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La Costa Rickford
Operator's Signature

10/15/03
Date

2003 SENATE EDUCATION

SB 2042

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10/15/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2042

Senate Education Committee

☐ Conference Committee

Hearing Date 01-13-03

Tape Number	Side A	Side B	Meter #
1		x	0 - end
2	x		0 - 7.2
Committee Clerk Signature <i>Blanche Johnson</i>			

Minutes: Chairman Freborg called to committee to order. Roll Call was taken with all (6) members present.

Senator Freborg opened the hearing on SB 2042 to provide for use of school district and higher education video conferencing facilities and services; and amend CC relating to exceptions from the definition of telecommunications service.

Testimony in support of SB 2042:

John Bjornson, Legislative Council, explained the changes proposed in the bill. Section I deals with the definition of telecommunication service under the telecommunications law. Page 2, sub-subsection 5, includes businesses in business incubators as those who can use the facilities. Also, the ending date of August 5, 2005 is deleted. Sub-subsection 6 adds "other" users and deletes "nonprofit" users. Page 2, Subsection 2, states the institutions may not incur costs for these services provided to others. Page 3, Section 2, broadens the definition of who can use the

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Senate Education Committee
Bill/Resolution Number SB 2042
Hearing Date 01-13-03

system, namely anyone, as long as a private provider is unavailable, but giving educational or governmental users priority.

Senator Grindberg, Dist. 41, stated the bill addresses entities in business incubation. After 18 - 36 months, a business in incubation should be able to stand on its own. This bill lends support for the access to telecommunications issue.

Senator Larry Robinson, District 24, stated the interim committee is supportive of this bill. The rural areas want access to the system. If the language is problematic, he hopes the committee will find a way for the service to be provided to the rural areas and for the service to work. The purpose is not to take business away from the private sector, but he feels the odds for this service to be provided to rural ND is minimal through the private sector. He strongly feels this service is needed in ND.

Jennifer Feist, Director of Development, Valley City - Barnes County Dev. Corp., presented testimony. (see attached)

Don Hedger, President, Killdeer Mountain Mfg., (Killdeer, Hettinger, Halliday), stated this bill will provide economic development in small communities. Feels there needs to be a dramatic improvement in the telecommunications ability to communicate with businesses in small, rural areas. He stated that Boeing Co. is interested in doing a seamless e-business function with his company, which is a novel opportunity for the state of ND. He feels his company is not large enough to get the necessary facility and/or equipment to do this at a reasonable cost. He feels this bill would allow them to use state facilities and help them at least get started with this project and get it off the ground. Once off the ground, they should be able to pay their own way.

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Senate Education Committee
Bill/Resolution Number SB 2042
Hearing Date 01-13-03

Senator Cook asked if there were figures as to the cost to a company if they would want to put a system in. Mr. Hedger stated, as of now, it is so much a mile, so much a month. He said that when he checked, a figure presented to him was for 22 miles, it was \$1000+ a month. He feels this is probably what providers need to recoup their costs of putting the system in place. He stated the providers already have the lines, but there is the cost to hook up and the equipment costs.

Dana Bohn, Information Technology Council of ND, presented prepared testimony from Jeff Swank, TMI Systems Design Corporation VP. (see attached)

Curtis Wolf, Information Office of ND, gave some additional background information. He stated there are only two companies in the state that have exceeded the 4 year limit. They are now with private providers in anticipation of this bill. There are 200 video rooms across the state with 157 of them in K-12 schools. the rest are in the higher education buildings or in extension centers. The intent of Section 3 was to offer, on an as available basis, for a fee, where there is not a private sector provider, the use of those facilities in one of the 200 locations. Several cities have offered the use of their teleconferencing facilities as a recruitment enticement to respective businesses in the private sector. This is illegal according to current law. The current system has "quality of service" offered, which guarantees a the quality of the video session to be the best available. The taxpayers paid for the lines and the state leases from local providers.

Testimony in opposition to SB 2042:

David Crothers, ND Assn. of Telephone Coops., presented testimony. (see attached)

La Costa Rickford
Operator's signature

10/15/03
Date

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Senate Education Committee
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Hearing Date 01-13-03

Senator Cook asked if there is a place where businesses can go now instead of the local school.

Mr. Crothers stated there is, but not without a certain expense at this time. He feels that in the future, the rural areas will have ways to transmit at a reasonable fee.

Kent Blickensderfer, Qwest Corp., presented testimony. (see attached). He feels the bill is about money.

Senator Cook asked if a company has a one-time use for the system, is the service available. Mr. Blickensderfer stated the service is available, but the cost is unknown. He feels that as the need arises in the rural communities, the services will be provided, by private providers. In Bismarck, there are several providers, BTI to name one. In some areas, local Realtors have this available.

Senator Flakoll and Senator Freborg asked about the removal of the 2005 date. They will get a ruling from Leg. Council whether this will restart companies that are currently on the system for four years and give them another four years.

Mick Grosz, West River Telephone and Telecommunications, has a concern with this. His company has written contracts with certain companies for certain dollar amounts. If the state resells its capacity, these companies may not renew their contracts with them, especially at the current rate. The state can provide every need for every company if they get into this program. He feels this is a bad bill for private business.

Senator Taylor asked if the school would not have the video conferencing capabilities through the government carrier, would they be able to have it through the local telephone company or a local provider, and would the cost be prohibitive. Mr. Grosz stated he feels the cost would go down in the future, but every town has the capability to have video conferencing at this time.

The hearing was closed on SB 2042.

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2042

Senate Education Committee

☐ Conference Committee

Hearing Date 01-14-03 (discussion)

Tape Number	Side A	Side B	Meter #
1		x	50.0 - end
2	x		0 - 2.5
Committee Clerk Signature <i>Andrea Johnson</i>			

Minutes: Chairman Freborg called the committee to order. Roll Call was taken with all (6) members present.

Senator Taylor would like to propose an amendment that would limit the time businesses could access the school site, maybe sunset it for 2 - 3 years. By putting a sunset clause on the bill, it would allow the businesses to get a taste of the technology and to see if they would need or want to use it. He also would like clearer language as to the fees and where the fees go.

Senator Flakoll asked if this would make it clearer that the clock would start, as to the four year limit, when the business would use the service for the first time. Senator Taylor thinks so.

Senator Flakoll wondered if there would be a lot of chances for loopholes in this legislation.

Senator Cook wonders if this bill is just a bad bill and no amount of amending is going to make it better.

Discussion ended.

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2042

Senate Education Committee

☐ Conference Committee

Hearing Date 01-15-03

Tape Number	Side A	Side B	Meter #
3	x		0 - 22.8
Committee Clerk Signature <i>Andrea Johnson</i>			

Minutes: Chairman Freborg called the committee to order. Roll call was taken with all (6) members present.

Senator Flakoll presented an amendment which would attempt to keep the government out of the private business sector. Removed Section 2 from the bill because that was where the government was taking over in the private business sector. The bill will still require a four year sunset for an incubator situation, which he feels is important.

Senator Flakoll moved the amendments. Seconded by Senator Cook.

Senator Freborg stated that in essence, this amendment will take private business out of the picture by not allowing them to use the school or government telecommunication system.

Private business would have to work out their own plan to provide this service. A depreciation schedule for private entities would also be available.

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Senate Education Committee
Bill/Resolution Number SB 2042
Hearing Date 01-15-03

It was asked what is the availability of this service throughout the state. There is no documentation on this. However, this service is available if you're willing to pay for it. (The lines are there but the equipment would have to be purchased for the video conferencing.)

Senator Flakoll stated that within Section 2, there is a possibility that schools could adjust schedules so the paying customer (private sector) may come first before the nonprofit or school or government entity.

Roll Call Vote: 4 YES. 2 NO. 0 Absent.

The amendment was adopted.

Senator Flakoll moved a DO PASS as Amended. Seconded by Senator Taylor.

Roll Call Vote: 3 YES. 3 NO. 0 Absent. Motion Failed

Senator Cook moved a DO NOT PASS As Amended. Seconded by Senator Christenson.

Roll Call Vote: 4 YES. 2 NO. 0 Absent. Motion Carried.

Carrier: Senator Cook

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2042

Senate Education Committee

☐ Conference Committee

Hearing Date 01-27-03

Tape Number	Side A	Side B	Meter #
1	x		10.0 - 22.7

Committee Clerk Signature

Andrew Johnson

Minutes: CHAIRMAN FREBORG called the committee to order. Roll Call was taken with all (6) members present.

SENATOR COOK moved to reconsider the committee's action (Do Not Pass as Amended) on SB 2042. Seconded by SENATOR LEE.

Roll Call Vote to reconsider: 6 YES. 0 NO. 0 Absent. Motion Carried.

SENATOR COOK presented e-mail testimony from Debra Kramer re: Response to E-Rate question from ND re: K - 12 schools selling excess capacity. (see attached). This defines "educational purposes" and the FCC rules on selling excess capacity and the discounts received.

SENATOR COOK moved the amendments 30123.0303. Seconded by SENATOR FLAKOLL.

SENATOR COOK feels the concerns of the people who opposed the bill are addressed with this amendment. Beginning businesses and businesses in incubators will still have four years to use the system. He has received a lot of information since the onset of this bill. The technology to

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Senate Education Committee
Bill/Resolution Number SB 2042
Hearing Date 01-27-03

do video conferencing is available and is expanding rapidly. The cost will be driven by supply and demand, he feels.

Roll Call Vote on amendment 30125.0303. 6 YES. 0 NO. 0 Absent. Motion Carried.

SENATOR COOK moved a DO PASS as Amended. Seconded by SENATOR FLAKOLL.

Roll Call Vote: 6 YES. 0 NO. 0 Absent. Motion Carried.

Carrier: SENATOR COOK

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Operator's Signature

LaCosta Rickford

10/15/03

Date

FISCAL NOTE
Requested by Legislative Council
12/16/2002

Bill/Resolution No.: SB 2042

1A. 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.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. Narrative: Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

This proposed legislation change will not have a fiscal impact.

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.

This proposed legislation change will not affect revenues.

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.

This proposed legislation change will not affect expenses.

C. Appropriations: Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

This proposed legislation change will not affect appropriations.

Name:	Mike J. Ressler	Agency:	Information Technology Department
Phone Number:	328-1001	Date Prepared:	12/16/2002

Sen. Flakoll

SB 2042

Page 2, line 22, remove overstrike on "nonprofit", remove "other" and immediately following "nonprofit", insert "s affiliated with an institution of higher education who are"

Page 2, line 29, remove "others" and insert "those entities identified in section (j)"

Page 3, remove lines 3 through 8

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Lacosta Rickford
Operator's Signature

10/15/03
Date

Date: 1/15/03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. *amend. to SB2042*

Senate	EDUCATION	Committee
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☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass (Flakoll amend)

Motion Made By Sen Flakoll Seconded By Sen Cook

[illegible]

Total (Yes) 4 No 2

Absent 0

Floor Assignment

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

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Operator's signature La Costa Rickford Date 10/15/03

Date: 1/15/03
Roll Call Vote #: 2

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2042

Senate EDUCATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DPA

Motion Made By Sen Flakoll Seconded By Sen Taylor

Senators	Yes	No	Senators	Yes	No
LAYTON FREBORG, CHAIR.	✓		LINDA CHRISTENSON		✓
GARY A. LEE, V. CHAIR.		✓	RYAN M. TAYLOR	✓	
DWIGHT COOK		✓			
TIM FLAKOLL	✓				

Total (Yes) 3 No 3

Absent 0

Floor Assignment Failed

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

Date: 11/15/03
Roll Call Vote #: 3

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2042

Senate EDUCATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DNP A

Motion Made By Sen. Cook Seconded By Sen. Christenson

Senators	Yes	No	Senators	Yes	No
LAYTON FREBORG, CHAIR.	✓		LINDA CHRISTENSON	✓	
GARY A. LEE, V. CHAIR.	✓		RYAN M. TAYLOR		✓
DWIGHT COOK	✓				
TIM FLAKOLL		✓			

Total (Yes) 4 No 2

Absent 0

Floor Assignment Sen. Cook

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

REPORT OF STANDING COMMITTEE (410)
January 17, 2003 9:28 a.m.

Module No: SR-09-0707
Carrier: Cook
Insert LC: 30125.0301 Title: .0400

REPORT OF STANDING COMMITTEE

SB 2042: Education Committee (Sen. Freborg, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO NOT PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2042 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "to provide for use of school district and higher education videoconferencing"

Page 1, line 2, remove "facilities and services; and"

Page 2, line 22, overstrike the first comma and insert immediately thereafter "and", overstrike the second comma and insert immediately thereafter "entitles", remove the overstrike over "~~nonprofit~~", and replace "other" with "entitles that are affiliated with an institution of higher education which are"

Page 2, line 29, replace "others" with "the entitles identified in subdivision 1 of subsection 1"

Page 3, remove lines 3 through 8

Renumber accordingly

Date: 1/27/03

Roll Call Vote #: /

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. *SB 2042*

Senate EDUCATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken reconsider SB 2042 as DNPA

Motion Made By Sen. Cook Seconded By Sen. Lee

[illegible]

Total (Yes) 6 No 0

Absent 0

Floor Assignment

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

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Operator's Signature La Costa Rickford

10/15/03
Date

30125.0303
Title.0500

Prepared by the Legislative Council staff for
Senator Cook
January 24, 2003

Jo3
1-27-03

PROPOSED AMENDMENTS TO SENATE BILL NO. 2042

In lieu of the amendments to Senate Bill No. 2042 as printed on page 95 (Day 9) of the Senate Journal, Senate Bill No. 2042 is amended as follows:

Page 1, line 1, remove "provide for use of school district and higher education
videoconferencing"

Page 1, line 2, remove "facilities and services; and to"

Page 2, line 6, overstrike the second "or" and insert immediately thereafter "of an"

Page 2, line 17, after the semicolon insert "and"

Page 2, line 21, overstrike "; and"

Page 2, line 22, remove "(6)", overstrike "Educational, governmental, and", remove "other", and
overstrike "users of system or"

Page 2, overstrike line 23

Page 2, line 24, overstrike "network services"

Page 2, line 29, replace "others" with "the entities identified in subdivision 1 of subsection 1"

Page 3, remove lines 3 through 8

Renumber accordingly

Date: 1/27/03
Roll Call Vote #: 2

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB2042

Senate EDUCATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken amendment 30125.0303

Motion Made By Cook Seconded By Lee

Senators	Yes	No	Senators	Yes	No
LAYTON FREBORG, CHAIR.	✓		LINDA CHRISTENSON	✓	
GARY A. LEE, V. CHAIR.	✓		RYAN M. TAYLOR	✓	
DWIGHT COOK	✓				
TIM FLAKOLL	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

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

amendment passed

Date: 1/27/03

Roll Call Vote #: 3

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. *SB2042*

Senate	EDUCATION	Committee
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☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as amended

Motion Made By Sen. Cook Seconded By Sen. Flakoll

[illegible]

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Cook

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

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La Costa Rickford 10/15/03
Operator's Signature Date

REPORT OF STANDING COMMITTEE (410)
January 28, 2003 12:04 p.m.

Module No: SR-16-1186
Carrier: Cook
Insert LC: 30125.0303 Title: .0500

REPORT OF STANDING COMMITTEE

SB 2042: Education Committee (Sen. Freborg, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2042 was placed on the Sixth order on the calendar.

In lieu of the amendments to Senate Bill No. 2042 as printed on page 95 of the Senate Journal, Senate Bill No. 2042 is amended as follows:

Page 1, line 1, remove "provide for use of school district and higher education videoconferencing"

Page 1, line 2, remove "facilities and services; and to"

Page 2, line 6, overstrike the second "or" and insert immediately thereafter "of an"

Page 2, line 17, after the semicolon insert "and"

Page 2, line 21, overstrike "; and"

Page 2, line 22, remove "(6)", overstrike "Educational, governmental, and", remove "other", and overstrike "users of system or"

Page 2, overstrike line 23

Page 2, line 24, overstrike "network services"

Page 2, line 29, replace "others" with "the entities identified in subdivision 1 of subsection 1"

Page 3, remove lines 3 through 8

Renumber accordingly

La Costa Rickford
Operator's Signature

10/15/03
Date

REPORT OF STANDING COMMITTEE (410)
January 29, 2003 12:28 p.m.

Module No: SR-17-1251
Carrier: Cook
Insert LC: 30125.0303 Title: .0500

REPORT OF STANDING COMMITTEE

SB 2042: Education Committee (Sen. Freborg, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2042 was placed on the Sixth order on the calendar.

In lieu of the amendments to Senate Bill No. 2042 as printed on page 95 (Day 9) of the Senate Journal, Senate Bill No. 2042 is amended as follows:

Page 1, line 1, remove "provide for use of school district and higher education videoconferencing"

Page 1, line 2, remove "facilities and services; and to"

Page 2, line 6, overstrike the second "or" and insert immediately thereafter "of an"

Page 2, line 17, after the semicolon insert "and"

Page 2, line 21, overstrike "; and"

Page 2, line 22, remove "(6)", overstrike "Educational, governmental, and", remove "other", and overstrike "users of system or"

Page 2, overstrike line 23

Page 2, line 24, overstrike "network services"

Page 2, line 29, replace "others" with "the entities identified in subdivision 1 of subsection 1"

Page 3, remove lines 3 through 8

Renumber accordingly

2003 HOUSE EDUCATION

SB 2042

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Operator's Signature

10/15/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES
BILL/RESOLUTION NO. SB 2042
House Education Committee

☐ Conference Committee

Hearing Date March 03, 2003

Tape Number	Side A	Side B	Meter #
1	x		1666-4150
2	x		660-850
Committee Clerk Signature <i>Linda Fiechter</i>			

Minutes: Chairman Kelsch opened the hearing on SB 2042.

Jon Bjornson, Legislative Council, Interim Information Technology Committee

As it was originally introduced to address the definition of telecommunications, this is in the telecommunications part of the code. As it was introduced the bill provided that the term telecommunications did not apply to the list of things stated in the original bill. Basically does a couple of things, page 2 line 10, exclusion from the definition of telecommunications, services provided by institutions of higher education. the first changes are on line 5 'a system of'. reviewed the underscoring and amendments made by the Senate.

Opposition

Grant Crawford, CIO of ND University System, See Attached Testimony w/ amendments.

Chairman Kelsch if the bill was to go away, what would change?

Crawford: We would essentially be in the same position that we were before the bill came, a DNP we will be happy with that.

Chairman Kelsch The amendments are if the committee wants to move forward, those are the

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House Education Committee
Bill/Resolution Number SB 2042
Hearing Date March 3, 2003

amendments that you wish to put in place. **Crawford:** That is correct

Rep. Haas "limited use" definition

Crawford: This can be a very slippery thing, At what point does an activity become viable for a commercial enterprise. For instance: If you said 'a business could use this ten times in the course of the year' is that sufficient use to warrant the expenditure on the part of the telecommunications provider or a business to set up a video conference. Is that enough activity to get a payback on from the use of the facility. What I am looking for is enough usage to give people a taste and to say this is useful this will keep us from having to drive around the state to conduct our business and we can make gainful use of this service and we are willing to pay commercial rates for them.

Rep. Haas If that is the case then, at what point to you make the determination that the experiment has gone on long enough, and the commercial enterprises have to step in?

Crawford: I 'm proposing that you allow this for the upcoming biennium and then re examine it in 2005.

Rep. Williams Why is this bill in front of us? I don't know what the problem is? I don't know what this bill is trying to answer, or what the problem even is.

Chairman Kelsch Actually the bill as it came out from the Senate really doesn't do anything that the interim committee had intended for it to do in the first place. That is why you are not getting, I believe in the Senate, there was a lot of support for the bill and some opposition and the Senate took some of the oppositions amendments and put that into the bill. I am of the opinion at this

Kent Blickensderfer, Qwest Corporation

Not necessarily in support of this bill but to offer some points of clarification to the previous speaker. This section of the law represents a compromised that was struck with the University

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House Education Committee
Bill/Resolution Number SB 2042
Hearing Date March 3, 2003

System and telecom industry in 2001. To avoid regulatory problems with the public service commission on what the University System was to provide with regards to telecommunication. This bill that came out of the interim committee then went much further and allowed the use of teleconferencing facilities on a limited basis. If there is not currently being provided for by a private sector company. If we have to compete against a 200M statewide network there is no way you are going to offer those services. Those services are offered today, it is whether or not the companies want to pay for them. We heard from a small company in Watford City would like to be able to use those services between two small towns in western ND. And we also heard from the cooperative serving that area, that those services are available, it is whether or not you want to purchase the equipment and make it viable. This is an article from the Minneapolis Star Tribune, February 23, and it is about a new company called Video Guidance Inc. A lot of this equipment used to be very expensive and they now have the availability to provide this transmission equipment as long the lines are viable in ND and they are, for around 10K, the prices are coming down, business do have options, and we don't feel it is proper for the state to be competing in this arena. This bill deals with regulatory oversight from the public service commission, when amended out it was there was so much new language added in the Senate side that we felt that it was permissive language and that is what we felt should be removed.

Rep. Sitte Talking about the viability of this equipment and how wonderful it would be to be able to use this for their small business between Bowman and Dickinson. Is there a reasonable medium point? Could the communities of Bowman and Dickinson purchase the equipment or would that still be a conflict of study?

Blickensderfer: The services are available today if you utilize state network facilities. The

Lacosta Rickford
Operator's Signature

10/15/03
Date

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House Education Committee
Bill/Resolution Number SB 2042
Hearing Date March 3, 2003

carrier out there whether it is Qwest or Consolidated in the case that you are siting will never want to put those facilities in because they don't want to compete with the state's subsidized network. Dick Hedahl in town has become some kind of expert on this and he talk to a company that has started to market a mobile units, where you utilize mini vans to go between the sites and they have satellite hookups and the cost of that are coming down also. The example is one we sympathize with but there are a lot of things that are not available in small town ND, it doesn't mean that the state should get in the business of providing it.

Rep. Williams In current format, does this bill have any merit? **Blickensderfer:** Probably not

Rep. Mueller What is your solution to the issue for provisions for the small entities out there?

Blickensderfer: I don't know if there is the problem that needs to be answered. You may have a couple of isolated cases where business say they want this and this service, but they don't want to pay for them. The services are available to them and we can't take away the revenue for the entities that are currently out there and they are paying taxes to the state.

Rep. Haas Are you comfortable to the terms that were arranged in 2001?

Blickensderfer: I think we are and we don't want to mess up anything the University System are doing to servicing their alumni associations on campus. That is not our interest at all. Our goal is to limit our competition and we believe already exists with state government.

Mike Ressler, CIO with Information Technology Department

(3454) Supports a DNP in its current form. I would like to give a little bit of history on this has to how this came about. In the interim committee on Information Technology, the ITC of ND, presented in front of the committee a need for rural ND to have video services available. Because we had connections throughout ND at the schools, they felt this was the location where that

Lacosta Rickford
Operator's Signature

10/15/03
Date

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House Education Committee

Bill/Resolution Number SB 2042

Hearing Date March 3, 2003

service could be conducted. They put in there that as long as that service was not available in the community through the private sector. The schools could provide this service for a fee. The question that the interim committee had was the facility are available from the rural telecom in those communities, but was the service available if all you wanted to do was a one hour conference once a month or every two months. So we felt that at that time in its current form this legislation served a purpose. In earlier years we were responsible for a network for state government. We provided Internet access to state agencies. At that time that was not available by the private sector, so we offered it to them. As soon as the public started creating companies that provided that service, information service got out of the business. We were going to operate under that same model. Under its current for we have no desire for this to pass.

Rep. Williams You brought up that scenario that schools providing this service for a fee. Is there anything that prevents them now from not providing this service for a fee?

Ressler: Yes under the current law, today they can't use the network and their equipment for private sector use, for fee or no fee.

Rep. Jon Nelson You referenced an Internet hookups that are provided for small communities, do you feel that service is beneficial and created a win/win situation before the private sector was able to pick up the service?

Ressler: Yes we did, in fact, I think the reason ITCND was so supportive of this initiative from an economic development stand point. We felt that if all you had to do was wet the appetite and once people start seeing what video can do, it was going to create a business or market for that product/service. And that has what happened with video access.

Rep. Jon Nelson Why don't you feel the same way about video conferencing?

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House Education Committee
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Ressler: We do that was the purpose for creating the original legislation, but it was amended in the Senate to say we could not provide that. Therefore, we have no purpose for this bill.

Chairman Kelsch How much demand is there for video conferencing in the rural small areas?

Ressler: There were a number of companies, small number, that came in front of the interim committee to say that there was a need for this, today I'm not so sure there is a lot of need but we have definitely have seen in state government. As agencies have seen this technology and are starting to see reasons to use it. I think the same thing will happen in the private sector, once they start using it they will it will generate a business. Personal opinion.

Blickensderfer: It was presented on the Senate side, that if the schools were to providing these types of video conferencing to the private sector and charging a fee they would loose their e-rate reimbursement which gets paid directly back to the state. I believe that the rate is approx. 4M/yr. And be under the oversight of the Public Service Commission as a telecom provider.

Dana Bohn, Executive Director for the ITND, See Attached Testimony

(4150) closed hearing

Committee work

Rep. Meier moved a DO NOT PASS, Rep. Hawken second the motion.

No discussion

Roll vote 13-0-1 , Rep. Sitte will carry the bill.

Date: 3/3/03
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2042

House HOUSE EDUCATION

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

DO NOT PASS

Motion Made By

HANSEN MEIER

Seconded By

MEIER HAWKEN

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch	✓				
Rep. Johnson	✓				
Rep. Nelson	✓				
Rep. Haas	✓				
Rep. Hawken	✓				
Rep. Herbel	✓				
Rep. Meier	✓				
Rep. Norland	AB				
Rep. Sitte	✓				
Rep. Hanson	✓				
Rep. Hunsakor	✓				
Rep. Mueller	✓				
Rep. Solberg	✓				
Rep. Williams	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Sitte

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

REPORT OF STANDING COMMITTEE (410)
March 3, 2003 4:17 p.m.

Module No: HR-37-3800
Carrier: Slits
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
SB 2042, as engrossed: Education Committee (Rep. R. Kelsch, Chairman) recommends
DO NOT PASS (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed
SB 2042 was placed on the Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-37-3800

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10/15/03

2003 TESTIMONY

SB 2042

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10/15/03
Date

SB2042

Education Committee
Senator L. Freborg, Chairman
Testimony Provided By: Jennifer Felst, Director of Development
Valley City - Barnes County Development Corporation
January 13, 2003

Valley City - Barnes County like most of North Dakota experiences negative demographic trends and faces the challenge of what to do about it. We made a strategic decision to pursue high tech companies in an effort to retain our people, especially our youth and University graduates, increase population, and increase wage levels in Barnes County. Valley City State University provided a foundation upon which we could build...the Kathryn Center for Lifelong Learning, the Notebook Initiative, and partnerships with private businesses. The Development Corporation, City and County Commissions and VCSU initiated a bold move to pursue high tech companies. The 20,000 sq.ft. Regional Technology Center is a \$1.7 M investment. It houses a business incubator to help entrepreneurs start their companies or existing companies expanding into new markets, products and services within the IT industry. Our reasoning was we could 1) lower start up costs; 2) aggregate telecommunications services and 3) secure technical support services.

See also
Valley
State

Today, the RTC houses one company with a second that has incubated out of the facility and currently located in downtown Valley City. We are currently negotiating with a third company, which we hope will be operational by March. Last week through marketing efforts, I spoke with the CEO of an IT company whose comment was; "If we located our expansion project in Valley City, we would need to answer the logistics question of how we would maintain contact with and provide management services to a remote site."

Video conferencing is important to the success of the RTC and our efforts for a number of reasons:

- > Answer the logistics question;
- > Provide a means of direct face-to face communication for companies that would locate remote sites or branch offices in rural communities;
- > Insure that smaller communities can participate and be competitive in the IT industry. You cannot say "no we don't have that" too many times before your community is dropped off the list. The state system will help place us on a level playing field;
- > The private sector is not providing video conferencing services and there is no indication that will happen in the near future;
- > Use of the state system can help the private sector not hurt it;
- > Use of the state system through our Universities or schools will help build demand;
- > They are essentially providing market development and market analysis that we can build into a business model. Hard statistics based on historical numbers can be generated to help the private sector decide if a market exists in our community and to what extent prior to making an investment. The state system can help incubate another business or expand an existing business wanting to add a new service;

I had an opportunity to serve on the Higher Education Roundtable chaired by Senator Dave Nething. The overwhelming message is that Higher Education must be a driving force in economic development to help change the landscape of North Dakota and grow our state. Use of the state system and video conferencing services is a perfect example of the Higher Education system responding to community needs to attract companies, create quality, higher paying jobs and retain and increase population.

If your vision for rural North Dakota communities is to see them as viable, thriving communities to the greatest extent possible, passage of this bill is something the Legislature can do to help.

Thank you for the opportunity to be here. I'll try to answer any questions that you may have.

LaCosta Rickford
Operator's Signature

10/15/03
Date

Testimony of Jeff Swank

TMI Systems Design Corporation Vice President

on SB 2042

January 13, 2003

Mr. Chairman and members of the Senate Education Committee:

My name is Jeff Swank and I am a Vice President at TMI Systems Design Corporation in Dickinson. Today, I am here to speak for the Information Technology Council of North Dakota (ITCND), of which I serve as the President. It is a pleasure to be here today to testify in support of SB 2042.

ITCND was formed in 2000 by North Dakota business, government and university leaders who recognized the need to strengthen the state's information technology infrastructure and reposition the state as a national leader in IT. ITCND has more than 100 members and continues to grow every day.

The members of ITCND believe in a stronger North Dakota through information technology excellence and development, and we thank you for your leadership and support in the past. ITCND has endorsed SB 2042 as one of the key components of its 2003 legislative agenda because it helps further many of the goals of our organization. These goals include: knowledge sharing and networking, talent development, business development, entrepreneurship and infrastructure development.

Support for this bill comes from the grassroots level. ITCND has held numerous meetings and discussions with its members during the past year and as part of the New Economy Initiative clustering process, ITCND has forwarded this input to the ITCND Public Policy Committee. The ITCND Public Policy Committee has representatives from large and small IT companies in various parts of the state, and includes Curtis Wolfe, the state Chief Information Officer (CIO). This committee used the input from the IT industry stakeholders and its knowledge of the IT industry in the state of North Dakota to develop the 2003 ITCND Legislative Agenda, which includes our support for SB 2042.

The ITCND board of directors met in July and unanimously endorsed the concept in this bill, which was also endorsed by the New Economy Initiative Committee.

ITCND Page 1

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Date

We would like to have the August 1, 2005, limitation on the length of time tenants of Technology Parks or Incubators can receive services from Higher Education Institutions removed. We believe providing services to start-up companies has worked well and we'd like to see that continue. North Dakota's future is based on creating new opportunities and incubators help create those opportunities. Let's give them every chance we can to succeed.

We also support the "as available use" of the state's video conferencing systems. Video conferencing systems are available in educational and government facilities on the state network in many local communities, and we see tremendous opportunities in allowing the private sector to utilize the state's video conferencing network, much like the North Dakota University System's IVN.

ITCND encourages your support on SB 2042 for the following reasons:

1 The top barriers to IT growth, according to those participating in the IT cluster meetings as part of the New Economy Initiative during the past two years, included:

- Financing
- Workforce training and development
- Infrastructure
- Education

2 The information technology industry is one of the most promising growth industries in the nation, and North Dakota has a bright future as an IT leader. North Dakota's IT employment has grown at 8.1 percent, compared to a national average of 7 percent for the past five years. North Dakota's IT employment is projected to outpace the national average over the next five years.

3 We see this SB 2042 as an economic development tool, which helps address the top industry challenges. We believe this is a tool for attracting information technology businesses and telecommuters to rural areas.

Unfortunately, if we can't attract businesses to rural area, we won't even need the video conferencing services that we do have.

4 Gene Veeder, the economic development director from Watford City says his city has a programming company in Watford City with a corporate office in Eagan, Minnesota. This company would be very interested in this type of service.

ITCND Page 2

Lacosta Rickford
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In addition, First International Bank in Watford City has corporate office in twelve cities and would utilize this service. These companies are willing to pay for the connectivity because it is vital to operations.

The intent of this bill is not to create competition with the private sector, but to provide an option in areas where video conferencing isn't available. The intent is to provide an option to those who are in need of this service. It is for areas where market-based approaches don't work, but access is critical. As with the IVN system, the private sector fees can help defray the cost of the system.

Many statewide organizations like ITCND utilize the IVN system to save time and travel expenses. Membership in these organizations increases business efficiency and connectivity. However, if members from Dickinson have to attend a meeting in Fargo it takes them away from their businesses for nearly two days.

Distance has always been a disadvantage for North Dakota, and this is just another tool to help break down this barrier. It makes sense to allow people in rural areas to participate in training and education opportunities or meetings which they normally couldn't access due to time and distance restraints.

According to new economy rankings, the level on internet use and connectivity in North Dakota is low. However, the use of technology in schools and universities is high. This is not a coincidence; rather it is a result of the foresight by the North Dakota Legislature.

In the new economy, globalism is key, and North Dakota's linkages with the global economy continue to trail that of the rest of the nation. This is something we have to change, and increasing connectivity helps increase globalism.

This technology can link people, businesses, schools and government in new ways and create new opportunities for North Dakotans.

We thank you for your support of IT development in the past, we strongly encourage you to support SB 2042, and we ask that you continue to actively support the use, growth and development of information technology in North Dakota.

Swank testimony in support of SB 2042.

ITCND Page 3

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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 2042

SENATE EDUCATION COMMITTEE

JANUARY 13, 2003

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 164,000 homes and small businesses and approximately 94 percent of the geographic territory of North Dakota.

Senate Bill 2042 proposes to allow the State of North Dakota to begin selling telecommunications services to the residents of the State and go into competition against private providers, including the telephone cooperatives and family-owned telephone companies.

* Members of the Association believe that passage of this legislation is bad public policy, would severely restrict investment in telecommunications infrastructure throughout the State and lead to higher telephone bills for the residents of North Dakota.

Specifically, Senate Bill 2042 would allow each school district and institution of higher learning to begin selling "videoconferencing and associated network services" to the public when "a private provider is unavailable and the access does not inhibit future private provider service."

What this legislation is not about is a person or business in North Dakota whose telecommunications infrastructure could not support videoconferencing. It is not about private providers who are unable to offer the videoconferencing. It is not about North Dakota telephone companies unwilling to invest in telecommunications infrastructure.

This legislation is about what price a customer will pay for "videoconferencing and associated network services." Will it be a taxpayer subsidized price for some customers or will it be the price negotiated between the customer and the private telephone company? (provider) *

What this legislation seeks to do is cross that "bright line" between the State offering telecommunications services to government units and on education property to the State going into competition against the private telecommunications providers and to begin offering services to the public-at-large.

The service the State seeks to provide is available today. A recent article in The Forum, which I have included in your packets of testimony, chronicles how pharmacies in Rolette, Maddock, Beach and New England are communicating with staff and patients over interactive video systems right now. Gwinner, New Town and Watford City will have the systems soon. The North Dakota Pharmacy Board, according to the article, hopes to have another 10 locations in place this year and perhaps another 10 sites next year.

However, Senate Bill 2042 presents a broader question than just should the legislature open up videoconferencing to the public. It presents this body with the question of whether the State should compete with private businesses providing the same service. *

Private business can never compete against the State. The State does not pay a State income tax. The State does not pay Federal income tax. The State does not pay interest on the money it uses and the State's residents make up any shortfalls in a State's revenues. It is unfair competition and it has the effect of killing any initiative or incentive in the private sector.

Proponents of the legislation have included language on page 3 of the bill that would prevent school districts or institutions of higher learning from offering videoconferencing or associated services if the access would "inhibit future private provider service." Members of the Association believe that any business the State enters into has the effect of discouraging investment by the private sector in those very same services. *

Videoconferencing is a developing service right now. Just because it is not widely available or inexpensive does not mean that it will remain that way in the future. Every piece of technology, whether it be computers, routers, cell phones, personal digital assistants, fiber optic cable or televisions

have rapidly decreased in price as new applications were developed and engineering improved. There is no reason to believe that videoconferencing will be the exception.

That a service, or a provider of a service, is not available in a particular North Dakota community should not be the determining factor on whether the State comes in to fill the void and offer the service. It is impractical and unfair. In fact, more people in North Dakota would be impacted if the State opened a John Deere dealership in every community with a school in this State.

* The Association believes that the State entering any business in competition with the private sector is bad public policy and on the wrong side of that "bright line" that separates the two. We also believe that opening up State facilities begins a process that does not have a logical end until the government provides all services, local, long distance, high-speed broadband and Internet to the State's residents. It is bad public policy.

Members of the Association urge a Do Not Pass on SB 2042.

METRO/STAT

AP Tuesday, December 17, 2002

Pharmacist shortage fuels new ideas

Videopharmacies, telepharmacies help in rural areas

Associated Press

MADDOCK, N.D. - Independent pharmacist Jim Manning has been pleased with his ability to keep pace with the buying power of the chains, franchises and hospital-based pharmacies.

But when he started looking for a pharmacist in his grocery-outlet store this month, he discovered the competition was out of his league.

Manning said that if he cannot find a pharmacist, he will have to either sell his Market Pharmacy or closing Manning Pharmacy, both in Minot.

"If we can't get a pharmacist, we are going to try to stretch this out with relief

pharmacists at least, hopefully, until the end of the year," he said. "But the day is going to come when one of them is going to have to be sacrificed."

Two years ago, the state had 20 vacancies for pharmacists, said Howard Anderson, the executive director of the North Dakota Pharmacy Board. That figure is now down to a dozen, he said, but Minot is feeling the pinch the worst.

"Right now, we predict the pharmacist shortage to last for a while," Anderson said.

The pharmacy school at

North Dakota State University in Fargo seeks to raise its admission numbers from about 60 to 85 eventually. NDSU is advertising to hire five new faculty members. It also has a new classroom building.

"It's a competitive marketplace out there," Dean Charles Peterson said. "It has pushed the salaries up to astronomical levels - higher than we have ever seen before."

Salaries go as high as \$100,000 in the large, urban areas, and trade journals advertise positions that come with new cars, \$50,000 bonuses

or student loan repayment plans.

The mean starting salary of NDSU graduates last spring was \$85,000, although in North Dakota, starting salaries are lower at around \$65,000, Peterson said. About 30 percent of graduates typically take jobs in the state, he said.

Pharmacists are in demand because of an increased use of drugs to treat illnesses and because of an aging population, Anderson said.

"The numbers of prescriptions have been increasing quite rapidly now for several

years and we project that to continue for several more," he said.

Video pharmacies are helping in some rural areas.

Taylor's Maddock Drug began operating a telepharmacy in Rolette in November. It allows Taylor to communicate with staff and patients over an interactive video system.

"It's been working out real well," Taylor said.

Each and New England also have telepharmacies, and Gwinner and New Town are in the process of developing telepharmacies.

The New Town site would connect with a pharmacy in Watford City.

The North Dakota Pharmacy Board hopes to have another 10 in place next year and possibly another 10 the following year. North Dakota has been the leader nationally in developing the concept, Taylor said.

Blue Cross Blue Shield of North Dakota and federal grant money through the state College of Pharmacy at North Dakota State University have helped to develop projects.

The system works allows a pharmacist in one community to oversee a pharmacy technician in filling prescriptions in another community.

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10/15/03

Date

**Senate Bill 2042
Testimony**

Presented by: Kent Blickensderfer
Qwest Corporation

Before: Senate Education Committee
Senator Layton Freborg, Chairman

Date: January 13, 2003

Good morning Mr. Chairman and committee members. For the record, my name is Kent Blickensderfer. I am the public affairs/legislative manager for Qwest Corporation in North Dakota.

Qwest opposes nearly all of the provisions of Senate Bill 2042 because they essentially allow the state telecommunications network, which was funded for use by government and public institutions, to compete directly with private telecommunications companies.

We oppose the change on page 2, line 21, which removes the August 1, 2005 date as the deadline for businesses operating in incubators to cease purchasing or receiving telecommunications services from the state-funded network. This language was added with agreement from the states' two largest universities during the 2001 Session. The reasoning was that businesses ought to be able to survive outside an incubator after four years. This change unnecessarily "restarts the

clock" for those companies who have been receiving state-sponsored telecommunications services for the past couple of years.

* Qwest also opposes the removal of the word "nonprofit" and insertion of "other" on page 2, line 22. This change would allow virtually anyone to use the state's interactive video facilities and associated network services. These services were set up and paid for with public funds and are not intended to be available to private sector users.

The new underscored language on page 2, lines 29 and 30 is not opposed by Qwest. We believe this is a reasonable request by institutions to be able to recover costs for telecommunications investments made primarily for the use of others.

* Qwest opposes all of the changes sought on page 3 of this bill. While this language makes an attempt to avert the public sector/private sector competition problem, it fails to do so. The bill would allow use of state-owned facilities "if a private provider is unavailable and the access does not inhibit future private provider service." The very fact that the state would have the ability to sell these kinds of services in an area will virtually guarantee that private providers will not invest to provide those same services.

Mr. Chairman, this concludes my formal testimony. I would be happy to try to answer any questions from the Committee.

Debra Kramer <dkkrame@qwest.com> on 01/23/2003 01:36:59 PM

To: Jeff Wirtzfeld <jwirtzf@qwest.com>
cc: Pamela Hedlin <phedlin@notes.uswc.uswest.com>, Patricia Taylor <pataylo@notes.uswc.uswest.com>, Melvin Kambeltz <mkambel@qwest.com>, Scott MacIntosh <smacint@qwest.com>

Subject: Response to E-Rate Question from ND re: K-12 schools selling excess capacity

Jeff per our telephone conversation with Mel, I am attaching some Universal Service Administrative Company (USAC) website links that address why it would be against FCC rules for a K-12 school to sell excess, erate funded, capacity.

1.) See the attached USAC link to the "Eligible Services Framework:
http://www.sl.universalservice.org/reference/eligserv_framework.asp

Please see the second paragraph of this document, which is quoted below:

"These eligibility determinations are based on criteria established by statute and Federal Communications Commission (FCC) rules. Eligibility for discounts requires not only that the product or service is eligible, but that it is put to an eligible use, and that it is utilized at an eligible location by an eligible entity."

Regarding the above language "eligible use" means the services should only be used for educational purposes. The resale of excess capacity would not qualify as an educational purpose. See #2 below for the definition of educational purposes.

2.) For the definition of educational purposes, refer to the USAC website on "SLD Educational Purpose Policy Statement", at the following link:
<http://www.sl.universalservice.org/reference/AOBFactSheet.asp>

Listed below is the policy statement from the above link:

"The following Educational Purpose policy statement was adopted by the Schools and Libraries Corporation Board of Directors on November 20, 1997:

"The primary purpose of the services for which support is sought must be the delivery of services into classrooms or other places of instruction at schools and libraries that meet the statutory definition of an eligible institution. Support for the administrative functions of library or education programs is permitted so long as the services are part of the network of shared services for learning. Universal service support will be limited to services delivered to the onsite educational facility or facilities. Services at a personal residence

or at locations that do not host places of instruction or are not accessible to library patrons, with the exception of a centralized district office or similar facility, are not eligible for support."

Therefore if a K-12 school wanted to sell the excess services purchased from a telecommunications carrier, then that school would be ineligible for e-rate funding on those services.

3.) Under the USAC's "Frequently Asked Questions about Eligibility of Products and Services" section, please refer to Q14. Below is the link to the FAQs:

<http://www.sl.universalservice.org/reference/EPSTFAQ.asp>

Here is the language from Q14:

"Q14. What are the restrictions, if any, about selling or transferring components obtained through E-rate discounts? Can such equipment be traded-in for new components?"

Equipment purchased with E-rate discounts may not be transferred for anything of value at any time. Equipment purchased with E-rate discounts may be traded in, if the trade-in amount is applied to the purchase of new eligible equipment and the pre-discount amount on the Form 471 is reduced by the trade-in amount."

Although the above language only discusses the reselling of equipment purchased under the e-rate program, the same restriction would apply to reselling of excess capacity. Since the reselling of excess capacity isn't a frequently asked question it is not addressed here, but an email to USAC would clarify that the same restrictions apply to reselling services.

Let me know if I can do any further research for you on this topic.
Deb Kramer 1-23-03
402-422-8758

Jeff Wirtzfeld wrote:

> Whoops, I meant to say that schools who sell capacity jeopardize e-rate
> funding, that's what Mel heard. Deb/Patricia, I don't have all the
> background details on this opinion, so we can bridge Mel on a call for more
> detail to clarify.

>
> Thanks,
> Jeff
> 303-896-0032

>
> (Embedded image moved to file: pic24482.pcx)
> Pamela Hedlin
> (Embedded image moved to file: pic13940.pcx)
> 01/23/2003 08:55 AM
> (Embedded image moved to file: pic30106.pcx)

>
> To: dkkrane@gwest.com@USWEST, Patricia Taylor/DNVRRLNS8/USWEST/US@USWEST
> cc: Jeff Wirtzfeld/PublicPolicy/USWEST/US@USWEST

>
> Subject: E-Rate Question from ND
>
> Deb and Patricia:
>
> Please see Jeff's email below. I'm not sure what is meant by " entities
> who receive funding under the E-rate program may be in a position of
> jeopardizing E-rate funding."
>
> Would you be able to respond to Jeff or provide some insight? I'm in
> hearings all day today and likely tomorrow so please include Jeff
> Wirtzfeld, Mel Kambeitz and me in the response.
>
> Thank you! Pamela
> ----- Forwarded by Pamela Hedlin/PublicPolicy/USWEST/US on
> 01/23/2003 08:51 AM -----
>
> Jeff Wirtzfeld
> 01/23/2003 08:41 AM
>
> To: Pamela Hedlin/PublicPolicy/USWEST/US@USWEST
> cc: Bill Johnston/GROUPWARE/USWEST/US@USWEST, Grant.
> Tenille/PublicPolicy/USWEST/US@USWEST, Mel
> Kambeitz/PublicPolicy/USWEST/US@USWEST, Scott
> Macintosh/PublicPolicy/USWEST/US@USWEST, Kent
> Blickensderfer/PublicPolicy/USWEST/US@USWEST, Mark
> Soltes/PublicPolicy/USWEST/US@USWEST
>
> Subject: E-Rate Question from ND
>
> Pamela,
>
> There is a bill in ND (SB 2042) that proposes, among other things, to allow
> public schools/universities to sell capacity from their network. For a
> variety of reasons, we are working against this bill.
>
> While at the Capitol yesterday, Mel heard an opinion that entities who
> receive funding under the E-rate program may be in a position of
> jeopardizing E-rate funding. If true, this would be helpful to us. Is
> there any information that you are aware of that would substantiate or
> refute this opinion?
>
> Please respond back to me on this and copy Mel.
>
> Thanks,
> Jeff
>
> -----
> Name: pic24482.pcx
> pic24482.pcx Type: PCX Image
(application/x-unknown-content-type-pcxfile)
> Encoding: base64
>
> Name: pic13940.pcx



"Kelli Schneider"
<clearh2o2@btinet.net>
>

To: <sedu@state.nd.us>
cc:
Subject: SB 2042 Information

01/31/2003 01:10 PM

Hello Sandy,

Thank you so much for your help with this! I appreciate it. I just copied the paragraphs into this e-mail. If I am incorrect in any way or something needs further explanation, please let me know. My phone number is found in the signature line.

SB 2042 PASSES SENATE 47-0

ITCND supported SB 2042 and provided testimony throughout the hearing process. On Thursday, Jan. 30, SB 2042 went to the senate floor and received a "DO PASS" with amendments. The amendments removed language in the bill which was perceived as hindering the ability of telecommunications companies to provide video-conferencing services to private sector businesses.

The Senate Education committee chose to amend the bill in this way so as to prohibit the government from taking away what the private sector can provide, while still allowing businesses, such as those in incubators, to have access to video-conferencing services where a private sector does not provide it, through the use of the state's network, IVN.

Kelli R. (Hochhalter) Schneider

Information Technology Council of North Dakota

P.O. Box 2599

Bismarck, ND 58502

(701) 355-4458

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Lacosta Rickford
Operator's Signature

10/15/03
Date

**NORTH DAKOTA UNIVERSITY SYSTEM
TESTIMONY ON ENGROSSED SB2042
Grant Crawford, Chief Information Officer
March 3, 2003**

SB2042 in its current form restricts North Dakota University System institutions from providing service to educational and governmental users because the relevant exemption has been deleted from the subdivision of the bill on page 2; lines 23-24. The bill, as currently engrossed prohibits the very economies of scale that we have worked with state government and K-12 so hard to provide. The same economies that the 2001 legislature mandated by their creation of a state-wide network. Permitting the use of associated network services covers the use of the state network itself for videoconferencing; not just the equipment, and room where it resides. It also allows users to take advantage of meeting scheduling, technical support and help desk services related to interactive video sessions. For these reasons, the University System and State Board of Higher Education opposes the bill as currently amended.

The amended SB2042 also prohibits use of the Interactive Video Network for non-profit and private sector use yet provides no alternative service for them to use in many cases. In many smaller communities, provision of interactive video will never be commercially viable. The fact that these systems are present in local schools and government offices, and remain unavailable, even for occasional use, to the taxpayers that paid for them will likely generate resentment towards state government and telecommunications providers as well. Allowing limited use by the for-profit sector in smaller centers during the upcoming biennium could serve as a useful market test for telecommunications providers as well as helping to grow use of a service to a commercially viable level. In such a scenario everyone wins.

LaCosta Rickford
Operator's Signature

10/15/03
Date

NORTH DAKOTA UNIVERSITY SYSTEM
PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2042

Page 2, line 22, remove the overstrike over "and"

Page 2, remove the overstrike over lines 23 and 24

Page 2, remove lines 29 and 30

Page 2, line 31, remove "telecommunications infrastructure."

Renumber accordingly

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LaCosta Rickford
Operator's Signature

10/15/03
Date



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**Testimony of Dana Bohn
Information Technology Council of North Dakota Executive Director
On Engrossed SB 2042
March 3, 2003**

Madam Chairman and members of the House Education Committee:

My name is Dana Bohn and I am the executive director of the Information Technology Council of North Dakota (ITCND). I am here today to testify in opposition to SB 2042.

ITCND was formed in 2000 by North Dakota business, government and university leaders who recognized the need to strengthen the state's information technology infrastructure and reposition the state as a national leader in IT. ITCND has more than 100 members and continues to grow every day. The members of ITCND believe in a stronger North Dakota through information technology excellence and development.

ITCND supported the original version of SB 2042 as one of the key components of its 2003 legislative agenda. The ITCND board felt the original version of SB 2042 would have helped further many of the goals of our organization. These goals include: knowledge sharing and networking, talent development, business development, entrepreneurship and infrastructure development.

The ITCND Board of Directors met on Friday, February 28, and decided to oppose SB 2042 because they believe the bill has been amended to the point that it now does more harm than good in furthering our objectives.

ITCND wants to see technology used to link people, businesses, schools and government in new ways and to create new opportunities for North Dakotans. This bill no longer does that and the board feels the IT community would be better off without it.

We thank you for your support of IT development in the past, and we strongly encourage you to give SB 2042 a DO NOT PASS recommendation.

Bohn testimony in opposition to Engrossed SB 2042.

ITCND Page 1

LaCosta Rickford
Operator's Signature

10/15/03
Date