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NORTH DAKOTA'S "DO NOT CALL" LAW UPHELD

BISMARCK – Attorney General Wayne Stenehjem called today's decision from the Eighth Circuit Court of Appeals a "victory for North Dakota citizens and their right to privacy." The decision upheld the state's right to restrict telemarketing calls.

To address the growing problem of increased telemarketing calls, and at Stenehjem's urging, in 2003 the legislature enacted the Telephone Solicitations Act – known as the "Do Not Call" law. The law allows charities to make calls to raise funds but prohibits the charities from using paid professional fundraisers to make calls soliciting funds to those who have signed up on the state's "do not call" list. Two nonprofit corporations who use paid telephone solicitors to solicit funds sued Stenehjem in US district court in 2003, challenging the constitutionality of the Act, asserting the Act infringed on their First Amendment rights. The federal district court upheld the Act but found the restrictions on charities unconstitutional. In November 2003, the State appealed the district court decision to the Eighth Circuit Court of Appeals.

"Some of these charities get hooked into unconscionable contracts with telemarketing companies that charge upwards of 85% of the money they collect from generous donors. This is one of the abuses our law seeks to eliminate," said Stenehjem.

The Eighth Circuit Court of Appeals decision reversed the federal district court, explaining that the challenged law was narrowly tailored to protect residential privacy. The Court wrote: "North Dakota's narrowly tailored do-not-call statute significantly furthers the state's interest in residential privacy. The Act does not substantially limit charitable solicitations and is not unconstitutionally overbroad."