

2001 Jr2 DRAFTING REQUEST

Senate Amendment (SA-SSA1-AB1)

Received: 06/28/2002

Received By: jkreye

Wanted: Soon

Identical to LRB:

For: Legislative Fiscal Bureau 71069

By/Representing: Larson

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Addl. Drafters:

Subject: Tax - sales

Extra Copies:

Submit via email: NO

Pre Topic:

LFB:.....Larson -

Topic:

Mobile telecommunications services sales tax; calling card sales tax provision

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 06/28/2002	kfollet 06/28/2002		_____			
/1			chanaman 06/28/2002	_____	lrb_docadmin 06/28/2002		

FE Sent For:

<END>

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/?	jkreye	1/1 6/28 KJF		_____ _____			

FE Sent For:

<END>

2001 - 2002 LEGISLATURE
January 2002 Special Session

LRBb3096/2

Handwritten initials and signatures:
JK
JK
JK

LFB:.....Larson - Mobile telecommunications services sales tax; calling card sales tax provision

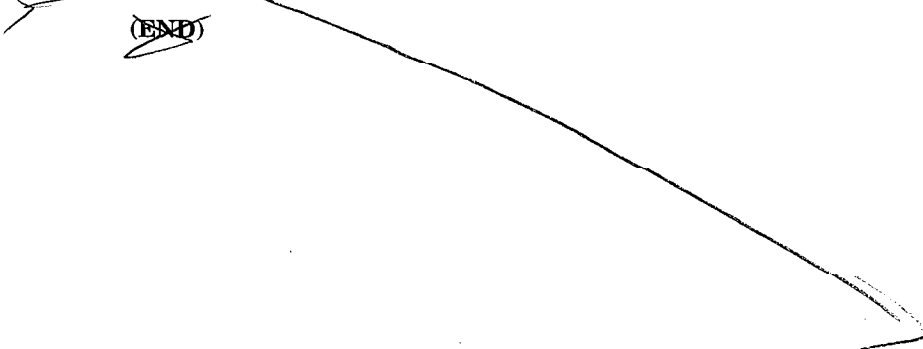
FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

**SENATE AMENDMENT ,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 1**

Handwritten notes:
in 6-28
SDOW

1 At the locations indicated, amend the substitute amendment as follows:

2 ~~(END)~~



2001 - 2002 LEGISLATURE
January 2002 Special Session

LRBb2441/3
MDK&JK:hmh:rs

LFB:..... Renner - Wireless 911 grants; mobile telecommunications services
sales tax

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

**ASSEMBLY AMENDMENT ,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 1**

1 ~~At the locations indicated, amend the substitute amendment as follows:~~

2 ~~1. Page 10, line 6: after that line insert:~~

3 ~~"SECTION 14c. 15.155 (5) of the statutes is created to read:~~

4 ~~15.155 (5) WIRELESS 911 BOARD. (a) There is created a wireless 911 board~~
5 ~~attached to the department of commerce under s. 15.03 consisting of the following~~
6 ~~members:~~

7 ~~1. One representative to the assembly, appointed by the speaker of the~~
8 ~~assembly.~~

9 ~~2. One representative to the assembly, appointed by the assembly minority~~
10 ~~leader.~~

1 3. One senator, appointed by the president of the senate.

2 4. One senator, appointed by the senate minority leader.

3 5. Four persons who represent the interests of commercial mobile radio service
4 providers, as defined in s. 196.01 (2g), appointed by the governor.

5 6. Four persons who represent the interests of public agencies, as defined in s.
6 146.70 (1) (f), or public safety agencies, as defined in s. 146.70 (1) (g), that operate
7 public safety answering points, as defined in s. 146.70 (1) (gm), appointed by the
8 governor.

9 (b) The members appointed under par. (a) 5. and 6. shall serve 3-year terms
10 and may not serve more than 2 consecutive terms.”.

11 **2.** Page 13, line 13: after that line insert:

12 “**SECTION 30b.** 20.143 (3) (je) of the statutes is created to read:

13 20.143 (3) (je) *Wireless 911 board general program operations.* Two and
14 one-half percent of all moneys received under s. 146.70 (3m) (d) 3. for general
15 program operations of the wireless 911 board, including contracting for audits under
16 s. 146.70 (3m) (b) 5.

17 **SECTION 30d.** 20.143 (3) (jm) of the statutes is created to read:

18 20.143 (3) (jm) *Wireless provider grants.* Forty-eight and three-fourths
19 percent of all moneys received under s. 146.70 (3m) (d) 3. for the wireless 911 board
20 to make grants to wireless providers under s. 146.70 (3m) (b) 2. and to make transfers
21 to the appropriation under par. (kv) as provided under s. 146.70 (3m) (b) 3.

22 **SECTION 30f.** 20.143 (3) (js) of the statutes is created to read:

23 20.143 (3) (js) *Public agency and wireless provider grants.* Forty-eight and
24 three-fourths percent of all moneys received under s. 146.70 (3m) (d) 3. for the

1 wireless 911 board to make grants to public agencies under s. 146.70 (3m) (b) 1. and
2 to wireless providers under s. 146.70 (3m) (b) 3.

3 **SECTION 30h.** 20.143 (3) (kv) of the statutes is created to read:

4 20.143 (3) (kv) *Public agency grants.* All moneys transferred from the
5 appropriation account under par. (jm) for the wireless 911 board to make grants to
6 public agencies under s. 146.70 (3m) (b) 1.”

7 **3.** Page 139, line 16: after that line insert:

8 “**SECTION 233b.** 77.52 (2) (a) 5. of the statutes is renumbered 77.52 (2) (a) 5. a.
9 and amended to read:

10 77.52 (2) (a) 5. a. The sale of telecommunications services, except services
11 subject to 4 USC 116 to 126, as amended by P.L. 106–252, that either originate or
12 terminate in this state; except services that are obtained by means of a toll-free
13 number, that originate outside this state and that terminate in this state; and are
14 charged to a service address in this state, regardless of the location where that charge
15 is billed or paid; and the sale of the rights to purchase telecommunications services,
16 including purchasing reauthorization numbers, by paying in advance and by using
17 an access number and authorization code, except sales that are subject to subd. 5. b.

18 **SECTION 233c.** 77.52 (2) (a) 5. b. of the statutes is created to read:

19 77.52 (2) (a) 5. b. The sale of services subject to 4 USC 116 to 126, as amended
20 by P.L. 106–252, if the customer’s place of primary use of the services is in this state,
21 as determined under 4 USC 116 to 126, as amended by P.L. 106–252. For purposes
22 of this subd. 5. b., all of the provisions of 4 USC 116 to 126, as amended by P.L.
23 106–252, are adopted, except that if 4 USC 116 to 126, as amended by P.L. 106–252,
24 or the application of 4 USC 116 to 126, as amended by P.L. 106–252, is found

1 unconstitutional the sale of telecommunications services is subject to the tax
2 imposed under this section as provided in subd. 5. a.

3 **SECTION 233e.** 77.52 (3m) (intro.) of the statutes is amended to read:

4 77.52 (3m) (intro.) In regard to the sale of the rights to purchase
5 telecommunications services under sub. (2) (a) 5. a.:

6 **SECTION 233f.** 77.52 (3n) of the statutes is created to read:

7 77.52 (3n) In regard to the sale of the rights to purchase telecommunications
8 services under sub. (2) (a) 5. b., the situs of the sale is as determined under 4 USC
9 116 to 126, as amended by P.L. 106–252.

10 **SECTION 233g.** 77.523 of the statutes is created to read:

11 **77.523 Customer remedy.** If a customer purchases a service that is subject
12 to 4 USC 116 to 126, as amended by P.L. 106–252, and if the customer believes that
13 the amount of the tax assessed for the service under this subchapter or the place of
14 primary use or taxing jurisdiction assigned to the service is erroneous, the customer
15 may request that the service provider correct the alleged error by sending a written
16 notice to the service provider. The notice shall include a description of the alleged
17 error, the street address for the customer's place of primary use of the service, the
18 account name and number of the service for which the customer seeks a correction,
19 and any other information that the service provider reasonably requires to process
20 the request. Within 60 days from the date that a service provider receives a request
21 under this section, the service provider shall review its records to determine the
22 customer's taxing jurisdiction. If the review indicates that there is no error as
23 alleged, the service provider shall explain the findings of the review in writing to the
24 customer. If the review indicates that there is an error as alleged, the service
25 provider shall correct the error and shall refund or credit the amount of any tax

1 collected erroneously, along with the related interest, as a result of the error from the
2 customer in the previous 48 months, consistent with s. 77.59 (4). A customer may
3 take no other action, or commence any action, to correct an alleged error in the
4 amount of the tax assessed under this subchapter on a service that is subject to 4 USC
5 116 to 126, as amended by P.L. 106–252, or to correct an alleged error in the assigned
6 place of primary use or taxing jurisdiction, unless the customer has exhausted his
7 or her remedies under this section.

8 **SECTION 233h.** 77.525^h of the statutes is amended to read:

9 **77.525 Reduction to prevent double taxation.** Any person who is subject
10 to the tax under s. 77.52 (2) (a) 5. a. on telecommunications services that terminate
11 in this state and who has paid a similar tax on the same services to another state may
12 reduce the amount of the tax remitted to this state by an amount equal to the similar
13 tax properly paid to another state on those services or by the amount due this state
14 on those services, whichever is less. That person shall refund proportionally to the
15 persons to whom the tax under s. 77.52 (2) (a) 5. a. was passed on an amount equal
16 to the amounts not remitted.

17 **SECTION 233j.** 77.54 (46^m) of the statutes is created to read:

18 **77.54 (46m)** The gross receipts from the sale of and the storage, use, or other
19 consumption of telecommunications services, if the telecommunications services are
20 obtained by using the rights to purchase telecommunications services, including
21 purchasing reauthorization numbers, by paying in advance and by using an access
22 number and authorization code; and if the tax imposed under s. 77.52 or 77.53 was
23 previously paid on the sale or purchase of such rights.

24 **SECTION 233k.** 77.72 (3) (b) of the statutes is amended to read:

1 77.72 (3) (b) *Exceptions.* ~~Communication~~ A communication service has a situs
2 where the customer is billed for the service if the customer calls collect or pays by
3 credit card. Services subject to s. 77.52 (2) (a) 5. b. have a situs at the customer's place
4 of primary use of the services, as determined under 4 USC 116 to 126, as amended
5 by P.L. 106-252. Towing services have a situs at the location to which the vehicle is
6 delivered. Services performed on tangible personal property have a situs at the
7 location where the property is delivered to the buyer.”.

8 ~~4. Page 154, line 4: after that line insert:~~

9 ~~“SECTION 259m. 93.01 (1r) of the statutes is created to read:~~

10 ~~93.01 (1r) “Civil investigative demand” means a written document prepared~~
11 ~~by the department that is related to the enforcement of chs. 93 to 100 and that orders~~
12 ~~a person to do any of the following:~~

13 ~~(a) Provide originals or copies of documents, records, or reports in the person's~~
14 ~~custody.~~

15 ~~(b) Answer specific questions submitted by the department in the form of~~
16 ~~written depositions, interrogatories, or requests for admissions.~~

17 ~~(c) Allow employees of the department to review and copy documents, records,~~
18 ~~or reports in the person's custody.”.~~

19 ~~5. Page 154, line 17: after that line insert:~~

20 ~~“SECTION 259u. 93.14 (1m) of the statutes is created to read:~~

21 ~~93.14 (1m) (a) Any person who has been served with a department complaint,~~
22 ~~notice, order, or other process as authorized in s. 93.18 (5) shall be subject to the~~
23 ~~department's authority and jurisdiction, as limited by par. (b).~~

1 (b) The department's jurisdiction may not exceed the jurisdiction granted to
2 courts under s. 815.05.

3 **SECTION 259w.** 93.14 (3) of the statutes is amended to read:

4 93.14 (3) Any person who shall unlawfully fail to attend as a witness, fail to
5 comply with a subpoena, order, or civil investigative demand, or refuse to testify may
6 be coerced as provided in s. 885.12.

7 **SECTION 259x.** 93.15 (1) of the statutes is amended to read:

8 93.15 (1) The department may, by general or special order, require persons
9 engaged in business to file with the department, at such time and in such manner
10 as the department may direct, sworn or unsworn reports or sworn or unsworn
11 answers in writing to specific questions, as to any matter which the department may
12 investigate.

13 **SECTION 259y.** 93.15 (2) of the statutes is amended to read:

14 93.15 (2) The department or any of its authorized agents may have access to
15 and may copy any document, or any part thereof, which of a document, that is in the
16 possession or under the control of any person engaged in business, if such the
17 document, or such part thereof of the document, is relevant to any matter which that
18 the department may investigate.”.

19 **6.** Page 155, line 13: after that line insert:

20 “**SECTION 263b.** 100.207 (1) of the statutes is renumbered 100.207 (1) (intro.)
21 and amended to read:

22 100.207 (1) **DEFINITION DEFINITIONS.** (intro.) In this section,
23 “telecommunications:

24 (b) “Telecommunications service” has the meaning given in s. 196.01 (9m).

1 **SECTION 263f.** 100.207 (1) (a) of the statutes is created to read:

2 100.207 (1) (a) “Telecommunications provider” has the meaning given in s.
3 196.01 (8p).

4 **SECTION 263k.** 100.207 (1) (c) of the statutes is created to read:

5 100.207 (1) (c) “Telecommunications subscription” means a contract between
6 a telecommunications provider and a customer for a telecommunications service that
7 is always provided to the customer during each billing period.

8 **SECTION 263o.** 100.207 (3g) of the statutes is created to read:

9 100.207 (3g) BILLING FOR OTHER SERVICES. (a) A telecommunications provider
10 may not bill a customer for any goods or services, other than telecommunications
11 services, unless all of the following apply:

12 1. The telecommunications provider reasonably believes that the customer
13 knowingly consented to the billing.

14 2. The telecommunications provider confirms with the customer, before
15 providing the telecommunications service, that the customer knowingly consented
16 to the billing.

17 (b) If a customer consents to being billed under par. (a), all of the following shall
18 apply:

19 1. The telecommunications provider shall distinguish the billing for the other
20 goods or services from the billing for the telecommunications service in a conspicuous
21 manner. The department shall promulgate rules establishing requirements for
22 complying with this subdivision.

23 2. The telecommunications provider shall provide a detailed itemized listing
24 of the charges for the goods or services if requested to do so by the customer.

25 **SECTION 263s.** 100.207 (3m) of the statutes is created to read:

1 100.207 (3m) TELECOMMUNICATIONS SERVICE CONFIRMATION. (a) A
2 telecommunications provider may not provide a telecommunications service to a
3 customer unless all of the following apply:

4 1. The telecommunications provider reasonably believes that the customer
5 knowingly consented to receive the service.

6 2. The telecommunications provider confirms with the customer, before
7 providing the telecommunications service, that the customer knowingly consented
8 to receive the service.

9 3. At the time that the telecommunications provider provides confirmation
10 under subd. 2., the telecommunications provider informs the customer that he or she
11 may, before the service is activated, withdraw his or her consent to receive the service
12 and informs the customer of the manner by which that consent may be withdrawn.

13 (b) Paragraph (a) does not apply to basic local exchange service or long distance
14 toll service or a telecommunications service that is provided as part of a
15 telecommunications subscription.

16 **SECTION 263w.** 100.207 (5g) of the statutes is created to read:

17 100.207 (5g) RESTRICTIONS ON CONTRACTS. No telecommunications provider
18 may place in a contract entered into with a customer located in this state a clause that
19 provides that a law of a state other than this state applies to the parties or terms of
20 the contract or the rights and remedies under the contract, unless the law of the other
21 state is in conformity with the law of this state.

22 **SECTION 263y.** 100.207 (5m) of the statutes is created to read:

23 100.207 (5m) RECORD REQUIREMENTS. Any person who provides
24 telecommunications service to any customer in this state shall maintain each billing

1 and collection record that is made in providing the telecommunications service for
2 a period of 5 years beginning on the date that the record is made.”.

3 **7.** Page 172, line 3: after that line insert:

4 “**SECTION 335m.** 146.70 (3m) of the statutes is created to read:

5 146.70 (3m) WIRELESS PROVIDERS. (a) *Definitions.* In this subsection:

6 1. “Board” means the wireless 911 board.

7 2. “Federal wireless orders” means the orders of the federal communications
8 commission regarding 911 emergency services for wireless telephone users in FCC
9 docket no. 94–102.

10 3. “Wireless provider” means a commercial mobile radio service provider, as
11 defined in s. 196.01 (2g), that is subject to the federal wireless orders.

12 4. “Wireless public safety answering point” means a facility to which a call on
13 a wireless provider’s system is initially routed for response, and on which a public
14 agency directly dispatches the appropriate emergency service provider, relays a
15 message to the appropriate emergency service provider, or transfers the call to the
16 appropriate emergency services provider.

17 (b) *Grants.* 1. From the appropriations under s. 20.143 (3) (js) and (kv), the
18 board shall make grants to public agencies that operate public safety answering
19 points for eligible expenses under par. (c). A public agency is eligible for a grant
20 under this subdivision only if the board determines that the public agency has
21 complied with the federal wireless orders and either is providing 911 emergency
22 services for wireless telephone users or has begun to implement 911 emergency
23 services for wireless telephone users that will be provided within 2 years after
24 implementation has begun. The total amount in grants that a public agency may

1 receive under this subdivision may not exceed 50% of the public agency's total eligible
2 expenses under par. (c).

3 2. From the appropriation under s. 20.143 (3) (jm), the board shall make grants
4 to wireless providers for actual costs and expenses incurred by wireless providers in
5 complying with the federal wireless orders, including costs and expenses for
6 designing, upgrading, purchasing, leasing, programming, installing, testing,
7 operating, and maintaining data, hardware, and software necessary to provide 911
8 emergency services for wireless telephone users.

9 3. If the board determines that there are insufficient funds in the appropriation
10 account under s. 20.143 (3) (jm) to make a grant under subd. 2., and the board has
11 not paid a grant under subd. 1. or an installment under subd. 4. in the preceding 3
12 months, the board may make the grant to the wireless provider from the
13 appropriation account under s. 20.143 (3) (js). If the board makes a grant under this
14 subdivision, the board shall, as soon as practicable, transfer moneys from the
15 appropriation account under s. 20.143 (3) (jm) to the appropriation account under s.
16 20.143 (3) (kv) in an amount equal to the amount of the grant.

17 4. If the board determines that there are insufficient funds in an appropriation
18 to make a grant under this paragraph, the board may make the grant in
19 installments.

20 5. The board shall contract for independent audits of applications for grants
21 under this paragraph. An applicant shall provide an auditor with any relevant
22 confidential business information.

23 (c) *Public agency eligible expenses.* 1. A public agency may receive a grant
24 under par. (b) 1. for actual expenses that the public agency directly and primarily

1 incurred for leasing, purchasing, operating, or maintaining a wireless public safety
2 answering point, including expenses for all of the following:

3 a. Necessary network equipment, computer hardware and software, database
4 equipment, and radio and telephone equipment, that are located within the public
5 safety answering point.

6 b. Training operators of a public safety answering point.

7 c. Network costs for delivery of calls from a wireless provider to a public safety
8 answering point.

9 2. Except for expenses under subd. 1., a public agency may not receive a grant
10 under par. (b) 1. for any of the following:

11 a. Emergency service dispatch, including personnel, training, equipment,
12 software, records management, radio communications, and mobile data network
13 systems.

14 b. Vehicles and equipment in vehicles.

15 c. Communications equipment and software used to communicate with
16 vehicles.

17 d. Real estate and improvements to real estate, other than improvements
18 necessary to maintain the security of a public safety answering point.

19 e. Salaries and benefits of operators of a public safety answering point.

20 (d) *Wireless surcharge.* 1. Each wireless provider shall impose a surcharge of
21 50 cents per month for each telephone number that has a billable address in this state
22 and shall identify the surcharge on a customer's bill on a separate line that is
23 identified as "Wireless 911 Surcharge." The board may promulgate rules that
24 increase or decrease the surcharge, except that the board may not increase the

1 surcharge more than once per year, any increase must be uniform statewide and may
2 not exceed 10 cents, and the surcharge may not exceed \$1.

3 2. A wireless provider may not prorate the surcharge and shall collect the entire
4 amount of the surcharge for a month of partial service.

5 3. The board shall promulgate rules establishing requirements for wireless
6 providers to collect the surcharge from their customers beginning with the first bills
7 issued after July 1, 2002. Except as provided in subd. 4., a wireless provider shall
8 pay the surcharges to the board no more than 60 days after the end of the calendar
9 month in which the surcharges are collected. The board shall bring an action to
10 collect a surcharge that is not paid by a customer and the customer's wireless
11 provider is not liable for the unpaid surcharge.

12 4. Wireless providers may retain 2% of the surcharges collected in fiscal year
13 2002–03 for reimbursing costs related to collecting the surcharge, including
14 reprogramming billing systems.

15 (e) *Confidentiality of information.* The board may withhold from public
16 inspection any information that would aid a competitor of a wireless provider in
17 competition with the wireless provider. The board shall establish procedures for
18 internal management that prohibit members of the board from having access to
19 confidential business information submitted by wireless providers.

20 (f) *Public information.* The board shall promulgate rules establishing
21 requirements and procedures for informing the public about the purpose and uses
22 of the surcharge required under this subsection. The rules shall require the board
23 to maintain a toll-free telephone number to provide such information to the public
24 and require wireless providers to identify the toll-free number on bills and direct
25 customers to contact the board regarding questions about the surcharge.

1 (g) *Other charges prohibited.* No city, village, town, county, or state agency, as
2 defined in s. 16.375 (1), except the board, may require a wireless provider to collect
3 or pay a surcharge or fee related to wireless emergency telephone service.

4 (h) *Liability exemption.* A wireless provider shall not be liable to any person
5 who uses a wireless emergency telephone number system for which a grant is made
6 under par. (b).

7 (i) *Report to governor and legislature.* Annually, the board shall submit a report
8 to the governor, and to the chief clerk of each house of the legislature for distribution
9 to the legislature under s. 13.172 (2), that describes the costs incurred by wireless
10 providers and public agencies in providing wireless emergency telephone service and
11 the grants made by the board.

12 (j) *Board powers.* The board shall possess all powers necessary or convenient
13 for administering the requirements of this subsection.

14 (k) *Sunset.* This subsection does not apply after the first day of the 120th month
15 beginning after the effective date of this paragraph [revisor inserts date].”

16 **8.** Page 353, line 16: after that line insert:

17 “(1f) WIRELESS 911 SURCHARGE RULES.

18 (a) *Definition.* In this subsection, “board” means the wireless 911 board.

19 (b) *Board rules.* If all of the members of the board are appointed and qualified
20 on July 1, 2002, the board shall, using the procedure under section 227.24 of the
21 statutes, promulgate the rules under section 146.70 (3m) (d) 3. of the statutes, as
22 created by this act, for the period before permanent rules become effective, but not
23 to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes.

24 Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the board is not

1 required to provide evidence that promulgating a rule under this paragraph as an
2 emergency rule is necessary for the preservation of the public peace, health, safety,
3 or welfare and is not required to provide a finding of emergency for a rule
4 promulgated under this paragraph.

5 (c) *Department of commerce rules.* Notwithstanding section 146.70 (3m) (d) 3.
6 of the statutes, as created by this act, if all of the members of the board are not
7 appointed and qualified on July 1, 2002, the department of commerce shall, using the
8 procedure under section 227.24 of the statutes, promulgate the rules under section
9 146.70 (3m) (d) 3. of the statutes, as created by this act, for the period before
10 permanent rules become effective, but not to exceed the period authorized under
11 section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a),
12 (2) (b), and (3) of the statutes, the department of commerce is not required to provide
13 evidence that promulgating a rule under this paragraph as an emergency rule is
14 necessary for the preservation of the public peace, health, safety, or welfare and is
15 not required to provide a finding of emergency for a rule promulgated under this
16 paragraph.

17 (2f) INITIAL MEMBERS OF WIRELESS 911 BOARD. Notwithstanding section 15.155 (5)
18 (b) of the statutes, as created by this act, the initial members of the wireless 911 board
19 under section 15.155 (5) (a) 5. and 6. of the statutes, as created by this act, shall be
20 appointed to serve the following terms:

21 (a) One member appointed under section 15.155 (5) (a) 5. of the statutes, as
22 created by this act, and one member appointed under section 15.155 (5) (a) 6. of the
23 statutes, as created by this act, for terms expiring on May 1, 2004.

1 (b) One member appointed under section 15.155 (5) (a) 5. of the statutes, as
2 created by this act, and one member appointed under section 15.155 (5) (a) 6. of the
3 statutes, as created by this act, for terms expiring on May 1, 2005.

4 (c) One member appointed under section 15.155 (5) (a) 5. of the statutes, as
5 created by this act, and one member appointed under section 15.155 (5) (a) 6. of the
6 statutes, as created by this act, for terms expiring on May 1, 2006.

7 (d) One member appointed under section 15.155 (5) (a) 5. of the statutes, as
8 created by this act, and one member appointed under section 15.155 (5) (a) 6. of the
9 statutes, as created by this act, for terms expiring on May 1, 2007."

10 **9.** Page 437, line 6: after that line insert:

11 "(1f) SALE OF MOBILE TELECOMMUNICATIONS SERVICES. The treatment of sections
12 77.52 (3m) (intro.) and (3n), 77.52[✓]3, 77.52[✓]5, and 77.72[✓](3) (b) of the statutes, the
13 renumbering and amendment of section 77.52 (2) (a) 5. of the statutes, and the
14 creation of section 77.52 (2) (a) 5. b. of the statutes first apply to customer bills issued
15 after August 1, 2002."

16 (END)



State of Wisconsin
2001 - 2002 LEGISLATURE
January 2002 Special Session

LRBb3096/1
JK:hmh&kjf:cmh

LFB:.....Larson – Mobile telecommunications services sales tax; calling card sales tax provision

FOR 2001-03 BUDGET -- NOT READY FOR INTRODUCTION

SENATE AMENDMENT ,

TO SENATE SUBSTITUTE AMENDMENT 1,

TO ASSEMBLY BILL 1

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 139, line 16: after that line insert:

3 "SECTION 233b. 77.52 (2) (a) 5. of the statutes is renumbered 77.52 (2) (a) 5. a.
4 and amended to read:

5 77.52 (2) (a) 5. a. The sale of telecommunications services, except services
6 subject to 4 USC 116 to 126, as amended by P.L. 106-252, that either originate or
7 terminate in this state; except services that are obtained by means of a toll-free
8 number, that originate outside this state and that terminate in this state; and are
9 charged to a service address in this state, regardless of the location where that charge

1 is billed or paid; and the sale of the rights to purchase telecommunications services,
2 including purchasing reauthorization numbers, by paying in advance and by using
3 an access number and authorization code, except sales that are subject to subd. 5. b.

4 **SECTION 233c.** 77.52 (2) (a) 5. b. of the statutes is created to read:

5 77.52 (2) (a) 5. b. The sale of services subject to 4 USC 116 to 126, as amended
6 by P.L. 106–252, if the customer’s place of primary use of the services is in this state,
7 as determined under 4 USC 116 to 126, as amended by P.L. 106–252. For purposes
8 of this subd. 5. b., all of the provisions of 4 USC 116 to 126, as amended by P.L.
9 106–252, are adopted, except that if 4 USC 116 to 126, as amended by P.L. 106–252,
10 or the application of 4 USC 116 to 126, as amended by P.L. 106–252, is found
11 unconstitutional the sale of telecommunications services is subject to the tax
12 imposed under this section as provided in subd. 5. a.

13 **SECTION 233e.** 77.52 (3m) (intro.) of the statutes is amended to read:

14 77.52 (3m) (intro.) In regard to the sale of the rights to purchase
15 telecommunications services under sub. (2) (a) 5. a.:

16 **SECTION 233f.** 77.52 (3n) of the statutes is created to read:

17 77.52 (3n) In regard to the sale of the rights to purchase telecommunications
18 services under sub. (2) (a) 5. b., the situs of the sale is as determined under 4 USC
19 116 to 126, as amended by P.L. 106–252.

20 **SECTION 233g.** 77.523 of the statutes is created to read:

21 **77.523 Customer remedy.** If a customer purchases a service that is subject
22 to 4 USC 116 to 126, as amended by P.L. 106–252, and if the customer believes that
23 the amount of the tax assessed for the service under this subchapter or the place of
24 primary use or taxing jurisdiction assigned to the service is erroneous, the customer
25 may request that the service provider correct the alleged error by sending a written

1 notice to the service provider. The notice shall include a description of the alleged
2 error, the street address for the customer's place of primary use of the service, the
3 account name and number of the service for which the customer seeks a correction,
4 and any other information that the service provider reasonably requires to process
5 the request. Within 60 days from the date that a service provider receives a request
6 under this section, the service provider shall review its records to determine the
7 customer's taxing jurisdiction. If the review indicates that there is no error as
8 alleged, the service provider shall explain the findings of the review in writing to the
9 customer. If the review indicates that there is an error as alleged, the service
10 provider shall correct the error and shall refund or credit the amount of any tax
11 collected erroneously, along with the related interest, as a result of the error from the
12 customer in the previous 48 months, consistent with s. 77.59 (4). A customer may
13 take no other action, or commence any action, to correct an alleged error in the
14 amount of the tax assessed under this subchapter on a service that is subject to 4 USC
15 116 to 126, as amended by P.L. 106-252, or to correct an alleged error in the assigned
16 place of primary use or taxing jurisdiction, unless the customer has exhausted his
17 or her remedies under this section.

18 **SECTION 233h.** 77.525 of the statutes is amended to read:

19 **77.525 Reduction to prevent double taxation.** Any person who is subject
20 to the tax under s. 77.52 (2) (a) 5. a. on telecommunications services that terminate
21 in this state and who has paid a similar tax on the same services to another state may
22 reduce the amount of the tax remitted to this state by an amount equal to the similar
23 tax properly paid to another state on those services or by the amount due this state
24 on those services, whichever is less. That person shall refund proportionally to the

1 persons to whom the tax under s. 77.52 (2) (a) 5. a. was passed on an amount equal
2 to the amounts not remitted.

3 **SECTION 233j.** 77.54 (46m) of the statutes is created to read:

4 **77.54 (46m)** The gross receipts from the sale of and the storage, use, or other
5 consumption of telecommunications services, if the telecommunications services are
6 obtained by using the rights to purchase telecommunications services, including
7 purchasing reauthorization numbers, by paying in advance and by using an access
8 number and authorization code; and if the tax imposed under s. 77.52 or 77.53 was
9 previously paid on the sale or purchase of such rights.

10 **SECTION 233k.** 77.72 (3) (b) of the statutes is amended to read:

11 **77.72 (3) (b) Exceptions.** ~~Communication~~ A communication service has a situs
12 where the customer is billed for the service if the customer calls collect or pays by
13 credit card. Services subject to s. 77.52 (2) (a) 5. b. have a situs at the customer's place
14 of primary use of the services, as determined under 4 USC 116 to 126, as amended
15 by P.L. 106–252. Towing services have a situs at the location to which the vehicle is
16 delivered. Services performed on tangible personal property have a situs at the
17 location where the property is delivered to the buyer.”

18 **2.** Page 437, line 6: after that line insert:

19 “(1f) SALE OF MOBILE TELECOMMUNICATIONS SERVICES. The treatment of sections
20 77.52 (3m) (intro.) and (3n), 77.523, 77.525, and 77.72 (3) (b) of the statutes, the
21 renumbering and amendment of section 77.52 (2) (a) 5. of the statutes, and the
22 creation of section 77.52 (2) (a) 5. b. of the statutes first apply to customer bills issued
23 after August 1, 2002.”

24 (END)