

**2013 SENATE FINANCE AND TAXATION**

**SB 2142**

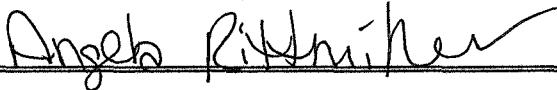
# 2013 SENATE STANDING COMMITTEE MINUTES

## Senate Finance and Taxation Committee Lewis and Clark Room, State Capitol

SB 2142  
1/30/2013  
Job Number 17964

Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact two new subsections to section 57-39.2-01 and a new section to chapter 57-39.2 of the North Dakota Century Code, relating to the definition of telecommunications company and telecommunications services and a sales and use tax exemption for equipment used in telecommunications infrastructure development; to amend and reenact section 57-40.2-03.3 of the North Dakota Century Code, relating to use tax exemption for telecommunications infrastructure purchased or installed by contractors; and to provide for an effective date.

### Minutes:

Testimony Attached

**Vice Chairman Campbell** opened the hearing on SB 2142.

**Senator Cook** introduced SB 2142.

**Todd Kranda, Kelsh Law Firm, behalf of Verizon Wireless** - See attached testimony 1 in favor of SB 2142.

**Nancy Riedel, Director of State Tax Policy, Verizon Wireless** - See attached testimony 2 in favor of SB 2142.

**Senator Triplett** - I can support this bill from your standpoint of the double dipping piece that consumers would end up paying both because you're in the business of profit making so you would just pass on the tax as an expense to consumers one way or the other. Reports like you have presented suggesting cause and effect, my cynicism would suggest that companies like yours hire lobbyists, come here, ask for the tax exemption, because you know you are about to make the investment and then you go out and make the investment. I guess I'm not convinced by graphs like that but I can still support the bill because I think it benefits consumers.

**Cheryl Riley, AT&T** - Attachments 3-7.

**Senator Dotzenrod** - We can't really know for sure if the tax reductions that we grant become a benefit to the users of the service with reduced rates or do they just become an addition to the bottom line of the company and add to the return on the investment and the profits and benefit to the shareholders? Is there any way for us to have a significantly

**Cheryl Riley** - This is an industry that is extremely competitive. The decision makers make decisions based on things like this and other types of policies like this. I can't tell you that if you passed SB 2142 that we're going to put an additional \$10 million into our network here. There is so many different criteria into that, the demand on top of the incentives, what's going on in other parts of our market, there is too many variables. For North Dakota, that is relatively a small market for our company. Things like this really help us make the argument to our higher ups that you are wanted and it will be well spent money.

**Jon Godfread, Greater North Dakota Chamber** - See attached testimony 8 in favor of SB 2142.

**David Crothers, North Dakota Association of Telecommunications Cooperatives** - See attached testimony 9 in favor of SB 2142.

**Kent Blickensderfer, Centurylink** - One of the largest growing sectors in our company is providing wireless backhaul to companies like AT&T and Verizon and we are doing a lot of that in North Dakota. That has accounted for quite a bit of our build out budget in 2012. The rest of it has been expanding to the home projects and putting fiber out deeper into the neighborhoods and the towns where we serve.

**Deana Wiese, Information Technology Council of North Dakota** - See attached testimony 10 in favor of SB 2142.

**Chairman Cook** closed the hearing on SB 2142.

# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee  
Lewis and Clark Room, State Capitol

SB 2142  
1/30/2013  
Job Number 17999

Conference Committee

Committee Clerk Signature	
---------------------------	--

## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact two new subsections to section 57-39.2-01 and a new section to chapter 57-39.2 of the North Dakota Century Code, relating to the definition of telecommunications company and telecommunications services and a sales and use tax exemption for equipment used in telecommunications infrastructure development; to amend and reenact section 57-40.2-03.3 of the North Dakota Century Code, relating to use tax exemption for telecommunications infrastructure purchased or installed by contractors; and to provide for an effective date.

## Minutes:

Committee Work
----------------

**Chairman Cook** opened discussion on SB 2142.

**Senator Burckhard** - I'll move a **Do Pass and re-refer to Appropriations**.

Seconded by **Senator Dotzenrod**.

**Roll Call Vote 7-0-0**

Carried by **Senator Burckhard**.

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/10/2013**

Bill/Resolution No.: SB 2142

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$(1,190,000)	\$(100,000)	\$(4,740,000)	\$(410,000)		
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2142 makes permanent the sales and use tax exemption for equipment used in telecommunications infrastructure development.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 2 of SB 2142 creates a permanent sales tax exemption for equipment used in telecommunications infrastructure development. Section 4 allows the exemption retroactively from December 31, 2012.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

If enacted, SB 2142 is expected to reduce state general fund and state aid distribution fund revenues by an estimated \$6.44 million in the 2011-13 and 2013-15 biennia.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

**Name:** Kathryn L. Strombeck

**Agency:** Office of Tax Commissioner

**Telephone:** 328-3402

**Date Prepared:** 01/29/2013

Date: 1-30-13  
Roll Call Vote #: 1

**2013 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2147**

Senate Finance & Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment

Rerefer to Appropriations  Reconsider

Motion Made By Senator Burckhard Seconded By Senator Dotzenrod

Senators	Yes	No	Senator	Yes	No
Chairman Dwight Cook	X		Senator Jim Dotzenrod	X	
Vice Chairman Tom Campbell	X		Senator Connie Triplett	X	
Senator Joe Miller	X				
Senator Dave Oehlke	X				
Senator Randy Burckhard	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Burckhard

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2142: Finance and Taxation Committee (Sen. Cook, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2142 was rereferred to the Appropriations Committee.**



**2013 SENATE APPROPRIATIONS**

**SB 2142**

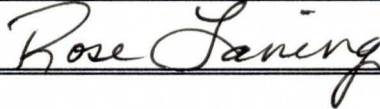
# 2013 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

SB 2142  
February 7, 2013  
Job # 18519

Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A bill relating to the definition of telecommunications company and telecommunications services and a sales and use tax exemption for equipment used in telecommunications infrastructure development.

### Minutes:

Testimony # 1-2

**Chairman Holmberg** opened the hearing on SB 2142. All committee members were present.

### **Senator Dwight Cook, District 34, Mandan, Bill Sponsor**

Testified in favor of SB 2142. He believes that the criteria for a good sales tax exemption for the state of North Dakota are one that benefits the people of North Dakota. He believes this one fits those criteria. It will encourage more capital investment into the state for telecom infrastructure.

**Todd Kranda, Kelsh Law Firm**, representing Verizon Wireless, testified in favor of SB 2142. **(Lobbyist # 130)** He gave a history of the bill. It originally came up in 2007 as a study. A bill was passed in 2009 that promoted a sales tax exemption for the industry. There was a sunset on the 2009 bill and 2011. They are here to reauthorize the sales tax exemption for telecommunication equipment. He explained SB 2142.

**Director, State Tax Policy, Verizon**, was unable to attend so Todd Kranda read her testimony. **Written testimony # 1**

(7:32) **Vice Chairman Grindberg** he still has dropped calls between Valley City and Jamestown, and said that these cell phone companies are making lots of money in the state and need to make these investment. He is frustrated but will still support the bill.

**Todd Kranda:** explained that they have had technicians looking at dropped calls and he will continue to bring the concern to the company. He acknowledged that the company does look at the different states and how far the dollar stretches.

**Vice Chairman Bowman** expressed his concern for the Southwestern part of the state and there lack of service. There county had to buy a tower, so there fire districts could

communicate. He asked if there was a master plan with all the companies and if they will eventually be in that plan.

**Todd Kranda** replied that seamless coverage was the eventual goal. That's why they have this bill, so the dollars can go farther. The western development of the oil industry is making a demand.

**Senator Mathern** recalled that they gave an advantage to these companies to fill out this service and then created a fee so they could expand coverage.

**Todd Kranda** said he was not familiar with that.

**Senator Kilzer** asked how much sales tax and use tax we are talking about.

There is a fiscal note.

**Cheryl Riley, AT & T (Lobbyist # 140)**

Testified in favor of SB 2142

No written testimony.

(15:00)These types of policies make a difference. When the markets are small, these types of incentives really help to reach the rural areas.

**Senator Robinson** Do we have a timeline when we can expect full coverage?

**Cheryl Riley:** Our plan is to cover the state. She explained what the Velocity IT program was and how this tax exemption should help them get some of the \$8 B is slated for ND. Part of the focus for that money is to get into the rural areas.

**Senator O'Connell** asked if she was familiar with the universal plan.

**Cheryl Riley** deferred the question to Mr. Crothers. She does know the world is changing in terms of universal funds but Mr. Crothers could answer better.

**Jon Godfread - Greater ND Chamber of Commerce**

Testified in favor of SB 2142

**Testimony attached # 2**

**Senator Mathern** asked if they had conversations on actual number of towers that could or would go up. Or is this just more money for towers in New York or someplace because they have saved in ND.

**Jon Godfread** said that North Dakota has had a great deal of infrastructure involvement and we believe it has a lot to do with this exemption. It makes these dollars go further and it makes more money available for the ND market.

**Senator O'Connell** are we talking towers to improve the coverage or are we just updating equipment to make the service better for existing service.

**Jon Godfread** replied that they were talking about it all. It's everything including upgrades.

**Senator Krebsbach** asked what advancements or improvement have been made since enacted and how much tax money has been given so far?

**Jon Godfread** said he was not the best one to answer this.

**Vice Chairman Bowman** expressed his frustration for the Southwest.

**Jon Godfread** said it was a concern but by supporting SB 2142 it will encourage the companies and make it sooner.

**David Crothers, ND Association of Telecommunications Cooperatives (Lobbyist #21)**  
Testified in favor of SB 2142

No written testimony.

Whether wireless, cable, or landline this bill is for everyone. We're supportive of this.

**Senator Robinson:** said that 24 months ago they hosted a tour of SRT in Minot. It was very educational. What has happened since that time in their ability to cover those last mile areas? He asked him to touch briefly on the universal service fund status.

(26:00) **David Crothers:** The Universal Service Fund is a federal program. What we have in North Dakota is exclusively a federal fund where there is that charge on your phone bill. It is a large program that covers a number of programs like Lifeline, the link up to make telephone service affordable, school and library fund which funds the high speed connections. What was referenced earlier is specifically, the high cost fund that goes to push out high speed broad band. He explained.

Discussion continued on updating and coverage.

**Chairman Holmberg** also closed the hearing on SB 2142.

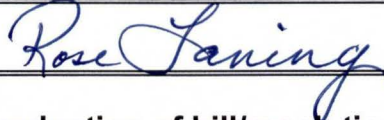
# 2013 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

SB 2142  
February 15, 2013  
Job # 19042

Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A bill relating to the definition of telecommunications company and telecommunications services and a sales and use tax exemption for equipment used in telecommunications infrastructure development.

### Minutes:

**Chairman Holmberg** opened the hearing on SB 2142.

**Senator Carlisle:** That's was the one where the person from the tax department told of the tax exemption for sales and use tax for telecommunications equipment. I don't see anything we need to do. There was no opposition.

**Senator Carlisle moved a Do Pass on SB 2142.**  
**Vice Chairman Grindberg seconded the motion.**

**Senator Robinson:** In terms of discussion, whatever we can do to hold their feet to the fire so we address the issue of dead spaces in North Dakota. There are serious issues out there. We're giving up our landlines and depending more and more on cell technology. When we don't have access to it, it is a concern. I know it's difficult to go home and say, "We're making progress", when year after year after year, we find ourselves in the same situation. I don't know what can be done. I hope they heard us loud and clear and as this moves into the House, there will be additional discussion.

**Chairman Holmberg:** All the major players were here, so they heard the frustrations.

**Vice Chairman Bowman:** The young lady that represented ATT, she contacted the company and they gave me a memorandum about how many towers they were going to put in. She couldn't tell me where because that is privileged, but she did say that they are trying to address it. That's encouraging because we've been left out of the basket a lot of times. It's serious when you have fires and people injured south of Rhame and no way to communicate through a cell phone.

**Senator Robinson:** I'm dealing with AT&T in my district and without going through all the protocol, permits and so on, put up a tower right on the edge of Fort Ransom. They're not

going to move it. The community questioned the process and asked them for financial consideration. The next thing they knew, they got a notice from a legal firm. That little community was intimidated - no money for legal fees. It's just not the way to do business. We certainly don't do business like that in North Dakota. It's a problem in the state.

**Senator Mathern:** I was thinking there would be some amendments. This is millions of dollars without any assurance. The amendments should say all of these dollars have to be spent on the new towers. I'm not sure there's any benefit going to happen.

**Senator Robinson:** **Senator Mathern** makes a good point. It's not only the money that we're putting out, but it's the revenue they're generating.

**A roll call vote was taken. Yea: 11 Nay: 2 Absent: 0**

**The bill goes back to Finance & Tax and Senator Burckhard will carry the bill on the floor.**

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/10/2013**

Bill/Resolution No.: SB 2142

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$(1,190,000)	\$(100,000)	\$(4,740,000)	\$(410,000)		
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2142 makes permanent the sales and use tax exemption for equipment used in telecommunications infrastructure development.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 2 of SB 2142 creates a permanent sales tax exemption for equipment used in telecommunications infrastructure development. Section 4 allows the exemption retroactively from December 31, 2012.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

If enacted, SB 2142 is expected to reduce state general fund and state aid distribution fund revenues by an estimated \$6.44 million in the 2011-13 and 2013-15 biennia.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

**Name:** Kathryn L. Strombeck

**Agency:** Office of Tax Commissioner

**Telephone:** 328-3402

**Date Prepared:** 01/29/2013



Date: 2-15-13

Roll Call Vote # 1

2013 SENATE STANDING COMMITTEE  
ROLL CALL VOTES

BILL/RESOLUTION NO. 2142

Senate Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Carlisle Seconded By Grindberg

Senators	Yes	No	Senator	Yes	No
Chariman Ray Holmberg	✓		Senator Tim Mathern		✓
Co-Vice Chairman Bill Bowman	✓		Senator David O'Connell	✓	
Co-Vice Chair Tony Grindberg	✓		Senator Larry Robinson	✓	
Senator Ralph Kilzer	✓		Senator John Warner		✓
Senator Karen Krebsbach	✓				
Senator Robert Erbele	✓				
Senator Terry Wanzek	✓				
Senator Ron Carlisle	✓				
Senator Gary Lee	✓				

Total (Yes) 11 No 2

Absent 0

Floor Assignment F + T Burckhard

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2142: Appropriations Committee (Sen. Holmberg, Chairman) recommends DO PASS**  
(11 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2142 was placed on the  
Eleventh order on the calendar.

**2013 HOUSE FINANCE AND TAXATION**

**SB 2142**

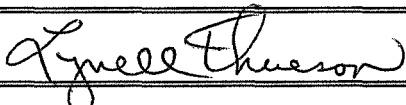
# 2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee  
Fort Totten Room, State Capitol

SB 2142  
March 12, 2013  
Job #19777

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A Bill relating to the definition of telecommunications company and telecommunications services and a sales and use tax exemption for equipment used in telecommunications infrastructure development; relating to use tax exemption for telecommunications infrastructure purchased or installed by contractors.

## Minutes:

*Attached testimony #1, 2, 3A, 3B, 4, 5*

**Chairman Belter:** Opened hearing on SB 2142.

**00:58 Senator Cook:** Introduced bill. Offers sales tax exemption for equipment use and telecommunication infrastructure.

**03:05 Todd Kranda,** attorney with **Kelsch Law Firm:** Attending on behalf of Verizon Wireless in support of SB 2142. Presented background information on the concept of the sales tax exemption. See attached testimony #1.

**06:50 Representative Klein:** I don't see a sunset in here; was that part of the problem?

**Todd Kranda:** No.

**07:29 Representative Drovdal:** Are the towers that are getting the infrastructure included? Are they used in the 9-1-1 emergency services?

**Todd Kranda:** Yes, it is for the infrastructure.

**08:12 Representative Drovdal:** Does the telecommunications industry get any pay from the state for the use of those towers on the 9-1-1 system?

**08:22 Todd Kranda:** That may be beyond my knowledge.

**Representative Drovdal:** I thought the answer would be no because they couldn't charge for it.

**08:46 Todd Kranda:** It depends.

**09:03 Representative Owens:** Could you explain why we need new definitions in the code?

**09:27 Todd Kranda:** When we first created the legislation in 2007 for the 2009 session, we had them. When the first sunset came up, it wasn't picked up by the renewal.

**10:41 Nancy Riedel, State Tax Policy Director with Verizon Wireless:** I am in support of SB 2142. This is important to us and enables us to expeditiously continue to invest in the network in ND. See attached testimony #2.

**16:31 Representative Klein:** Do most of the states allow you the same exemption?

**Nancy Riedel:** There are approximately 22 or 23 states that have an exemption. The surrounding states do have the sales tax exemption in place.

**17:04 Representative Kelsh:** Out of those states that allow that exemption how many are permanent and year to year are session to session?

**17:16 Nancy Riedel:** I'm not aware of other states having a sunset type provision. Most of them are permanent.

**18:11 Chairman Belter:** Further testimony in support?

**18:25 Cheryl Riley, Director of External Affairs with AT&T:** I support SB 2142. This encourages investment in the state's high tech telecommunications infrastructure. See attached testimony #3A and #3B.

**21:54 Representative Kelsh:** What is the status of the proposed merger with T-Mobile?

**Cheryl Riley:** That is not going to happen.

**Representative Kelsh:** What is your timeline for your 4G-LTE expansion?

**22:48 Cheryl Riley:** Our goal is to reach 300 million customers by the end of 2014.

**Chairman Belter:** Further testimony in support of 2142?

**23:17 Jon Godfread, Greater North Dakota Chamber:** We stand in support of SB 2142. This is a marketable incentive. See attached testimony #4.

**23:48 David Crothers, North Dakota Association of Telecommunications Cooperatives:** See attached testimony #5.

**27:01 Chairman Belter:** Further testimony in support of 2142?

**27:07 Kent Blickensderfer, Century Link of North Dakota:** We also support this legislation. It's important to our fiber backhaul projects that we provide wireless carriers such as AT&T and Verizon.

**27:47 Deana Wiese, Director of Information Technology Council of North Dakota:** See attached testimony #6.

**28:56 Chairman Belter:** Any other support?

**29:01 Calvin Hullet, President, Bismarck/Mandan North Dakota Chamber:** I would relate the comments made by his colleague from the Greater North Dakota Chamber of Commerce and ask for your support of SB 2142.

**29:13 Chairman Belter:** Further testimony in support?

**29:29 Representative Kelsh:** I have a question for the tax department regarding the fiscal note. It's expected to reduce state aid distribution revenues by an estimated 6.44 million. Does that mean that the state has to make up the additional loss of revenues into the state aid distribution fund that goes to political subdivisions? Or is that a loss to those political subdivisions?

**30:13 Myles Vosberg, Tax Commissioner's Office:** The \$410,000.00 in the other funds portion would be the loss to the state aid distribution fund.

**Representative Kelsh:** We are not collecting it now so why is it considered a loss to the state?

**30:48 Myles Vosberg:** The current law expired as of December 31. Under the current law in effect now it will be a loss.

**Chairman Belter:** Any other questions?

**Representative Headland:** I move a Do Pass on SB 2142. Seconded by Representative Drovdal.

**Chairman Belter:** Is there any discussion?

**31:47 Representative Froseth:** Should we put a sunset on this? It would be a permanent tax credit this way.

**32:17 Representative Schmidt:** I agree, it should have a sunset on it.

**32:45 Representative Froseth:** I move that we put a sunset of December 31, 2016.

**33:11 Chairman Belter:** Motion by Rep. Froseth for a sunset of December 31, 2016. Seconded by Rep. Schmidt. Motion carries on a voice vote.

**34:10 Representative Headland:** Maybe we should sunset it to end with the fiscal year so in mid-stream it's not lapsing and that date would be June 30, 2016?

**34:37 Chairman Belter:** Motion to further amend and change the date to June 30, 2017 by Rep. Headland. Seconded by Rep. Owens. Motion carried by a voice vote.

**36:03 Chairman Belter:** Motion for a **Do Pass as amended** from Rep. Klein. Seconded by Rep. Drovdal.

**Do Pass as amended** Roll call vote: **Yes = 11, No = 0, Absent = 3 Carrier:** Rep. Drovdal.

Hearing closed.

**FISCAL NOTE**  
**Requested by Legislative Council**  
**03/14/2013**

Amendment to: SB 2142

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$(1,190,000)	\$(100,000)	\$(4,740,000)	\$(410,000)		
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2142 with House Amendments extends the sales and use tax exemption for equipment used in telecommunications infrastructure development.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 2 of SB 2142 with House Amendments re-authorizes a sales tax exemption for equipment used in telecommunications infrastructure development. Section 4 allows the exemption retroactively from December 31, 2012. Section 5 terminates the exemption on June 30, 2017.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

If enacted, SB 2142 with House Amendments is expected to reduce state general fund and state aid distribution fund revenues by an estimated \$6.44 million in the 2011-13 and 2013-15 biennia.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*



**Name:** Kathryn L. Strombeck

**Agency:** Office of Tax Commissioner

**Telephone:** 328-3402

**Date Prepared:** 03/15/2013

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/10/2013**

Bill/Resolution No.: SB 2142

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>	\$(1,190,000)	\$(100,000)	\$(4,740,000)	\$(410,000)		
<b>Expenditures</b>						
<b>Appropriations</b>						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
<b>Counties</b>			
<b>Cities</b>			
<b>School Districts</b>			
<b>Townships</b>			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2142 makes permanent the sales and use tax exemption for equipment used in telecommunications infrastructure development.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 2 of SB 2142 creates a permanent sales tax exemption for equipment used in telecommunications infrastructure development. Section 4 allows the exemption retroactively from December 31, 2012.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

If enacted, SB 2142 is expected to reduce state general fund and state aid distribution fund revenues by an estimated \$6.44 million in the 2011-13 and 2013-15 biennia.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

**Name:** Kathryn L. Strombeck

**Agency:** Office of Tax Commissioner

**Telephone:** 328-3402

**Date Prepared:** 01/29/2013

March 12, 2013

3/12/13  
CJNC

PROPOSED AMENDMENTS TO SENATE BILL NO. 2142

Page 1, line 6, remove "and"

Page 1, line 7, replace "an" with "a retroactive"

Page 1, line 7, after "date" insert "; and to provide an expiration date"

Page 4, after line 13, insert:

**"SECTION 5. EXPIRATION DATE.** This Act is effective through June 30, 2017,  
and after that date is ineffective."

Renumber accordingly

Date: 3-12-11  
 Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2142**

House Finance and Taxation

*Withdrawn Committee*

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Headland Seconded By Rep. Drovdal

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter			Rep. Scot Kelsh		
Vice Chairman Craig Headland			Rep. Steve Zaiser		
Rep. Matthew Klein			Rep. Jessica Haak		
Rep. David Drovdal			Rep. Marie Strinden		
Rep. Glen Froseth					
Rep. Mark Owens					
Rep. Patrick Hatlestad					
Rep. Wayne Trottier					
Rep. Jason Dockter					
Rep. Jim Schmidt					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Date: 3-12-13  
Roll Call Vote #: 2

**2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2142**

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
*put sunset of Dec. 31, 2016*  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Froseth Seconded By Rep. Schmidt

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter			Rep. Scot Kelsh		
Vice Chairman Craig Headland			Rep. Steve Zaiser		
Rep. Matthew Klein			Rep. Jessica Haak		
Rep. David Drovdal			Rep. Marie Strinden		
Rep. Glen Froseth					
Rep. Mark Owens					
Rep. Patrick Hatlestad					
Rep. Wayne Trottier					
Rep. Jason Dockter					
Rep. Jim Schmidt					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

*Voice Vote  
Motion carries.*

*Add sunset of Dec. 31, 2016*

Date: 3-12-13  
Roll Call Vote #: 3

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2142

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
*Further*  
*June 30, 2017*  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Headland Seconded By Rep. Owens

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter			Rep. Scot Kelsh		
Vice Chairman Craig Headland			Rep. Steve Zaiser		
Rep. Matthew Klein			Rep. Jessica Haak		
Rep. David Drovdal			Rep. Marie Strinden		
Rep. Glen Froseth					
Rep. Mark Owens					
Rep. Patrick Hatlestad					
Rep. Wayne Trottier					
Rep. Jason Dockter					
Rep. Jim Schmidt					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

*Voice Vote*  
*Motion Carries.*

*Sunset date of June 30, 2017*

Date: 3-12-13  
 Roll Call Vote #: 4

**2013 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2142**

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Klein Seconded By Rep. Drovdal

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter	✓		Rep. Scot Kelsh	AB	
Vice Chairman Craig Headland	✓		Rep. Steve Zaiser	AB	
Rep. Matthew Klein	✓		Rep. Jessica Haak	✓	
Rep. David Drovdal	✓		Rep. Marie Strinden	AB	
Rep. Glen Froseth	✓				
Rep. Mark Owens	✓				
Rep. Patrick Hatlestad	✓				
Rep. Wayne Trottier	✓				
Rep. Jason Dockter	✓				
Rep. Jim Schmidt	✓				

Total (Yes) 11 No 0

Absent 3

Floor Assignment Rep. Drovdal

If the vote is on an amendment, briefly indicate intent:



**REPORT OF STANDING COMMITTEE**

**SB 2142: Finance and Taxation Committee (Rep. Belter, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). SB 2142 was placed on the Sixth order on the calendar.

Page 1, line 6, remove "and"

Page 1, line 7, replace "an" with "a retroactive"

Page 1, line 7, after "date" insert "; and to provide an expiration date"

Page 4, after line 13, insert:

**"SECTION 5. EXPIRATION DATE.** This Act is effective through June 30, 2017, and after that date is ineffective."

Re-number accordingly

**2013 TESTIMONY**

**SB 2142**

# Testimony in Support of SENATE BILL NO. 2142

## Senate Finance & Taxation Committee

- January 30, 2013 -

Chairman Cook, Senate Finance & Taxation Committee members, for the record my name is Todd D. Kranda and I am an attorney with the Kelsch Law Firm in Mandan. I appear before you today as a lobbyist on behalf of Verizon Wireless to express support for SB 2142. I have a Verizon Wireless company representative here who will testify following me but before I introduce her I would like to provide you with a brief outline of the background to this bill.

The 2007 Legislature passed HB 1018, which included in Section 28, a study of wireless providers in the state and how wireless service impacts the business climate in the state. The interim study was assigned to the Industry Business & Labor Committee. As a result of that study the interim Industry Business & Labor Committee approved a bill for the 2009 Session, which was SB 2040. SB 2040 was intended to promote the expansion of businesses in the state by the additional investments that are made with the construction and expansion of telecommunication infrastructure. SB 2040 provided a sales and use tax exemption for equipment used in telecommunications infrastructure development. SB 2040 passed and became Section 57-39.2-04.7 NDCC.

Subsequently in 2011 you were presented with SB 2171 which was a bill to extend the sunset that was included with the 2009 legislation. SB 2171 was ultimately passed to extend the sunset provision through December 31, 2012. Now you are being presented with SB 2142 which reestablishes the sales and use tax exemption for equipment used in telecommunications infrastructure development that was lost with the December 31, 2012 sunset provision.

Section 1 contains two new definitions for "telecommunication company" and "telecommunication service"; section 2 contains the sales tax exemption for equipment used with infrastructure; section 3 contains the use tax exemption; and section 4 includes the retroactive effective date to start this as of the beginning of the tax year to make it seamless.

As will be explained further, the tax incentives in SB 2142 which were previously found in Section 57-39.2-04.7 NDCC, are an efficient way to decrease the cost to deploy telecommunications infrastructure necessary to provide advanced wireless telecommunication services to more areas across the state. There are several other sales tax exemptions that have been implemented in the past in North Dakota to help promote building or expanding certain industries. The exemption being reestablished through SB 2142 will help facilitate deployment of advanced communications systems across the state and in rural areas where it may not otherwise be feasible to do so.

In conclusion I would urge that you give a **DO PASS** recommendation for SB 2142. If there are any questions I will try to answer them. Otherwise I will introduce Nancy Riedel with Verizon Wireless and have her provide more detailed information to explain the benefits of SB 2142.

Testimony in Support of SB 2142

Nancy Riedel, Director State Tax Policy, Verizon

Senate Finance & Taxation Committee

January 30, 2013

Chairman Cook, Vice Chairman Campbell and members of the Committee, thank you for the opportunity to provide testimony today. I am commenting in support of SB 2142 that would reestablish the sales and use tax exemption for investments in telecommunications service infrastructure. SB 2142 implements a policy that incents continued investment in the infrastructure necessary to bring advanced communication services to the citizens and businesses of North Dakota in a timely manner.

Verizon Commitment to North Dakota:

Verizon has a proven commitment to our network in North Dakota with investment of more than \$240 million between 2001 and 2012. That investment was used to build new cell sites, expand capacity and coverage in existing sites and begin the build out of our 4G Long Term Evolution (LTE) network. 27 new cell sites were activated in 2012 including 12 new sites in the Bakken Oil Field area.

The rollout of our 4G LTE network brings high-speed broadband service to mobile devices. The network is a new network built from the ground up which requires new infrastructure with fiber backhaul to every cell site and new equipment on every cell site. The network is an overlay to our existing 3G network.

Importance of Telecommunications Investment in North Dakota:

Policy makers across the country are focused on the importance of having access to advanced communication services and have a keen understanding of the ways wireless technology is enhancing our lives. However, many of the tax policies that apply to our industry are counterproductive to the common goal of incenting the investment necessary to provide affordable state of the art communication services to more people. Despite our significant investment, Verizon does not have unlimited capital budgets and

we are faced with complex decisions on where to spend our limited resources. Sales taxes imposed on our infrastructure directly reduce the amount of capital we have to invest are a contributing factor to our investment decisions.

North Dakota, along with most other states, allows a sales tax exemption for equipment used by manufacturers. This is generally accepted as the correct policy to avoid taxing the business inputs that are used to produce a product that is taxable upon consumption. This same rationale supports a sales tax exemption for equipment used by telecommunications companies to provide a service that is taxable upon consumption. The correct policy becomes even clearer considering the myriad direct and indirect benefits that flow through an economy from advanced telecommunications networks.

Economic Impact:

A 2012 study by Dr. Raul Katz from Columbia University found that states would receive significant economic benefits from repealing the sales tax on communications network equipment that is used to provide high speed broadband networks. Specifically the study identified the following economic benefits flowing from exempting communications equipment:

- Increased network investment as each dollar invested pays for equipment, not taxes;
- Generation of new economic activity from better, faster networks;
- Creation of new private sector jobs, not only from construction and installation of network equipment but also in businesses that use the networks;
- Generation of new state and local taxes, offsetting a portion of the lost revenue from the sales tax repeal. In North Dakota, for example, telecommunications services are subject to both sales taxes and gross receipts taxes; and
- Additional access to Broadband.

Dr. Katz's study shows that taxes do matter and in fact, the study highlighted North Dakota as an example of a state that experienced a significant jump in network investment after eliminating sales taxes on equipment (see attached Figure 1). Many businesses now rely on fast broadband networks to improve productivity and

2

profitability. Businesses, governments, and individual consumers all benefit from new investment in broadband networks. The benefits of additional communications network investment extend well beyond the direct impact of new equipment purchases and construction jobs in the communications industry. Consumers benefit as well; the study found that new investment would lead to additional broadband connections as faster service is expanded into new areas, spurring competition which drives down prices.

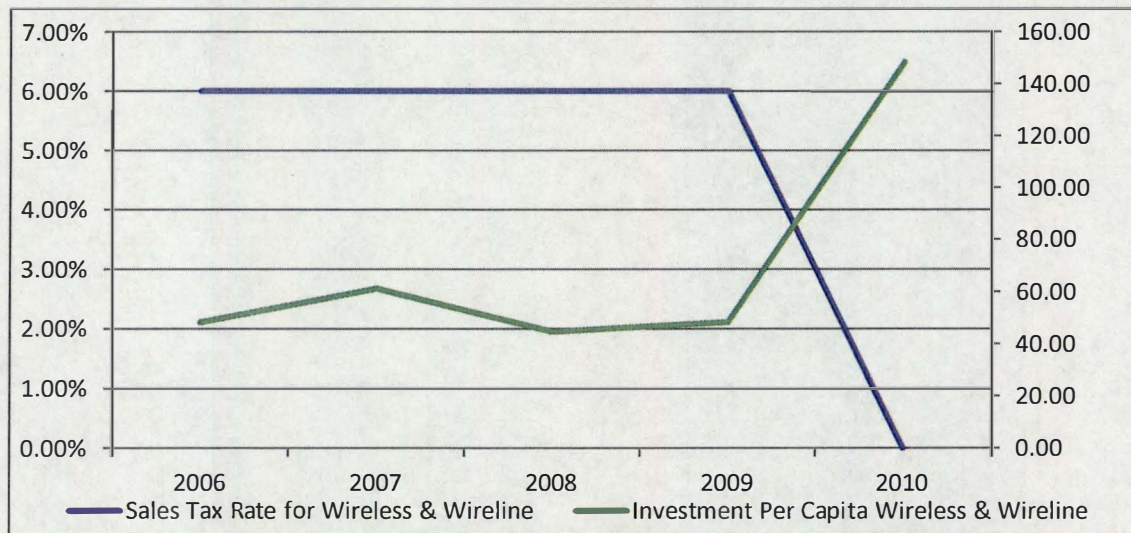
Summary:

Technology will continue to evolve, and even as we are in the process of building out our 4G network in North Dakota and across the country, the next wave of communications technology is already being anticipated. Implementing policies that will ensure the continuation of robust investment in that technology in North Dakota is important to establishing the long term competitiveness of the state.

Thank you again for the opportunity to provide these comments in support of SB 2142.

2

**Figure 1. Evolution of investment and sales tax rate in North Dakota 2006-2010**



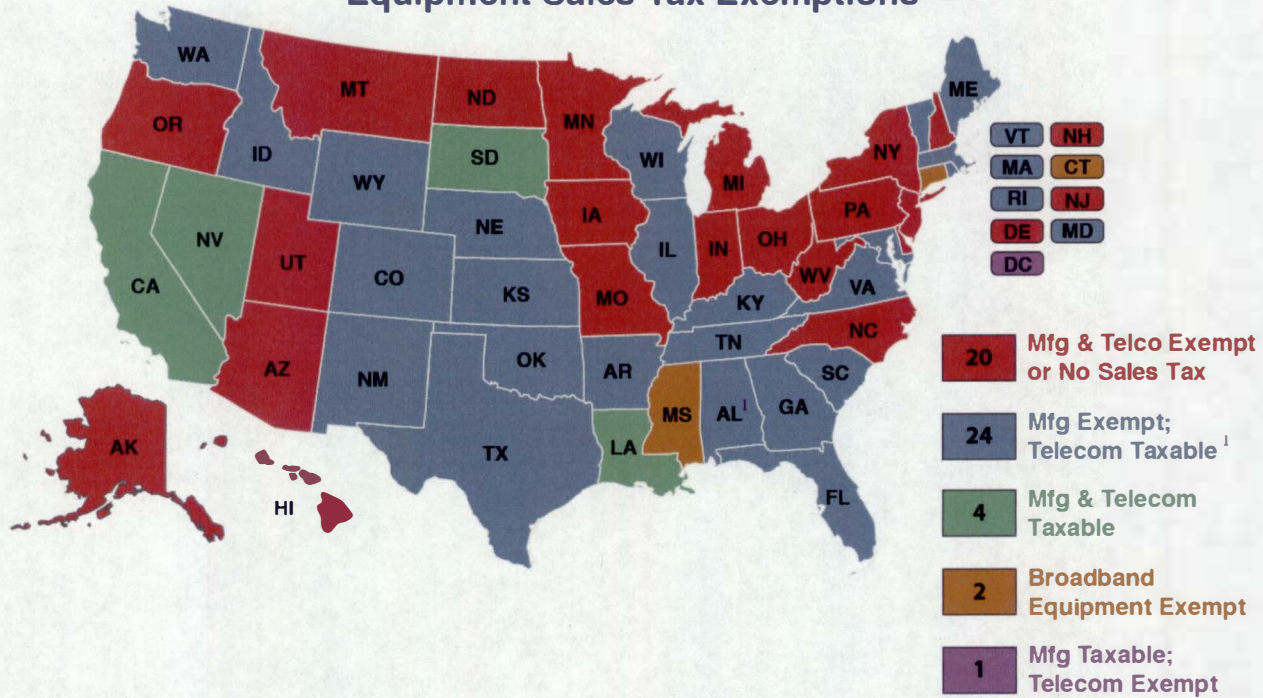
Source: TAS analysis

As figure 1 indicates, the sales tax rate on equipment purchasing in North Dakota before 2010 averaged 6.00%, which was higher than the national average. On the other hand, the level of wireless and wireline investment per capita approximated \$48.33 per capita, with little variance over time<sup>1</sup>.

**In 2010, the sales tax rate on initial equipment purchasing was eliminated and the level of wireless and wireline investment increased three-fold in just one year, reaching \$148.30 per capita.**

<sup>1</sup> This amount ranked North Dakota in 50th position among states of the Union.

### Telecommunications/Manufacturing Equipment Sales Tax Exemptions



<sup>1</sup> Alabama - special reduced 1.5% rate

Cheryl Riley, AT&T  
 Jan. 30, 2013  
 SB 2142  
 Senate Finance and Taxation





# National Association of Tower Erectors

8 Second Street SE • Watertown, South Dakota 57201-3624  
 TEL: 605-882-5865 • 888-882-5865 • FAX: 605-886-5184  
 www.natehome.com • e-mail: nate@natehome.com

January 28, 2013

North Dakota Senate Committee on Finance and Taxation  
 State Capitol  
 600 East Boulevard  
 Bismarck, ND 58505-0360

Dear Committee Members,

On behalf of the hundreds of member companies and thousands of their employees who are part of the National Association of Tower Erectors (NATE), we encourage you to support Senate Bill 2142.

SB2142 would continue to exempt telecommunications infrastructure equipment purchased and installed by telecommunications companies and contractors from sales and use taxes.

As a non-profit trade association representing the tower erection, service and maintenance industry, we know first hand how the sales tax exemption encourages investment in the state's high-tech telecommunications infrastructure. Pro-business policies such as SB2142 have allowed the wireless industry to flourish, grow and innovate. Additionally, initiatives like SB2142 can only serve to enhance the competitiveness and broadband capabilities of North Dakota as well as the nation.

From a telecommunications standpoint, the tax advantages provided by SB2142 means that North Dakotans have greater access to the many new wireless devices and capabilities. This comes at a time when more and more businesses and consumers are becoming more dependent upon wireless communications.

Simply put, when a state legislature votes to eliminate sales taxes on equipment purchasing, it sends a signal to operators that the state values investment and is an attractive place to do business. Funds that could have been invested in other states now tend to flow to the state that has reduced its sales taxes.

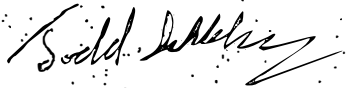
North Dakota is one of the most successful states in the country in encouraging investment through its policy to reduce the sales tax rate on telecommunications and cable TV equipment purchasing.

*"Providing a unified voice for the tower erection, maintenance and service industry."*

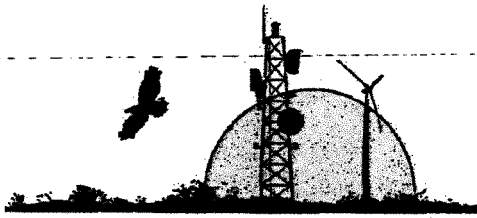
**Safety from the ground up!**

We urge the committee to continue this policy. SB2142 is good for business, investment in the state's wireless broadband infrastructure and, ultimately, all North Dakotans.

Sincerely,



Todd Schlekeway  
NATE Executive Director



## GREAT PLAINS TOWERS

126 6<sup>th</sup> Street West  
West Fargo, ND 58078  
701-282-2236 or 800-853-2236  
701-282-2148 Fax

[www.greatplains Towers.com](http://www.greatplains Towers.com)

Cellular, Broadcast & Microwave Tower Erection • Antenna & Line Installation • Inspection & Relamping • Tower Fabricator • National Service

January 28, 2013

North Dakota Senate Committee on Finance & Taxation  
State Capitol  
600 East Boulevard  
Bismarck, ND 58505-0360

Dear Committee Members,

I am writing this today to urge your committee to approve SB2142 and extend the tax exemption for Telecommunications infrastructure equipment. This legislation is a sound, pro-business policy that will continue to stimulate wireless construction and serve to bring the latest wireless capabilities and service to North Dakota.

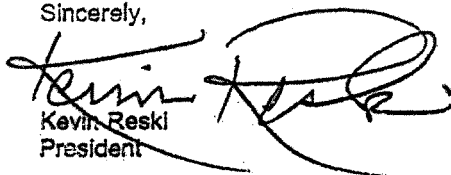
As the owner & president of Great Plains Towers with locations in West Fargo & Bismarck, I know how important it is to have a favorable tax policy to attract investment & additional business. Our company depends on it. We manufacture & install communication towers plus maintain the thousands of towers for our customers in North Dakota and across the upper Midwest.

As a locally owned 50+ year company, we're fortunate to be headquartered in the state that values technology and encourages its resources to build-out North Dakota's wireless broadband infrastructure. When those companies invest here, it directly impacts our business as we manufacture & erect more towers to accommodate the expansion. In turn this enables us to hire more employees & purchase goods and services in the state.

Make no mistake; SB2142 is good for North Dakota, its consumers, our customers, businesses & the economy. It's policy like this that makes North Dakota one of the best states for business in the country. WE hope the committee approves this legislation, thereby ensuring that our state remains open for business.

Feel free to contact me anytime to help you with my insight about this or any North Dakota issue that has anything to do with generating and stimulating business or education.

Sincerely,

  
Kevin Reski  
President



January '13

# North Dakota

AT&T is investing in our North Dakota communications networks, our people and local communities—all of which contribute to the state's economy and quality of life.

## Employment

AT&T employed **116 people working in North Dakota** as of first quarter 2012, and our **payroll represented more than \$7.8 million** in 2011. As of May 2012, we operate **10 company-owned retail locations** in the state.

## Building for Tomorrow

Across the country, we're investing billions to build the advanced networks that will create jobs and fuel economic growth. From 2009 through 2011, AT&T **invested more than \$30 million** in its North Dakota wireless and wireline networks.

## Local Support

In 2010, AT&T operations in North Dakota generated **more than \$5.4 million in local and state taxes**. These taxes, paid by AT&T or remitted on behalf of our employees and customers, help support vital programs.

## People Power

Each year, **300,000 of our employees and retirees** work to enhance their communities by taking part as AT&T Pioneers and volunteering millions of hours. In 2011, AT&T employees and retirees in North Dakota donated **150 hours of personal time** to community outreach activities—**worth approximately \$3,400**.

## Philanthropy

AT&T invests significant resources to advance education, strengthen communities and improve lives. Through philanthropic initiatives and collaboration, AT&T and the AT&T Foundation support projects that create opportunities, make connections and address community needs where we - and our customers - live and work.



From 2008 through 2011, AT&T and its employees contributed **more than \$75,000** through corporate, employee and AT&T Foundation giving programs in North Dakota.

Historically, supporting education has been a major focus for AT&T, and education today continues to be our key philanthropy focus. We are driven to help students succeed—in school, in the workforce and in life. In 2008, we launched AT&T Aspire, specifically focused on confronting the high school dropout crisis to help ensure that students graduate prepared for the future challenges of continuing education and the workforce. In 2012, AT&T renewed its commitment to Aspire with a **\$250 million investment planned over five years**. In North Dakota, **has been invested through the Aspire program**.

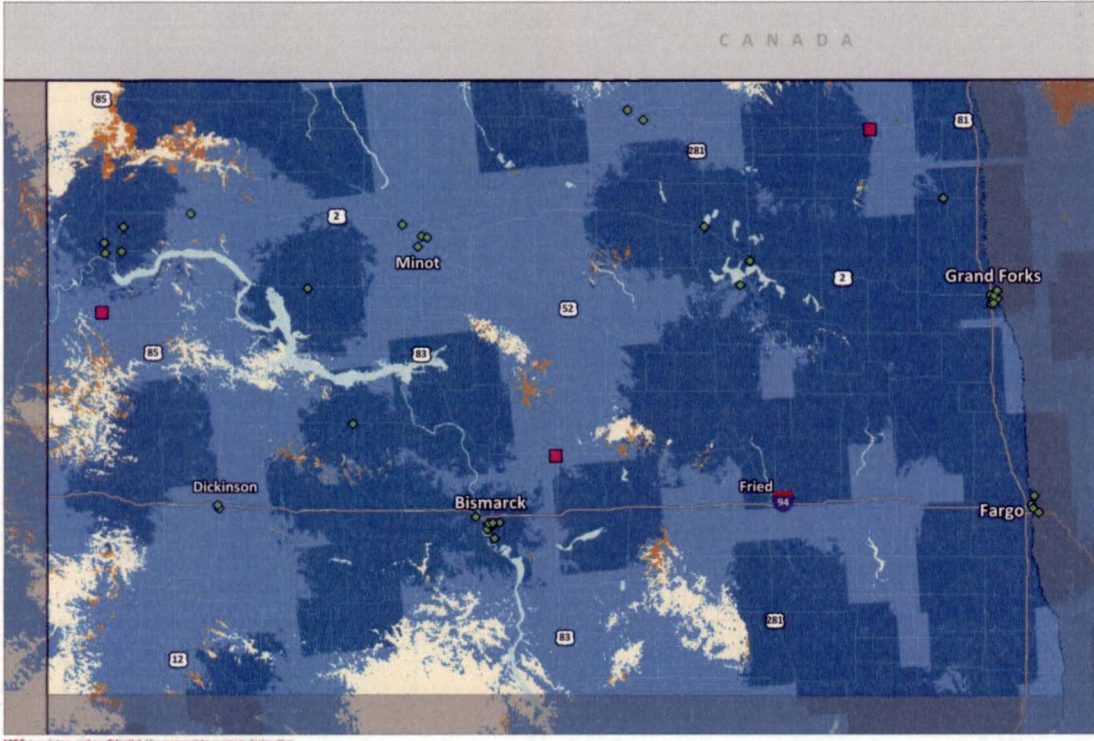
*Connect. Communicate. Contribute.*

Cheryl Riley, AT&T  
Jan. 30, 2013  
SB 2142  
Senate Finance and Taxation



# AT&T North Dakota Network Improvements Year to Date Through August

INTERNAL USE ONLY



AT&T proprietary and confidential. Use pursuant to company instruction.

- 2012 Capacity Enhancements
- 2012 New Site Build
- 4G LTE (Aug. 2012)
- 3G (Aug. 2012)
- Partner 2G (2Q 2012)
- 2012 Mobile Internet Expansion
- 4G (Aug. 2012)
- 2G (2Q 2012)



Cheryl Riley, AT&T  
 Jan. 30, 2013  
 Senate Finance and Taxation  
 SB 2142



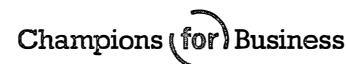
Testimony of Jon Godfread  
Greater North Dakota Chamber of Commerce  
SB 2142  
January 30, 2013

Mr. Chairman and members of the committee, My name is Jon Godfread and I am here today representing the Greater North Dakota Chamber of Commerce, the champions for business in North Dakota. Greater North Dakota Chamber is working to build the strongest business environment possible through its more than 1,100 business members as well as partnerships and coalitions with local chambers of commerce from across the state. Greater North Dakota Chamber also represents the National Association of Manufacturers and works closely with the U.S. Chamber of Commerce. As a group we stand in support of SB 2142.

This is an issue of market versus incentive. In some cases development, especially in the telecommunications sector, can be driven by market demand. However, being we are a small state with a relatively low population we need incentives to drive the telecommunications development our citizens and businesses need to function in this modern world. We have advocated for the inclusion of telecommunications into the definition of infrastructure, because we are living in a high-speed world and in order to remain competitive our businesses need high-speed telecommunications.

The business community supports making this sales tax exemption permanent because we believe it will encourage additional and more immediate investment in the telecommunications networks across the state. Now more than ever before, the business community relies on comprehensive, reliable, and fast networks to conduct business. If this sales tax exemption is the difference between companies investing in their network in North Dakota or elsewhere we would prefer to see the investment made in North Dakota.

Thank you for the opportunity to appear before you today in support of SB 2142. The GNDC strongly urges a Do Pass recommendation. I would be happy to answer any questions.



PO Box 2639 P: 701-222-0929  
Bismarck, ND 58502 F: 701-222-1611



NORTH DAKOTA ASSOCIATION OF  
TELECOMMUNICATIONS COOPERATIVES

P.O. Box 1144 • Mandan, ND 58554  
Phone 701-663-1099 • Fax 701-663-0707  
www.ndatc.com

SENATE BILL 2142

SENATE FINANCE AND TAXATION COMMITTEE

JANUARY 30, 2013

DAVID CROTHERS  
NORTH DAKOTA ASSOCIATION OF  
TELECOMMUNICATIONS COOPERATIVES

My name is David Crothers from the North Dakota Association of Telecommunications Cooperatives. The Association represents all of the cooperative and independent telephone companies in the State. Those companies serve over 150,000 homes and small businesses and approximately 96 percent of the geographic territory of the State.

Senate Bill 2142 reinstates the five percent sales tax exemption the Sixty-First Legislative Assembly adopted, but which expired on December 31, 2012. That exemption is narrowly tailored to only be applied to equipment used to create or improve the infrastructure of those providing telecommunications services.

The language is broad enough so that it is industry neutral. This legislation does not apply to just one technology. It includes all who provide telecom services whether they be landline, wireless, cable television companies providing voice services and others. The Association believes that is sound public policy and offers no provider a competitive advantage.

Senate Bill 2142 is extremely important to the cooperative and independent telecommunications companies. Rural North Dakotans increasingly rely on telecom infrastructure to access their

health, entertainment, government, education and economic opportunities. In response, telecom companies are building out their networks to the most rural areas in the State and dramatically increasing the bandwidth available to customers to meet their needs.

It is tremendously expensive to bring state-of-the-art telecom infrastructure and services to rural North Dakotans. In 2010, the rural companies spent \$94,406,000 in improving and creating new networks in the State. In 2011, it was \$96.2 million and last year it was \$108 million.

The statute that you passed in 2009 allowing for that sales tax exemption that we ask you to reinstate today was largely responsible for additional investment in our networks, additional customers receiving high speed broadband services and additional jobs in rural areas. The dollars that we did not pay in sales tax has been used to build fiber-to-the home projects, build greater capacity lines to wireless towers and give our customers more capacity and speed so that they can fully participate in a 21<sup>st</sup> century economy. Every dollar the cooperatives and small commercial telephone companies in this State earn, they reinvest in their employees, their infrastructure and their communities.

Members of the Association urge a "Do Pass" recommendation on Senate Bill 2142.





PO Box 2599 • Bismarck, ND 58502  
Phone: 701.355.4458 • Fax: 701.223.4645  
office@itcnd.org • www.itcnd.org

## TESTIMONY OF DEANA WIESE

Executive Director, Information Technology Council of North Dakota

### IN SUPPORT OF SB 2142

January 30, 2013

Chairman Cook and Members of the Committee:

My name is Deana Wiese, and I am the executive director of the Information Technology Council of North Dakota (ITCND). I am here to testify in support of SB 2142.

ITCND was created in 2000 by North Dakota business, government and education leaders who recognized the need to strengthen the state's information technology infrastructure and reposition the state as a national leader in IT. Today, ITCND has nearly 100 member organizations, with representatives from both the public and private sector.

One of ITCND's goals is to achieve affordable access to state-of-the-art voice, video and data service for all North Dakotans. SB 2142 assists in accomplishing that goal by providing the continuation of a valuable incentive for the enhancement and expansion of North Dakota's telecommunications infrastructure. The continued expansion of wireless data coverage across North Dakota is essential to ensuring the state is competitive in business retention and attraction, including IT businesses. It also provides increased opportunities for the state's rural communities through the ability to reliably conduct business globally from remote locations.

For these reasons, we ask for your favorable consideration of SB 2142.

Nancy Riedel  
SB 2142  
2-7-13

#1

Testimony in Support of SB 2142  
Nancy Riedel, Director State Tax Policy, Verizon  
Senate Appropriations Committee  
February 7, 2013

Chairman Holmberg and members of the Senate Appropriations Committee, I appreciate the opportunity to provide some brief comments in support of SB 2142.

Verizon Commitment to North Dakota:

Verizon has a proven commitment to our network in North Dakota. However, there are many demands on our limited capital budget, and it must be allocated between expanding the capacity and coverage of existing sites, building out our 4G Long Term Evolution (LTE) network (which requires new infrastructure with fiber backhaul to every cell site), and building new cell sites. Sales tax burdens directly reduce the amount available for infrastructure investment.

In 2012 Verizon was able to activate 27 new cell sites including 12 new sites in the Bakken oil field area. Our service is now available in more rural regions of the state including areas in or around Gackle, Lehr, Strasberg, Rolette, Binford, Buffalo, Cavalier and Walfax. Other sites were added in Fargo and around the Bismarck area including Drake, Maddock, Mandan, New Salem, Rugby and Wildrose.

North Dakota, along with most other states, provides a sales tax exemption for equipment used by manufacturers. This is generally accepted as the correct policy to avoid double taxation that would occur if the business inputs that are used to produce a product are taxed *and* the product is also taxed upon consumption. This same rationale supports a sales tax exemption for equipment used by telecommunications companies to provide a service that is subject to both sales tax and gross receipts tax upon consumption. The correct policy becomes even clearer considering the myriad direct and indirect benefits that flow through an economy from providing citizens with expanded access to affordable advanced telecommunications services.

SB 2142 implements a policy that will incent investment in the infrastructure necessary to expeditiously improve communications services in North Dakota.

Thank you.

2

Testimony of Jon Godfread  
Greater North Dakota Chamber of Commerce  
SB 2142  
February 7, 2013

Mr. Chairman and members of the committee, My name is Jon Godfread and I am here today representing the Greater North Dakota Chamber of Commerce, the champions for business in North Dakota. Greater North Dakota Chamber is working to build the strongest business environment possible through its more than 1,100 business members as well as partnerships and coalitions with local chambers of commerce from across the state. Greater North Dakota Chamber also represents the National Association of Manufacturers and works closely with the U.S. Chamber of Commerce. As a group we stand in support of SB 2142.

This is an issue of market versus incentive. In some cases development, especially in the telecommunications sector, can be driven by market demand. However, being we are a small state with a relatively low population we need incentives to drive the telecommunications development our citizens and businesses need to function in this modern world. We have advocated for the inclusion of telecommunications into the definition of infrastructure, because we are living in a high-speed world and in order to remain competitive our businesses need high-speed telecommunications.

The business community supports making this sales tax exemption permanent because we believe it will encourage additional and more immediate investment in the telecommunications networks across the state. Now more than ever before, the business community relies on comprehensive, reliable, and fast networks to conduct business. If this sales tax exemption is the difference between companies investing in their network in North Dakota or elsewhere we would prefer to see the investment made in North Dakota.

Thank you for the opportunity to appear before you today in support of SB 2142. The GNDC strongly urges a Do Pass recommendation. I would be happy to answer any questions.

# Testimony in Support of SENATE BILL NO. 2142

## House Finance & Taxation Committee

- March 12, 2013 -

Chairman Belter, House Finance & Taxation Committee members, for the record my name is Todd D. Kranda and I am an attorney with the Kelsch Law Firm in Mandan. I appear before you today as a lobbyist on behalf of Verizon Wireless to express support for SB 2142. I have a Verizon Wireless company representative here who will testify following me but before I introduce her I would like to provide you with a brief outline of the background to this bill.

The 2007 Legislature passed HB 1018, which included in Section 28, a study of wireless providers in the state and how wireless service impacts the business climate in the state. The interim study was assigned to the Industry Business & Labor Committee. As a result of that study the interim Industry Business & Labor Committee approved a bill for the 2009 Session, which was SB 2040. SB 2040 was intended to promote the expansion of businesses in the state by the additional investments that are made with the construction and expansion of telecommunication infrastructure. SB 2040 provided a sales and use tax exemption for equipment used in telecommunications infrastructure development. SB 2040 passed and became Section 57-39.2-04.7 NDCC.

Subsequently in 2011 you were presented with SB 2171 which was a bill to extend the sunset that was included with the 2009 legislation. SB 2171 was ultimately passed to extend the sunset provision through December 31, 2012. Now you are being presented with SB 2142 which reestablishes the sales and use tax exemption for equipment used in telecommunications infrastructure development that was lost with the December 31, 2012 sunset provision.

Section 1 contains two new definitions for "telecommunication company" and "telecommunication service"; section 2 contains the sales tax exemption for equipment used with infrastructure; section 3 contains the use tax exemption; and section 4 includes the retroactive effective date to start this as of the beginning of the tax year to make it seamless.

As will be explained further, the tax incentives in SB 2142, which were previously found in Section 57-39.2-04.7 NDCC, are an efficient way to decrease the cost to deploy telecommunications infrastructure necessary to provide advanced wireless telecommunication services to more areas across the state. There are several other sales tax exemptions that have been implemented in the past in North Dakota to help promote building or expanding certain industries. The exemption being reestablished through SB 2142 will help facilitate deployment of advanced communications systems across the state and in rural areas where it may not otherwise be feasible to do so.

In conclusion I would urge that you give a **DO PASS** recommendation for SB 2142. If there are any questions I will try to answer them. Otherwise I will introduce Nancy Riedel with Verizon Wireless and have her provide more detailed information to explain the benefits of SB 2142.

Testimony in Support of SB 2142

Nancy Riedel, Director State Tax Policy, Verizon

House Finance and Taxation Committee

March 12, 2013

Chairman Belter, Vice Chairman Headland and members of the Committee, thank you for the opportunity to provide testimony today. I am commenting in support of SB 2142 that would reestablish the sales and use tax exemption for investments in telecommunications service infrastructure. SB 2142 implements a policy that incents continued investment in the infrastructure necessary to bring advanced communication services to the citizens and businesses of North Dakota in an expeditious manner.

Verizon Commitment to North Dakota:

Verizon has a proven commitment to our network in North Dakota with investment of more than \$240 million between 2001 and 2012. That investment was used to build new cell sites, expand capacity and coverage in existing sites and begin the build out of our 4G Long Term Evolution (LTE) network. 27 new cell sites were activated in 2012 including 12 new sites in the Bakken Oil Field area.

The rollout of our 4G LTE network brings high-speed broadband service to mobile devices. The network is a new network built from the ground up which requires new infrastructure with fiber backhaul to every cell site and new equipment on every cell site. The network is an overlay to our existing 3G network.

Importance of Telecommunications Investment Policies in North Dakota:

Policy makers across the country have a keen understanding of the ways wireless technology is enhancing our lives and of the importance of expanding access to advanced communication services for their constituents. However, many of the tax policies that apply to our industry are counterproductive to the common goal of inciting the investment necessary to provide and sustain affordable state of the art communication services. Despite our significant investment, Verizon does not have

unlimited capital budgets and we are faced with complex decisions on where to spend our limited resources. Sales taxes imposed on our infrastructure directly reduce the amount of capital we have to invest and are a contributing factor to our investment decisions.

North Dakota, along with most other states, allows a sales tax exemption for equipment used by manufacturers. This is generally accepted as the correct policy to avoid taxing the business inputs that are used to produce a product that is taxable upon consumption. This same rationale supports a sales tax exemption for equipment used by telecommunications companies to provide a service that is taxable upon consumption. The correct policy becomes even clearer considering the myriad direct and indirect benefits that flow through an economy from advanced telecommunications networks.

#### Economic Impact of Telecommunications Investment:

A 2012 study by Dr. Raul Katz from Columbia University found that states would receive significant economic benefits from repealing the sales tax on communications network equipment that is used to provide high speed broadband networks. Specifically the study identified the following economic benefits flowing from exempting communications equipment:

- Increased network investment as each dollar invested pays for equipment, not taxes;
- Generation of new economic activity from better, faster networks;
- Creation of new private sector jobs, not only from construction and installation of network equipment but also in businesses that use the networks;
- Generation of new state and local taxes, offsetting a portion of the lost revenue from the sales tax repeal. In North Dakota, for example, telecommunications services are subject to both sales taxes and gross receipts taxes; and
- Additional access to Broadband.

Dr. Katz's study shows that taxes do matter and in fact, the study highlighted North Dakota as an example of a state that experienced a significant jump in network investment after eliminating sales taxes on equipment (see attached Figure 1). Many

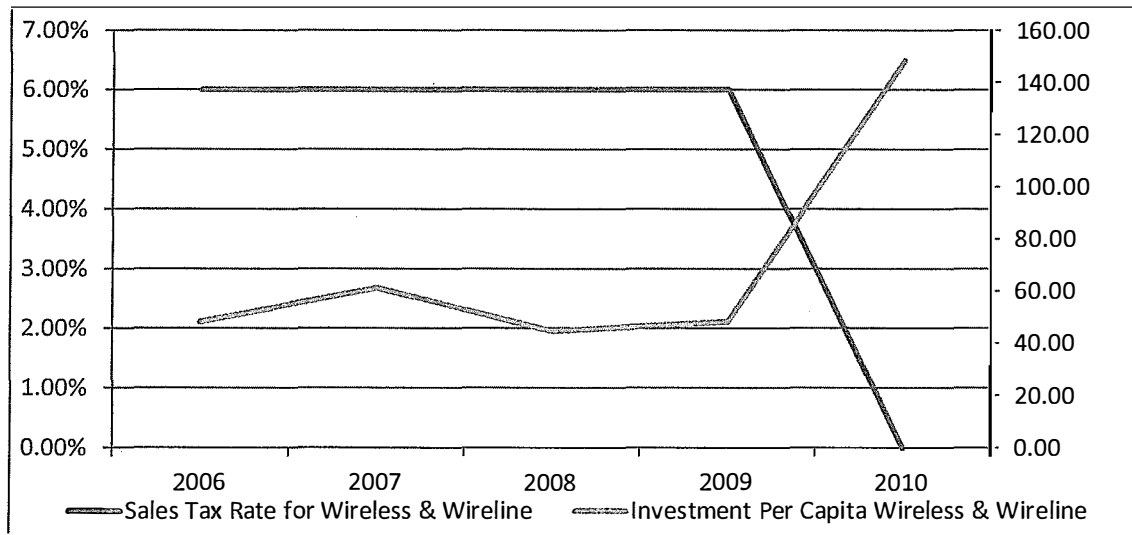
businesses now rely on fast broadband networks to improve productivity and profitability. Businesses, governments, and individual consumers all benefit from new investment in broadband networks. The benefits of additional communications network investment extend well beyond the direct impact of new equipment purchases and construction jobs in the communications industry. Consumers benefit as well; the study found that new investment would lead to additional broadband connections as faster service is expanded into new areas, spurring competition which drives down prices.

Summary:

Technology will continue to evolve, and even as we are in the process of building out our 4G network in North Dakota and across the country, the next wave of communications technology is already being anticipated. Implementing policies that will ensure the continuation of robust investment in that technology in North Dakota is important to establishing the long term competitiveness of the state.

Thank you again for the opportunity to provide these comments in support of SB 2142.

**Figure 1. Evolution of investment and sales tax rate in North Dakota 2006-2010**



Source: TAS analysis

As figure 1 indicates, the sales tax rate on equipment purchasing in North Dakota before 2010 averaged 6.00%, which was higher than the national average. On the other hand, the level of wireless and wireline investment per capita approximated \$48.33 per capita, with little variance over time<sup>1</sup>.

**In 2010, the sales tax rate on initial equipment purchasing was eliminated and the level of wireless and wireline investment increased three-fold in just one year, reaching \$148.30 per capita.**

<sup>1</sup> This amount ranked North Dakota in 50th position among states of the Union.



**For more information, contact:**

Alex Carey  
AT&T Strategic Communications  
612-354-9516  
[Alexander.carey@att.com](mailto:Alexander.carey@att.com)

## **AT&T INVESTED MORE THAN \$50 MILLION IN NORTH DAKOTA FROM 2010 THROUGH 2012 TO ENHANCE SPEEDS, RELIABILITY AND PERFORMANCE FOR CUSTOMERS**

*Expanded 4G Coverage, New Cell Sites and Boosted Capacity Drive Improved Customer Experience*

**BISMARCK, NORTH DAKOTA (FEB. 21, 2013)** — [AT&T](#)\* invested more than \$50 million in its North Dakota wireless and wireline networks from 2010 through 2012, with a focus on expanding 4G mobile Internet coverage and enhancing the overall performance of its networks.\*\*

AT&T has made nearly 100 wireless network upgrades in six key categories in North Dakota during 2012, including activating new cell sites, adding capacity, upgrading cell sites to provide fast 4G mobile Internet speeds, deploying high-capacity Ethernet connections to cell sites, and adding or upgrading Distributed Antenna Systems, which boost wireless coverage and capacity in buildings and at major venues like convention halls or sports arenas.

“We know our customers depend on us for fast, reliable mobile Internet connections at home, work and everywhere in between,” said Hardmon Williams, AT&T vice president and general manager for North Dakota, Minnesota and the Northern Plains. “Delivering for our North Dakota customers is a top priority and our ongoing investment here is designed to deliver a superior mobile Internet experience, encompassing speed, coverage and reliability.”

“One of the reasons North Dakota has become such a dynamic place to live, work, and conduct business, can be attributed to the contributions of companies such as AT&T,” said Representative Al Carlson, N.D. House Majority Leader. “AT&T’s continued investment in our state’s technological infrastructure makes possible the efficient communications and connectivity that are keys to building and strengthening North Dakota’s business community. We need to continue to adopt pro-business policy that encourages this type of investment.”

#34  
D  
2

"We're proud to invest in North Dakota and expand our wireless broadband network to support growing demand for the latest wireless devices and capabilities," said Cheryl Riley, director, External Affairs-AT&T North Dakota. "We'd like to applaud policymakers for seeking a pro-business environment that encourages private investment in our state's communications infrastructure. This type of investment helps spur economic development, job creation and greater access to healthcare, education and other vital services."

### **Planned Investment to Expand Reach of Wireless and Wired Broadband**

AT&T recently launched Project Velocity IP (VIP), a three-year investment initiative to expand and enhance its wireless and wired IP broadband networks. As part of Project VIP, AT&T plans to increase the density of its wireless network by deploying more than 10,000 macro sites, more than 1,000 distributed antenna systems, and more than 40,000 small cells. Through this initiative, we also plan to:

- Expand 4G LTE to cover more than 300 million people by year-end 2014
- Expand the AT&T wired IP broadband network to cover approximately 75 percent of customer locations in our wired service area by year-end 2015
- Expand the AT&T fiber network to reach 1 million additional business locations by year-end 2015

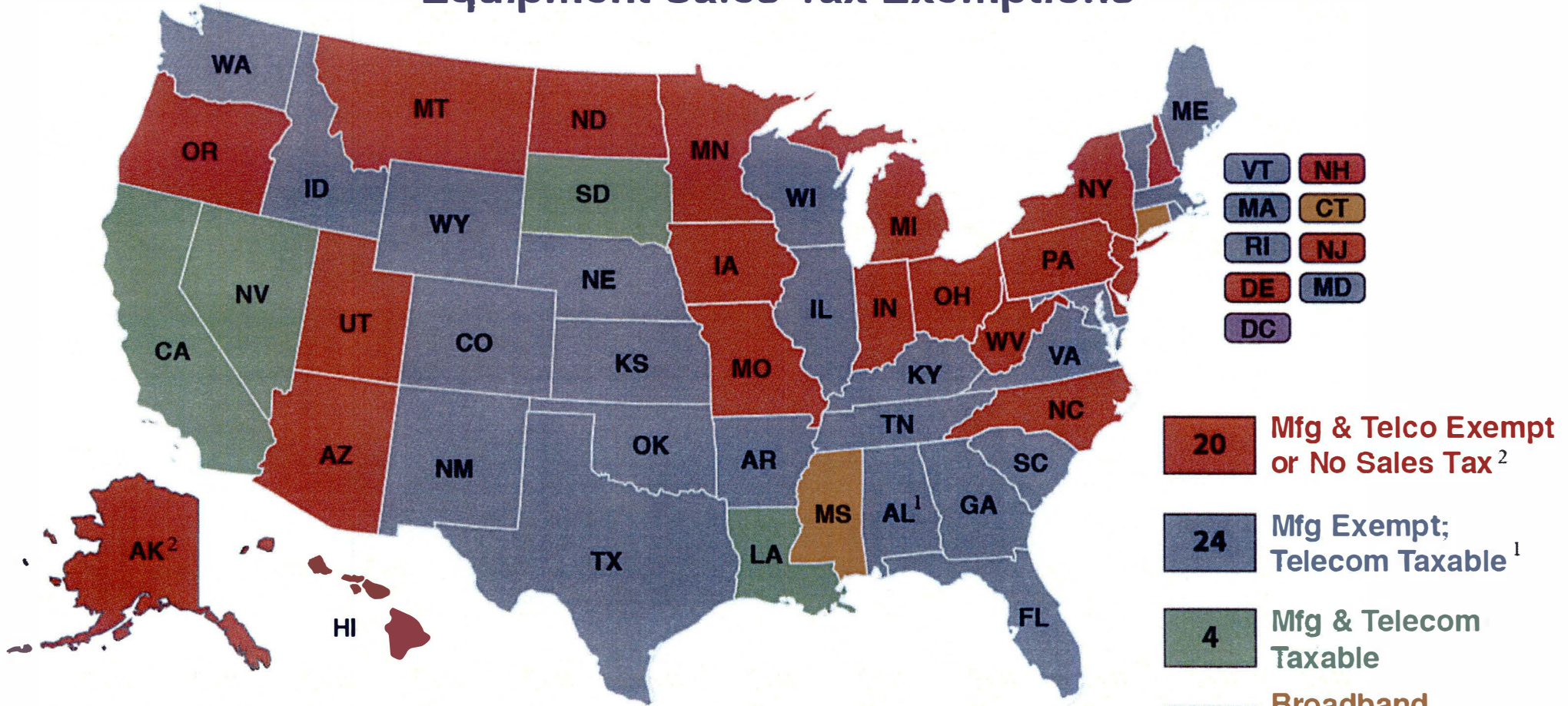
AT&T's innovation and investment has resulted in the nation's largest 4G network, covering 288 million people with ultra-fast speeds and a more consistent user experience.

AT&T is the only U.S. service provider to deploy two compatible 4G technologies to deliver more speed to more smartphone customers. AT&T's HSPA+ network enables mobile Internet speeds up to four times faster than 3G technologies.\*\*\*

Cheryl Riley  
AT&T  
SB 2142  
House Finance and Taxation  
March 12, 2013

#38

# Telecommunications/Manufacturing Equipment Sales Tax Exemptions



<sup>1</sup> Alabama - special reduced 1.5% rate

<sup>2</sup> Alaska - local sales taxes may apply

Testimony of Jon Godfread  
Greater North Dakota Chamber of Commerce  
SB 2142  
March 12, 2013

Mr. Chairman and members of the committee, My name is Jon Godfread and I am here today representing the Greater North Dakota Chamber of Commerce, the champions for business in North Dakota. Greater North Dakota Chamber is working to build the strongest business environment possible through its more than 1,100 business members as well as partnerships and coalitions with local chambers of commerce from across the state. Greater North Dakota Chamber also represents the National Association of Manufacturers and works closely with the U.S. Chamber of Commerce. As a group we stand in support of SB 2142.

This is an issue of market versus incentive. In some cases development, especially in the telecommunications sector, can be driven by market demand. However, being we are a small state with a relatively low population we need incentives to drive the telecommunications development our citizens and businesses need to function in this modern world. We have advocated for the inclusion of telecommunications into the definition of infrastructure, because we are living in a high-speed world and in order to remain competitive our businesses need high-speed telecommunications.

The business community supports making this sales tax exemption permanent because we believe it will encourage additional and more immediate investment in the telecommunications networks across the state. Now more than ever before, the business community relies on comprehensive, reliable, and fast networks to conduct business. If this sales tax exemption is the difference between companies investing in their network in North Dakota or elsewhere we would prefer to see the investment made in North Dakota.

Thank you for the opportunity to appear before you today in support of SB 2142. The GNDC strongly urges a Do Pass recommendation. I would be happy to answer any questions.



NORTH DAKOTA ASSOCIATION OF  
TELECOMMUNICATIONS COOPERATIVES

#5

P.O. Box 1144 • Mandan, ND 58554  
Phone 701-663-1099 • Fax 701-663-0707  
www.ndatc.com

SENATE BILL 2142

HOUSE FINANCE AND TAXATION COMMITTEE

MARCH 12, 2013

DAVID CROTHERS  
NORTH DAKOTA ASSOCIATION OF  
TELECOMMUNICATIONS COOPERATIVES

My name is David Crothers from the North Dakota Association of Telecommunications Cooperatives. The Association represents all of the cooperative and independent telephone companies in the State. Those companies serve over 150,000 homes and small businesses and approximately 96 percent of the geographic territory of the State.

Senate Bill 2142 reinstates the five percent sales tax exemption the Sixty-First Legislative Assembly adopted, but which expired on December 31, 2012. That exemption is narrowly tailored to only be applied to equipment used to create or improve the infrastructure of those providing telecommunications services.

The language is broad enough so that it is industry neutral. This legislation does not apply to just one technology. It includes all who provide telecom services whether they be landline, wireless, cable television companies providing voice services and others. The Association believes that it is sound public policy and offers no provider a competitive advantage.

Senate Bill 2142 is extremely important to the cooperative and independent telecommunications companies. Rural North Dakotans increasingly rely on telecom infrastructure to access their

health, entertainment, government, education and economic opportunities. In response, telecom companies are building out their networks to the most rural areas in the State and dramatically increasing the bandwidth available to customers to meet their needs.

It is tremendously expensive to bring state-of-the-art telecom infrastructure and services to rural North Dakotans. In 2010, the rural companies spent \$94,406,000 in improving and creating new networks in the State. In 2011, it was \$96.2 million and last year it was \$108 million.

The statute that you passed in 2009 allowing for that sales tax exemption that we ask you to reinstate today was largely responsible for additional investment in our networks, additional customers receiving high speed broadband services and additional jobs in rural areas. The dollars that we did not pay in sales tax has been used to build fiber-to-the home projects, build greater capacity lines to wireless towers and give our customers more capacity and speed so that they can fully participate in a 21<sup>st</sup> century economy. Every dollar the cooperatives and small commercial telephone companies in this State earn, they reinvest in their employees, their infrastructure and their communities.

Members of the Association urge a "Do Pass" recommendation on Senate Bill 2142.

#6



PO Box 2599 • Bismarck, ND 58502  
Phone: 701.355.4458 • Fax: 701.223.4645  
office@itcnd.org • www.itcnd.org

**TESTIMONY OF DEANA WIESE**

Executive Director, Information Technology Council of North Dakota

**IN SUPPORT OF SB 2142**

March 12, 2013

Chairman Belter and Members of the Committee:

My name is Deana Wiese, and I am the executive director of the Information Technology Council of North Dakota (ITCND). I am here to testify in support of SB 2142.

ITCND was created in 2000 by North Dakota business, government and education leaders who recognized the need to strengthen the state's information technology infrastructure and reposition the state as a national leader in IT. Today, ITCND has nearly 100 member organizations, with representatives from both the public and private sector.

One of ITCND's goals is to achieve affordable access to state-of-the-art voice, video and data service for all North Dakotans. SB 2142 assists in accomplishing this goal by providing the continuation of a valuable incentive for the enhancement and expansion of North Dakota's telecommunications infrastructure. The continued expansion of wireless data coverage across North Dakota is essential to ensuring the state is competitive in business retention and attraction, including IT businesses. It also provides increased opportunities for the state's rural communities through the ability to reliably conduct business globally from remote locations.

For these reasons, we ask for your favorable consideration of SB 2142.