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FISCAL IMPACT REPORT

SPONSOR: Payne DATE TYPED: 2/19/03 HB _____
 SHORT TITLE: Wireless Telephone Service Act SB 502
 ANALYST: Maloy

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
	(See Narrative-Significant)		Recurring	General Fund, Telecommunication Access Fund, and State Rural Universal Service Fund

SOURCES OF INFORMATION

Responses Received From
 Office of the Attorney General
 Public Regulatory Commission

SUMMARY

Synopsis of Bill

Senate Bill 502 enacts the “Wireless Telephone Services Act.” The purpose of this Act is to develop a new regulatory framework that permits the Public Regulation Commission (PRC) to move toward deregulation upon a determination there exists competitive services in the wireless telephone service industry.

The bill provides that, once the PRC makes a determination that competition exists in wireless telephone services, the PRC “shall reduce or eliminate rules, regulations and other requirements applicable to the provision of wireless telephone services”.

SB 502 also provides that a wireless telephone services complaint process is to be developed and implemented within the Attorney General’s Office (AGO) and the AGO shall submit an annual report to the legislature outlining a determination of whether state or federal legislation is necessary with regard to wireless telephone service. A copy of the report shall be provided to the leg-

islature with a cost/benefit analysis of the proposed legislation.

Significant Issues

1. Given the FCC's pre-emption over the rates and entry of wireless carriers, the purpose of SB 502 is seemingly to eliminate consumer-oriented statutes and regulations governing wireless providers, such as the Commission's authority to adopt quality of service and customer protection rules and to resolve complaints concerning cramming and other fraudulent practices that have emerged in a competitive telecommunications environment.
2. It is not entirely clear why it is believed that a finding of competition justifies relieving wireless carriers from regulatory requirements that protect consumers.
3. There is no criteria set forth in Subsection A for determining whether competition exists in wireless telephone service.
4. Subsection B directs the Commission to reduce or eliminate rules and regulations and other requirements applicable to wireless phone service after determination of competition is made. The following statutes and rules are currently applicable to wireless carriers:
 - § 63-7-20, *Carrier and Utility Inspection Fees*;
 - §63-9H-6, *State Rural Universal Fund*;
 - §63-9F-1 et seq., *Telecommunications Access Act*;
 - §63-7-23 *Telecommunications Administrative Fines*;
 - §63-9G-1 et seq., *Cramming and Slamming Act*;
 - 17 NMAC 13.8 *Slamming and Cramming Protection*;
 - NMAC 17.11.16, *Customer Protection*;
 - NMAC 17.11.22, *Quality of Service*; and
 - NMSA 1978, § 8-8-8, *which gives the Customer Relations Division of the Commission the authority to assist customers in resolving complaints.*
5. In conferring the duty on the Attorney General to resolve complaints, but directing the Commission to eliminate or reduce rules applicable to wireless carriers upon a determination of competition, the bill will undoubtedly undercut the ability of the Attorney General's Office to effectively resolve complaints.

FISCAL IMPLICATIONS

The total potential revenue impact is unknown to the NMPRC. The bill potentially exempts wireless telephone service providers from § 63-7-20, *Carrier and Utility Inspection Fees*; §63-9H-6, *State Rural Universal Service Fund*; and §63-9F-1 et seq., *Telecommunications Access Act*, all of which have revenue impact for state and general funds. The NMPRC oversees the collection of the carrier and utility fees and contributions to the state rural universal service fund. The General Services Department oversees the collection of the telecommunications access fund. In 2001, no money was collected from any carrier for the state rural universal service fund and \$753,865 was collected from wireless carriers in the utility and carrier fee fund, an increase of 50% from 2000. (See also #2 under Other Substantive Issues.)

With regard to the Office of the Attorney General, the comprehensive impacts are also unknown. It will take FTE and budget resources to resolve wireless telecommunication consumer complaints.

SUBSTANTIVE ISSUES

1. This bill removes customer protection enforcement and fining authority from the PRC, and limits customers' recourse in cases of violations such as improper billing, misrepresentations of services, contract disputes, and unsatisfactory service after informal discussions between the provider and customer have been unsuccessful. In 2002, the PRC received 490 customer complaints of this type from wireless customers and was able to obtain \$84,000 in credits or refunds for the complainants. This constituted a significant increase in complaints from 2001, when the NMPRC received 150 complaints and obtained over \$15,000 in credits or refunds for wireless customers. Without the current rules and laws pertaining to customer protection and slamming/cramming, the PRC will lack the authority to effectively resolve this type of customer complaint or to fine a wireless carrier, leaving the customer with the only recourse of hiring a lawyer and going to court.
2. This bill may eliminate significant state funding in several areas. This will occur if the Commission, after making a determination of competition, is asked by the wireless companies to relieve wireless telephone service companies from their duties outlined in § 63-7-20, *Utility and Carrier Inspection Fees*; §63-9H-6, *State Rural Universal Fund*; §63-9F-1 *et seq.*, *Telecommunications Access Act*. NMSA 1978, §63-9H-6 allows for the collection of a surcharge on all intrastate retail public telecommunications services revenue to finance a state rural universal service fund. NMSA 1978, §63-7-20 allows the NMPRC to levy a utility and carrier inspection fee on all utilities in the state that are subject to the control and jurisdiction of the NMPRC. This fee goes into the General Fund. NMSA 1978, §63-9F-1 imposes a telecommunications relay service surcharge on the gross amount paid by customers for intrastate telephone services for the purpose of ensuring that customers who need special equipment to use phones, such as deaf customers, can receive them. This money goes into the Telecommunications Access Fund.

SJM/sb