

LEGISLATIVE REPORT

**North Dakota Association of
Telecommunications Cooperatives**
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To: Members

From: David Crothers, Executive Vice President

Today is Day 12 of the North Dakota Legislative Assembly.

This week marked the end of the ability of members of the House of Representatives to introduce legislation. Members of the Senate have until Monday to introduce bills. To date, 435 bills and 12 resolutions have been introduced in the House. Senators have introduced 295 bills and 9 resolutions.

The legislature is developing a routine and creating more of a rhythm as they hit their stride and new members become more acclimated with the process. Additional bills have been heard and received recommendations in their respective committees so there is work for the full body to do when they go into their afternoon sessions. One of the bills that has had both a hearing and floor vote is House Bill 1026. The legislation makes important changes to North Dakota's One Call statutes and has been strongly supported by members of the independent telecom industry in the State. Brooks Goodall, Operations Manager at Reservation Telephone, has been instrumental in both developing the changes and advocating for them in multi-industry groups making the changes and testifying before a House committee to explain why the language was so important. That bill passed this week 91-1.

There were two committee hearings this week in Bismarck: The first, House Bill 1162 allows complaints to be filed against the State of North Dakota that allege the government is competing against private industry for business. The allegation would be filed with the Public Service Commission and the agency would make a determination. The bill was filed at the request of small government supporters in general and, more specifically, those wishing to make a point about water sales in oil country in northwestern North Dakota.

House Bill 1178, which increases 911 assessments to \$2.00 on telephone bills, had a committee hearing also this week in front of the House Political Subdivisions Committee. In addition, to increasing the fee, the bill also requires that 50 cents of the amount must be withheld and remitted to a fund used to create a statewide interoperability radio network. The legislation has significant and dedicated support from the emergency services community and law enforcement at the city, county and Statewide level. They will make a concerted effort to pass this bill during the session.

This week also saw the introduction of House Bill 1373, which eliminates the requirement that a telco must pass on to customers any governmentally imposed surcharge or decrease within 30 days of implementation. The legislation was introduced at the request of Century Link. It is the Association's belief that Century Link wishes to add a line item to their bills as Verizon, Midcontinent and a number of other providers do to recover the 2.5 percent gross receipts tax.

Finally, House Bill 1046, which extends the 5 percent sales tax exemption for the improvement and build-out of telecommunications infrastructure beyond its June 30, 2017 expiration date, remains in the House Finance and Taxation Committee despite a committee vote earlier this week overwhelmingly recommending a "Do Not Pass". As the Association noted in last week's edition of the Legislative Report, the State simply does not have the money right now to continue funding the \$3.5-5 million price tag for the exemption. Chairman Craig Headland has been extremely helpful throughout the process and is currently holding the bill in his committee until he is further able to determine if there is a window where more money might be available and there is a possibility for the legislation's passage. The Association and Chairman Headland have had extensive discussions and we are extremely appreciative of his counsel and the many courtesies he has extended the industry.

In conclusion, the Association looks forward to you being with us next Tuesday for the independent telecom industry's Legislative Dinner at the Ramkota Inn. In fact, we would ask you to seek out your legislators during the evening and share with them what your company is doing in their legislative district. It will be a revelation to them how many people that you employ, your fiber build-out, the amount of money you are spending each year bringing your customers....and their constituents.....state-of-the-art broadband. It will also be a good time to share with them how important House Bill 1046 and the 5 percent sales tax exemption has been to your company's build-out.

Members of the Association's Legislative Committee include: Derrick Bulawa, BEK Communications; Paul Schuetzler, Consolidated Telcom; Keith Larson, Dakota Central; Ralph Greer, Dickey Rural; Tyler Kilde, MLGC; Dean Rustad, NCC; Karl Blake, Polar Communications; Dave Gauslow, Red River; Jeanette Hoff, Reservation Telephone; Barb Steinmetz, Reservation Telephone; Jim Newman, SRT and Troy Schilling, West River.

Please contact me at any time regarding any of the legislation or any other matter of concern. I can be reached at work: 701-663-1099; cell: 701-471-3838 or dcrothers@yahoo.com.

HB 1008

The Public Service Commission's appropriation bill. The \$21 million biennial budget is typically not an area members of the Association are tremendously concerned about, but potentially is a vehicle to add language impacting the independent telecommunications industry in North Dakota. The Association will continue to monitor the bill throughout the session.

Jan. 3 Introduced in House.
Jan. 9 Appropriations Committee Hearing.

HB 1026

Legislation introduced by Legislative Management, which took it from an interim committee known as the Economic Impact Committee, that addresses changes to North Dakota's One Call statutes. Brooks Goodall, Operations Manager at Reservation Telephone Cooperative and the telecommunications board member on the North Dakota One Call Board, testified on behalf of the independent telephone industry in the State. The legislation is supported by the Association and minimizes a number of problems the industry sought to address during the last legislative session. Specifically, allowing telcos to utilize "positive response" and "digital white lining" should reduce the time, effort and expense incurred by facility owners in complying with the existing law.

Jan. 3 Introduced in House.
Jan. 5 Industry, Business and Labor Committee recommended "Do Pass", as amended, 14-0.
Jan. 10 House Passed 91-1.

HB 1027

A bill introduced by the Economic Impact Committee that met during the interim and received a report from the Emergency Services Communications Coordinating Committee. Recommendations in the report included legislation eliminating the ability of telecommunications companies to charge for changes classified as "database management" and limiting telco compensation for billing and remitting 911 assessments to the counties to 5 percent of "the first dollar collected". The language is strongly supported by the 911 community and the North Dakota

Association of Counties. During the initial hearing on House Bill 1027 the Association strongly opposed the change and told members of the committee that it was unfair to change a formula that has existed for over 30 years simply because the Public Safety Answering Points (PSAP's) in the State wanted more money. The Association also testified that telecom companies in the State had no desire to be the billing and collection agents for the counties and they had the ability to bill residents of the county for the locally-owned and locally-controlled entities.

- Jan. 3 Introduced in House.
- Jan. 5 Political Subdivisions Committee Hearing.
- Jan. 12 Political Subdivisions Committee Recommended "Do Pass",
 as amended, 15-0.
- Jan. 18 House Passed 90-0.

HB 1046

Legislation making the current 5 percent sales tax exemption for equipment used in telecommunications infrastructure development permanent. Since its inception in 2009 the exemption has been temporary. Although the statute has existed since then, there was always an automatic "sunset provision" whereupon the exemption disappeared on a set date. In the beginning the statute "sun set" two year old intervals. However, the current exemption has been in effect since 2013. As a result, it will expire on June 30, 2017.

As part of the legislative interim between 2015 and 2017 the Political Subdivisions Taxation Committee did a thorough review of all of the current tax exemptions for all industries and investors in the State of North Dakota, including the one utilized by the telecommunications industry. The Association appeared numerous times before the interim committee to urge the provision's retention. The interim committee agreed and voted unanimously to introduce legislation this session making the exemption permanent.

A number of problems have arisen, however, since its introduction and were highlighted during the Finance and Taxation Committee's hearing. Although there was no opposition to the measure in committee, North Dakota's financial condition, the philosophical bent of a number of legislators and the legislature's scouring of accounts for extra money has presented obstacles that we did not anticipate. The Association expects the

bill will sit in committee without action until they have further insight into the revenues they have available for this and similar exemptions.

Jan. 3 Introduced in House.

Jan. 9 Finance and Taxation Committee Hearing.

HB 1162

A bill that enables private industry to file a complaint against a State agency or institution alleging the government is competing against them for business. The allegation will be filed with the North Dakota Public Service Commission. The PSC will hold a hearing and make a determination if government is competing against private enterprise for that service or product. The Commission must issue a decision within 20 days. If the PSC finds the government is competing with the private sector it will order the agency or institution to cease its operations unless: 1) Ceasing the activity will create an emergency; 2) The cost of providing the service through private enterprise will cost at least ten percent more than the same service provided by a State agency or institution; 3) Private enterprise cannot adequately provide the service; or, 4) Cessation of the activity will cause irreparable harm or loss of substantial invested funds.

The legislation also requires that “Unless a State agency or institution demonstrates a compelling public interest for an activity to be in competition with private enterprise, it must be the policy of the State to contract with private enterprise. If a State agency institution is authorized to engage in an activity in competition with private enterprise, the Public Service Commission shall set a fee for that activity to reflect the fair market value and the actual costs incurred.”

Jan. 6 Introduced in House.

Jan. 16 Industry, Business and Labor Committee Hearing.

HB 1178

Legislation that alters substantially how 911 fees are charged in North Dakota. The bill removes the requirement that a governing board adopt a resolution forwarding a proposed 911 assessment to the voters for their approval or rejection during the next election. Instead, the governing board in that city or county may instead impose a fee of up to \$2.00 per month on the assessed services. The requirement for voter approval disappears.

Additionally, 50 cents of the \$2.00 must be dedicated to a political subdivision's obligation to a new "statewide interoperability radio network".

- Jan. 6 Introduced in House.
- Jan. 17 Political Subdivisions Committee Hearing.

HB 1185

A mandate that anyone who manufactures, distributes or sells a product that makes content on the internet accessible may not sell the device.....including routers.....unless it has an operating digital blocking capability. It imposes additional obligations upon the manufacturer to ensure that access to intimate images and prostitution sites are inaccessible. The process for having the filter disabled is quite cumbersome and includes a written request, face-to-face meeting and the payment of a \$20 fee.

- Jan. 9 Introduced in House. Referred to Judiciary Committee.
- Jan. 11 Request Return from Committee.
- Jan. 11 Withdrawn from Further Consideration.

HB 1373

Legislation introduced at the request of Century Link to eliminate the requirement that any governmentally imposed surcharges be added to a customer's bill within 30 days of the implementation of those obligations. The Association believes that Century Link will begin adding the 2.5 percent gross receipts tax to customer bills, although the tax obligation has existed for almost two decades. As you will recall, the North Dakota Century Code was amended two years ago to remove any rate regulation for Century Link so there was some question whether this legislation was even necessary. However, to avoid any future confusion or disagreement it was determined the change should be proposed.

- Jan. 16 Introduced in House.
- Jan. 24 Industry, Business and Labor Committee Hearing.

SB 2021

The Information Technology Department's biennial appropriation bill. The agency is responsible for providing the voice, data and video....through a contract with Dakota Carrier Network.....to all State

agencies, K-12, higher education, county offices and the State National Guard. Although the Association seldom gets involved with ITD's appropriations bill, it is monitored because of the many advisory committees created under this section of law. Additionally, it is the section of the Century Code that enumerates the agency's powers and duties, including whom they may and may not serve.

Jan. 3 Introduced in Senate.

Jan. 5 Appropriations Committee hearing.