 2005 was in excess of \$2.1 million (approximately 48% of what was collected had been retained).

On June 17, 2005, the NDACo Executive Director sent a memorandum to County Commission Chairmen, City Mayors, Auditors, Finance Directors, and 911 Coordinators stating a refund of excess revenues would be provided and contribution amounts would be lowered. The memorandum identifies NDACo will be distributing \$500,000 back to jurisdictions participating in the project based on the amounts of wireless

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911 funds remitted to NDACo. Starting July 1, 2005, the amount to be submitted was reduced to 40% of whatever is received from wireless carriers.

While the contract entered into by political subdivisions with NDACo required 50 cents per wireless access line per month be provided to NDACo, we noted the majority of political subdivisions simply submitted 50% of the amount received from phone providers. Since phone providers are withholding 5% of the \$1 fee for administration, submitting 50% of the amount received equated to 47.5 cents being submitted rather than the 50 cent contracted amount. We did identify two political subdivisions submitting 50 cents for each line and thus, differences existed between political subdivisions on how payments were being made. A NDACo representative noted they would not be pursuing the additional 2.5 cents per line from political subdivisions and this issue should be resolved by new language requiring political subdivisions to submit 40% of the amount received from wireless carriers.

Appendices

List of Recommendations	A1
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Summary of Clarifications for Legislators' Consideration	H1

List of Recommendations

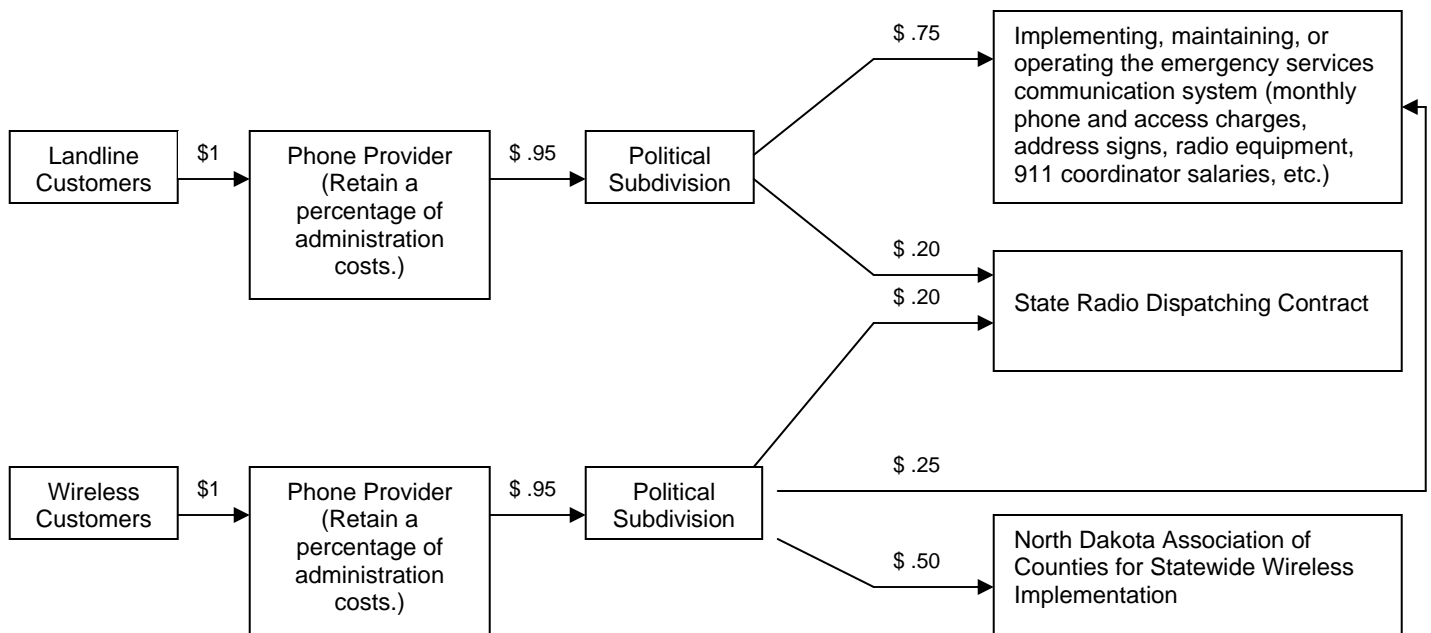
Recommendation 3-1	We recommend political subdivisions receiving 911 fees ensure the use of such funds comply with legislative intent.
Recommendation 3-2	We recommend Cavalier County, LaMoure County, and Richland County properly account for the use of 911 wired/landline fees received to identify 911 expenditures and fund balance information.
Recommendation 3-3	We recommend the counties of Adams, Bowman, Hettinger, Slope, and Stark and the city of Fargo take appropriate action to recoup 911 fees which were inappropriately withheld by phone providers.
Recommendation 3-4	<p>We recommend political subdivisions receiving 911 fees ensure the amounts retained by phone providers for administration costs are appropriate. Political subdivisions should, at a minimum:</p> <ul style="list-style-type: none">a) Ensure the maximum amount for administration costs is not exceeded; andb) Ensure the amount retained by phone providers is reasonable by requiring documentation or other information regarding their administration costs.



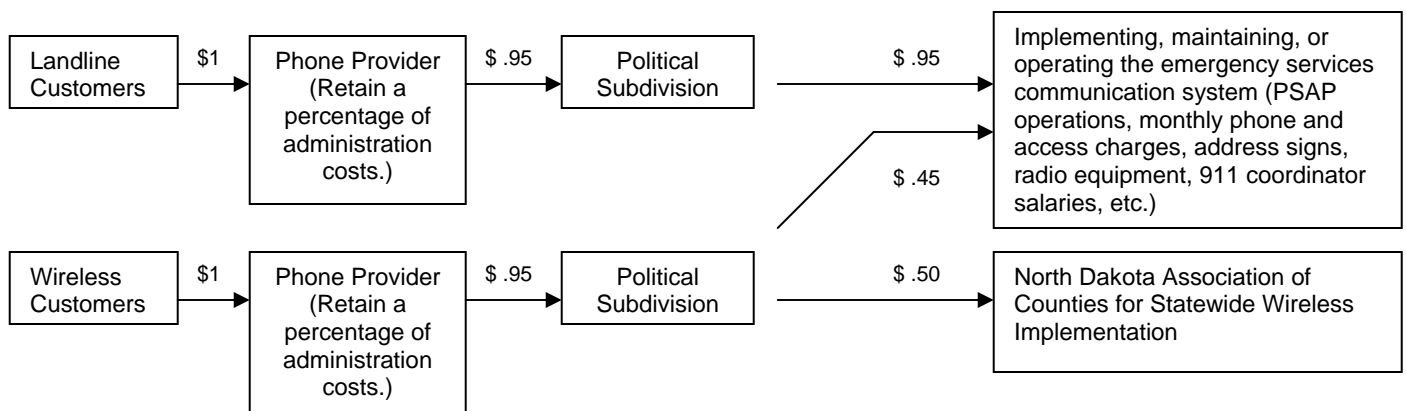
Distribution of 911 Fees

A \$1 fee per month for each telephone access line and wireless access line is charged by phone providers within the state. The fees collected are provided to respective political subdivisions. The distribution or use of the fee is dependent upon whether the political subdivision uses the Division of State Radio as their Public Service Answering Point (PSAP) or the political subdivision is receiving services from a locally owned and operated PSAP. The distribution and use of the \$1 fee is identified below. Starting July 1, 2005, the amount to be submitted to the North Dakota Association of Counties was reduced to 40% of whatever is received from wireless carriers.

State Radio Dispatched Counties

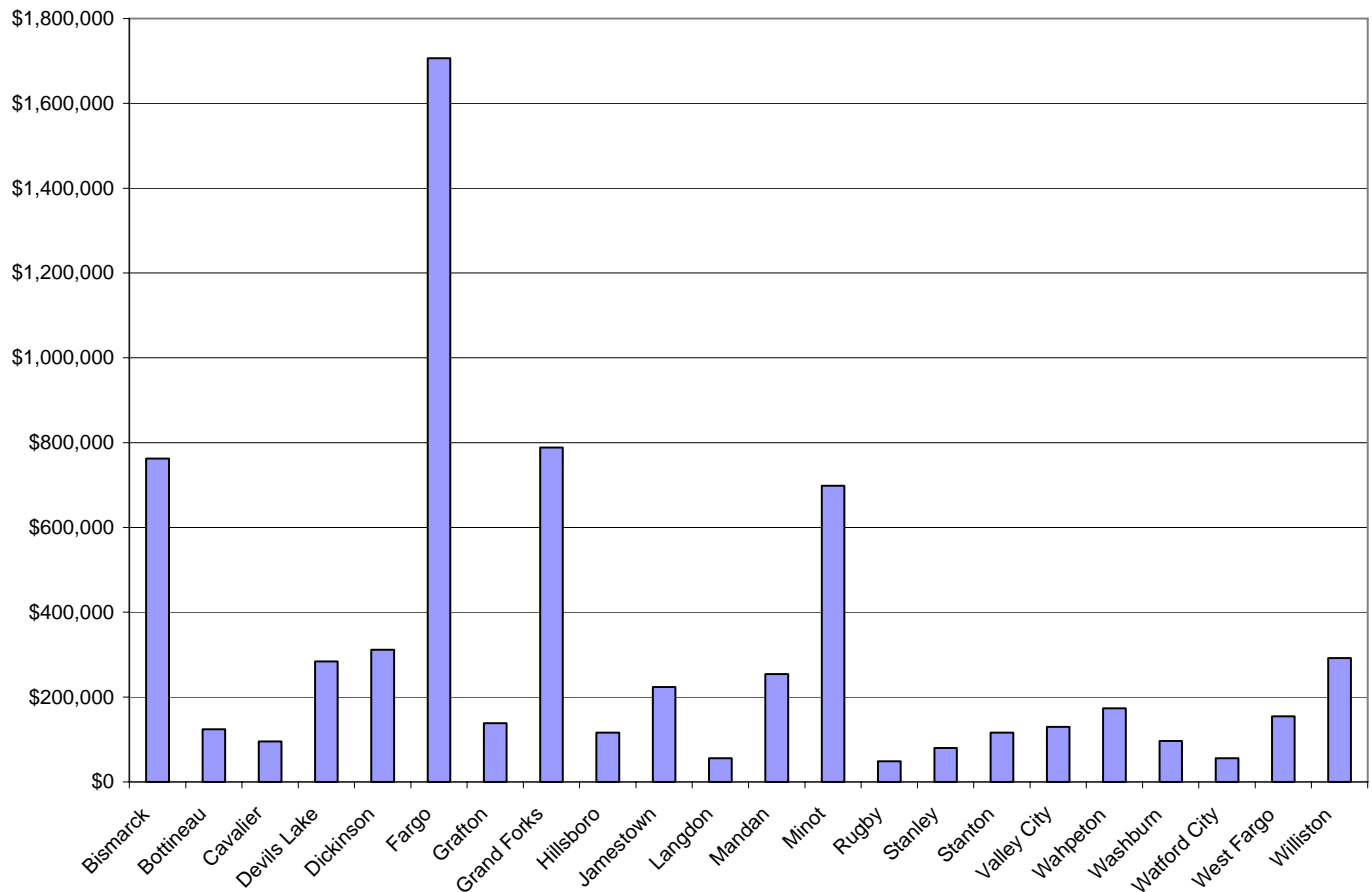


Locally Operated PSAP Areas



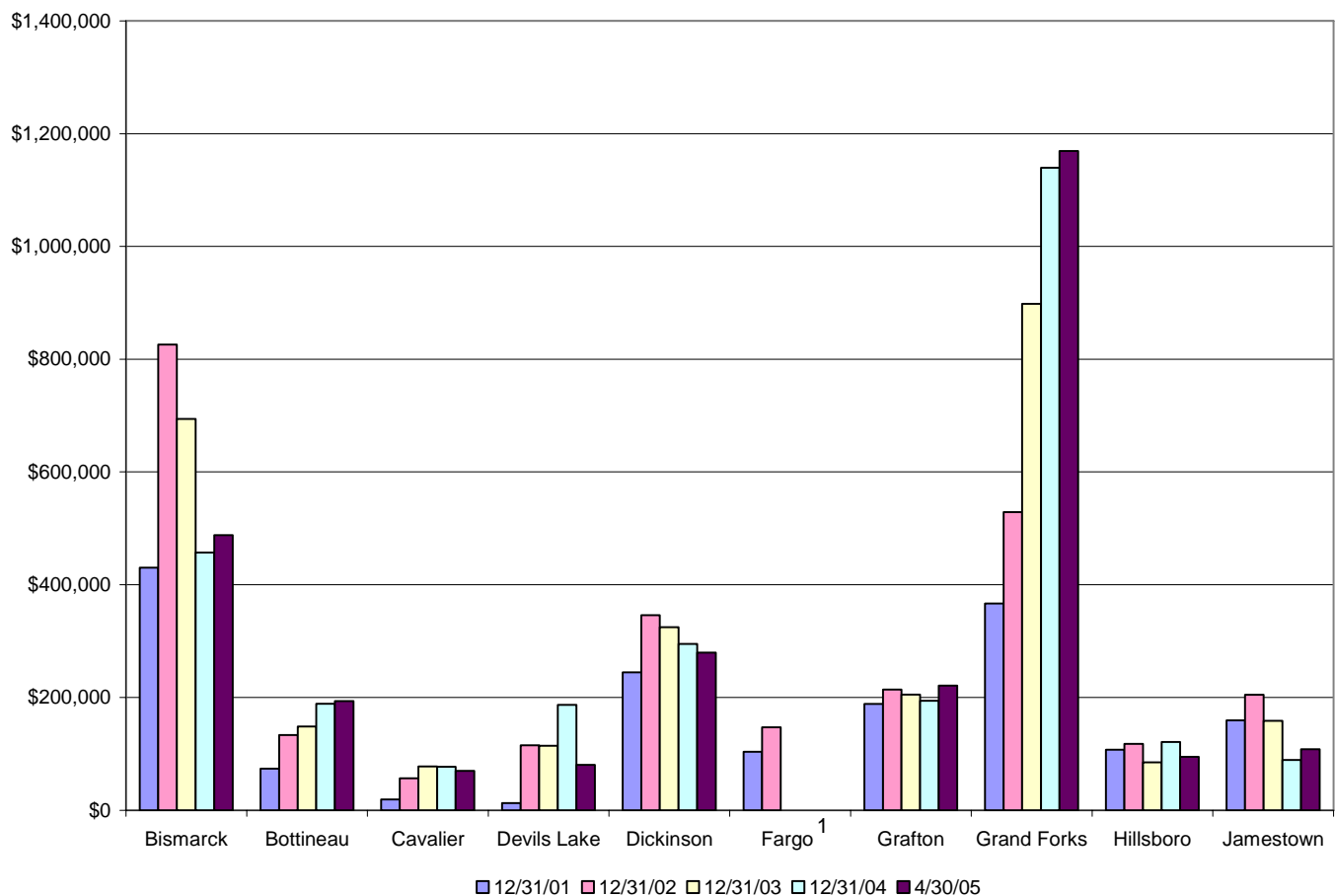
911 Fees Received in 2004 by 22 PSAP Locations

There are 22 locally operated Public Service Answering Points (PSAPs). Monthly 911 revenue information was provided to us for each location. For certain PSAP locations, 911 revenue information from two or more political subdivisions was combined. For example, the PSAP located in Dickinson provides services to both Dunn and Stark County and each county individually receives 911 fees. The graph below identifies only the amount of 911 fees received by each PSAP location (the coverage area for each PSAP location can be seen in Appendix B).



911 Fund Balance Information for 22 PSAP Locations

There are 22 locally operated Public Service Answering Points (PSAPs). Selected 911 fund balance information was requested from political subdivisions. When a PSAP coverage area involved two or more political subdivisions, fund balance information was combined to identify one amount. For example, the PSAP located in Dickinson provides services to both Dunn and Stark County and each county individually receives 911 fees. The fund balances for each county were combined to identify a 911 fund balance amount for the PSAP coverage area. Landline/wired 911 fund balance information was unavailable for the PSAP locations of Langdon and Wahpeton. The fund balance information provided to us for the other 20 PSAP locations can be seen in the graph on this page and the following page (both landline/wired and wireless balances were combined into one amount). Caution should be used when reviewing fund balance information. In certain instances, 911 fees have been used inappropriately which results in a lower fund balance amount. Also, 911 costs incurred may not have been paid with 911 fees which results in a higher fund balance amount.

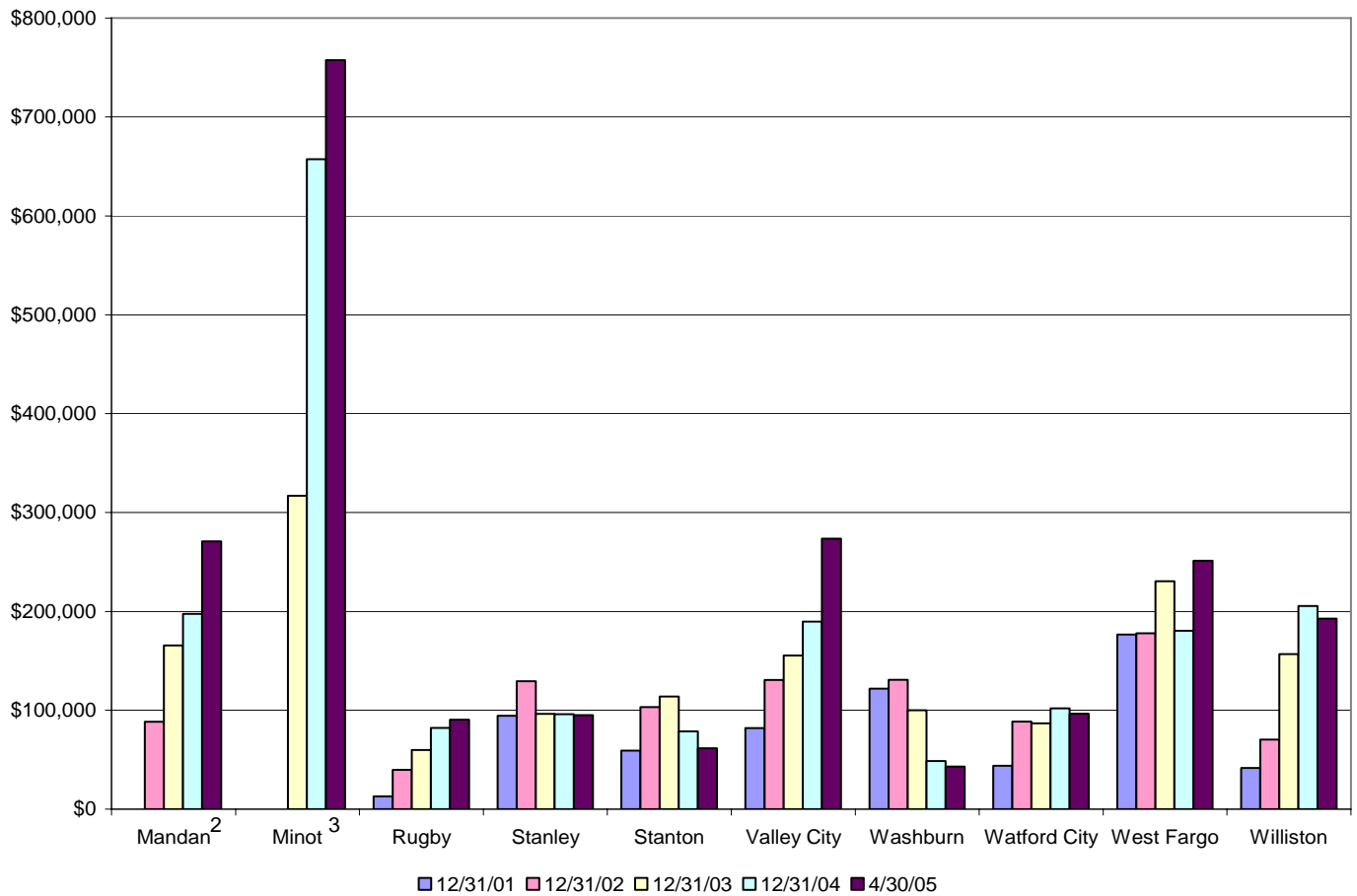


¹ Fargo is comprised of fund balance information for both Cass County and the city of Fargo. Due to a relatively large negative 911 fund balance for the city of Fargo and the effect on the graph presentation, the last three fund balances are not included in the graph. The fund balance information is below (includes fund balances for both Cass County and the City of Fargo)

- 12/31/03: negative \$375,291
- 12/31/04: negative \$243,966
- 4/30/05: negative \$163,883

Appendix E

911 Fund Balance Information for 22 PSAP Locations

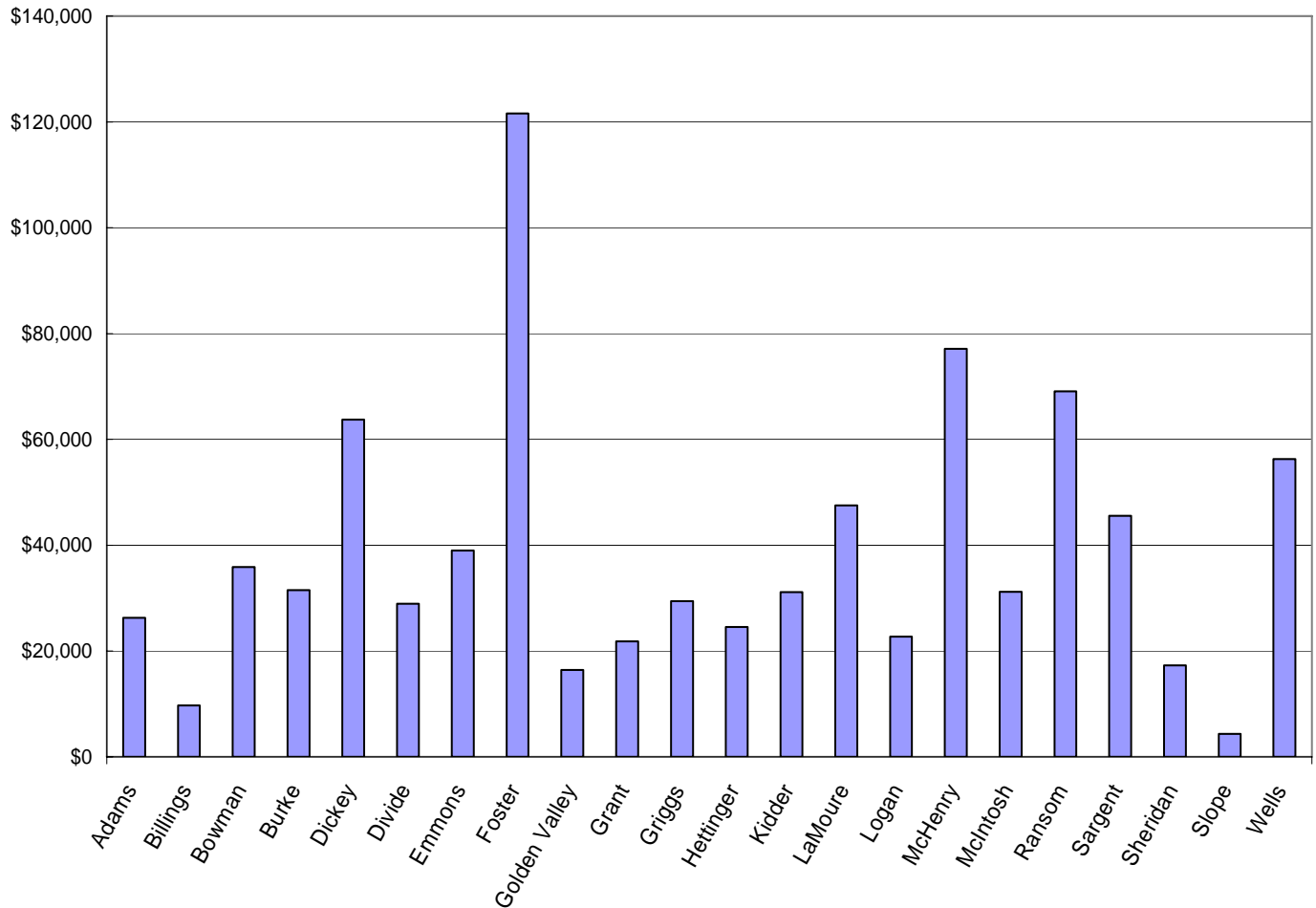


² Fund balance as of 12/31/01 was negative \$1,532.

³ No 911 fees were collected until 2003.

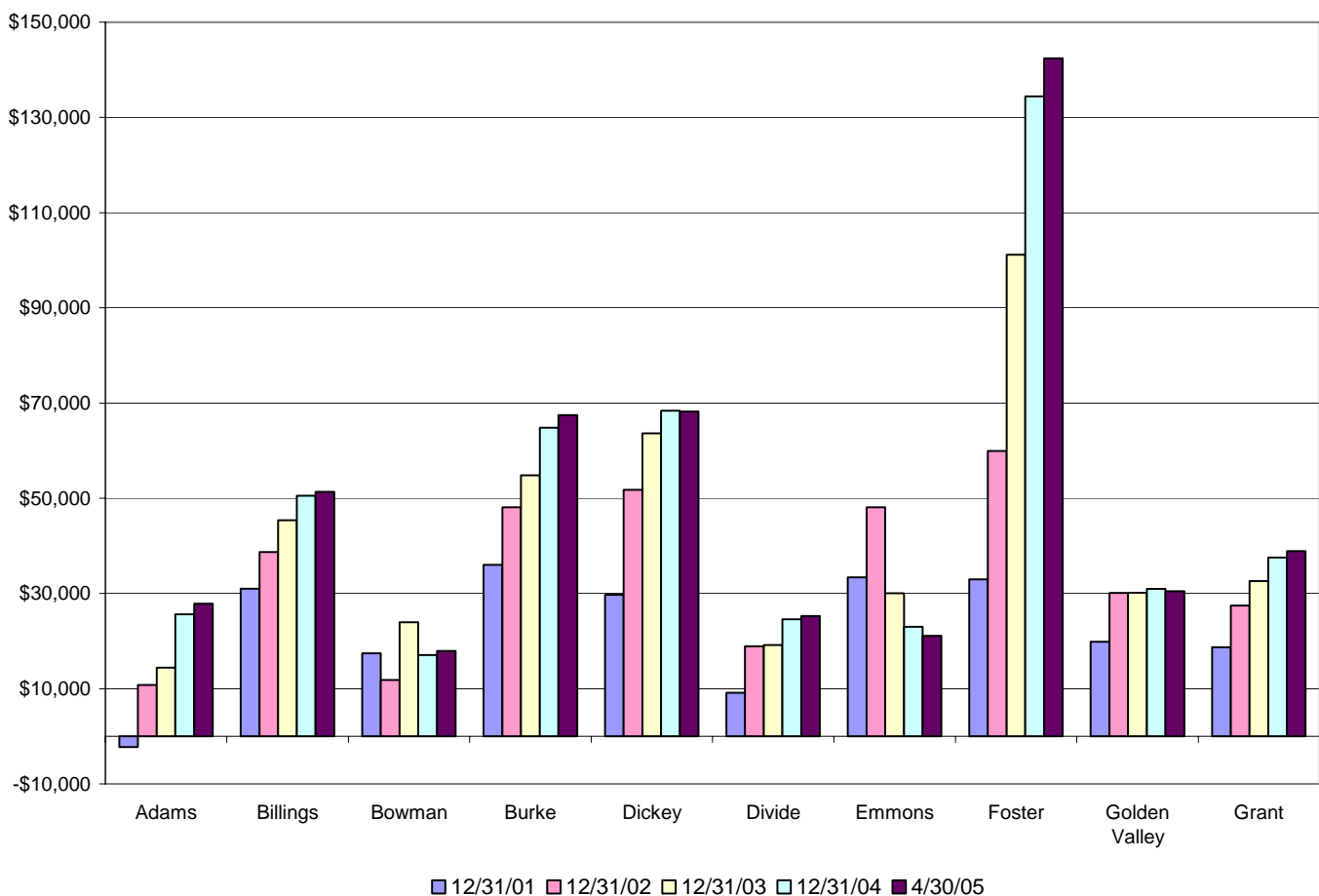
911 Fees Received in 2004 by 22 Counties

There are 22 counties which use State Radio as their Public Service Answering Point (PSAP). Each of the counties provided 911 revenue information and the graph below identifies only the amount of 911 fees received by each county within calendar year 2004.



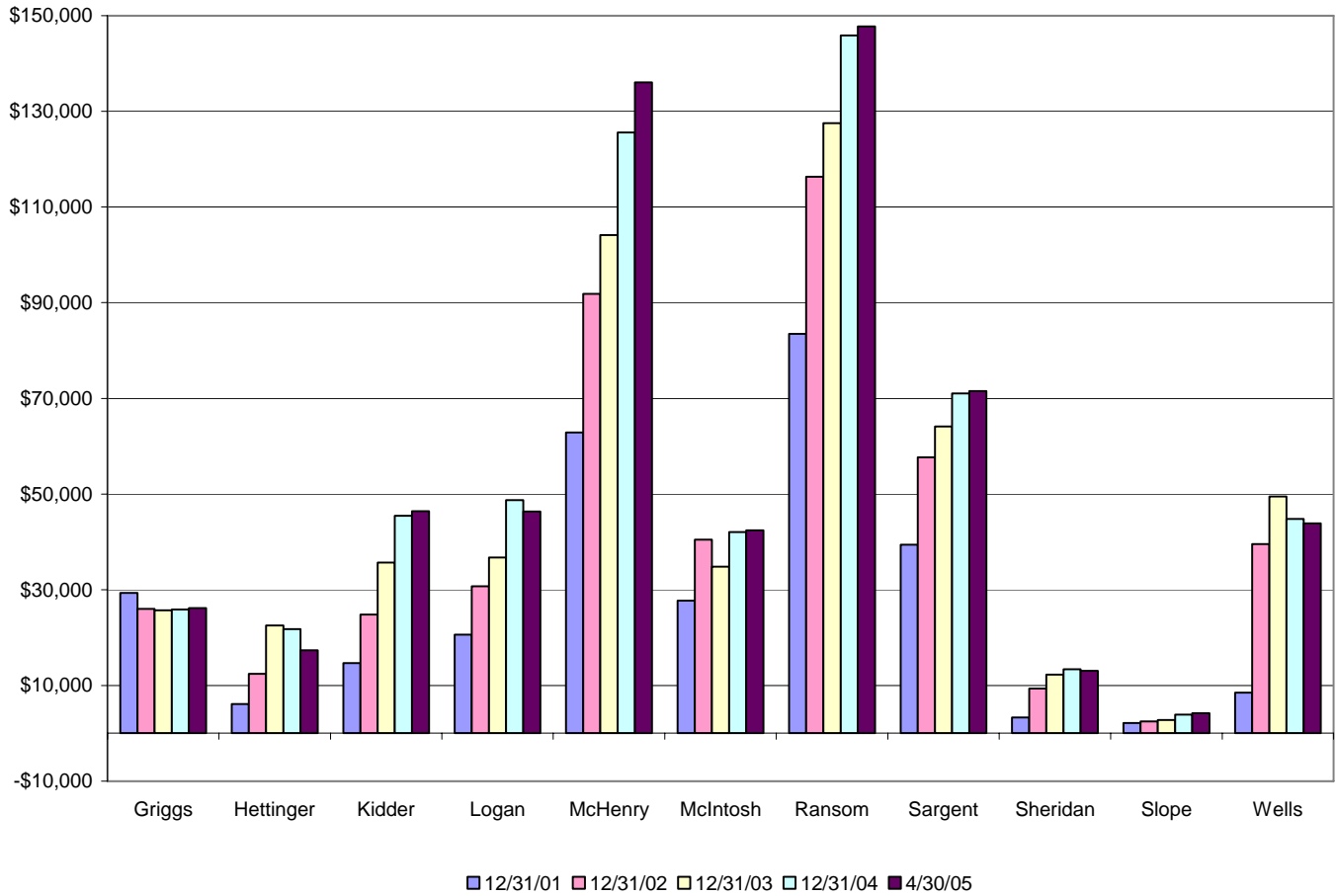
911 Fund Balance Information for 22 Counties

There are 22 counties which use State Radio as their Public Service Answering Point (PSAP). Selected 911 fund balance information was requested from each of the 22 counties. LaMoure County was unable to provide fund balance information related to landline/wired 911 fees (wireless 911 fund balance as of April 30, 2005 was \$35,711). The fund balance information provided by the other 21 counties can be seen in the graph on this page and the following page (both landline/wired and wireless balances were combined into one amount). Caution should be used when reviewing fund balance information. In certain instances, 911 fees have been used inappropriately which results in a lower fund balance amount. Also, 911 costs incurred may not have been paid with 911 fees which results in a higher fund balance amount.



Appendix G

911 Fund Balance Information for 22 Counties



Summary of Clarifications for Legislators' Consideration

This performance audit identifies a number of areas which require public policy makers' to provide clarification or make changes in order for improvements to be made. The table below provides a summary of the list of concerns noted with 911 fees, possible solutions for improvements, and the pages in the report where additional information can be seen.

Areas Requiring Improvement	Possible Solutions	Pages
State laws regarding how 911 fees are to be used are overly broad. There is a lack of consistency in how 911 fees are used.	<ol style="list-style-type: none"> 1. Clarification could be provided within NDCC Chapter 57-40.6 related to the use of 911 fees. 2. Requirements could be established within NDCC Chapter 54-40.6 regarding a uniform method of accounting for 911 expenditures and/or costs. 3. Specific authority could be granted to a state agency and/or board/commission to establish guidelines and standards related to the use of 911 fees and/or being responsible for establishing a uniform system of accounting for 911 costs. 4. The establishment of a task force with appropriate representation of stakeholders should be considered by the Legislature to further review the 911 area and offer solutions for improvement. 	11-13 15-17
911 fees are used to purchase items which are apparently necessary for the 911 system to operate but are used by other non 911 entities and personnel or benefit other non 911 users. No political subdivision was identified as charging non 911 users for the use of assets purchased exclusively with 911 fees and there was no recouping of costs.	<ol style="list-style-type: none"> 1. Public policy makers will need to make a determination as to the reasonableness of using 911 fees to purchase assets which are used by or benefit non 911 users. Clarification could be provided within NDCC related to the use of 911 fees. 2. The establishment of a task force with appropriate representation of stakeholders should be considered by the Legislature to further review the 911 area and offer solutions for improvement. 	15-17
The receipting of 911 fees is decentralized as fees are received by over 45 different political subdivisions within the state. Political subdivisions rely solely on the phone providers to submit appropriate 911 fees collected and must rely on the providers having adequate systems and processes in place for properly collecting 911 fees and distributing the amount to the appropriate entities.	<ol style="list-style-type: none"> 1. Legislative action could be taken to centralize the receipting process of 911 fees submitted by phone providers. 2. If a centralized receipting process would be implemented, a determination on how to distribute or allocate the 911 fees to political subdivisions will then need to be determined. 3. The establishment of a task force with appropriate representation of stakeholders should be considered by the Legislature to further review the 911 area and offer solutions for improvement. 	19-22

Appendix H
Summary of Clarifications for Legislators' Consideration

Areas Requiring Improvement	Possible Solutions	Pages
NDCC Chapter 57-40.6 establishes certain requirements related to phone providers. Phone providers are required to submit the 911 fees collected to the respective political subdivisions within 30 days of collecting the fee from the customer. Certain wireless providers were noted as not submitting fees in a timely manner. Also, the 30 day requirement results in certain providers submitting monthly checks to political subdivisions for very low amounts. Phone providers are allowed to retain up to 5% of the 911 fees collected. The 5% amount appears high in comparison with other states.	<ol style="list-style-type: none"> 1. A penalty could be established within NDCC Chapter 57-40.6 for phone providers who do not submit payments within a timely fashion. 2. The requirement related to submitting 911 fees within 30 days from being collected (NDCC Section 57-40.6-04) could be modified to include a provision for those providers collecting a nominal amount of 911 fees in a month. 3. The maximum amount to be retained by phone providers for administration costs could be reviewed. 4. The establishment of a task force with appropriate representation of stakeholders should be considered by the Legislature to further review the 911 area and offer solutions for improvement. 	20-22
Both prepaid cellular services and Voice over IP are able to make 911 calls and benefit from the 911 system. However, no 911 fees are collected in either area.	<ol style="list-style-type: none"> 1. Legislative action could be taken to assess a 911 fee on prepaid cellular services. 2. Additional information regarding Voice over IP should be obtained and if this technology continues to expand, options should be identified for assessing a 911 fee. 	22-23