

February 4, 2009

PROPOSED AMENDMENTS TO SENATE BILL NO. 2040

Page 1, line 1, after "enact" insert "two new subsections to section 57-39.2-01 and"

Page 1, line 2, after "to" insert "the definition of telecommunications company and telecommunications service and to"

Page 1, line 3, after "development" insert "; to provide for a legislative council study; and to provide an expiration date"

Page 1, after line 4, insert:

**"SECTION 1.** Two new subsections to section 57-39.2-01 of the North Dakota Century Code are created and enacted as follows:

"Telecommunications company" means a person engaged in the furnishing of telecommunications service within this state.

"Telecommunications service" means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. The term includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether the service is referred to as voice over internet protocol services or is classified by the federal communications commission as enhanced or value-added. The term does not include:

- a. Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser where the purchaser's primary purpose for the underlying transaction is the processed data or information;
- b. Installation or maintenance of wiring or equipment on a customer's premises;
- c. Tangible personal property;
- d. Advertising, including directory advertising;
- e. Billing and collection services provided to third parties;
- f. Internet access service;
- g. Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services include cable service as defined in 47 U.S.C. 522(6) and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 CFR 20.3;
- h. Ancillary services; or

- i. Digital products delivered electronically, including software, music, video, reading materials, and ringtones."

Page 1, line 9, remove "exclusively in"

Page 1, line 10, replace "expanding or constructing" with "to construct or expand"

Page 1, line 11, after the underscored period insert "To be exempt, the tangible personal property must be incorporated into telecommunications service infrastructure owned by a telecommunications company."

Page 1, line 12, replace "the purchaser of the property" with "a telecommunications company"

Page 1, line 15, remove "owner of the"

Page 1, line 16, replace "service infrastructure" with "company"

Page 1, after line 21, insert:

**"SECTION 3. LEGISLATIVE COUNCIL STUDY OF TELECOMMUNICATIONS TAXES.** During the 2009-10 interim, the legislative council shall consider studying all taxes imposed on telecommunications services in this state. The legislative council shall analyze all taxes and fees imposed on providers and consumers of telecommunications services, evaluate the fairness of the taxes, and determine if the tax structure impacts the business climate and economic development of the state. The legislative council shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-second legislative assembly.

**SECTION 4. EXPIRATION DATE.** This Act is effective through June 30, 2011, and after that date is ineffective."

Renumber accordingly