

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2379

2005 SENATE FINANCE AND TAXATION

SB 2379

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2379

Senate Finance and Taxation Committee

Conference Committee

Hearing Date **February 2, 2005**

Tape Number	Side A	Side B	Meter #
#2	X		11.1 - 22.3
#2	X		37.6 - 39.8
Committee Clerk Signature <i>Sharon Kenyon</i>			

Minutes:

SEN. NETHING: appeared as prime sponsor stating my interest is simply to keep up the date of things we need to do to have a premier telecommunication industry in ND. This bill deals with the taxation of those services which are sold in a package or are bundled together. This bill is intended to separate and those services that are not taxable, will remain untaxable, those services that are taxable will remain taxable. So we shouldn't be taxing something that was no intended to be taxed by state law.

KEN BLICKENSDEFER: of QWEST Corporation appeared in support with written testimony simply stating the same reasons as Sen. Nething mentioned.

SEN. WARDNER: my understanding is that currently there are nontaxable things being tax because its bundled?

ANSWER: that is my understanding. I think the rule in ND currently is that is if there is one of the items in the bundle that is taxable, they are all taxable. This would clarify that if you can

separate them out in record, then you could separate out the nontaxable items. This by no means, forces anyone into a bundle.

SEN. EVERY: this also applies to cellular service as well?

ANSWER; Federal law I think preempts the ND regulation, but respect to mobile sourcing act, I believe that the mobile sourcing act basically that cellular providers if they can separate it out, they can separate out the nontaxable items.

GARY ANDERSON: Tax Dept. Appeared just to provide information. Right now in ND its our understanding that the marketing or communications bundled process probably isn't as traumatic as it is in larger states, but what probably puts a damper on that is that in ND, it does tax bundled transactions, whether taxable or nontaxable, our law basically says if you don't itemize it out, its going to all be taxable.

SEN. URLACHER: is there any complications in their administrating?

ANSWER: I think from an administrative stand point, I think the legislation pri___ directs that by indicating that the books and records of a business communication industry has to be open or available for us to review. From an audit perspective, the auditing process is only as good as the tax payers records. I don't think its going to create a hurdle to us, its a massive amount of records of course and dealing with larger companies

SEN. COOK: is this the topic at all in the project group that your involved with a streamline?

ANSWER: streamline sales tax project and the telecommunications industry in the communications industry have been active participants in discussions for the last several years in regards to these types of issues. At the present time, this doesn't not create a performance issue with streamline sales tax.

Page 3
Senate Finance and Taxation Committee
Bill/Resolution Number SB 2379
Hearing Date February 2, 2005

SEN. COOK: but it is possible then that as streamline moves forward in the years to come that they could come up with part of the streamline agreement and that we may be in compliance or we may have to tweak this a bit, is that correct?

ANSWER; yes, that is correct.

Closed the hearing.

AFTERNOON COMMITTEE WORK

SEN. URLACHER: noted there were no amendments.

SEN. WARDNER: made a motion for **DO PASS**, seconded by Sen. Bercier.

ROLL CALL VOTE: 6-0-0 Sen. Every will carry the bill

FISCAL NOTE
 Requested by Legislative Council
 01/25/2005

Bill/Resolution No.: SB 2379

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.

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

SB 2379 changes the requirements for the sales taxation of bundled telecommunications services. It is unknown how many companies, if any, may be affected by this change, and how significant the change may be relative to the taxes that are currently collected.

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.

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, 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.

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	02/01/2005

Date: 2-2-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2379

Senate Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Wardner Seconded By Bercier

Senators	Yes	No	Senators	Yes	No
Sen. Urlacher	✓		Sen. Bercier	✓	
Sen. Wardner	✓		Sen. Every	✓	
Sen. Cook	✓				
Sen. Tollefson	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Every

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

REPORT OF STANDING COMMITTEE (410)
February 2, 2005 5:23 p.m.

Module No: SR-22-1747
Carrier: Every
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2379: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2379 was placed on the Eleventh order on the calendar.

2005 HOUSE FINANCE AND TAXATION

SB 2379

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2379

House Finance and Taxation Committee

Conference Committee

Hearing Date **March 2, 2005**

Tape Number	Side A	Side B	Meter #
1	x		0.8
Committee Clerk Signature <i>Jamie Stein</i>			

Minutes:

REP. DAVID DROVDAL, VICE-CHAIR Called the committee meeting to order.

KENT BLICKENSDEFER, PUBLIC AFFAIRS MGR. FOR QWEST CORP. IN NORTH

DAKOTA Testified in support of the bill. See attached written testimony.

REP. SCHMIDT Will the streamlined sales tax have anything to do with it?

KENT BLICKENSDEFER That question was asked on the Senate side, this provision fully complies with everything that comes with the streamlined bill.

GARY ANDERSON, DIRECTOR OF SALES TAX DEPARTMENT, STATE TAX

DEPARTMENT Testified in a neutral position and to provide information. There are at least twenty four states who have passed this legislation. There is a proposal before the streamline group to consider adopting this similar provision.

REP. FROELICH Do you know what will be taxable or nontaxable?

GARY ANDERSON The gentleman from Quest pointed out several of the items taxable and nontaxable, in North Dakota, generally, most charges that are associated with your calls going out side the state, or calls that are originated from outside the state, coming in, those are generally, nontaxable charges. Everything else that occurs within the state of North Dakota, including your ancilliary charges, like call forwarding, voice mail, etc., are subject to sales tax. This bill wouldn't change the occupation of tax on intrastate applications. Right now, in North Dakota, if someone were to bundle all of those charges into one charge, we would be _____ (couldn't understand) Right now, in parts of the country, bundling is pretty popular. In terms of taking local service, internet service, long distance service, they will bundle those into a package. That hasn't been predominant in the midwest at this point, but it is probably the direction the communication industry is heading.

REP. KELSH Is the internet service taxable?

GARY ANDERSON We regard the access charge taxable.

REP. KELSH Would that be just for a telephone company or if you get your internet service from a cable company, is that taxed different?

GARY ANDERSON It doesn't make any difference who the provider of the internet service is. The internet service is taxable provided your dial up number is an intrastate number. If you have to dial a number which is outside the state, that charge would be an intrastate access charge.

REP. KELSH My internet service is a high speed cable, it doesn't have a dial up.

GARY ANDERSON There has to be some point of connection for your service to your provider.

REP. WRANGHAM When you visit with these people of the streamline tax, did you visit with them about city sales taxes?

GARY ANDERSON There were several issues that we continue to bring up.

GLENN ELLIOTT, RESIDENT OF MANDAN Testified in a neutral position. See attached written testimony.

REP. DROVDAL Stated that if the companies bill it out as a tax, and that tax has to be paid in, they are committing a fraud. If they put it in a bundle deal, it is a question a consumer needs to ask.

With no further testimony, the committee hearing was closed.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2379

House Finance and Taxation Committee

Conference Committee

Hearing Date **March 7, 2005**

Tape Number	Side A	Side B	Meter #
1		X	38.9
Committee Clerk Signature			

Minutes:

COMMITTEE ACTION

REP. HEADLAND Made a motion for a **do pass**.

REP. BRANDENBURG Second the motion. **motion carried**.

14 yes 0 no 0 absent

REP. HEADLAND Was given the floor assignment.

Date: 3-7-05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2379

House FINANCE & TAXATION Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Headland Seconded By Rep. Brandenburg

Representatives	Yes	No	Representatives	Yes	No
BELTER, WES, CHAIRMAN	✓				
DROVDAL, DAVID, V-CHAIR	✓				
BRANDENBURG, MICHAEL	✓				
CONRAD, KARI	✓				
FROELICH, ROD	✓				
GRANDE, BETTE	✓				
HEADLAND, CRAIG	✓				
IVERSON, RONALD	✓				
KELSH, SCOT	✓				
NICHOLAS, EUGENE	✓				
OWENS, MARK	✓				
SCHMIDT, ARLO	✓				
WEILER, DAVE	✓				
WRANGHAM, DWIGHT	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Headland

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

REPORT OF STANDING COMMITTEE (410)
March 7, 2005 2:56 p.m.

Module No: HR-41-4306
Carrier: Headland
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2379: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2379 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

SB 2379

Senate Bill 2379
Testimony of Kent Blickensderfer, Qwest Corporation
Delivered to Chairman Herb Urlacher,
Senate Finance and Tax Committee
Wednesday, February 2, 2005

Same given to Herb

Good morning Mr. Chairman and committee members. My name is Kent Blickensderfer and I am the Public Affairs Manager for Qwest Corporation in North Dakota.

Qwest supports this legislation which seeks to separate out those telecommunications services sold in a bundle that can be identified as nontaxable. More and more customers today are buying their telecom services in a bundle. For instance, Qwest offers local dial tone together with unlimited long distance and many features such as caller i.d. and voicemail all together in a bundle.

Most of these services are taxable and will remain so with this bill. However, interstate long distance service would be separated out as a non-taxable item on customers' bill. Qwest now has the software technology to separate taxable from non-taxable services. We ask the full support of this committee. I will now try to answer any questions of the committee.



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 2379

FINANCE AND TAXATION COMMITTEE

FEBRUARY 2, 2005

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 167,000 homes and small businesses and approximately 96 percent of the geographic territory of North Dakota.

Members of the Association are fully supportive of Senate Bill 2379.

The legislation will allow telecommunications companies to segregate taxable and nontaxable telecom offerings within a single customer bill. It is referred to as "bundling" a number of those telecom services and offering it for a single price. For example, a telco may offer local service, intrastate long distance, interstate long distance and wire maintenance.

Under this example, local service and intrastate long distance are taxable services. Interstate long distance and wire maintenance are not.

However, under current North Dakota Tax Department guidelines those telecom services are all taxable if they are in a "bundled" bill.

It is our experience that customers prefer a "bundled bill" and the telecommunications industry is responding to meet that trend. Senate Bill 2379 does not alter which services are taxable, but rather allows telecommunications companies to only pay a tax on taxable services when they adopt software that allows them to segregate the taxable and nontaxable services "behind the bill."

Members of the Association urge a "Do Pass" recommendation on Senate Bill 2379.

Testimony Neutral to Senate Bill 2379

by Glenn A. Elliott, a private citizen and resident of Mandan, North Dakota,
appearing on his own behalf on Wednesday, 2 March 2005

Before the Finance and Taxation Committee of the North Dakota House

To the Chair and Members of the Committee:

I am offering this testimony neutral to Senate Bill 2379.

1. On its face, the bill embraces a common-sense concept. The telecommunications companies presently break out numerous fees and taxes on service bills. If these companies can identify and track this information, it reasonably follows that they can identify nontaxable services and separate out at least the total price of them to avoid being taxed on the whole service bundle.

2. As said above, telecommunications bills break out fees and taxes, at least partly to minimize the visible impact on service prices. If a telecommunications company determines that it is not in its interest, economic or otherwise, to break out at least a total price for nontaxable services, what is to prevent the company from passing at least an estimate of the additional tax (perhaps on the "high side") through to its customers? Might we see an entry of "Bundled Services Fee \$2.60" on future bills?

3. I invite the Committee's attention to this only in light of one of the harshest statutes known - The Law of Unintended Consequences.