

FISCAL NOTE
Requested by Legislative Council
12/20/2016

Bill/Resolution No.: HB 1046

- 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.*

	2015-2017 Biennium		2017-2019 Biennium		2019-2021 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$(3,287,000)	\$(313,000)		
Expenditures						
Appropriations						

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

	2015-2017 Biennium	2017-2019 Biennium	2019-2021 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).*

HB 1046 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 1 of HB 1046 removes the June 30, 2017 sunset making permanent the sales tax exemption for equipment used in telecommunications infrastructure development. Section 2 deals with the corresponding use tax.

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.*

Based on recent activity by companies that have reported this information, the removal of the sunset is expected to reduce state general fund and state aid distribution funds by at least \$1.8 million per year as shown above. However, there are some major telecommunications companies which are not included in this total for which no information is available because they are able to purchase qualifying equipment tax free without formally requesting exemption from the Tax Commissioner.

- 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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Kathryn L. Strombeck

Agency: Office of Tax Commissioner

Telephone: 701.328.3402

Date Prepared: 01/06/2017

2017 HOUSE FINANCE AND TAXATION

HB 1046

2017 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

1046
1/9/2017
26665

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Mary Brucker

Explanation or reason for introduction of bill/resolution:

A Bill relating to a sales and use tax exemption for equipment used in telecommunications infrastructure development.

Minutes:

Attachment #1, 2, 3, 4, 5

Chairman Headland: Opened hearing on HB 1046.

Vice Chairman Dockter: Introduced bill. This bill was first enacted in 2009. The goal was the sales and use tax exemption to encourage telecommunication companies to expand telecommunication infrastructure in the state. The exemption was used as a tool to help enhance business opportunities in rural areas. There is a similar incentive found in four other states. North Dakota has become a leader in the development of fiber optic internet. The sunset date was set at the time of the sales tax exemption. Emily will have more details following me.

Chairman Headland: Are there any questions? Emily, would you briefly go through the bill?

Emily Thompson, Counsel, Legislative Council: Distributed a background memorandum of the interim committee. See attachment #1. This bill serves to continue the sales and use tax exemption for equipment that is used in telecommunication infrastructure development. There were two publications that highlighted North Dakota as a leader in fiber optic and the development of wireless. The bill draft before you have some provisions with an overstrike through them removing the dual effective date clause, as you'll see those at times in the tax code where you have the ineffective date in the caption. On page one, line seven, the effective date through June 30, 2017 has an overstrike through it and that is to make sure the sales tax exemption doesn't drop off in June.

Chairman Headland: Are there any questions? Is there any support to HB 1046?

Todd Kranda, attorney with Kelsch Kelsch Ruff & Kranda Law Firm: Distributed testimony in support. See attachment #2.

David Crothers, North Dakota Association of Telecommunications Cooperative: Provided written testimony in support. See attachment #3.

Representative Steiner: Do you remember who put the sunset on and what their reasoning was at the time?

David Crothers: I would assume the sunset was experimental to see if it was a policy that merited retaining and expanding upon. I don't remember who put it on.

Chairman Headland: I believe we've had this bill every session and we've set a sunset each session. I think we wanted to get a real view of what was happening out there and if it was effective. To date, we felt it was pretty effective.

Representative Olson: How would you describe North Dakota broad band access compared to other states? I've heard reports of how good we're doing.

David Crothers: Well I don't have sites I can cite the publications were referenced. As for the rural one really can't do any better than the gigabytes service that exists today. The demand isn't really there beyond that. All of that is available today in those five companies that I noted earlier and there are other companies that can deliver the same service through a patchwork. This isn't simply the cities, towns, or communities within the rural areas but all of the subscribers and members of those companies. It is my belief that North Dakota would rank at the very top. You will see exceptions to that when you get very high dense university communities where you have very small states. I can provide that information for you.

Representative Olson: I know you had done a report that showed North Dakota is very strong. When do you think it would be appropriate to sunset this initiative?

David Crothers: I eluded to it before when I said that putting the wire or the fiber in the ground is just part of the equation. The electronics become more and more sophisticated. It really allows for that greater transmission, not just simply that they're smarter and faster. The job is never done because it is always maintaining the price of the burying the fiber in the ground. It is the electronics, the people, and the sophistication of those people you need to retain to run these networks that is an ongoing expense. I don't have an answer as to when it is appropriate to end.

Chairman Headland: Any other questions? Is there further testimony in support of HB 1046?

Keith Larson, General Manager at Dakota Central Telecommunications in Carrington: We served roughly 8,000 subscribers around the Carrington and Jamestown area. We are one of the companies that Mr. Crothers mentioned. It is a continued effort to upgrade. The past two years we put in electronics and fiber in 2004 and 2005 and replaced \$2 million...? The electronics probably needs to be replaced anywhere between five and ten years normally, so it is an ongoing process. Any help with the costs in what the exemption does would be beneficial to us.

Chairman Headland: Are there any questions for Mr. Larson?

Representative Olson: How many competitors do you have in that particular segment of your market out in your region?

Keith Larson: It varies by community and by the rural area. In our rural area we have AT&T and Verizon. In Carrington we have Midcontinent Communications and (inaudible). In Jamestown we have Cable Services Inc.

Representative Olson: Are your competitors deploying the same type of technology that you are who receives these type of incentives?

Keith Larson: To some degree. We provide through DCN the fiber connections to the tower sites and that service is provided back to DCN into AT&T, Verizon, and Team Mobile. In the cable providers they've mostly upgraded not all the way to the house, they've upgraded to the (inaudible). They upgraded to a central plain then reuse their co-axel cable.

Representative Olson: In your opinion, would these infrastructure improvements have occurred by either you or your competitors if these incentives did not exist?

Keith Larson: The capital costs are significant. Any reduction in the capital costs that we get we put back into providing more infrastructure to the customers.

Representative Ertelt: Do you believe you would remain profitable if you did not have this exemption?

Keith Larson: I would say yes.

Chairman Headland: Is there further testimony in support? Is there any opposition? I have a question on the fiscal note. Can someone from tax answer a question?

Blane Braunberger, Office of State Tax Commissioner: I'm happy to answer any questions.

Chairman Headland: Would it be fair to say the amount on the fiscal note is the implication of the exemption on the investor owned utilities subject to this bill?

Blane Braunberger: My understanding is that the almost \$3.5 million listed in the fiscal note are from those entities that have reported to our office and asked for the exemption. We estimated that portion. There are also a number of companies that we know have not requested the exemption but have taken advantage of it. That is what was enumerated in the lower portion that the number could be higher than the amount shown above.

Chairman Headland: How do they receive the exemption if they aren't requesting a refund? Are they just not paying it?

Blane Braunberger: That would be our understanding, yes.

Chairman Headland: Does that need to be cleaned up so we can properly analyze what the true cost of the exemption is?

Blane Braunberger: The law states that in order to take advantage of the exemption they are supposed to apply with our office. There are some that are not.

Representative Mitskog: Are the ones not complying with that the co-ops, the telecommunication companies, or the larger corporate providers out of our state?

Blane Braunberger: I don't know that I can address that as far as which companies are not taking advantage of the exemption by applying to the office.

Representative Hogan: It seems to me that this is a problem with the system that we don't know that information. Has your department done anything to try and address this issue?

Blane Braunberger: We have various ways to verify the exemption would be due but just wasn't requested up front. If a company has qualified for the exemption but just hasn't gone through the application with our office to receive it up front we have not denied those purchases that they've made tax free.

Chairman Headland: I'm struggling with this a little bit. Who is making the decision not to charge the sales tax? Is it the manufacturer who is selling to the telecom companies? Where would they get that discretion unless they had gotten permission somehow from the Tax Department not to have to submit their sales tax?

Blane Braunberger: I suspect they are able to buy the purchases for the infrastructure various ways. When it comes down to reporting that and applying the tax as a sales or use tax to the state because they feel they are exempt under this provision of law so they are just not reporting the tax to the state.

Representative Grueneich: If there is no regulation as to whether they are or aren't reporting it, how do they know there aren't other purchases being lumped in with that?

Blane Braunberger: The process is that if a company applies for the exemption through our office then we are aware. If they have gone through a project, then we can see what items they purchased and either agree there would be no tax or they may have paid tax to the supplier or crude tax and they are requesting a refund from our office.

Representative Hogan: We are in a time where we have a pretty significant fiscal challenge and we don't really know what the actual cost of this tax exemption is. Do you think it might be double or are we getting most of them or not? I don't know that we know what the fiscal impact is.

Blane Braunberger: As it is mentioned in the fiscal note we are unable to come up with an exact number. We are looking at between what we show here and at least additional dollars that could probably be around \$5 million.

Chairman Headland: I think it could easily be rectified. I don't think any of the companies are doing it behind our back but I think the taxpayers need to know and should be protected from. We need to know what our exemptions and what our incentives are costing us. We may have to look at fixing that somehow. It should be easy enough to do. We could make it so they have to apply for the exemption after the purchases and give it back to them rather than allowing it up front.

Representative Trottier: Wouldn't it be easy to get an application and get qualified for the tax exemption?

Blane Braunberger: Yes. We feel the law already stipulates that they should come to us and explain the project they are involved in then ask for the exemption and get the approval prior to the project. There have been situations where the application is done after the project has started and then they had to go through a refund.

Representative Hatlestad: How can a retailer sell the stuff to the individual without collecting the tax?

Blane Braunberger: I'm presuming that most of these companies are signing a resale certificate as well as the supplier to relieve them of the tax obligation at the point of purchase then it defers to the purchaser or the telecom company knowing that they are going to be using it for these types of projects.

Chairman Headland: I think this is something the committee needs to work on.

Additional testimony submitted from **Kent Blickensderfer, legislative and regulatory director for CenturyLink in North Dakota** (see attachment #4) and testimony from Cheryl Riley, President of AT&T Northern Plains States (see attachment #5).

2017 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1046
1/17/2017
27010

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Mary Brucher

Explanation or reason for introduction of bill/resolution:

A bill relating to a sales and use tax exemption for equipment used in telecommunications infrastructure development.

Minutes:

No attachments

Chairman Headland: I'd like to open this up for committee discussion. This is a sales tax exemption that's been used extensively by industry. It's been very successful. We've been singled out as a state who is way ahead of the game in communications. I think that's a really good thing. Does the committee think we should let it rest for a couple years and see what happens, if investment continues?

Vice Chairman Dockter: I agree. When the person testifying said they would still be profitable that kind of made my decision. We can set this aside for two years and save the state some money.

Chairman Headland: Everybody needs to keep in mind that the sunset doesn't occur until the end of the state's fiscal year, June 30, so they have six months to make their purchases and move forward if they have projects planned.

Representative Hogan: How long has this sales tax exemption been around?

Chairman Headland: I think it was passed in 2009.

Representative Hogan: I think it's a reflection of the current situation. There are going to be significant reductions on the service and expenditure side so I think we also need to do that on the tax side.

Representative Mitskog: I represent a rural district and telecommunications is a life line for businesses. It's so important and upgrades are needed but very expensive. I have a couple questions for Mr. Crothers. (Representative Mitskog left the meeting to call Mr. Crothers)

Representative Hatlestad: When this started we had been very successful in communication and nationwide we were probably number one. We also talked about 911

and all the things they are doing to enhance statewide communication. I'm concerned that this may be a bad time to eliminate this program.

Representative Howe: The legislature has extended the sunset every session since 2009. What was the reason for extending it? I'm sensing the only reason we are now getting rid of it is because of our current fiscal situation. I'd like to hear from others why it was a good program then and why it isn't worth the money now.

Vice Chairman Dockter: Last session we passed a bill because never before in state history did we examine economic incentives. We kept passing them every session without knowing what the economic impact was. We said over a six-year period we would study all of the economic incentives on the books and evaluate them to find out if we needed them. Telecommunications was one of them that came through this first interim. Now we can decide if they are viable for the future or if we can end them now. These do take away from the general fund.

Chairman Headland: I don't think that since this credit was brought to fruition we've never entered a legislative session with a billion-dollar gap to fill. There are two ways to fill that gap; raise taxes or get rid of exemptions that take away from your revenues. I think this is an example of a good economic development credit. It's purely money for me on my vote.

Representative Olson: Originally this incentive was meant to drive the installation of fiber networks throughout North Dakota. David Crothers testified that as of now five of the independent telephone providers in North Dakota are 100% fiber to the home. By the end of 2019 all of them will be fiber to the home or will offer a similar service. If that was the intent of this incentive, it's obviously reached that. We heard from the representatives that it's an ongoing cost that they are concerned about now. These incentives are not meant to subsidize or eliminate ongoing costs otherwise this incentive will go on for infinity and that's not the purpose of the incentive. The purpose of the incentive has been achieved and plans have been made with the knowledge that this sunset may not be repealed. Any of these companies that have been planning have known that there was the potential that the sunset will be allowed to continue. Their plans are in no way dependent on this incentive remaining; their plans are going to continue regardless. We also heard that North Dakota ranks nearly at the top in the United States for access to broadband networks. We heard that the demand is low in some rural areas despite the fact that they've built up the supply. I can't see any reason why this incentive should be continued.

Representative B. Koppelman: Why has nobody taken serious consideration to discontinue this tax credit? I think probably because there's been a lot of money. I think we would be doing ourselves a disservice to not make a decision based on the information we've gathered. I will also be supporting a do not pass motion.

Representative Mitskog: I didn't find out the answer to my question. I will stand with our local co-op and their continued projects.

Chairman Headland: I've sat on the board of Dakota Central Telecommunications for 25 years. We were the first company that was completely overbuilt with fiber. We started deploying fiber in our exchanges prior to this tax credit. It can be done without it. The tax

credit was first brought by the wireless industry. There were concerns that we didn't have enough towers and no updated digital wireless systems. We've come a long way in wireless industry as well. I will also support the do not pass motion.

Representative Olson: MADE A MOTION FOR A DO NOT PASS

Representative B. Koppelman: SECONDED

Chairman Headland: Any further discussion?

ROLL CALL VOTE: 13 YES 1 NO 0 ABSENT

MOTION CARRIED

Representative Schobinger will carry this bill.

Date: 1-17-17
Roll Call Vote #: 1

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1046

House Finance and Taxation Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☐ Do Pass ☒ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Olson Seconded By Rep. Koppelman

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland	✓		Representative Hogan	✓	
Vice Chairman Dockter	✓		Representative Mitskog		✓
Representative Ertelt	✓				
Representative Grueneich	✓				
Representative Hatlestad	✓				
Representative Howe	✓				
Representative Koppelman	✓				
Representative Olson	✓				
Representative Schobinger	✓				
Representative Steiner	✓				
Representative Toman	✓				
Representative Trottier	✓				

Total (Yes) 13 No 1

Absent 0

Floor Assignment Rep. Schobinger

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

REPORT OF STANDING COMMITTEE

HB 1046: Finance and Taxation Committee (Rep. Headland, Chairman) recommends **DO NOT PASS** (13 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). HB 1046 was placed on the Eleventh order on the calendar.

2017 TESTIMONY

HB 1046

ECONOMIC DEVELOPMENT TAX INCENTIVE STUDY - TELECOMMUNICATIONS INFRASTRUCTURE SALES TAX EXEMPTION

Pursuant to North Dakota Century Code Section 54-35-26, created by 2015 Senate Bill No. 2057, a variety of economic development tax incentives are to be reviewed by a Legislative Management interim committee over the ensuing six-year period. The study is aimed at ensuring that economic development tax incentives are serving their intended purposes in a cost-effective and equitable manner. This memorandum has been provided to assist in the review of the telecommunications infrastructure sales tax exemption and provides an explanation of the incentive, the perceived goals of the Legislative Assembly in creating or altering the incentive, and the data and testimony that will be required to conduct an effective analysis of the incentive.

EXPLANATION OF THE TELECOMMUNICATIONS INFRASTRUCTURE SALES TAX EXEMPTION

Sections 57-39.2-04.9 and 57-40.2-03.3 provide for a sales and use tax exemption for purchases of tangible personal property used to construct or expand telecommunications service infrastructure that is capable of providing telecommunications service in this state. The tangible personal property must be incorporated into telecommunications infrastructure owned by a telecommunications company in order to qualify for the exemption. A purchaser may receive the sales tax exemption at the time of purchase if the purchaser applies for and receives a certificate from the Tax Commissioner verifying the tangible personal property the purchaser intends to purchase qualifies for the exemption. If a certificate of exemption is not received before the purchase, the telecommunications company may apply to the Tax Commissioner for a refund of the applicable amount of tax paid. If a contractor purchases or installs the tangible personal property, the telecommunications company may apply for a refund of the amount of sales or use tax paid by the contractor on qualifying items. The exemption is effective for purchases made through June 30, 2017.

PERCEIVED GOALS OF THE LEGISLATIVE ASSEMBLY IN CREATING OR ALTERING THE TELECOMMUNICATIONS INFRASTRUCTURE SALES TAX EXEMPTION

The provisions of Section 57-39.2-04.9 were originally found in Section 57-39.2-04.7, which was created through the passage of 2009 Senate Bill No. 2040. The bill was recommended for introduction by the 2008-09 Interim Industry, Business, and Labor Committee following its study of issues relating to wireless service providers and the impact of wireless service on the business climate in North Dakota. The concepts found in 2009 Senate Bill No. 2040 originated in failed 2007 House Bill No. 1027 that was recommended for introduction by the 2005-07 Interim Economic Development Committee following the committee's review of testimony indicating business development may be hindered in areas of the state that lacked wireless service. Upon a review of the legislative history related to 2009 Senate Bill No. 2040, the perceived goal of the Legislative Assembly in creating this exemption was to encourage telecommunications companies to expand telecommunications service infrastructure in North Dakota. The exemption was viewed as a tool to help enhance business opportunities in rural areas. The provisions of Senate Bill No. 2040 provided for a sales and use tax exemption for tangible personal property used to construct or expand telecommunications service infrastructure. Refund provisions were also incorporated for purchases made by contractors or purchases for which an exemption certificate was not received in advance of making the purchase. It was estimated that the telecommunications infrastructure sales tax exemption would result in a reduction of \$5.15 million in general fund and state aid distribution fund revenues during the 2009-11 biennium.

The provisions of 2009 Senate Bill No. 2040, set to expire on June 30, 2011, were extended during the 2011 legislative session through the passage of Senate Bill No. 2171. Senate Bill No. 2171 extended the availability of the exemption to taxable events occurring through December 31, 2012. Following the expiration of Section 57-39.2-04.7, substantially similar provisions were placed in newly created Section 57-39.2-04.9 through the passage of 2013 Senate Bill No. 2142. Section 57-39.2-04.9 was made retroactively effective to include purchases occurring after December 31, 2012. It was estimated that the telecommunications infrastructure sales tax exemption would result in a reduction of \$6.44 million in general fund and state aid distribution fund revenues during the 2011-13 and 2013-15 biennia. A copy of the fiscal note ([Appendix A](#)) is attached. The exemption is currently set to expire on July 1, 2017.

DATA AND TESTIMONY REQUIRED TO CONDUCT AN EFFECTIVE ANALYSIS OF THE TELECOMMUNICATIONS INFRASTRUCTURE SALES TAX EXEMPTION

The interim Political Subdivision Taxation Committee identified various items of data and testimony that would need to be collected to effectively analyze the telecommunications infrastructure sales tax exemption. The following list identifies the information the committee sought to collect and the receipt of that information throughout the course of the 2015-16 interim.

1. The number of claimants and the fiscal impact of the incentive.
 - Information ([Appendix B](#)) provided to the Political Subdivision Taxation Committee by the Tax Department on December 2, 2015, indicated the number of claimants and the amount claimed is as follows:
 - In fiscal year 2011, exemptions totaling \$1,251,630 were claimed by five claimants;
 - In fiscal years 2012 and 2013, the exemption was not claimed by any claimants;
 - In fiscal year 2014, exemptions totaling \$1,772,462 was claimed by seven claimants; and
 - In fiscal year 2015, the total amount of exemptions claimed could not be disclosed due to confidentiality restrictions as the exemption was claimed by fewer than five claimants.
2. The use of similar incentives in other states.
 - Incentives similar to this state's telecommunications infrastructure sales tax exemption ([Appendix C](#)) were found in four other states.
3. Employment opportunities, business growth, or diversity in the state's economy resulting from the availability of the incentive.
 - Information ([Appendix D](#)) pertaining to this item was provided by the Department of Commerce on September 13, 2016.
4. Negative impacts created as a result of the incentive.
 - The committee did not receive information pertaining to negative impacts created as a result of the incentive.
5. Benefits that flow to out-of-state concerns resulting from the incentive.
 - The committee did not receive information pertaining to benefits that flow to out-of-state concerns resulting from the incentive.
6. Testimony from interested parties.
 - The following parties provided testimony in support of retaining the telecommunications infrastructure sales tax exemption.
 - Ms. Connie Ova, Chief Executive Officer, Jamestown-Stutsman Development Corporation, and President, Economic Development Association of North Dakota ([Appendix E](#)).
 - Ms. Cheryl Riley, President, Northern Plains States, AT&T ([Appendix F](#)).
 - Mr. Todd Kranda, Kelsch Kelsch Ruff & Kranda Law Firm, appearing on behalf of Verizon Wireless ([Appendix G](#)).
 - Mr. David Crothers, Executive Vice President, North Dakota Association of Telecommunications Cooperatives ([Appendix H](#)).
 - Mr. Kent Blickensderfer, North Dakota and South Dakota Director of Legislative and Regulatory Affairs, Century Link ([Appendix I](#)).
 - Ms. Deana Wiese, Executive Director, Information Technology Council of North Dakota ([Appendix J](#)).
 - Testimony was not received from parties in opposition to retaining the telecommunications infrastructure sales tax exemption.

ATTACH:10

#2 p.1
HB 1046
1-9-17

**Testimony in Support of
HOUSE BILL NO. 1046
House Finance & Taxation Committee**

- January 9, 2017 -

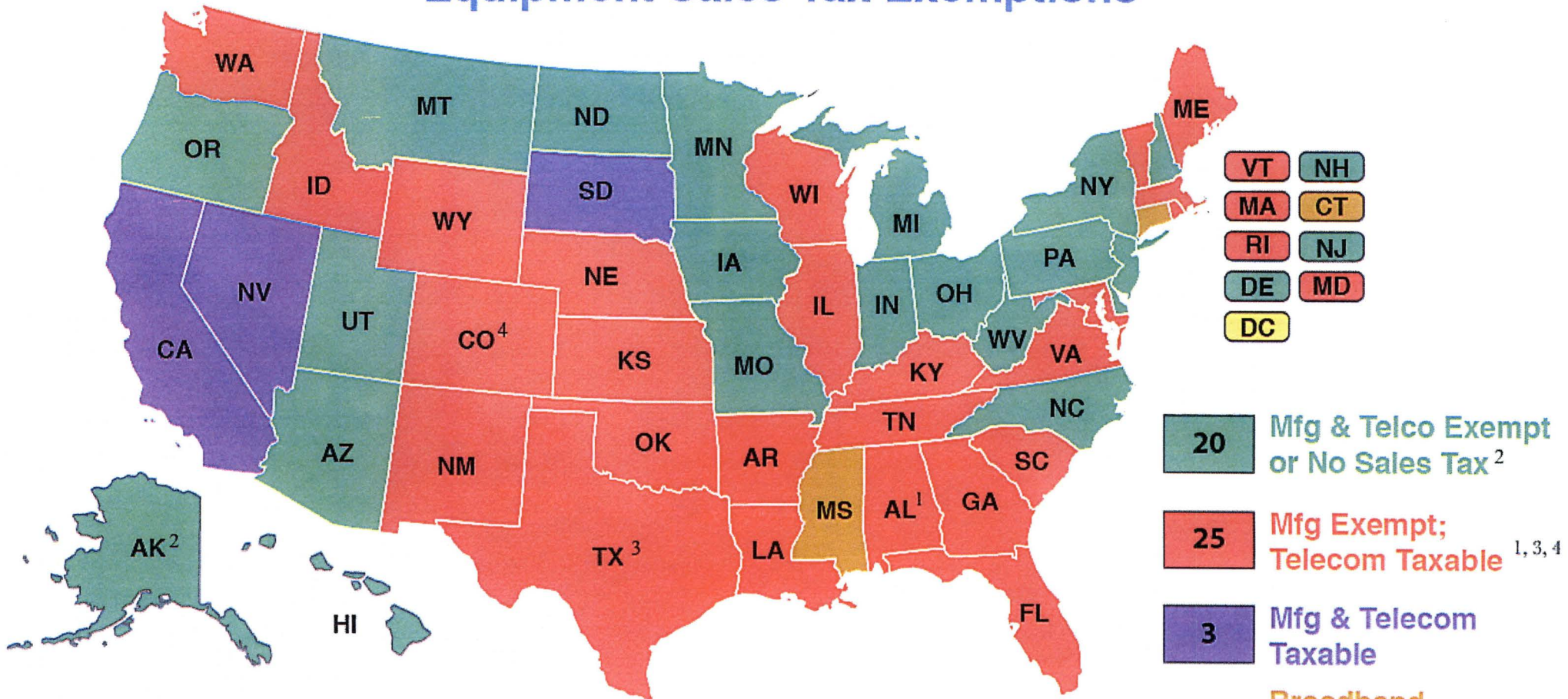
Chairman Headland, House Finance & Taxation Committee members, for the record my name is Todd D. Kranda. I am an attorney with the Kelsch Kelsch Ruff & Kranda Law Firm in Mandan. I appear before you today as a lobbyist on behalf of Verizon Wireless to express support for HB 1046 which relates to the existing telecommunication infrastructure sales and use tax exemption found in Sections 57-39.2-04.9 and 57-40.2-03.3 of the North Dakota Century Code.

In 2007-08 the ND Legislature completed a study of wireless providers in the state and how wireless service impacted the business climate in the state. As a result of the study, there was legislation passed during the 2009 Session that created this exemption to promote the expansion of businesses in the state by the additional investments that are made with the construction and expansion of telecommunication infrastructure.

HB 1046 removes the June 30, 2017 sunset and allows the sales and use tax exemption for equipment used in telecommunications infrastructure development under Sections 57-39.2-04.9 (sales tax) and 57-40.2-03.3 (use tax) NDCC to continue. This tax incentive is an efficient way to decrease the cost to deploy telecommunications infrastructure necessary to provide advanced wireless telecommunication services to more areas across the state. This exemption will help facilitate deployment and maintenance of as well as upgrades for advanced communications systems across the state both in urban and in rural areas where it may not otherwise be feasible to do so. Attached is a map with the state-by-state sales tax exemptions for telecommunication manufacturing equipment.

In conclusion I would urge that you give HB 1046 a favorable **DO PASS** recommendation. If there are any questions I will try to answer them.

Telecommunications/Manufacturing Equipment Sales Tax Exemptions



¹ Alabama - special reduced 1.5% rate

² Alaska - local sales taxes may apply

³ Texas - rebate of taxes paid capped at \$50 million

⁴ Colorado - rebate of taxes paid capped at \$1 million

#2 p.2
HB 1046
1-9-17

HOUSE BILL 1046

HOUSE FINANCE AND TAXATION COMMITTEE

JANUARY 9, 2017

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 in the State.

House Bill 1046 removes the expiration date for the sales tax exemption that currently exists for telecommunications companies building out their infrastructure. 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. The existing statute 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, Voice over Internet Protocol, Internet broadband and others. The Association believes that is sound public policy and offers no provider a competitive advantage.

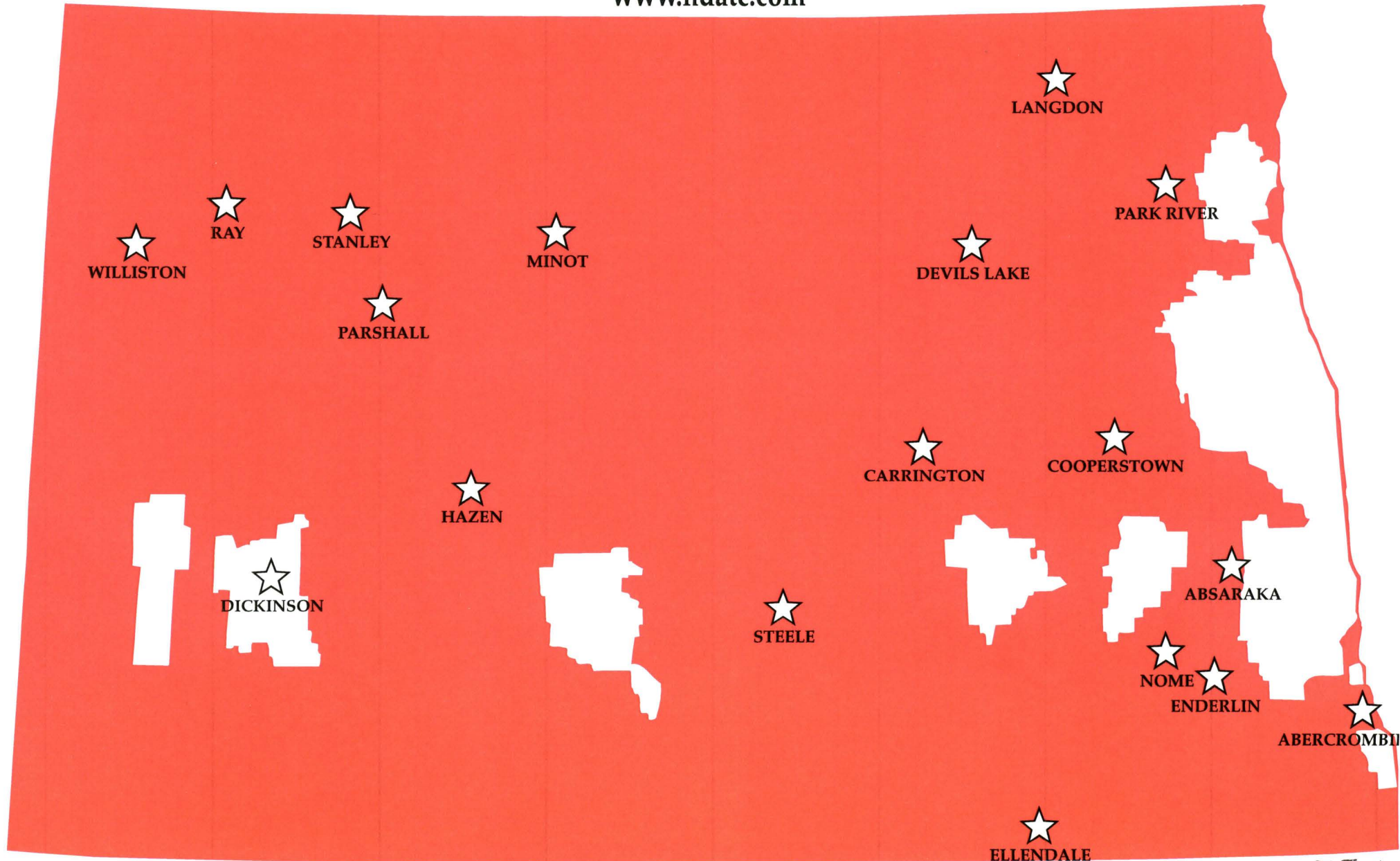
The existing exemption is extremely important to the cooperative and independent telecommunications companies. Rural North Dakotans increasingly rely on telecom infrastructure to access their health, entertainment, government, education and economic opportunities. In response, telecom companies are building out their networks to the most rural areas in the State and dramatically increasing the bandwidth available to customers to meet their needs. As of today, five North Dakota telephone cooperatives have built out fiber to the home infrastructure that allows our residents to have state-of-the-art access to the voice, video and data services they need at up to speeds of 1 GIG. It is anticipated each of the independent telecom companies in the State will be fully built out with fiber-to-the home infrastructure by 2019.

It is tremendously expensive to bring state-of-the-art telecom infrastructure and services to rural North Dakotans. High costs and extremely low population densities per square mile add substantially to the challenge of providing broadband services to those of us on the Great Plains.

The statute that you passed in 2009 allowing for the sales tax exemption that we ask you to continue 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 those 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 21st century economy. Every dollar the cooperatives and small commercial telecom companies in this State earn are reinvested in their employees, their infrastructure and their communities.

Members of the Association urge a "Do Pass" recommendation on House Bill 1046.

NORTH DAKOTA
ASSOCIATION OF TELECOMMUNICATIONS COOPERATIVES
www.ndatc.com



INDEPENDENT TELEPHONE COMPANY TERRITORY IN NORTH DAKOTA

#3
HB 1046
19-17

#3 p.4
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1-9-17



NORTH DAKOTA ASSOCIATION OF TELECOMMUNICATIONS COOPERATIVES

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Carrington, ND 58421
Mgr: Keith Larson
Phone: 701-652-3184
Website : www.daktel.com

DICKEY RURAL TELEPHONE

Ellendale, ND 58436
Mgr: Bob Johnson
Phone: 701-344-5000
Website : www.drtdel.com

INTER-COMMUNITY TELEPHONE COMPANY

Nome, ND 58062
Mgr: Mark Johnson
Phone: 701-924-8815
Website : www.ictc.com

MIDSTATE TELEPHONE COMPANY

Stanley, ND 58784
Mgr: Ryan Wilhelmi
Phone: 701-628-2522
Website : www.midstatetel.com

MISSOURI VALLEY COMMUNICATIONS

Scobey, MT 59263
Mgr: Mike Kilgore
Phone : 406-783-5654
Website : www.nemont.net

THE NORTH DAKOTA RURAL TELEPHONE INDUSTRY

- High-Speed Internet in 278 North Dakota rural communities.
- Independent telcos serve 96 percent of North Dakota's geographic territory.
- Over \$1.3 billion total investment in local telecom infrastructure.
- Over \$78 million in payroll for rural residents in 2015.
- Over 39,000 miles of fiber optic cable.
- 1100 highly trained and educated employees in rural North Dakota communities.

MLGC

Enderlin, ND 58027
Mgr: Tyler Kilde
Phone : 701-437-3300
Website : www.mlgc.com

NEMONT TELEPHONE COOPERATIVE

Scobey, MT 59263
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NORTH DAKOTA TELEPHONE COMPANY

Devils Lake, ND 58301
Mgr: Dave Dircks
Phone : 701-662-1100
Website : www.gondtc.com

NORTHWEST COMMUNICATIONS

Ray, ND 58849
Mgr: Mike Steffan
Phone : 701-568-3331
Website : www.nccray.com

POLAR COMMUNICATIONS

Park River, ND 58270
Mgr: David Dunning
701-284-7221
Website : www.polarcomm.com

RED RIVER COMMUNICATIONS

Abercrombie, ND 58001
Mgr: Jeff Olson
Phone: 701-553-8309
Website : www.redrivercomm.com

RESERVATION TELEPHONE

Parshall, ND 58770
Mgr: Shane Hart
Phone : 701-862-3115
Website : www.rtc.coop

SRT COMMUNICATIONS

Minot, ND 58702
Mgr: Steve Lysne
Phone : 701-858-1200
Website : www.srt.com

UNITED TELEPHONE COOPERATIVE

Langdon, ND 58249
Mgr: Perry Oster
Phone : 701-256-5156
Website : www.utma.com

WEST RIVER TELECOMMUNICATIONS

Hazen, ND 58545
Mgr: Troy Schilling
Phone : 701-748-2211
Website : www.westriv.com



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NORTH DAKOTA ASSOCIATION OF TELECOMMUNICATIONS COOPERATIVES

www.ndatc.com

ABSARAKA TELEPHONE COMPANY

Absaraka, ND 58002
Mgr: Ann Faught
Phone: 701-896-3404

BEK COMMUNICATIONS

Steele, ND 58482
Mgr: Derrick Bulawa
Phone: 701-475-2361
Website: www.bektel.com

CONSOLIDATED TELECOM

Dickinson, ND 58602
Mgr: Paul Schuetzler
Phone: 701-483-4000
Website: www.ctctel.com

DAKOTA CENTRAL TELECOMMUNICATIONS

Carrington, ND 58421
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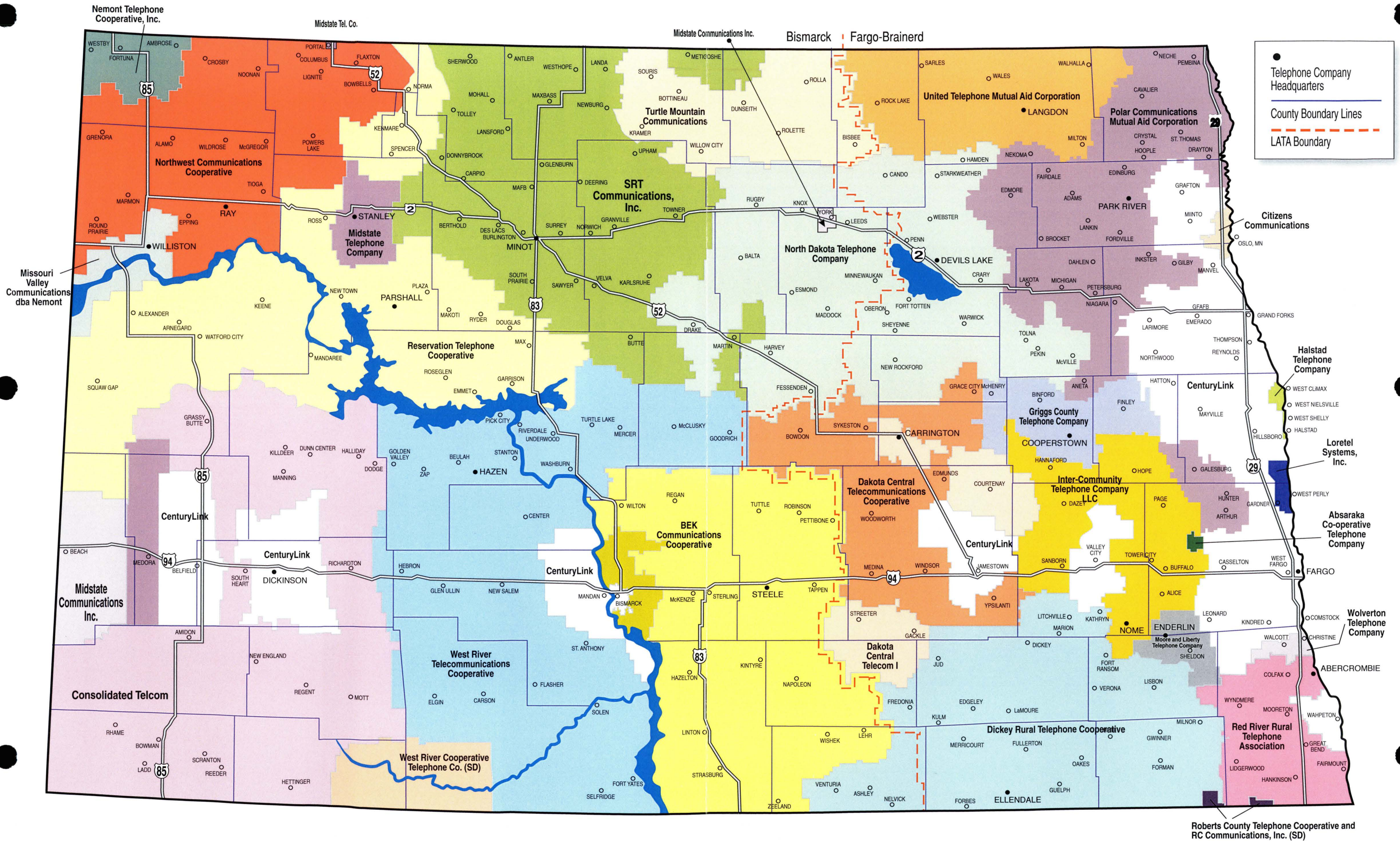
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*\$298 million in 2010-2012 construction spending
on rural telecom infrastructure.*

*1100 highly trained and educated employees
in rural North Dakota communities.*

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House Bill 1046
Testimony of Kent Blickensderfer
House Finance and Tax Committee
Chairman Craig Headland
January 9, 2017

Good morning Chairman Headland and committee members. My name is Kent Blickensderfer and I am the legislative and regulatory director for CenturyLink in North and South Dakota. CenturyLink is the successor company to the former Qwest, US West Communications and Northwestern Bell Telephone Company. CenturyLink today provides communications and data services to residential, business, governmental and wholesale customers in 37 states. I am here today in support of House Bill 1046, which was the result of an interim study by the Political Subdivisions Taxation Committee. It provides for a permanent sales tax exemption on telecommunication infrastructure investments to promote construction and expansion of telecommunication service. House Bill 1046 encourages broadband deployment and more ubiquitous access to the Internet. It helps provide even more access to advanced communication services, specifically for those in outlying areas.

Sales tax incentives are an efficient way to increase investment and decrease the cost of deploying the infrastructure necessary to provide advanced communication services. Decreasing the cost to deploy network assets through tax incentives helps provide advanced communication services to more areas. Deployment of advanced communications systems is critical to ensure more economic opportunities are provided to small- and medium-sized business and consumers in more rural areas.

Advanced communication facilities will improve the education level of our children, allowing families greater access to information services through the Internet at

home. Deployment of advanced communications systems is critical to help expand the educational opportunities children can receive through the state education system as well as at home.

Reducing the cost of infrastructure deployment helps spur competition in the communications industry. Continuing to facilitate deployment of advanced communication services through tax incentives helps promote competition by allowing more providers the ability to enter more markets. Increased competition, as well as reduced deployment costs, helps drive down prices of advanced communication services to consumers. This increases demand for these services, which ultimately brings in more sales tax revenue to the overall economy.

It is for all of these reasons that CenturyLink supports HB1046 and asks the members of this committee to do the same. Questions?



Cheryl Riley
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Northern Plains States

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House Bill 1046

January 9, 2017

Finance and Taxation Committee

Cheryl Riley
President, AT&T Northern Plains States

AT&T strongly supports HB 1046, legislation that would remove the sunset date from the Telecommunications Equipment Sales Tax Exemption.

North Dakotans increasingly rely on high-speed communications networks in their everyday lives for work, entertainment, emergency communications and more. The sales tax exemption encourages technology companies to build out their communications networks to support vital industries such as agriculture, health care, manufacturing, retail and transportation.

North Dakota has gained a well-deserved reputation for supporting business development. Sound policy such as HB 1046 will continue to make North Dakota a state that will attract investment and encourage deployment of high speed communications networks across the state, including rural and underserved areas.

Thank you for your consideration of this legislation.

Sincerely,

Cheryl Riley
AT&T President External Affairs, Northern Plains States