

2011 SENATE FINANCE AND TAXATION

SB 2171

2011 SENATE STANDING COMMITTEE MINUTES

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

SB 2171
1/25/2011
Job Number 13330

Conference Committee

A. R. Miller

Explanation or reason for introduction of bill/resolution:

Relating to sales and use tax exemption for equipment used in telecommunications infrastructure development

Minutes:

Written Testimony Attached

Vice Chairman Miller opened the hearing on SB 2171.

Chairman Cook – Last session this committee found the wisdom to offer a sales tax exemption on capital investment of the telecommunication industry. We put a sunset on it of 2 years. It came back to me now to ask if we would remove that sunset so that is the discussion we need to have here today. I just want to say as we hear through the testimony I think we will be able to evaluate to what degree that sales tax exemption offered benefit to the state. It is our hope that exemption allows more dollars to actually be spent in the state rather than the 5% or 7% that's going to the tax coffers, but I just want to tell you something that you already know. The telecommunication industry is a rapidly changing industry. They are coming out with new gadgets every day. There's a lot of investment that needs to be made in the state and it's important to do what we can to see that these investments are made in our state to improve the quality of telecommunications for the citizens of North Dakota.

Todd D. Kranda, Attorney with Kelsch Law Firm and Lobbyist on behalf of Verizon Wireless – (See attached testimony A in support of SB 2171)

Nancy Riedel, Verizon Wireless - (See attached testimony B, B1, B2, and B3 in support of SB 2171)

Senator Burckhard – You make reference to PPU's. What does that stand for?

Nancy Riedel, Verizon Wireless – Place of primary use.

Kent Blickensderfer, Qwest Corporation - (See attached testimony C in support of SB 2171)

Tom Kelsch, Kelsch Law Firm, appearing on behalf of AT&T - (See attached testimony D in support of SB 2171)

Dan Nelson, Director of Governmental Affairs, Midcontinent Communications - (See attached testimony E in support of SB 2171)

David Crothers, North Dakota Association of Telecommunications Cooperatives - (See attached testimony F and F1 in support of SB 2171)

Deana Wiese, Executive Director, Information Technology Council of North Dakota - (See attached testimony G in support of SB 2171)

Jeb Oehlke, North Dakota Chamber of Commerce - (See attached testimony H in support of SB 2171)

Chairman Cook asked for testimony opposed to SB 2171. No one came forward.

Chairman Cook asked for neutral testimony for SB 2171. No one came forward.

No further action was taken.

Chairman Cook closed the hearing on SB 2171.

2011 SENATE STANDING COMMITTEE MINUTES

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

SB 2171
1/26/2011
Job Number 13468

Conference Committee

A. Ritter Miller

Explanation or reason for introduction of bill/resolution:

Relating to sales and use tax exemption for equipment used in telecommunications infrastructure development

Minutes:

Committee Work

Chairman Cook opened discussion on SB 2171.

Chairman Cook – They are asking to remove the sunset on sales tax exemption on telecommunications.

Senator Hogue – I have a proposed amendment to this bill that would extend this sales tax out to 2013. I would move those amendments.

Seconded by **Vice Chairman Miller**.

Senator Triplett – I agree whole heartedly with the principal behind the motion and I agree that we need to provide pressure to make sure it gets completed. So I am in agreement with the idea. But I did hear people talking yesterday about the need to plan, the need for financing, and that sort of thing and they were asking for 5 years. I initially was thinking that a 6 year extension would be good but then I realized we still have half a year left on the current biennium and so if we did 4 years out, 2 additional biennia that we would get pretty close to the 5 year planning process that they were describing. Rather than making people come back every 2 years, I would rather just say that we will give them 2 more biennia and then we expect it to be done. I would move to amend the amendments on page 1 line 7 of Senator Hogue's amendments and replace 2013 with 2015.

Seconded by **Senator Dotzenrod**.

Vice Chairman Miller – I would just add to the conversation here that I spoke with the Verizon folks about their advancement and reconstruction and development and they indicated to me that, at least what I could see, is that the sales tax exemption possibly had little effect on their work. They were building before they had the sales tax exemption, building during the sales tax exemption, and they are going to keep building, so I think,

give them a couple more years, see if this is still going to work, but I don't know if we need to give them too much time. I think we need to keep eye on this very sharply.

Chairman Cook – Let's not forget it's going to another hearing too if we pass it out of the Senate. I certainly feel comfortable with a sunset on it.

Senator Dotzenrod – In the last years they built 31 towers. It doesn't look to me like they really got slowed down in their attempts to get financing and get their plans and other things in order. I think they are moving right along. I think the demand for their service is there so I don't know if it matters too much if it's 2 years or 4 years.

Chairman Cook – It's a competitive world and they make decisions based on profit. The only question in my mind is does the sales tax exemption allow them to make greater infrastructure improvements in the state.

Chairman Cook – We have a motion to change the 3 to a 5. All in favor say yea. Opposed? (2-5-0) That fails. We have before us the motion to extend the sunset by 2 years. Discussion?

Senator Hogue – Bear in mind that these companies bought licenses to lease the air as spectrum. With that comes responsibility to build out these rural areas. They aren't doing it because they make money out here. They do it because they have a legal obligation to do so. I have to factor that in to account. If our objective is to push more infrastructure development out to North Dakota we should be doing it for the companies that have a wireless product that offers wireless service and reside in this state, and we are not doing that. We are just giving it to everybody. I think that's the problem with it, but I can live with the 2 years.

Chairman Cook – We have before us an amendment to SB 2171 to extend the sunset by 2 years. All in favor say yea. Opposed? (7-0-0)

Senator Hogue motioned a Do Pass and rerefer to Appropriations.

Seconded by **Senator Burckhard**.

Chairman Cook – Ask the clerk to take the roll. (7-0-0)

Chairman Cook closed discussion on SB 2171.

FISCAL NOTE

Requested by Legislative Council
02/22/2011

Amendment to: Reengrossed
SB 2171

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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$3,551,000)	(\$309,000)		
Expenditures						
Appropriations						

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

Re-engrossed SB 2171 extends the sales and use tax exemption for equipment used in telecommunications infrastructure development for an additional eighteen months.

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.*

Re-engrossed SB 2171 extends the telecommunications infrastructure development sales and use tax exemption through December 31, 2012. If enacted, Re-engrossed SB 2171 is expected to reduce state general fund and state aid distribution fund revenues by an estimated \$3.86 million in the 2011-13 biennium.

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, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	02/22/2011

FISCAL NOTE

Requested by Legislative Council
02/01/2011

Amendment to: SB 2171

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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$4,738,000)	(\$412,000)		
Expenditures						
Appropriations						

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

Engrossed SB 2171 extends the sales and use tax exemption for equipment used in telecommunications infrastructure development for one additional biennium.

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.*

Engrossed SB 2171 extends the telecommunications infrastructure development sales and use tax exemption through June 30, 2013. If enacted, Eng. SB 2171 is expected to reduce state general fund and state aid distribution fund revenues by an estimated \$5.15 million in the 2011-13 biennium.

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, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	02/03/2011

FISCAL NOTE

Requested by Legislative Council
01/12/2011

Bill/Resolution No.: SB 2171

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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$4,738,000)	(\$412,000)		
Expenditures						
Appropriations						

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

SB 2171 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.*

SB 2171 removes the June 30, 2011 sunset for the telecommunications infrastructure development sales and use tax exemption. If enacted, SB 2171 is expected to reduce state general fund and state aid distribution fund revenues by an estimated \$5.15 million in the 2011-13 biennium.

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, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	01/24/2011

PROPOSED AMENDMENTS TO SENATE BILL NO. 2171

Page 1, line 3, remove the first "and"

Page 1, line 3, after "date" insert "; and to provide an expiration date"

Page 1, line 7, remove the overstrike over "~~Effective through June 30,~~"

Page 1, line 7, after "~~2014~~" insert "2013"

Page 1, line 22, after "DATE" insert "- EXPIRATION DATE"

Page 1, line 23, after "2011" insert ", and before July 1, 2013, and is thereafter ineffective"

Renumber accordingly

Date: 1-26-11
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2171

Senate Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment

Rerefer to Appropriations Reconsider

Motion Made By Senator Hogue Seconded By Senator Miller

Senators	Yes	No	Senators	Yes	No
Dwight Cook – Chairman			Jim Dotzenrod		
Joe Miller – Vice Chairman			Connie Triplett		
Randy Burckhard					
David Hogue					
Dave Oehlke					

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

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

Verbal vote

Date: 1-26-11
Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2171

Senate Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

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

Motion Made By Senator Hogue Seconded By Senator Burckhard

Senators	Yes	No	Senators	Yes	No
Dwight Cook - Chairman	X		Jim Dotzenrod	X	
Joe Miller - Vice Chairman	X		Connie Triplett	X	
Randy Burckhard	X				
David Hogue	X				
Dave Oehlke	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Burckhard

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

REPORT OF STANDING COMMITTEE

SB 2171: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2171 was placed on the Sixth order on the calendar.

Page 1, line 3, remove "and"

Page 1, line 3, after "date" insert "; and to provide an expiration date"

Page 1, line 7, remove the overstrike over "~~Effective through June 30,~~"

Page 1, line 7, after "~~2011~~" insert "2013"

Page 1, line 7, remove the overstrike over the boldfaced closing parenthesis

Page 1, line 22, after "DATE" insert "- EXPIRATION DATE"

Page 1, line 23, after "2011" insert ", and before July 1, 2013, and after that date is ineffective"

Re-number accordingly

2011 SENATE APPROPRIATIONS

SB 2171

2011 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee Harvest Room, State Capitol

SB 2171
February 4, 2011
14018

Conference Committee

Committee Clerk Signature

Rose Laning

Explanation or reason for introduction of bill/resolution:

A bill relating to telecommunications infrastructure development

Minutes:

See attached testimony # 1-3.

Chairman Holmberg called the committee hearing to order on SB 2171.
Also attending: Brady Larson - Legislative Council, Tad H. Torgerson - OMB.

Senator Dwight Cook, District 34, introduced SB 2171. What this bill does is extends for two years the sales tax exemption for telecommunication infrastructure equipment. He believes that this will benefit the state. This bill came out of committee with a 7-0 Do Pass Referred to Appropriations from Senate Finance and Tax.

We believe the money saved will be more money invested and available to our state.

Senator Grindberg said that he was one that didn't vote for this last time because he wasn't convinced the capital investment commitment was there. He asked if there would be testimony on this.

Senator Cook replied that it will be addressed in testimony. He said that was one of things the committee had to look for.

Senator Grindberg asked if he had any breakdown of traditional telecom infrastructure versus cell towers.

Senator Cook said there are others in the room that can answer that.

Senator Wanzek asked about the budget and how the sunset clause would affect it.

Brady Larson replied that the current budget would not include this exemption. In the future, if it had a sunset clause then the next budget preparation would include the affect of the sunset clause

Senator Holmberg added, unless the governor included it in his budget.

Thomas D. Kelsch, AT&T, (Lobbyist # 153) testified in support of SB 2171.

Information attachment # 1

He said that a sunset was put on two years ago and they are requesting that sunset be removed and continue for another two years. He handed out an information packet with a fiscal note in it. He explained the fiscal note. The next piece showed where current tower placements were. He said that as services get better and more services are provided, there will be more taxes paid by the end user. The last page shows a breakdown of states that have Telecommunications/Manufacturing Equipment Sales Tax Exemptions.

Senator Grindberg asked for clarification that this bill extends the present tax credits forward. And if that's true he questioned the fiscal impact.

Mr. Kelsch replied that they were asking for another tax break because the current one ends on June 30. You gave us \$5M last biennium and we're asking for another \$5M this coming.

Discussion followed on the use of cell phones in the state, the revenue generated by the companies and the need for state money to continue to fund more cell phone towers.

Chairman Holmberg named several places where calls get dropped.

Senator Bowman said the cost of doing business goes back to the people receiving the business. He asked, by not having a tax on this, does this give you a competitive advantage? You're cost of doing business would be a definite advantage to your company over your competition.

Mr. Kelsch replied that this applies to every telecommunication company in the state. It applies to all equally.

David Crothers, North Dakota Association of Telecommunications Cooperatives.

Testified in support of SB 2171

Testimony attached - # 2 – Steve D. Lysne, CEO, SRT Communications

Testimony attached - # 3 – David Crothers written testimony from 1-25-11

Chairman Holmberg-Your testimony refers to the bill being permanent.

Mr. Crothers said yes, this testimony was presented to Senate Finance & Tax on January 25, 2011.

Senator Bowman asked about the dead spots in his district. This is to serve all rural people but it doesn't hold true.

Mr. Crothers explained the agreements with Verizon and consolidated phone service.

Jeb Oehke, ND Chamber of Commerce, (Lobbyist # 29) testified in support of SB 2171. No written testimony.

He stated that business is supporting SB 2171. He is not sure when SRT started, but it's a benefit to the people of ND. It's making a significant impact and will continue to if its' passed. Not everyone will feel it right away, but it's a step in the right direction.

Deana Wiese – Information Technology Council of North Dakota (Lobbyist # 125) testified in favor of SB 2171. No written testimony.

This bill is one incentive that will help us reach our goal of having total wireless coverage. She said that they are supporting this bill for two reasons. 1. It will keep ND competitive to attract business and keep the businesses we have here. 2. Competing globally, all areas in the state need the coverage for the opportunity to do this. Hopefully this incentive will get companies to invest in state.

Senator Grindberg asked if we should commit to those out of state companies compared to companies in state. He said that it is a philosophical question.

Deana Wiese replied that she would visit with their members and get back to him on that.

Chairman Holmberg closed the hearing on SB 2171.

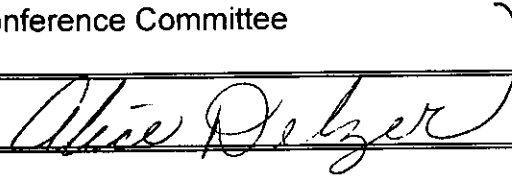
2011 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee
Harvest Room, State Capitol

SB 2171
02-18-2011
Job #14740 (Meter 10.28 – 17.06)

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A ROLL CALL VOTE ON Telecommunications infrastructure development.

Minutes:

You may make reference to "attached testimony."

JOB # 14740 ALSO HAS THE ROLL CALL VOTES FOR SB 2242 AND SB 2325.

Chairman Holmberg called the committee to order in reference to SB2171. All committee members were present. Tad H. Torgerson, OMB and Roxanne Woeste, Legislative Council were also present.

Senator Wanzek: In visiting with folks that this is important to and the concern of the cost of going on and whether it truly does resolve in investment telecommunications, in the interest of trying to keep the bill alive and continue the discussion I'm going to move an amendment that's relatively simple. I don't have the amendments drafted yet.

Chairman Holmberg: Make sure you are looking at the First Engrossment. It is one page.

Senator Wanzek: I am going to offer the amendment on the engrossed bill on the bottom of the page on line 23 **OVERSTRIKE JULY 1, 2013 AND INSERT DECEMBER 31, 2012. Seconded by Senator Erbele.**

Senator Christmann: If I could intervene before that motion is made, this is a question, might the more appropriate amendment be January 1, 2013, because it says BEFORE and you might have carriers that pay their bills on the last day of the year or something?

Senator Wanzek; I stand to be corrected. I would not object to that. Can I withdraw my first motion **and the second motion would be JANUARY 1, 2013.**

Chairman Holmberg: Any discussion on the amendment. Without protest we will accept the amendment even though it is not written, it is pretty simple. **Call the Roll on the Wanzek amendment on 2171. The vote was yea: 13; Nay: 0; Absent: 0.**

Senator Wanzek: Moved Do Pass as Amended. Seconded by Senator Erbele.

A Roll Call vote was taken. Yea: 13; Nay: 0; Absent: 0. Senator Burckhard from Finance and Tax will carry the bill

11.8178.02002
Title.

Prepared by the Legislative Council staff for
Senate Appropriations
February 18, 2011

PROPOSED AMENDMENTS TO SENATE BILL NO. 2171

Page 1, line 7, overstrike "**June 30,** "

Page 1, line 7, replace "**2013**" with "**December 31, 2012**"

Page 1, line 23, replace "July" with "January"

Renumber accordingly

Date: 2-18-11
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2171

Senate _____ Committee _____

Check here for Conference Committee

Legislative Council Amendment Number not written

wait to come down

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment

Rerefer to Appropriations Reconsider

Motion Made By Wanzek Seconded By Erbele

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Warner	✓	
Senator Bowman	✓		Senator O'Connell	✓	
Senator Grindberg	✓		Senator Robinson	✓	
Senator Christmann	✓				
Senator Wardner	✓				
Senator Kilzer	✓				
Senator Fischer	✓				
Senator Krebsbach	✓				
Senator Erbele	✓				
Senator Wanzek	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment _____

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

Date: 2-18-11
 Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 21-11

Senate Senate Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

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

Motion Made By Wanzek Seconded By Erbele

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Warner	✓	
Senator Bowman	✓		Senator O'Connell	✓	
Senator Grindberg	✓		Senator Robinson	✓	
Senator Christmann	✓				
Senator Wardner	✓				
Senator Kilzer	✓				
Senator Fischer	✓				
Senator Krebsbach	✓				
Senator Erbele	✓				
Senator Wanzek	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment _____ Burckhard

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

REPORT OF STANDING COMMITTEE

SB 2171, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2171 was placed on the Sixth order on the calendar.

Page 1, line 7, overstrike "**June 30,**"

Page 1, line 7, replace "**2013**" with "**December 31, 2012**"

Page 1, line 23, replace "July" with "January"

Renumber accordingly

2011 HOUSE FINANCE AND TAXATION

SB 2171

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2171
March 16, 2011
#15517

Conference Committee

Committee Clerk Signature

Mary Bruecker

Explanation or reason for introduction of bill/resolution:

A bill relating to sales and use tax exemption for equipment used in telecommunications infrastructure development; to provide an effective date; and to provide an expiration date.

Minutes:

See attached testimony #1, #2, #3, #4, #5, #6, #7, #8, #9.

Representative Glen Froseth: Co-sponsor of bill. Introduced bill. The only thing this bill does is extend the tax credit for 18 months for equipment used in telecommunications infrastructure development. To be qualified for the exemption the company must receive a certificate from the tax commissioner for approval. I believe this started out as a tax exemption for up to \$5 million for a telecommunication infrastructure. The fiscal note for 18 months is \$3.551 million. There are still areas in the state that don't have adequate coverage, especially for cell phone services. I believe this bill has gone a long way to try and address some of those problems we had two years ago but we still have problems in areas that need to be further developed and I think that is the purpose for extending this 18 month period to get some more towers build and better coverage across the state.

Todd Kranda, Attorney at Kelsch Law Firm: Support. Please refer to attached testimony #1.

Representative Scot Kelsh: My current cell phone provider is currently going through a transformation as they took over the assets of a now de-funked provider and I'm wondering if this extension of the tax benefits delay the implementation of that infrastructure because I know they are working to get that up and maybe it's because the expiration of the tax credit, is that a possibility?

Todd Kranda: We have a representative from AT&T so she may be able to help you with that.

Nancy Riedel, Director of State Tax Policy for Verizon: Support. Please refer to attached testimony #2. We have made investment in our network our number one priority across the county and our investment in North Dakota is extremely important to us as well. The policy associated with this bill allows us to continue to make that investment on a faster track, in other words, the tax burden that is imposed on our investment is a big factor in our decision making process to the extent that we can make that investment more efficient and

we can deploy the capital dollars that are necessary in a much more time effective fashion and get the service out to the consumers that much quicker. In North Dakota we have put in 31 new cell sites since the telecom exemption came into effect from Jun 2009 to December 2010 and we've made upgrades to another 130 existing cell sites to continue to deploy advanced broadband services, 3G technology throughout the state.

Representative Bette Grande: I attended a wireless conference and we talked a little about 4G. It was really eluded to those particularly in the Midwest that it was going to take a long time before we even see 4G if we did it would be very limited to just the bigger cities. Is there any plan that you will go across the state with 4G?

Nancy Riedel: I don't know when the 4G will transition over. By the end of 2013 we've made a commitment that we will have 4G in all of our locations that have 3G currently. I know we are still expanding 3G across some of the rural areas across the country so the time line might be a little delayed for it to convert to 4G. Part of our investment in 2010 was to prepare for 4G in the state.

Representative Bette Grande: I travel extensively in the state and even from Bismarck to Fargo I get numerous dropped calls. Are we ever going to be able to get down the highway in North Dakota and continue to have a phone call?

Nancy Riedel: I can certainly follow up on that for you. I know they track customer complaints and dead zones and try to address those as soon as we are able. Incentives that allow us to invest and provide more cell sites help us do that much more timely than we would be able to without.

Representative Bette Grande: I would like to see this map of South Dakota.

Representative Glen Froseth: Could you refresh us on the tax exemptions and the limitations for each company and how much of the tax credit your company used?

Nancy Riedel: I don't believe that we have quantified that yet. The administrative process for claiming the exemption is sort of retroactive, in other words, there is not a process where we were able to get preapproval for our investments so it is something we have to do after the fact and get approval through the Department of Revenue for our investment. I don't believe that claim has been submitted yet so I don't have information on that.

Representative Dave Weiler: Is there a way to find out how many dropped calls I had in a month.

Nancy Riedel: I know that we track some dropped calls but I am not overly familiar with the process. We try to address dead zones. If there is an issue with a particular customer we will try and work with them to try and make it right.

Representative Dave Weiler: Is there a way you could find out some way? When I used to get the paper statements you had all of the phone calls listed on there to include who they were from, who they were to, the time, etc. I'm wondering if the dropped calls are a part of that information that we could access.

Nancy Riedel: I will check that out.

Representative Steven L. Zaiser: Are you saying in any way that the sunset of this tax exemption will have any impact on the expansion of your system in the state and perhaps minimizing those dropped calls?

Nancy Riedel: As I said, this exemption allows us to have more capital available to invest in our network. We have a certain budget for each state and the tax impositions on the infrastructure investment are factored into how much we are able to invest versus how much we pay in taxes. The less that we pay in taxes the more we have to invest in our network.

Representative Steven L. Zaiser: I assume then that the money would be reinvested back. Would that money go toward profit?

Nancy Riedel: Again, my understanding of the way the state budgets work is that would be directly included in it as an addition to the state budget.

Representative Patrick Hatlestad: Looking at your chart here, since I live in the western portion it looks a little skimpy so there is some concern. I assume at some point in time the entire state will be covered?

Nancy Riedel: I'm not in the network department so I can't speak on that and even if I did know I probably couldn't tell you because a lot of that is confidential and we have an AT&T person here. Our goal in North Dakota as well as across the country is to provide seamless coverage for our customers without dropped calls. We do not like dropped calls probably even more than you so it's a huge priority for us to continue to try and get a seamless network.

Representative Patrick Hatlestad: Because of our sparse population cost wise wouldn't it be a business decision maybe to share towers?

Nancy Riedel: We do have arrangements like that with other competitors where we co-locate on a tower and have sharing and partnership agreements. I don't have specific information on those arrangements in North Dakota but it is a common practice.

Representative Glen Froseth: In the communications business at what point do you think you will be going satellite instead of towers?

Nancy Riedel: I think from Verizon's perspective we're looking at all sorts of technology but satellite is currently being used to provide communication service in addition to the cellular technology that we employ and is one of the options. Hopefully our investment and our network will continue to provide service for a long time to come and that's what our business model is based on.

Beth Knudson, Regional Vice President for AT&T External Affairs: Support. Please refer to attached testimony #3. I don't want to be repetitive and I know you probably see

our ads against each other all the time but on this issue we are in agreement. You've heard from Nancy Riedel why we believe this is good public policy but what is interesting is that behind tobacco and alcohol telecommunications is the highest taxed industry in the nation. We used to be a monopoly and that was kind of the basis for that tax policy but unfortunately those taxes are passed on ultimately to our consumers so anything we can do to help alleviate some of that goes a long way. Despite the high tax rate we've seen huge growth in the wireless industry. I know this bill doesn't just affect wireless but that seems to be the reason for the bill and certainly from AT&T's perspective that is the business we are in here in North Dakota. I used to work for another phone company and at that time, 12 years ago, I remember when we got our first million customers. Now I work for a company that has 102.2 million customers so in that 12 year time frame a lot has happened in the wireless industry. Our handsets and our coverage and our network and our investment continue to grow and you see that as you drive through North Dakota. Think five years back versus where we are today. We are making progress, it's frustratingly slow and we know that but we have a limited amount of money to invest in our networks each year. AT&T in the last year is investing \$19 billion in our network nationwide. Unfortunately, I don't have those statistics for the state of North Dakota but as you know we recently purchased the Alltel network. We are overbuilding that network right now. We have a different technology than Alltel as they operate on (?) just like Verizon and we operate what is called GSM so we are overbuilding our network onto their towers and sometimes we co-locate with others. In response to your question, Representative Hatlestad, we always co-locate first if that's an option because it is cheaper so we have an economic incentive to do that as well as for other reasons. In this investment we are looking towards investing not only in this state but one of the most important things for us is where we are building all that 3G so that network is going to be much superior to Iowa's network, for instance. So you're seeing not just that we're coming but we're coming in a big way and we're hoping to be very competitive. The map that Tom passed around is the map of what our coverage would be hopefully by the end of the month. We have what we call network ready or market ready and that will be 90% of that and then we begin selling phones next month and hopefully convert in April. We're very excited about coming to North Dakota. This tax exemption obviously helps us to fill in those white spaces that you see on the map. I should point out that the bright orange is not applicable to North Dakota, they are roaming coverage and the blue is our network.

Vice Chairman Craig Headland: You mentioned you're building out to 3G, isn't the buzz word today 4G and LTE and all those?

Beth Knudson: Those are excellent questions. 3G was an international standard and 4G is an international standard that none of us need yet. There are a lot of steps between here and 4G and we're beginning to call some things 4G that aren't technically the international 4G standard. You may have read some articles to that extent. Our 3G technology and 4G or LTE light is backwards compatible so you don't have to have a 4G phone, you can use your 3G phone and our speech keeps getting better without having to change out the handset. As we're building our network not only do you need better software on the towers but you also need back hole so that t1 line to the substation and all that so you can carry more traffic in. As we're building here we're doing all that so we are putting ourselves on track.

Vice Chairman Craig Headland: If you're going to build out to 3G here, are you going to be marketing the older version of the iphone?

Beth Knudson: No. The iphone is kind of confusing because we had the iphone 3 and now the iphone 4 but it's not a 4G phone. It will absolutely be available in North Dakota.

Representative Scot Kelsh: The Alltel people who are being converted to the AT&T store are saying that this will be a 4G compatible system so when the iphone 5 comes this summer it will be a 4G phone that will work on your system. As I understand it the GSM system is different from Verizon in that it can only pull a signal from one tower at a time and Verizon will pull a signal from all available towers in that range. The GSM will only pull from one tower so that's why there are more dropped calls because it has to drop the call in order to switch to the next tower. Will the 4G system be able to overcome that? I understand that when 4G becomes available that will no longer be a problem.

Beth Knudson: I have never heard that GSM only pulls from one tower. It's my understanding that we always have contact with three towers as that's how we triangulate people to determine their location among other mechanisms we use. As far as 4G solving that issue I'm not sure. Nationally dropped calls are in the 1% range even though when it happens it's horrible but I think that will continue to improve as we build out our network. I'm not sure that 4G is an answer to dropped calls.

Representative Scot Kelsh: Are the Alltel people saying that this will be a 4G system accurate and that the iphone 5 will be a 4G phone?

Beth Knudson: I need to double check that because I'm not sure. I just know that we are building it out at 3G at this point.

Representative Scot Kelsh: I read it on a tech website so I'm not sure about the pulling of towers.

Beth Knudson: I will look into that.

Representative Steven L. Zaiser: Is there an element of planned obsolescence here at all?

Beth Knudson: Not from AT&T's perspective because our GSM network is going to continue to be GSM and it will continue to be LTE light. In other words, if I have a 3G phone it is still going to work. I think other companies who are making a transition maybe from CDMA to LTE are going to have phones that work on LTE and phones that work on CDMA.

Representative Wayne Trottier: Will there ever be a day when you can call an operator to find out someone else's cell phone number?

Beth Knudson: About 10 years ago there was an effort in the industry because we had Joes' Plumbing that only used their wireless phone and wanted to have some sort of directory available. When we came together as an industry to talk about doing an online

directory and the privacy folks just went nuts. There were some concerns from the privacy folks and that was at a time when we were looking at people having to pay for incoming calls and things. Now Joe's Shop can pay a local land line company to list their phone in the yellow pages. That hasn't been on the table for a while and that is an excellent question.

Andy Peterson, Chamber of Commerce: Support. Provided testimony from Jeb Oehlke #4. Competition brings innovation and better value for all of us.

Kent Blickensderfer, Qwest Corporation: Support. Please refer to attached testimony #5. Qwest does not provide wireless service in North Dakota. We resell one of the carriers in the room and we provide substantial fiber back haul to those sites as Beth mentioned earlier. Those types of investments when you're competing for capital against surrounding states...I have to compete in the company against my counterparts in South Dakota, Minnesota, Montana, and Wyoming and when we can go to them with an extra 5% incentive because we can avoid the tax on the investment it gives us a slight leg up. I'm not saying I can always prevail over my neighbors in Minneapolis but it does help with some of our other rural states.

David Crothers, North Dakota Association of Telecommunications Cooperatives: Support. Please refer to attached testimony #6. Also provided written testimony from Steven Lysne, SRT Communications (#7).

Deana Wiese, Executive Director of Information Technology Council of North Dakota: Support. Please refer to attached testimony #8.

Dan Nelson, Director of Governmental Affairs with Midcontinent Communications: Support. Please refer to attached testimony #9. Midcontinent is a company that supplies voice data and video services to three states including North Dakota. Anything we can do to lower costs strengthens that project compared to others. Of the 240 plus communities that we serve in our three states the largest number of those communities we serve is in North Dakota. Of all the multiple miles of fiber optic network that we have the most miles of fiber optic network are within North Dakota. We would like that positive trend to continue. We believe that the passage of this bill would help keep that the case.

Chairman Wesley R. Belter: No further testimony. Closed hearing on SB 2171.

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2171
March 21, 2011
#15726

Conference Committee

Committee Clerk Signature

Mary Bruker

Explanation or reason for introduction of bill/resolution:

A bill relating to sales and use tax exemption for equipment used in telecommunications infrastructure development; to provide an effective date; and to provide an expiration date.

Minutes:

No attachments.

Representative Bette Grande: I'd like to move a DO PASS.

Representative Glen Froseth: Seconded.

Representative Dave Weiler: I'm curious as to why this bill extends this to December 31, 2012 and leaves out the last six months of the 2011-13 biennium?

Representative Scot Kelsh: I don't have an answer to that. Representative Grande had requested a map of South Dakota, did you get that?

Representative Bette Grande: I did. I can certainly forward that to you. It all came out pretty clear except for the Mt. Rushmore area.

Representative Roscoe Strey: I believe it was a floor amendment by a Senator in Fargo who also sent the email out.

Representative Dave Weiler: During the hearing was there any desire by any of the presenters to change this back to the original form?

Representative Glen Froseth: I visited with one of the industry people following the hearing on this bill and they said there has only been about a million dollars worth of credits taken the last biennium. I think it possibly had something to do with the fiscal note. The fiscal note shows \$3.5 million and he didn't think that amount would ever be used.

Vice Chairman Craig Headland: I also had a conversation with a couple of the gentlemen who testified and they believe the bill addresses their needs and they fear there is possible rejection in the senate so they would prefer we don't mess with it.

Representative Scot Kelsh: I plan to support the motion but I would expect the cell companies lower my bill by as much as the credit that they are receiving from this because we are paying sales tax on their bill.

Vice Chairman Craig Headland: We have SB 2171. Will the clerk read the roll for a DO PASS?

**A roll call vote was taken: YES 13 NO 0 ABSENT 1
MOTION CARRIED FOR DO PASS.**

Representative Glen Froseth will carry SB 2171.

Date: 3-21-11
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2171

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

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

Motion Made By Rep. Grande Seconded By Rep. Froseth

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter	✓		Scot Kelsh	✓	
Vice Chair. Craig Headland	✓		Shirley Meyer	✓	
Glen Froseth	✓		Lonny B. Winrich	✓	
Bette Grande	✓		Steven L. Zaiser	✓	
Patrick Hatlestad	✓				
Mark S. Owens	✓				
Roscoe Streyle	✓				
Wayne Trottier	✓				
Dave Weiler	✓				
Dwight Wrangham	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Froseth

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

REPORT OF STANDING COMMITTEE

SB 2171, as reengrossed: Finance and Taxation Committee (Rep. Belter, Chairman)
recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).
Reengrossed SB 2171 was placed on the Fourteenth order on the calendar.

2011 TESTIMONY

SB 2171

Testimony in Support of
SENATE BILL NO. 2171
Senate Finance & Taxation Committee
January 25, 2011

Chairman Cook, Senate Finance & Taxation Committee members, for the record my name is Todd D. Kranda and I am an attorney with the Kelsch Law Firm in Mandan. I appear before you today as a lobbyist on behalf of Verizon Wireless to express support for SB 2171. I have a Verizon Wireless company representative here who will testify following me but before I introduce her I would like to provide you with a brief outline of the background to this bill.

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

Today you have before you SB 2171 which addresses the sunset provision. Currently, the sales tax exemption for telecommunication infrastructure is only valid through June 30, 2011. SB 2171 removes that sunset provision.

As will be explained further, the tax incentives in Section 57-39.2-04.7 NDCC are an efficient way to decrease the cost to deploy telecommunications infrastructure necessary to provide advanced wireless telecommunication services to more areas across the state. There are several other sales tax exemptions that have been implemented in the past in North Dakota to help promote building or expanding certain industries. The exemption being continued through SB 2171 will help facilitate deployment of advanced communications systems across the state and in rural areas where it may not otherwise be feasible to do so.

In conclusion I would urge that you give a **DO PASS** recommendation for SB 2171. If there are any questions I will try to answer them. Otherwise I will introduce Nancy Riedel with Verizon and have her provide more detailed information to explain the benefits of SB 2171.

Submitted by Nancy Riedel, Verizon
To Senate Finance & Taxation Committee
January 25, 2011

Benefits of Extending the Sales Tax Exemption on Telecommunications Infrastructure Investment in North Dakota

Encourages Investment

Increasing access to and adoption of, advanced broadband services are bipartisan goals of state policymakers. Providing tax incentives to increase private investment in the infrastructure necessary to provide those services is an efficient and economical way to help further these critical policy goals.

If better wireless and broadband service is a goal for North Dakota, it should be encouraged instead of discouraged.

More funds are available for telecommunications network investments if sales tax on that investment is eliminated. Quite simply, less money spent on sales tax means more money available to build new wireless sites or increase the capacity of existing sites.

The most efficient way to provide rural Americans with affordable access to advanced communication services is to provide incentives that help offset the higher costs of deployment and the lower return on investment that often exist in these outlying areas.

Good Policy

Broadband networks are vital to the economic competitiveness of all states. Policymakers should continue to look for ways to attract and expand broadband investment, especially in rural and underserved areas.

Sales and use taxes are intended to be a tax on final consumption. Most states with a sales tax have exempted inputs into the manufacturing process (such as raw materials that are converted into other products) and machinery and equipment used in the production of tangible products that are ultimately taxable when sold to the final consumer. Business inputs required to produce a taxable service should be exempt as well in order to avoid tax pyramiding, or double taxation.

Legislatures in 23 states and the District of Columbia have telecommunication equipment exemptions, ensuring that their citizens and business community will benefit from rapid deployment of communication networks-while at the same time creating jobs and new economic opportunities for their state.

The telecommunications industry is highly competitive today and it does not make sense to perpetuate tax systems that were appropriate in the monopoly era when the phone company simply passed their tax burden on to their consumers through higher rates.

Ultimately the consumer does bear the burden of higher tax impositions on the company because all operating costs must be recovered; however those tax burdens should be transparent to the consumer. NCSL has recognized that tax burdens should be explicit, not hidden.

Long Term Benefits

Continuing the current exemption would provide an immediate benefit to the ND economy through the creation of construction jobs but more importantly would create long term benefits as a result of the productivity gains made by all individuals and businesses that rely on the services provided by broadband networks.

Advanced communication facilities are the gateway to entrepreneurship as small and medium sized businesses are able to take advantage of the productivity benefits from faster communications networks.

Deployment of advanced communications systems provides opportunities to everyone regardless of race, income or physical location.

Advanced communication facilities will increase educational resources for students, by expanding access to information at school as well as at home. Distance learning opportunities are also dependent on access to advanced communications systems.

Advanced communication facilities will improve healthcare particularly in rural areas through telemedicine services.

More competitors will be allowed to enter the market with policies that reduce the cost of infrastructure deployment, resulting in more innovation and lower costs to consumers.

Sales tax revenues will grow with increased adoption of advanced telecommunications services.

ND will benefit from additional economic activity as a result of greater access to high speed communications networks allowing businesses in the state to be more efficient, thereby increasing their profits and allowing them to hire more workers.

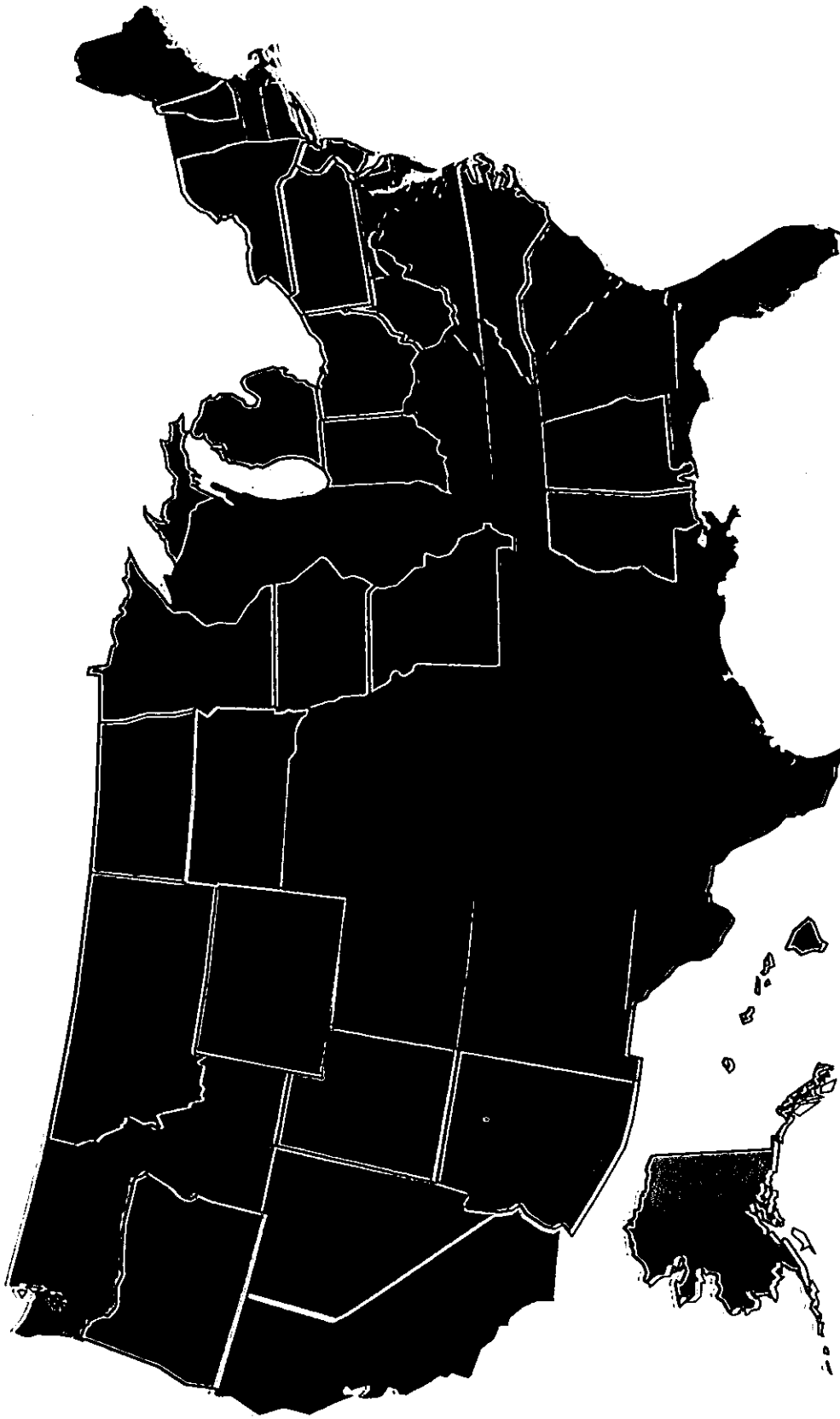
Participation in the local, national and global economies is a reality in even the most rural areas with policies that encourage broadband investment.

Verizon Wireless

ND New cellsites June 2009-December 2010

On Air Date	City	State	County
3-Aug-09	Dazey	ND	Barnes
27-Oct-09	Kathryn	ND	Barnes
27-Aug-09	Ft Totten	ND	Benson
28-Oct-10	Leeds	ND	Benson
21-Oct-10	Belfield	ND	Billings
21-Oct-10	Belfield	ND	Billings
20-Jun-09	Bowbells	ND	Burke
27-Aug-09	Flaxton	ND	Burke
27-Aug-09	Columbus	ND	Burke
30-Sep-10	Powers Lake	ND	Burke
23-Jul-09	Moffitt	ND	Burleigh
24-Jun-10	Bismarck	ND	Burleigh
9-Dec-10	West Fargo	ND	Cass
9-Jul-09	Halliday	ND	Dunn
29-Jul-10	Beach	ND	Golden Valley
16-Sep-09	New England	ND	Hettinger
10-Apr-09	Edgely	ND	LaMoure
28-Oct-10	Towner	ND	McHenry
30-Jun-09	Beulah	ND	Mercer
8-Sep-09	Huff	ND	Morton
23-Jun-09	Glen Ullin	ND	Morton
27-Oct-09	Stanley	ND	Mountrail
29-Sep-10	Lakota	ND	Nelson
30-Aug-10	Aneta	ND	Nelson
11-Jun-10	Lidgerwood	ND	Richland
23-Jul-09	Portland	ND	Steele
29-Nov-10	Woodworth	ND	Stutsman
25-Jun-09	Streeter	ND	Stutsman
31-Aug-10	Hatton	ND	Traill
30-Sep-10	Donnybrook	ND	Ward
23-Dec-10	Harvey	ND	Wells

Telecommunications/Manufacturing Equipment Sales Tax Exemptions

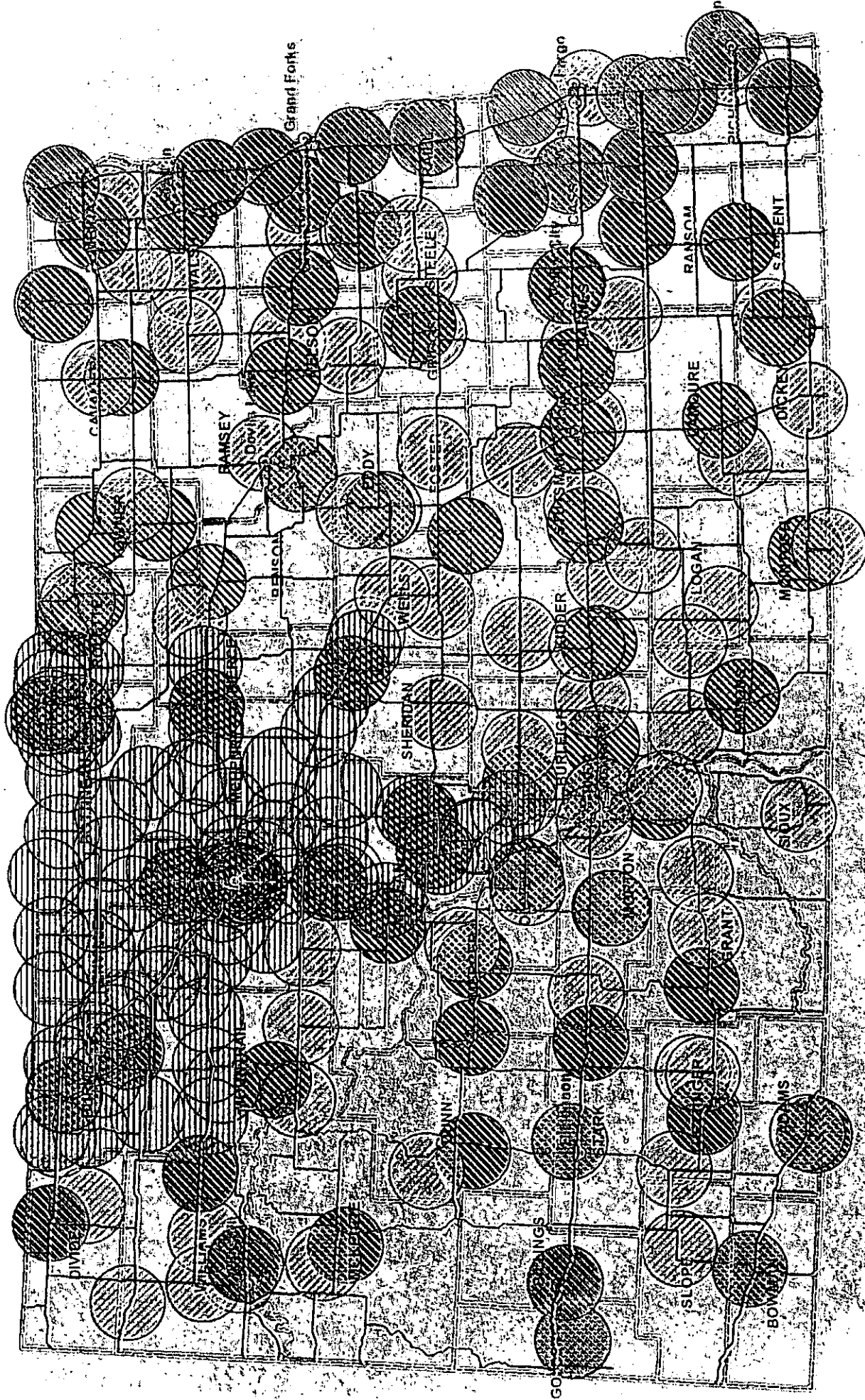


□ (23) Mfg & Telco Exempt or No Sales Tax

■ (23) Mfg Exempt; Telecom Taxable

■ (04) Mfg & Telecom Taxable

■ (DC) Mfg Taxable; Telecom Exempt



Green = Verizon
 Pink = Alltel
 Grey = SRT

Senate Bill 2171
Testimony of Kent Blickensderfer, Qwest Corporation
Delivered to Chairman Dwight Cook,
Senate Finance and Tax Committee
Tuesday, January 25, 2011

Mr. Chairman and committee members, my name is Kent Blickensderfer. I am the state vice president for Qwest Corporation in North Dakota. Senate Bill 2171 makes permanent the telecom investment incentives created by legislation enacted in 2009. That legislation was the result of an interim study by the Industry Business & Labor Committee. It provided for a sales tax exemption on telecommunication infrastructure investments to promote construction and expansion of telecommunication service.

SB 2171 helps continue broadband deployment and more ubiquitous online access. It helps provide even more opportunities for advanced communication services, specifically for those living in rural and outlying areas. Tax incentives are an efficient way to telecom infrastructure deployment costs. Decreasing the cost to deploy network assets through tax incentives helps provide advanced communication services to more areas. Continued deployment of advanced communications systems is critical to ensuring more economic opportunities for small business and consumers throughout the state.

Targeted tax incentives like these can give a competitive edge to North Dakota with companies like Qwest, where we compete for capital investment with our counterparts in surrounding states. An extra five percent can mean the difference between advanced fiber optics being deployed between Bismarck and Belfield instead of Aberdeen and Spearfish. For these reasons, we ask your favorable consideration of SB2171, making permanent the sales tax exemptions enacted during the last Legislative Assembly. Questions?

Testimony in Support of Senate Bill 2171

Chairman Cook and members of the Senate Finance and Tax Committee, my name is Thomas D. Kelsch, with the Kelsch Law Firm in Mandan. I am appearing today on behalf of AT&T to testify in support of Senate Bill 2171. As you know AT&T recently completed the purchase the wireless assets of Alltel in North Dakota, and is currently in the process of completing a changeover of the Alltel system to the AT&T wireless system. AT&T is excited to become a major provider of telecommunications services in the State of North Dakota.

One of the reasons for AT&T's excitement is the robust economy in North Dakota. Another reason is the encouragement shown by North Dakota's legislature to promote business development in the state.


Last session the legislature passed the sales tax exemption on capital investments in telecommunications to encourage additional investments in new cell sites in areas where coverage is poor, to expand telecommunications capacity in areas of higher cell traffic, and to increase broadband access and quality. Senate Bill 2171 seeks to extend that incentive. With the booming oil development in the sparsely populated western part of the state, and thriving economy in the rest of the state, the

reasons for the passage of the tax exemption for capital investment in telecommunications are even stronger today than they were two years ago.

Companies like AT&T who do business across the country have many choices when it comes to the decision of where to allocate money for capital investments. In sparsely populated state like North Dakota, a tax exemption can encourage a company like AT&T to make those capital investments in North Dakota rather than in some other state.

North Dakotans have come to depend on advanced communications services, both for expanding and running their businesses, but also for improving their quality of life. Senate Bill 2171 will help to improve the communications services in North Dakota.

I urge you to give a "Do Pass" recommendation for Senate Bill 2171.



North Dakota
Sixty-second Legislative Assembly
Senate Bill No. 2171
Senate Finance and Taxation Committee

Support for Senate Bill No. 2171

Midcontinent Communications supports passage of SB 1271 in the North Dakota Legislature. The bill extends a previously enacted law which provides a tax incentive for telecommunications companies that make investments in the state's telecommunications infrastructure.

To satisfy the ever increasing demand for essential "bandwidth" in North Dakota and other states, companies such as Midcontinent Communications must constantly evaluate competing demands for capital investment. Tax incentives like the one extended by SB 2171 (sales and use tax on equipment) reduce upfront costs and lure investment.

The flexible nature of the incentive allows either an exemption to be used during a particular project or application for subsequent reimbursement. Either method is an attractive cost control mechanism as Midcontinent Communications plans for future capital investments in North Dakota.



Dan Nelson
Director of Governmental Affairs
Midcontinent Communications
Registered North Dakota Lobbyist





NORTH DAKOTA ASSOCIATION OF
TELECOMMUNICATIONS COOPERATIVES

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SENATE BILL 2171

SENATE FINANCE AND TAXATION COMMITTEE

JANUARY 25, 2011

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 service over 150,000 homes and small businesses and approximately 96 percent of the geographic territory of the State.

Senate Bill 2171 removes the "sunset provision" from the measure adopted by this body in 2009 and makes permanent the sales tax exemption for personnel property used to construct or expand telecom infrastructure in North Dakota.

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 of this State and dramatically increasing the bandwidth available for customers to meet their needs.

The current law has been dramatically effective in pushing our state-of-the-art broadband network further and further into rural areas of North Dakota. In 2010, the State's 18 cooperative and small locally-owned telecom companies invested

\$93 million in upgrading their networks. In 2011, investment by the independent telecommunications industry is projected to be \$90 million. The sales tax exemption the Sixty First Legislative Assembly adopted allowed more rural North Dakotans to access the services and features necessary to fully participate in a 21st century economy. All of the dollars earned by those companies are reinvested in our networks and North Dakota communities.

Members of the Association urge a "Do Pass" recommendation on Senate Bill 2171.



January 24, 2011

Memo: To the Senate Finance and Taxation Committee

SRT Communications Inc. is the Independent Telecommunications Company serving North Central North Dakota. SRT offers Local and Long Distance Landline Voice Service, Wireless Service, Broadband Data and Internet Service, and Video Television Service to its customer/member/owners.

SRT is in the process of adopting a five-year plan to deliver broadband internet service to our most rural (and as a result our most under-served) customers. It is extremely expensive to get broadband services out from our central offices that are located in and service our towns to our rural subscribers. That is why there are few options for these customers. As a part of SRT's mission "to provide competitively priced, high quality communications services which are responsive to the needs of (all) of our customers", we have placed a high priority on getting service to most rural subscribers.

The five-year fiber-to-the-rural plan is estimated to cost \$50,000,000. The cost is why it is a five-year plan and not something shorter. It simply is not financially feasible for us to take on such a project all at once. Saving the 5% sales tax on such an ambitious project would allow us to speed up the project and get broadband to these rural customers. At a cost of over \$10,000 per subscriber to get fiber to their home, it is virtually impossible to recover all of our costs through monthly service charges, and therefore any cost savings help get service to the underserved customers faster.

SRT Communications Inc is also the only small carrier providing wireless service in North Dakota. It was the SRT Board's goal to provide quality wireless service to all of the SRT service area. That is why SRT continues to put towers up not only in the towns and major roadways, but also in the most rural of our townships as well. SRT feels that all of our customers deserve access to wireless service. Again, most companies would find it cost prohibitive to put service in some of the areas we have, and that is why saving the 5% sales tax on wireless equipment is so important. It allows us to get quality service out to the underserved customer quicker. SRT is currently undergoing a \$3.2 million dollar upgrade to our wireless network to provide 3G data services.

SRT Communications is a North Dakota company, employing North Dakota Citizens and serving only North Dakota Residents. All of our resources go into our networks serving our customer/member/owners who live in North Dakota. Approving the Sales Tax Exemption for the construction of wireless and wireline telecommunications infrastructure helps insure that all North Dakotans will have access to quality broadband and mobile service no matter where they choose to live.

Sincerely

Steven D. Lysne
CEO/General Manager
SRT Communications Inc.



PO Box 2599 • Bismarck, ND 58502
U.S. Toll Free 1-877-311-1648 • (701) 355-4458 • (701) 223-4645 (Fax)
office@itcnd.org • www.itcnd.org

Testimony of Deana Wiese

Executive Director, Information Technology Council of North Dakota

In Support of SB 2171

January 25, 2011

Chairman Cook and Members of the Committee:

My name is Deana Wiese, and I am the executive director of the Information Technology Council of North Dakota (ITCND). I am here to testify in support of SB 2171.

ITCND was formed in 2000 by North Dakota business, government and education leaders who recognized the need to strengthen the state's information technology infrastructure and position the state as a national leader in information technology. ITCND has grown to nearly 100 members that believe in growing a stronger North Dakota through information technology excellence and development.

ITCND supports SB 2171 as it provides for the continuation of a valuable incentive for the enhancement and expansion of North Dakota's telecommunications infrastructure. The continued expansion of wireless data coverage across North Dakota is essential to ensuring the state is competitive in business retention and attraction, including IT businesses. It will also provide increased opportunities for the state's rural communities through the ability to reliably conduct business globally from remote locations.

For these reasons, we ask for your favorable consideration of SB 2171.



**Testimony of Jeb Oehlke
North Dakota Chamber of Commerce
SB 2171
January 25, 2011**

Chairman Cook and members of the Senate Finance and Tax Committee, my name is Jeb Oehlke. I represent the North Dakota Chamber of Commerce, the principal business advocacy group in North Dakota. Our organization is an economic and geographical cross section of North Dakota's private sector and also includes state associations, local chambers of commerce, economic development organizations, convention and visitors bureaus, and public sector organizations.

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

Thank you for the opportunity to express the business community's support for SB 2171. We ask for a do pass recommendation from the committee. I am happy to answer any questions at this time.

THE VOICE OF NORTH DAKOTA BUSINESS

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Testimony #1

Testimony in Support of
SENATE BILL NO. 2171
House Finance & Taxation Committee
March 16, 2011

Chairman Belter, House Finance & Taxation Committee members, for the record my name is Todd D. Kranda. I am an attorney with the Kelsch Law Firm in Mandan. I appear before you today as a lobbyist on behalf of Verizon Wireless to express support for SB 2171. I have Nancy Riedel, a Verizon Wireless representative, here who will testify following me but before I introduce her I would like to provide you with a brief outline of the background to this bill.

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

Today you have before you SB 2171 which addresses the sunset provision. Currently, the sales tax exemption for telecommunication infrastructure is only valid through June 30, 2011. SB 2171 originally removed that sunset provision but the Senate changed it to add a new sunset of December 31, 2012.

As will be explained further, the tax incentives in Section 57-39.2-04.7 NDCC are an efficient way to decrease the cost to deploy telecommunications infrastructure necessary to provide advanced wireless telecommunication services to more areas across the state. There are several other sales tax exemptions that have been implemented in the past in North Dakota to help promote building or expanding certain industries. The exemption being continued through SB 2171 will help facilitate deployment of advanced communications systems across the state and in rural areas where it may not otherwise be feasible to do so.

In conclusion I would urge that you give a **DO PASS** recommendation for SB 2171. If there are any questions I will try to answer them. Otherwise I will introduce Nancy Riedel the State Tax Policy Director with Verizon and have her provide more detailed information to explain the benefits of SB 2171.

Submitted by Nancy Riedel, Verizon
To House Finance & Taxation Committee
March 16, 2011

Benefits of Extending the Sales Tax Exemption on Telecommunications Infrastructure Investment in North Dakota

Encourages Investment

Increasing access to and adoption of, advanced broadband services are bipartisan goals of state policymakers. Providing tax incentives to increase private investment in the infrastructure necessary to provide those services is an efficient and economical way to help further these critical policy goals.

If better wireless and broadband service is a goal for North Dakota, it should be encouraged instead of discouraged.

More funds are available for telecommunications network investments if sales tax on that investment is eliminated. Quite simply, less money spent on sales tax means more money available to build new wireless sites or increase the capacity of existing sites.

The most efficient way to provide rural Americans with affordable access to advanced communication services is to provide incentives that help offset the higher costs of deployment and the lower return on investment that often exist in these outlying areas.

Good Policy

Broadband networks are vital to the economic competitiveness of all states. Policymakers should continue to look for ways to attract and expand broadband investment, especially in rural and underserved areas.

Sales and use taxes are intended to be a tax on final consumption. Most states with a sales tax have exempted inputs into the manufacturing process (such as raw materials that are converted into other products) and machinery and equipment used in the production of tangible products that are ultimately taxable when sold to the final consumer. Business inputs required to produce a taxable service should be exempt as well in order to avoid tax pyramiding, or double taxation.

Legislatures in 23 states and the District of Columbia have telecommunication equipment exemptions, ensuring that their citizens and business community will benefit from rapid deployment of communication networks-while at the same time creating jobs and new economic opportunities for their state.

The telecommunications industry is highly competitive today and it does not make sense to perpetuate tax systems that were appropriate in the monopoly era when the phone company simply passed their tax burden on to their consumers through higher rates.

Ultimately the consumer does bear the burden of higher tax impositions on the company because all operating costs must be recovered; however those tax burdens should be transparent to the consumer. NCSL has recognized that tax burdens should be explicit, not hidden.

Long Term Benefits

Continuing the current exemption would provide an immediate benefit to the ND economy through the creation of construction jobs but more importantly would create long term benefits as a result of the productivity gains made by all individuals and businesses that rely on the services provided by broadband networks.

Advanced communication facilities are the gateway to entrepreneurship as small and medium sized businesses are able to take advantage of the productivity benefits from faster communications networks.

Deployment of advanced communications systems provides opportunities to everyone regardless of race, income or physical location.

Advanced communication facilities will increase educational resources for students, by expanding access to information at school as well as at home. Distance learning opportunities are also dependent on access to advanced communications systems.

Advanced communication facilities will improve healthcare particularly in rural areas through telemedicine services.

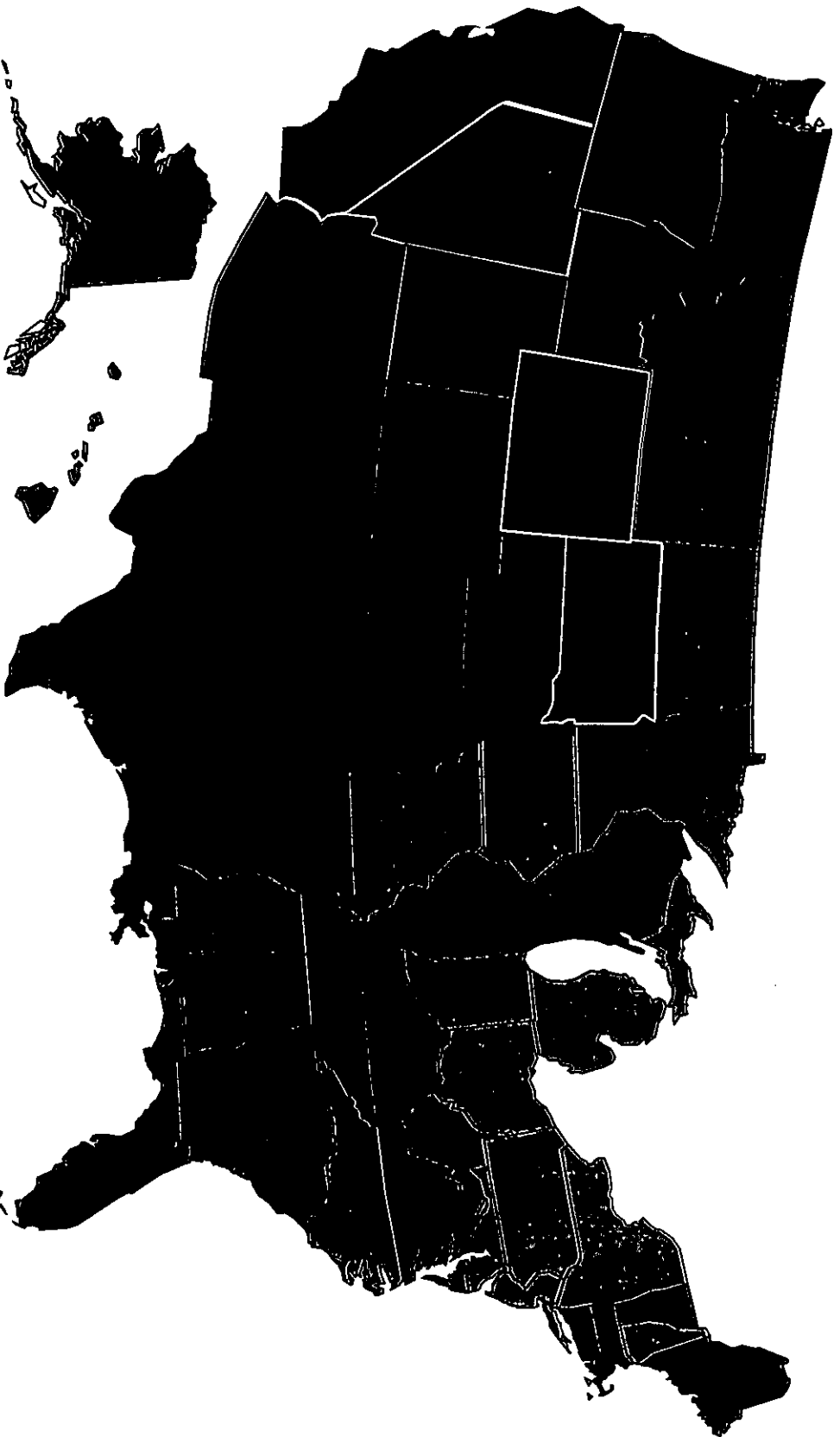
More competitors will be allowed to enter the market with policies that reduce the cost of infrastructure deployment, resulting in more innovation and lower costs to consumers.

Sales tax revenues will grow with increased adoption of advanced telecommunications services.

ND will benefit from additional economic activity as a result of greater access to high speed communications networks allowing businesses in the state to be more efficient, thereby increasing their profits and allowing them to hire more workers.

Participation in the local, national and global economies is a reality in even the most rural areas with policies that encourage broadband investment.

Telecommunications/Manufacturing Equipment Sales Tax Exemptions



- (23) Mfg & Telco Exempt or No Sales Tax
- (23) Mfg Exempt; Telecom Taxable
- (04) Mfg & Telecom Taxable

(DC) Mfg Taxable; Telecom Exempt

Verizon Wireless

ND New cellsites June 2009-December 2010

On Air Date	City	State	County
3-Aug-09	Dazey	ND	Barnes
27-Oct-09	Kathryn	ND	Barnes
27-Aug-09	Ft Totten	ND	Benson
28-Oct-10	Leeds	ND	Benson
21-Oct-10	Belfield	ND	Billings
21-Oct-10	Belfield	ND	Billings
20-Jun-09	Bowbells	ND	Burke
27-Aug-09	Flaxton	ND	Burke
27-Aug-09	Columbus	ND	Burke
30-Sep-10	Powers Lake	ND	Burke
23-Jul-09	Moffitt	ND	Burleigh
24-Jun-10	Bismarck	ND	Burleigh
9-Dec-10	West Fargo	ND	Cass
9-Jul-09	Halliday	ND	Dunn
29-Jul-10	Beach	ND	Golden Valley
16-Sep-09	New England	ND	Hettinger
10-Apr-09	Edgely	ND	LaMoure
28-Oct-10	Towner	ND	McHenry
30-Jun-09	Beulah	ND	Mercer
8-Sep-09	Huff	ND	Morton
23-Jun-09	Glen Ullin	ND	Morton
27-Oct-09	Stanley	ND	Mountrail
29-Sep-10	Lakota	ND	Nelson
30-Aug-10	Aneta	ND	Nelson
11-Jun-10	Lidgerwood	ND	Richland
23-Jul-09	Portland	ND	Steele
29-Nov-10	Woodworth	ND	Stutsman
25-Jun-09	Streeter	ND	Stutsman
31-Aug-10	Hatton	ND	Traill
30-Sep-10	Donnybrook	ND	Ward
23-Dec-10	Harvey	ND	Wells

Testimony
#3



AT&T Est. 3G Post-Integration
(as of end of 1Q 2011)

AT&T GSM On-Net

AT&T Partner GSM

Testimony #4



Testimony of Jeb Oehlke
North Dakota Chamber of Commerce
SB 2171
March 16, 2011

Chairman Belter and members of the House Finance and Tax Committee, my name is Jeb Oehlke. I represent the North Dakota Chamber of Commerce, the principal business advocacy group in North Dakota. Our organization is an economic and geographical cross section of North Dakota's private sector and also includes state associations, local chambers of commerce, economic development organizations, convention and visitors bureaus, and public sector organizations.

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Senate Bill 2171
Testimony of Kent Blickensderfer, Qwest Corporation
Delivered to Chairman Wes Belter,
House Finance and Tax Committee
March 16, 2011

Mr. Chairman and committee members, my name is Kent Blickensderfer. I am the state vice president for Qwest Corporation in North Dakota. Senate Bill 2171 extends the date for telecom investment incentives created by legislation enacted in 2009. That legislation was the result of an interim study by the Industry Business & Labor Committee. It provided for a sales tax exemption on telecommunication infrastructure investments to promote construction and expansion of telecommunication service.

SB 2171 helps continue broadband deployment and more ubiquitous online access. It helps provide even more opportunities for advanced communication services, specifically for those living in rural and outlying areas. Tax incentives are an efficient way to telecom infrastructure deployment costs. Decreasing the cost to deploy network assets through tax incentives helps provide advanced communication services to more areas. Continued deployment of advanced communications systems is critical to ensuring more economic opportunities for small business and consumers throughout the state.

Targeted tax incentives like these can give a competitive edge to North Dakota with companies like Qwest, where we compete for capital investment with our counterparts in surrounding states. An extra five percent can mean the difference between advanced fiber optics being deployed between Bismarck and Belfield instead of Aberdeen and Spearfish. For these reasons, we ask your favorable consideration of SB2171, extending for two years the sales tax exemptions enacted during the last Legislative Assembly. Questions?



NORTH DAKOTA ASSOCIATION OF
TELECOMMUNICATIONS COOPERATIVES

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SENATE BILL 2171

HOUSE FINANCE AND TAXATION COMMITTEE

MARCH 16, 2011

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 service over 150,000 homes and small businesses and approximately 96 percent of the geographic territory of the State.

Senate Bill 2171 removes the "sunset provision" from the measure adopted by this body in 2009 and makes permanent the sales tax exemption for personnel property used to construct or expand telecom infrastructure in North Dakota.

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 of this State and dramatically increasing the bandwidth available for customers to meet their needs.

The current law has been dramatically effective in pushing our state-of-the-art broadband network further and further into rural areas of North Dakota. In 2010, the State's 18 cooperative and small locally-owned telecom companies invested

\$93 million in upgrading their networks. In 2011, investment by the independent telecommunications industry is projected to be \$90 million. The sales tax exemption the Sixty First Legislative Assembly adopted allowed more rural North Dakotans to access the services and features necessary to fully participate in a 21st century economy. All of the dollars earned by those companies are reinvested in our networks and North Dakota communities.

Members of the Association urge a "Do Pass" recommendation on Senate Bill 2171.

testimony # 7



January 24, 2011

Memo: To the Senate Finance and Taxation Committee

SRT Communications Inc. is the Independent Telecommunications Company serving North Central North Dakota. SRT offers Local and Long Distance Landline Voice Service, Wireless Service, Broadband Data and Internet Service, and Video Television Service to its customer/member/owners.

SRT is in the process of adopting a five-year plan to deliver broadband internet service to our most rural (and as a result our most under-served) customers. It is extremely expensive to get broadband services out from our central offices that are located in and service our towns to our rural subscribers. That is why there are few options for these customers. As a part of SRT's mission "to provide competitively priced, high quality communications services which are responsive to the needs of (all) of our customers", we have placed a high priority on getting service to most rural subscribers.

The five-year fiber-to-the-rural plan is estimated to cost \$50,000,000. The cost is why it is a five-year plan and not something shorter. It simply is not financially feasible for us to take on such a project all at once. Saving the 5% sales tax on such an ambitious project would allow us to speed up the project and get broadband to these rural customers. At a cost of over \$10,000 per subscriber to get fiber to their home, it is virtually impossible to recover all of our costs through monthly service charges, and therefore any cost savings help get service to the underserved customers faster.

SRT Communications Inc is also the only small carrier providing wireless service in North Dakota. It was the SRT Board's goal to provide quality wireless service to all of the SRT service area. That is why SRT continues to put towers up not only in the towns and major roadways, but also in the most rural of our townships as well. SRT feels that all of our customers deserve access to wireless service. Again, most companies would find it cost prohibitive to put service in some of the areas we have, and that is why saving the 5% sales tax on wireless equipment is so important. It allows us to get quality service out to the underserved customer quicker. SRT is currently undergoing a \$3.2 million dollar upgrade to our wireless network to provide 3G data services.

SRT Communications is a North Dakota company, employing North Dakota Citizens and serving only North Dakota Residents. All of our resources go into our networks serving our customer/member/owners who live in North Dakota. Approving the Sales Tax Exemption for the construction of wireless and wireline telecommunications infrastructure helps insure that all North Dakotans will have access to quality broadband and mobile service no matter where they choose to live.

Sincerely

A handwritten signature in black ink, appearing to read "A. D. Lysne".

Steven D. Lysne
CEO/General Manager
SRT Communications Inc.



Testimony of Deana Wiese

Executive Director, Information Technology Council of North Dakota

In Support of SB 2171

March 16, 2011

Chairman Belter and members of the House Finance and Tax Committee:

My name is Deana Wiese, and I am the executive director of the Information Technology Council of North Dakota (ITCND). I am here to testify in support of SB 2171.

ITCND was founded in 2000 as the trade association for the information technology (IT) industry and has nearly 100 member organizations, with representation from both the public and private sectors, that have come together to support the growth and development of IT in North Dakota.

ITCND supports SB 2171 as it provides for the continuation of a valuable incentive for the enhancement and expansion of North Dakota's telecommunications infrastructure. The continued expansion of wireless data coverage across North Dakota is essential to ensuring the state is competitive in business retention and attraction, including IT businesses. It will also provide increased opportunities for the state's rural communities through the ability to reliably conduct business globally from remote locations.

For these reasons, we ask for your favorable consideration of SB 2171.

Testimony #9

North Dakota
Sixty-second Legislative Assembly
Senate Bill No. **2171**
House Finance and Taxation Committee

Support for Senate Bill No. 2171

Midcontinent Communications supports passage of SB 1271 in the North Dakota Legislature. The bill extends a previously enacted law which provides a tax incentive for telecommunications companies that make investments in the state's telecommunications infrastructure.

To satisfy the ever increasing demand for essential "bandwidth" in North Dakota and other states, companies such as Midcontinent Communications must constantly evaluate competing demands for capital investment. Tax incentives like the one extended by SB 2171 (sales and use tax on equipment) reduce upfront costs and lure investment.

The flexible nature of the incentive allows either an exemption to be used during a particular project or application for subsequent reimbursement. Either method is an attractive cost control mechanism as Midcontinent Communications plans for future capital investments in North Dakota.

Dan Nelson
Director of Governmental Affairs
Midcontinent Communications
Registered North Dakota Lobbyist