

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/19/2015**

Bill/Resolution No.: HB 1385

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

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

HB 1385 deals with voice over Internet protocol service.

- 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.*

The bill does not change the taxation of VOIP; there is no fiscal impact.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

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**Agency:** Office of Tax Commissioner

**Telephone:** 328-3402

**Date Prepared:** 02/03/2015

**2015 HOUSE INDUSTRY, BUSINESS AND LABOR**

**HB 1385**

# 2015 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee  
Peace Garden Room, State Capitol

HB 1385  
2/4/2015  
23201

- Subcommittee  
 Conference Committee

*Donna Whesham*

## Explanation or reason for introduction of bill/resolution:

Voice over internet protocol service and internet protocol-enabled service and add definitions.

## Minutes:

Attachments # 1-7.

**Chairman Keiser:** Opens the hearing on HB 1385.

**Representative Blair Thoreson~District 44:** introduced HB 1385. (See Attachments # 1 & 2).

7:45

**Kent Blickensderfer~Century Link in North Dakota:** In support of HB 1385. (See Attachment # 3).

12:15

**Chairman Keiser:** What does the term conditions mean on Page 5 Subsection 1 line 2?

**Blickensderfer:** It means anything else. I have to get back to you on this it is probably all encompassing.

**Chairman Keiser:** If conditions means everything else, there is no recourse. What if a customer has a complaint. What is their recourse?

**Blickensderfer:** I would point you to line 24. If it is a consumer complaint, assuming this is a residential customer, there is a separate section 4921 that talks about the obligations of carriers that they have to offer essential telecom services and what they have to offer. There are rules that go along with that such as the public service commission retains price complaint authority still and product and service quality conditions. You would revert back to that. If you are a business customer I would say your recourse is to go down the street.

**Representative M Nelson:** With the call on the internet, how does 911 know where you are located?

**Blickensderfer:** I don't know.

**Cheryl Riley~President, External Affairs-Northern Plain States-ATT:** In support of HB 1385. (See Attachment # 4).

**20:10**

**RepresentativeBoschee:** Looking at this map why is there a void in the upper mid-west and across the northern border?

**Riley:** I don't know if I can answer that question. Currently there are similar bills run in Minnesota and Iowa and it is my understanding that Nebraska, I think, there wasn't a need for legislation. But I do know Minnesota and Iowa are actively running and South Dakota is one of my states, but we wanted to run the legislation in North Dakota first.

**Chairman Keiser:** What is issue is providing economic certainty, how does this do that? What is uncertain if we were to regulate it?

**Riley:** We feel these are information services and regulations that were developed early on that really pertain to telephone service under a monopoly system. This is up in the air on the federal level as well. There has been talk of putting these services under Title 2 which is really concerning to us. These pieces of legislation are very important to companies like mine. We need to know that we don't have regulations that don't make sense attached to that infrastructure. It is a chance for North Dakota to stand up and say we don't think the internet should be regulated like telephone service.

**Mike McDermott~Executive Director of State Government Affairs for Verizon Communications:** In support of HB 1385. (See Attachment # 5).

**26:45**

**Representative M Nelson:** Who offers essential telecommunication in the state?

**McDermott:** I would say anyone who is regulated by Public Utility Commission and became an incumbent local exchange provider or a rural telephone provider.

**Representative M Nelson:** But Verizon is not required to provide those services?

**McDermott:** No. Because we are not a local exchange provider in the state.

**Representative M Nelson:** So the VoIP providers would not be required to provide those services either?

**McDermott:** I would agree with that.

**Chairman Keiser:** Have you shared your amendments with the others supporting the bill and are they supporting your amendment?

**McDermott:** We shared it today and I don't know if they support it.

**Jon Godfread:** Greater North Dakota Chamber: We support HB 1385. We did bring together the working group of the private sector and other stakeholders together to work on this. As of last session Legislative Session studied this. We also have other groups that have come onboard with this such as Corn Growers, Sanford Health and others

**29:00**

**Marnie Walth~Public Policy & Strategic Planning Director of Sanford Health:** (See Attachment # 6).

**30:08**

**Representative Thoreson:** I have not read through the amendment but we will take a look and see and it is probably an issue that can be worked through.

**Representative Ruby:** This is a question for Kent, you said in your testimony that provision A was a requirement for your company to be on board?

**Kent Blickensderfer:** Yes, but I don't know if the amendment defeats all of that. I feel the first part of the proposed amendment where it says if determined to be a type of service included seems to be a way to later argue that because this was totally deregulated we should never be included in that in the first place and we don't want to contribute to a fund. It's been argued before amongst the carriers. That is why it is very important to obtain our support and the neutrality of some of the other carriers like the rural carriers.

**Representative Ruby:** Is it something that has not been set up and preempting something and saying you may be subject to assessments?

**Blickensderfer:** Doesn't it say required assessment?

**Representative Ruby:** Yes.

**Blickensderfer:** That is why we said that determination would be made at that time. As to who would be required to be assessed to both pay in and receive funds. We've seen this before the local bell operating company even though it doesn't receive any funds in North Dakota will be paying heavy into this. We are going to try to pass some of those costs onto our consumers. We feel that everybody operating here should have the same obligation.

**Chairman Keiser:** Anyone here in opposition to HB 1385? Seeing none. Is there anyone here in a neutral position to HB 1385?

**35:00**

**Brian Kalk~Commissioner** of the Public Service Commission: In neutral position to HB 1385. (See Attachment #7). The commission would change its position from neutral to against if the amendment was offered. Because that was a key point that keeps us neutral.

**36:55**

**Mike Link~**: Director of State Radio. I'm here to answer Representative Nelsons question on how VoIP works. The 911services from a phone go from the land line to 911. They are directed to whatever the public safety answering point is. On a cellular phone the actual antennae determines where those 911 calls go. Both are set up by the companies where the calls go. VoIP is a little different. There are regulations in how the FCC treats VoIP. It is on the customers to put their address in the VoIP system so services get to 911. You can still dial 911 however it is based on the customer entering their right address to the service. At state radio we had one of these calls. It was a missionary who lived in southwest North Dakota, he moved to Brazil and his son pushed 911 and the sheriff went to the residence and found out they actually were in Brazil and he hadn't changed the address.

**Chairman Keiser**: The commissioner did say if we adopt the amendment the Public Service Commission will be opposed to the bill.

**Blickensderfer**: Yes. I don't think we have consensus right now. It would be my suggestion you hold it to look into it a little further. I can't speak for Verizon, I can speak the group here. We don't like the amendment.

**Representative Beadle**: **Moved Do Pass on HB 1385.**

**Representative Laning**: **seconded.**

**A Roll Call Vote was taken. Yes: 13 No: 0 Absent: 2. Motion Carried.**

**Representative Beadle**: **will carry the bill.**

Date: Feb 4, 2015

Roll Call Vote: 1

2015 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1385

House Industry, Business & Labor Committee

Subcommittee  Conference Committee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations

Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By Rep Beadle Seconded By Rep Laning

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Representative Lefor	X	
Vice Chairman Sukut	X		Representative Louser	X	
Representative Beadle	X		Representative Ruby	X	
Representative Becker	X		Representative Amerman	X	
Representative Devlin	X		Representative Boschee	X	
Representative Frantsvog	Ab		Representative Hanson	X	
Representative Kasper	Ab		Representative M Nelson	X	
Representative Laning	X				

Total (Yes) 13 No 0

Absent 2

Floor Assignment Rep Beadle

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

**REPORT OF STANDING COMMITTEE**

**HB 1385: Industry, Business and Labor Committee (Rep. Keiser, Chairman)**  
recommends **DO PASS** (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING).  
HB 1385 was placed on the Eleventh order on the calendar.

**2015 SENATE INDUSTRY, BUSINESS AND LABOR**

**HB 1385**

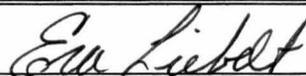
# 2015 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee  
Roosevelt Park Room, State Capitol

HB 1385  
2/18/2015  
Job Number 24063

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to voice over internet protocol service and internet protocol-enabled service

## Minutes:

Attachment

**Chairman Klein:** Called the committee to order.

**Representative Blair Thoreson:** Written Testimony Attached (1) and Letters to the Committee Attached (2). (:30-3:30)

**Senator Burckhard:** This is not a regulated service correct?

**Representative Thoreson:** Correct, this is a new and emerging technology. Most States, I believe 29, plus the District of Columbia have put in place some form of legislation similar to this. (3:35-4:21)

**Kent Blickensderfer, Representing Century Link in North Dakota:** Written Testimony Attached (3). (5:12-9:21)

**Senator Burckhard:** If you were a betting man what do you think the likelihood of a heist of a state high cost universal fund in North Dakota is?

**Kent Blickensderfer:** I would place it fairly low. (9:40-10:12)

**Senator Sinner:** Asked about his reference to section three of the bill which he can't find.

**Kent Blickensderfer:** It is subsection 3 of section 2.

**Senator Burckhard:** Asked what would happen if we didn't pass this bill five years from now, it's a non-regulated service right?

**Kent Blickensderfer:** That is probably a fair assessment except for the fact that some utility commissions have asserted authority over the voice over internet prodigal.

**Chairman Klein:** I heard the FCC is going to make some sort of ruling next week, can you comment to that?

**Kent Blickensderfer:** I could but I am not a FCC expert. There is an expected order to be coming out of the FCC on February 26<sup>th</sup> regarding on the regulation of the internet and network neutrality issues. The Obama administration has commented heavily about regulating the internet under title 2, the 1934 telecom act, which would be substantially a more restrictive regulation. (12:15-13:25)

**Chairman Klein:** Would that supersede what we would do, the federal always does?

**Kent Blickensderfer:** I believe it would.

**Cheryl Riley, AT&T President External Affairs of the Northern Plains States:** Written Testimony Attached (4). (14:52-18:40)

**Senator Campbell:** Asked for examples of what voice over protocol internet is, if it is like Skype or texting over voice.

**Cheryl Riley:** Said the examples of Skype and Vonage those are nomadic voice services and are already not regulated. What we are talking about is interconnected voice over internet protocol. (19:03-20:08)

**Senator Campbell:** Asked for an example of something that would be under this.

**Cheryl Riley:** Skype would be computer to computer and that is not regulated. What we are talking about our VOIP and IP enabled services that originate from a broadband connection that goes through the public switch telephone network and ends either, a call that starts on a VOIP line but ends on a traditional telephone. (20:16-21:50)

**Mike McDermott, Executive Director of State Government Affairs for Verizon Communications:** Written Testimony Attached (5). (22:58-26:52)

**Chairman Klein:** You were part of the working group that got to this end result and this bill has been in the house did you voice your concerns over in the house also?

**Mike McDermott:** Yes we did indeed and during the working group process we advanced legislation language that we thought was suitable that would accomplish exactly what we are proposing in this amendment. (27:15-28:03)

**Chairman Klein:** Was this newer amendment run by the other players and what was their opinion or will we hear from them?

**Mike McDermott:** I believe you will hear a rebuttal.

**Senator Burckhard:** Why isn't there agreement on the verbiage?

**Mike McDermott:** Said there was concern that voice over the internet protocol is not a telecom service, it is an internet service. I believe there were concerns voiced earlier that should a high cost fund be created that this language would somehow exempt voice over internet provider customers of such from a high cost fund should it be created. (28:48-29:32)

**Senator Burckhard:** I don't understand why there is no agreement on the verbiage.

**Mike McDermott:** I believe that the entities that do not support my amendment or rather not see my amendment on there are more confident that the language that is currently in the bill is right approach.

**Senator Murphy:** Asked what the FCC will do on the 26<sup>th</sup> and how might that impact all these companies. He also asked if it would nullify this bill.

**Mike McDermott:** Said whether or not they go into the weeds on regulating the internet beyond net neutrality and certain aspects of provisioning of internet services it is not known. I believe the FCC intent is to supersede the authority of the states to make sure states don't undo what they are trying to accomplish.

**Senator Murphy:** If it's not the Feds that you are worried about in this language, who do you think might try and start up a high cost fund, the legislature?

**Mike McDermott:** The high cost fund already exists at the federal level. (33:00-33:47)

**Jon Godfread, Greater North Dakota Chamber:** Said they were the group that brought all of the parties together and that it will take a couple of years to get these rules ironed out and any states that come in prior to that will be an attractive place for investments for these companies.(36:32-37:19)

**Constance Hofland, Attorney representing the Motion Picture Association of America:** Written Testimony Attached (6). (38:15-40:49)

**Chairman Klein:** Isn't there someone looking out for those folks anyway and protecting their intellectual property, don't we have laws that already address that?

**Constance Hofland:** There are intellectual property laws in affect but what this is saying is, we don't want that language to be interpreted so broadly that a state even acting as a state entity couldn't put in a policy that protects intellectual policy like for their own computer use and their employee's computer use.

**Marine Walth, Public Policy and Strategic Planning Director:** Written Testimony Attached (7). (42:00-43:00)

**David Crothers, Executive Vice President of the North Dakota Telephone Cooperatives:** Said that his members would resist the Verizon Wireless amendment. The whole bill is prospective and none of the services, that many of these entities provide, are regulated at all. The FCC is scheduled to adopt rule and it is very possible that they will

reclassify internet IP services as telecommunication services and go to title two. (43:36-48:12)

**Chairman Klein:** You did have an opportunity to help work this through?

**David Crothers:** Yes it is an issue that was very important to the members so we joined with the sponsors in working to make this version a better bill than the bill from two years ago. Despite all of that the members of the association, the rural telephone companies in North Dakota, did not want to support this bill. Their concern is they really don't know what it does. We know it doesn't do anything today; nobody is regulated for any of the VOIP services. Our concern has always been we don't know what is going to be happening in the future. He continued making additional comments and questions were asked. (48:30-55:05)

**Senator Burckhard:** If it becomes a regulated service does it become a revenue producer for the feds?

**David Crothers:** I am not aware of anyways that there would be attentional revenue generated. (55:17-57:00)

**Julie Fedorchak, Chairman of the Public Service Commission:** Testifying in a neutral position. Written Testimony Attached (8) (57:23-60:00)

**Senator Murphy:** As a regulator you are telling us that this bill takes away three of your jobs and you are indifferent to that, in one way it takes away from your authority on the other hand you have less work to do?

**Julie Fedorchak:** I don't view it as having less work to do. I do see this as an extension of what has already been happening in the telecom industry. It has been largely deregulated and that process started in the nineties. (1:00-1:02:26)

**Senator Murphy:** It appears the commission's authority regarding a complaint of unjust or unreasonable discrimination in price for practice for a telecom service would be removed as well, do you find that a little bit troubling for someone who is here to protect the public?

**Julie Fedorchak:** We don't receive a lot of complaints from folks on price and service today because I think they are taking their complaints to the market place and finding other providers. In certain areas where customers don't have a lot of choices I am concerned about that. ((1:03-1:03:25)

**Senator Burckhard:** Would you suggest this bill is a solution without a problem?

**Julie Fedorchak:** I have yet to be able to understand what the problem that this bill solves.

**Kent Blickensderfer:** If you look at the carve outs on page five and you go to line 24, any obligation to offer essential telecommunication services, 49.21 has specific rules regarding the offering of essential telecommunication services and they are defined in that statute as basic residential telephone services. (1:06:20-1:09)

**Senator Poolman:** In regards to Senator Burckhard's question about a solution looking for a problem; if we are at the point where the FCC is going to come out and create all of this uncertainty at a federal level for what we believe to be to be an extended period of time, isn't this exactly what we would need to create certainty in our own state so that so that people are still comfortable investing in this technology?

**Kent Blickensderfer:** Exactly the reason for the bill and that is why 29 other states and the District of Columbia have seen fit to do exactly that.

**Chairman Klein:** Closed the hearing.

# 2015 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee  
Roosevelt Park Room, State Capitol

HB 1385  
2/18/2015  
Job Number 24068

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to voice over internet protocol service and internet protocol-enabled service

## Minutes:

No Attachments

**Chairman Klein:** Asked the committee to go back to HB 1385.

**Senator Murphy:** Are you thinking about holding it at all?

**Chairman Klein:** I am not but it is up to the committee. I sensed if we add an amendment we will lose the bill. This group has worked hard to provide this and it is something that will welcome organizations investment into the state. Is it ahead of its time, it sounds like it could be but look at how big your cell phone was ten years ago and where we have come. Technology continues to move quickly and the group went out and did what we told them to do.

**Senator Murphy:** Said he still doesn't know what this is for.

**Chairman Klein:** One of the groups still didn't get exactly what they wanted. They tried it in the House. When you add what they want you will lose the others.

**Senator Miller:** Is the idea that this is going to create more interest in investment. I think that is a very much overplayed statement. I don't see what this bill is doing.

**Chairman Klein:** We do a lot of things that we hope will provide investments and opportunity as investors look at various states.

**Senator Miller:** So far VOIP has evolved by itself, free of direction from government.

**Senator Poolman:** They are trying to make sure that government does not get involved. There is fear that the federal government will get involved and create uncertainty. They wouldn't have definite policy that goes into place. They will create uncertainty and it will be in the courts and people will be reluctant to continue to invest in growth of technology. We have thirty states that have already passed it and we are one of the twenty that has not.

**Senator Miller:** My issue with the bill is we are putting this high growth fund language in there and we have none and never will. I just don't like doing that for the sake of doing that.

**Chairman Klein:** I wasn't preview to the discussion because this has been a four year project and there had to be a reason for that had to be included.

**Senator Sinner:** Do we think that the February 26<sup>th</sup> ruling will affect anything and if it does should we see if we need to add amendments to this bill after that?

**Chairman Klein:** They are hoping we pass this before then.

**Senator Poolman:** Moved a do pass on HB 1385.

**Senator Murphy:** Seconded the motion.

Roll Call Vote: Yes-7 No-0 Absent-0

**Senator Burckhard will carry the bill.**

**2015 SENATE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. HB 1385**

Senate Industry, Business and Labor Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

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

Motion Made By Senator Poolman Seconded By Senator Murphy

Senators	Yes	No	Senators	Yes	No
Chairman Klein	x		Senator Murphy	x	
Vice Chairman Campbell	x		Senator Sinner	x	
Senator Burckhard	x				
Senator Miller	x				
Senator Poolman	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**

**HB 1385: Industry, Business and Labor Committee (Sen. Klein, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1385 was placed on the Fourteenth order on the calendar.

**2015 TESTIMONY**

**HB 1385**

#1 HB 1385  
2-4-15

# NORTH DAKOTA HOUSE OF REPRESENTATIVES

STATE CAPITOL  
600 EAST BOULEVARD  
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## Representative Blair Thoreson

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**COMMITTEES:**  
Appropriations -  
Government Operations Division, Chairman

## TESTIMONY IN SUPPORT OF HOUSE BILL 1385

House Industry, Business and Labor Committee

Rep. George Keiser, Chair

Wednesday, February 4, 2015

### OVERVIEW

- Consumers are increasingly choosing new technologies to connect and communicate, and are moving away from older ones, especially plain old telephone service.
- Consumers are redefining the marketplace and spurring companies to invest in innovative Internet-based communication platforms and apps
- These investments are **capital-intensive** and it is imperative that the companies that are making these huge investments have certainty that these innovative new services and products will not be regulated like plain old telephone services that were created decades ago to manage a monopoly system that no longer exists.
- This legislation is consistent with how wireless services are currently regulated. There are protections at the state level, but the regulations flow from the federal level. Because of this light regulatory touch, wireless coverage has flourished throughout the country and throughout North Dakota.
- HB 1385 recognizes that a **state-by-state patchwork of rules and regulations does not make sense in an industry that serves national and international markets.**

▪ **This bill works to ensure that:**

- North Dakota consumers will remain protected by the state consumer protection laws enforced by the North Dakota Attorney General. In addition, the Federal Communications Commission also provides consumer protections.
- VoIP does NOT enjoy any taxation advantage over other technologies.
- Local governments' zoning regulations are not affected.

**Thirty (30) other states have passed this type of legislation.** Passage of HB 1385 will send a strong signal that North Dakota embraces business-friendly policies and it will encourage private investment in broadband infrastructure throughout the State.

**Bill Section by Section:**

**SECTION 1**

1. Defines Internet protocol-enabled service to mean any service, capability, functionality or application that uses the Internet to send or receive voice, data or video communications.
  - What is IP? IP stands for Internet Protocol. This is the broadband technology that is already being rapidly deployed to meet consumer demand for access to websites and applications that connect people; examples include e-health apps, e-mail, agriculture apps, online banking, distance-learning apps.
  - VoIP stands for Voice over Internet Protocol; a technology for communicating which uses IP and a consumer's broadband (high speed internet) connection to send and/or receive calls.

**SECTION 2**

2. Acknowledges that Internet protocol-enabled service or Voice over Internet Protocol service should not be regulated like traditional phone service and should not be governed by outdated telephone regulations that do not apply.
3. Lists all the current rules and regulations that VoIP would be subject to.
  - a) Subjects VoIP service to any **future** assessments that may be required for a state high-cost universal fund, if the state ever implements one. **Keep in mind that, for this requirement ever to kick in, legislation would first need to be drafted to create such a fund and rule making would then need to take place to implement such a fund once the legislation was passed.**

- b) Subjects VoIP to any required assessment for 911 or E911 service fees.
  - c) Subjects VoIP to any required surcharge for state Telephone Relay Service (TRS) for the deaf.
  - d) Subjects VoIP to any required telecommunications gross receipts tax. This bill does not change any taxation issues for VoIP or any other communication service, but this is explicitly stated in HB 1385
4. **This section identifies current telephone industry rules and regulations that will NOT be changed or modified by the bill or applied to IP-based services. These are traditional legacy telephone rules that will remain unchanged.**
- a) Refers to the current wholesale activities between carriers. It simply says that HB 1385 does not impact these carrier-to-carrier activities or existing North Dakota Public Service Commission authority to monitor these activities.
  - b) Affirms that HB 1385 will not in any way impact current federal laws (referred to as sections 251-252 of the Federal Communications Act) for intercarrier agreements. Current federal rules governing interaction between carriers, unbundled access, resale services, number portability, etc. will remain the same.
  - c) Will not affect the current authority of the North Dakota commission over traditional intrastate telephone services including rates, terms and conditions.
  - d) Does not affect current video or cable rules or obligations.
  - e) Reaffirms the North Dakota commission's delegated authority within the current rules governing the federal high cost fund or federal universal service fund issues....none of which is impacted by HB 1385.
  - f) Doesn't change current Carrier of Last Resort or Lifeline telephone service obligations for traditional carriers.
  - g) Doesn't change any generally applicable laws, regulations or rules governing business in the state, such as consumer protection laws. The North Dakota Attorney General will continue to provide protections for consumers.
  - h) Doesn't change the zoning authority of cities, counties and townships.
  - i) Affirms that the North Dakota One Call system (811) applies to underground facilities used to provide VoIP and Internet Protocol-enabled services.

Mr. Chairman and members of the House Industry, Business and Labor Committee, thanks to VoIP, North Dakotans now have access to low-cost, feature-rich communications services using advanced Internet Protocol technology. By following the approach to regulation that HB 1385 will ensure, North Dakota will maintain the regulatory environment which has encouraged broadband investment and delivery of VoIP and other cutting-edge communications services that bring investment and economic growth to North Dakota. Moreover, this approach is the same one followed by 30 other states and the FCC, which will help to maintain certainty in the communications market.

I appreciate the opportunity to present this information and I ask for a "DO PASS" recommendation from this committee for HB 1385. Thank you.

# 2  
HB 1385  
2/4/15

## HB 1385 IS KEY TO MORE HIGH-SPEED BROADBAND: Preparing Today to Meet the Needs of North Dakotans Tomorrow

- IP stands for "Internet Protocol." It's the broadband technology of the future that is already rapidly being deployed to meet consumer demand for popular apps that connect people in their daily lives... such things as Facebook, Netflix, ehealth, email, agricultural applications, online banking and Skype, just to name a few.
- The Internet has flourished because of the exponential growth in consumer demand for these services and robust innovation free from outdated regulations.
  - Supporting HB 1385 brings a modern legislative approach to a technology that is increasingly important for consumers and provides certainty for investors and innovators in the broadband and Internet "app" economy by ensuring advanced IP-enabled services won't be hindered by legacy telephone regulations.
  - This pro-business policy would encourage the kind of investment that will upgrade North Dakota's communications infrastructure and bring important consumer benefits (including new choices, better products, services, devices and greater functionality) and help achieve state priorities in areas such as education, healthcare and energy.
  - Attracting technology investment in the state's broadband infrastructure is especially important for the energy industry. Demand for voice, data and other high-speed, Internet-based applications has exploded in the Bakken-area and across the state's oil industry.
  - North Dakota has a well-deserved reputation for attracting high-tech investment to the state which it should maintain by adopting this bill — to make clear that IP-enabled services will not be slowed down by legacy telephone regulations and that this state will continue to be open for growth and economic opportunity.



## HB 1385 IS GOOD FOR NORTH DAKOTA BUSINESSES AND THE HEALTH, SAFETY AND WELFARE OF ITS CITIZENS.

### SUPPORTED BY:

North Dakota Petroleum Council  
Greater North Dakota Chamber  
CenturyLink  
Sycorr  
Avenue Right  
Appareo Systems  
AT&T  
Myriad Mobile  
Center for Innovation

Chamber Grand Forks - East Grand Forks  
North Dakota Corn Growers Association  
Sanford Health  
North Dakota Stockmen's Association  
Bismarck-Mandan Chamber  
Clifton Labs  
Todaymade  
CoSchedule



January 26, 2015

North Dakota Legislative Committee on Industry, Business and Labor  
State Capitol  
600 East Boulevard  
Bismarck, ND 58505-0360

Honorable Committee Members,

We are writing to urge your support for HB 1385; legislation that would help bring more technology investment to North Dakota and expand the state's broadband infrastructure.

Our company, Appareo Systems, is a recognized leader in the custom design, development and manufacture of innovative electronic and software solutions for aerospace and agriculture original equipment manufacturers. We are headquartered in Fargo and use cutting edge technologies to develop our products and services and communicate with our customers. Additionally, we have offices in Paris-France, Tempe-Arizona, and remote employees throughout the United States and Canada.

High-speed Internet is essential to businesses like ours and is vitally important to the emerging technology sector that is growing rapidly in the Red River Valley. HB 1385 would help expand the availability of broadband across the state. High-speed Internet access lays an important foundation for economic development, job creation and the opportunity for businesses and entrepreneurs to connect with customers, markets, and suppliers no matter where they are located. As a state, we need a world-class, high-speed broadband infrastructure in place to serve the needs of the business community. This legislation would encourage the kind of investment that will upgrade North Dakota's communications infrastructure now and into the future.

We urge your support for HB 1385 and thank you for your consideration.

Sincerely,



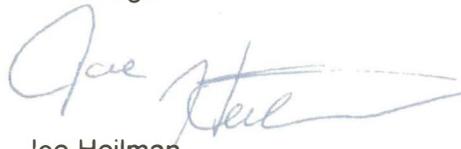
David Batcheller  
President and COO



Brandon Dahl  
IT Manager



Tony Grindberg  
Aviation Unit Business Manager



Joe Heilman  
Ag OEM Account Executive



**Testimony**  
**Kelvin Hullet, President**  
**Bismarck-Mandan Chamber**  
**HB 1385**

Mr. Chairman and members of the Committee, I am Kelvin Hullet, President of the Bismarck-Mandan Chamber. I am here today in support of HB 1385 asking you to assist in upgrading North Dakota's communications infrastructure and expand consumer choice in our state. It is essential that our state continue its pro-business policies and ensure we effectively compete in the digital world.

Today, the internet and broadband technologies are integrated into the lives of businesses and consumers in an international marketplace. We use our wired and wireless devices to maintain relationships; do our banking; find a business or service; keep up with the news; trade stocks; utilize the "Apps" on our home page and once in a while, make a phone call. The 1,100 members of our organization need access to a robust communications network that allows them to run their business effectively and efficiently.

At our organization, we spend a significant part of our time thinking about the growth of the community. How do we maintain the current economy and what are the challenges to the next steps in expanding? We are no longer competing just within our state or our region. Today, our companies do business around the world. One only needs to look at the \$30 million Dooson Acceleration Center in South Bismarck to understand the world is in our community. This facility is the research and development headquarters for an international company based in South Korea.

It is important that we position North Dakota to maintain and attract this type of business investment and upgrade our communications infrastructure to meet our businesses' needs today while preparing them to do business tomorrow. When combined with healthcare, energy and the technical services in our community, the demand for voice, data and other high-speed, internet based applications is imperative to the daily business needs of our businesses.

In North Dakota, we have a reputation for many things such as being an easy place to do business. We also have a reputation for attracting investment to the state. HB 1385 will ensure that IP-enabled services are welcomed as part of our economy. We ask you to place a do-pass on HB 1385 and send it to the full House for approval.



North Dakota Senate Committee on Industry, Business and Labor  
State Capitol  
600 East Boulevard  
Bismarck, ND 58505-0360

**Re: Support for House Bill 1385**

Dear Committee Members:

I am writing to you on behalf of the Williston Chamber of Commerce to urge your support of HB 1385, legislation that will help to expand and enhance North Dakota's broadband networks.

Not long ago, Williston was just a town of 10,000 people. Thanks, in part, to the growth of the oil and gas industries, our area has grown exponentially over the last few years. Through this time, we've sought to maintain a diverse economy and be well prepared for whatever is next. While this growth is great, our infrastructure—especially our broadband networks—has become strained and investment is critical to continue bringing our businesses access to the technologies and services they need to remain successful.

High-speed broadband connections and technologies are increasingly playing a vital role to enhance the safety and efficiency of oil and gas companies' operations. Access to high-speed broadband technologies and apps allow oil companies to manage and gather data remotely from wireless sensors on pumps in dangerous environments, thus eliminating the need to repeatedly send workers into these high-risk areas. And, this data can be shared in real-time with employees and experts across the country or across the world—allowing companies to manage a number of wells simultaneously and better make time critical decisions such as when facing a leak or a fire.

Not only will HB 1385 be beneficial to our oil and gas companies, but it will enhance the quality of life for all of our citizens. The Williston Chamber is dedicated to turning our area's extraordinary economic growth into a place where people want to live and thrive, not just work. By creating *regulatory certainty*, this legislation will encourage investment and help to expand access and enhance North Dakota's broadband networks. For our citizens and businesses, this translates into more access to mobile apps and services they want, such as streaming music, movies and sports games, online banking, email, gaming and video calling.

HB 1385 is smart, forward-looking legislation that will greatly benefit our oil and gas companies and our citizens. I respectfully urge your support.

Sincerely,

Scott J. Meske, President  
Williston Area Chamber of Commerce



# THE CHAMBER

FARGO MOORHEAD WEST FARGO

February 3, 2015

North Dakota Senate Committee on Industry, Business and Labor  
State Capitol  
600 East Boulevard  
Bismarck, ND 58505-0360

Re: HB 1385

Dear Committee Members:

On behalf of the Fargo Moorhead West Fargo Chamber of Commerce, its Board of Directors and more than 2,100 members, I strongly urge you to support HB 1385. This legislation would make our state a more attractive place for communications companies to confidently invest capital to upgrade the broadband networks that have become the lifeblood of so many businesses in North Dakota.

As you may know, technological innovation has been booming in North Dakota, and Fargo Moorhead West Fargo in particular has quickly evolved into a technology hub fueled by mobile app developers, software and IT companies, entrepreneurs and a variety of tech start-ups. These companies, along with businesses from every sector, increasingly rely on high-speed broadband to run their operations. This influx of tech, software and mobile app companies is leading to great things for our state.

This past December, Fargo hosted its first Hackathon. For four hours, 50 participants worked on apps related to either healthcare or agriculture. Teams presented functional apps that did everything from monitor pill dosages to assessing land value. The overwhelmingly positive community and business support for this event is endemic of the booming tech industry in our area. To keep innovation thriving and allow our emerging sector of tech startups and entrepreneurs to maintain momentum, we must have increased access to reliable, high-speed broadband networks and technologies.

HB 1385 establishes regulatory certainty and will help attract the investment needed to upgrade and expand our high-speed broadband networks. This investment will allow our state to continue building the framework needed to make North Dakota a tech hub for large companies and start-ups alike. I believe HB 1385 is an important step in bolstering our state's reputation as having a powerful technology sector that fosters and encourages innovation. I urge you to support HB 1385.

Sincerely,

Craig Whitney  
President/CEO  
Fargo Moorhead West Fargo Chamber of Commerce



February 3, 2015

Members of the House Committee on Industry, Business & Labor,

The Heartland Technology Alliance is a 501c4 non-profit awareness and advocacy organization based in Des Moines, IA, but operating throughout the Upper Midwest. Our board of successful tech entrepreneurs established the Alliance with the mission of elevating the public discussion about technology and connectivity so that those of us in the Upper Midwest can better understand both what technology needs to succeed as well as what opportunity it holds for us here in the Heartland.

Toward that end, we are paying close attention to public policy measures that set a positive tone for technology. We believe HB 1385 holds such promise.

Internet Protocol, most commonly known as IP, forms the foundation for the advanced networks that are designed for high-speed communications between our connected devices, like tablets, smartphones, web-based game stations, and laptops. Unlike older phone lines built for traditional voice service and fax machines, IP Networks are the bridge to the future, and built to handle data-heavy web-surfing, video-chats, voice traffic (Voice over IP) and mobile apps.

The telecom laws that govern the old phone lines were passed decades before Facebook, YouTube, Netflix, GPS applications, or even laptops, let alone the smartphones and tablets that allow you to have a high-speed connection in the palm of your hand. The telecommunications industry that existed when these laws passed has changed greatly.

On top of that, the advanced networks being deployed today have given rise to a tech industry and an app economy that has become an economic engine for innovation and job creation. Beyond economic impacts, consumers are using these new networks to do amazing things. Kids now have robust online learning experiences. Patients and doctors use mobile technology to share high-resolution images and diagnoses across hundreds of miles. Businesses' operations can run exclusively on wireless devices. All of this is possible on IP-based networks and simply not possible on old telephone lines. Herein lies the concern; it does not make sense to dampen this progress with outdated

650 S. Prairie View Drive, Suite 205 West Des Moines, IA 50266

[www.heartlandtechalliance.org](http://www.heartlandtechalliance.org)

regulations. HB 1385 will keep North Dakota out of the business of regulating new technologies with old regulations.

HB 1385 is good for technology, good for technology consumers, and quite arguable good for North Dakota as it continues its drive to be a technology leader in the U.S.

Roughly thirty states have applied some version of IP enabled legislation to foster innovation and continued growth of advanced communications through certainty and predictability. In HB 1385, North Dakota has an opportunity to join those ranks and effectively hang an "Open for Technology Businesses" sign over the state.

Thank you for the opportunity to provide comments. I hope to meet you in person and discuss technology issues at some point in the near future. In the meantime, I welcome the opportunity to answer any questions you may have on technology issues.

Regards,

A handwritten signature in black ink, appearing to read "John Stineman", with a long horizontal flourish extending to the right.

John Stineman  
Executive Director, Heartland Technology Alliance  
(515) 707-2506  
[john@heartlandtechalliance.org](mailto:john@heartlandtechalliance.org)



February 3rd, 2015

North Dakota Senate Committee on Industry, Business and Labor  
State Capitol  
600 East Boulevard  
Bismarck, ND 58505-0360

Dear Members of the House Industry, Business and Labor Committee,

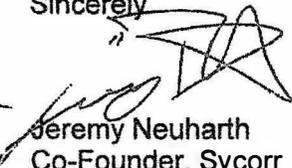
I am writing as an active member of North Dakota and Fargo's emerging tech hub in support of HB1385, which you will be hearing in committee this week.

Sycorr is a veteran owned business that builds software and provides technology consulting to financial based businesses. We are technologists who are passionate about solving business problems for banks and credit unions. We chose to Fargo and North Dakota for so many of the reasons HB1385 is important. Fargo is a rising star among Midwestern cities. Artists, builders, inventors, innovators – they all call this place home. In fact, Fargo is a bustling community of entrepreneurs that we are proud to be a part of. There's a quality of life here that's hard to find anywhere else on earth; we're raised on work ethic and taught to be passionate about all we do.

Certainty in public policy is important for the business community to continue to attract the kind of technology investment that has made us such a wonderful and attractive place for businesses to start and grow. This is critical for the kinds of services we at Sycorr provide to our customers in financial services.

As our strong economy continues to grow and diversify, our hope is that technology companies, such as ours, will always look to North Dakota as THE place to be. HB1385 is a key component to the kind of regulatory certainty technologists, entrepreneurs and other drivers of a strong economy are looking for. We hope you will quickly enact this common sense legislation.

Sincerely



Jeremy Neuharth  
Co-Founder, Sycorr  
325 5th St North  
Fargo, ND 58102  
1-855-212-1155



February 3rd, 2015

North Dakota Senate Committee on Industry, Business and Labor  
State Capitol  
600 East Boulevard  
Bismarck, ND 58505-0360

Dear Members of the House Industry, Business and Labor Committee,

I am writing as an entrepreneur in the Tech industry in support of HB1385, which you will be hearing in committee.

Here at TodayMade, we believe that when work isn't art, good enough becomes acceptable, thinking is optional, and apathy reigns. Clients are a checkbox on a work order and the goal is to get them done and move 'em on out. There is a big difference between getting things done, though, and doing it better. Our story is the story of real people, the way we approach our art, and why. We often joke that we are a company of refugees from businesses that had treated what we did like a commodity, rather than an art form. When we build things, we do it for the sake of the art just as much as the sake of the project.

North Dakota has become a great place to grow and plant a business like ours. The entrepreneurial spirit is alive and well, and our public servants in Bismarck take seriously the importance of creating a place friendly to businesses like ours in the high tech industry. HB1385 is another great step in continuing that promise, I hope you will be supportive and encourage strong support among your colleagues.

Sincerely,

A handwritten signature in black ink, appearing to read "Shannon Luney". The signature is stylized with overlapping loops and a long horizontal stroke at the end.

Shannon Luney

*Creative Director, Todaymade*

# 3  
HB 1385  
2-4-15

**House Bill 1385**  
**Testimony of Kent Blickensderfer**  
**Presented to Chairman George Keiser**  
**House Industry, Business and**  
**Labor Committee**  
**February 4, 2015**

Chairman Keiser and committee members my name is Kent Blickensderfer. I represent CenturyLink in North Dakota. CenturyLink is the successor company to the former Qwest, US West Communications and Northwestern Bell Telephone Company. Century Link today has a worldwide network with local telecom operations in 37 US states.

House Bill 1385 was the result of months of collaboration between companies to agree on a bill to update regulatory policies as they pertain to some of the latest technologies surrounding telecommunications. This bill amends section 49-21 of the century code to place into law what has largely already been practiced—a hands-off regulatory approach to voice over internet protocol and internet protocol enabled services. We believe that this legislation, similar to that passed in other states, will codify current practice and allow companies invest and expand their hi-tech networks now and into the future with a certainty that these networks will be free from traditional regulation.

Pages 1 through 4 deal with definitions but the heart of the bill can be found on page 5. I will go through what the bill does and perhaps just as importantly, doesn't do here. The first section on page 5 deregulates the service. Everything after that defines what the bill doesn't deregulate or excuse carriers from regarding certain obligations notwithstanding the declaration in the first section.

For example, IP-enabled services are still subject to all of the same taxes, surcharges and fees as other telecommunication services such as 911 fees and gross receipts taxes. This is

important for a couple of reasons. One is to maintain a level playing field with all carriers regardless of their chosen technology. Another is to ensure that carriers honor their obligations in North Dakota if the state should ever determine a need to enact a state high-cost or universal service fund. You're likely going to hear from some today who want that section removed but we believe section 2a is of paramount importance to the bill and was actually a condition of CenturyLink's support. The reason is that in the unlikely event that the state ever implements a state USF, we don't want our customers to be the only ones funding it. This section doesn't make any predetermination as to who will have to pay in or how much they will pay, but we felt it important not to use VOIP deregulation language as a sole excuse not to participate. If North Dakota were to pass enabling legislation for a state USF, the rules on payers and recipients will be determined after thoughtful deliberation and input from legislators and the state's regulatory agency, the Public Service Commission. CenturyLink does not intend to use nor do we condone using the deregulation language of this legislation to attempt to dodge an obligation to the high-cost and rural areas of North Dakota.

Section 3 ensures the PSC retains its authority to oversee interconnection agreements, disputes between carriers and implement certain sections of the federal telecom act. On line 24, there is another important carve-out for consumers. If a company has an obligation to provide certain essential telecommunications services under the law today, they must continue to live up to that obligation under the provisions of this bill. And finally, nothing in this bill takes away the franchising or zoning rights of political subdivisions or releases a VOIP provider from the provisions of North Dakota One-Call statutes.

HB1385 represents collaboration and compromise on behalf of several companies. Please give House Bill 1385 your favorable consideration and a "Do-Pass" recommendation for the full House of Representatives. Questions?



Cheryl Riley  
President, External Affairs  
Northern Plain States

AT&T Services, Inc.  
1807 Capitol Avenue  
Suite 200B  
Cheyenne, WY 82001

#4  
HB 1385  
T: 307-635-1256  
M: 307-365-1379  
CR6557@att.com  
www.att.com  
2/4/15

February 4, 2015

North Dakota Legislative Committee on Industry, Business and Labor  
State Capitol  
600 East Boulevard  
Bismarck ND 58505

**RE: HB 1385**

Honorable Committee Members:

AT&T supports the passage of HB 1385.

This bill is about bringing advanced services and technology to North Dakota, and encouraging investment and innovation in next generation broadband networks. Equally important, it's about providing consumers with choices – choices that they have come to expect and are demanding from our industry.

Passage of this bill will provide economic certainty for companies who want to invest in North Dakota and bring IP technology and all of its attendant benefits to this state. These benefits include things like allowing a farmer in rural North Dakota to sit at his computer and monitor the water levels in his fields or giving a child in rural North Dakota the ability to access the latest distance-learning application.

At the same time, this bill ensures that consumers will continue to be protected. The North Dakota Attorney General will still have the authority to assist consumers if they have concerns over the practices of a provider – which is consistent with where consumers of wireless services and broadband service go today if they have such issues. In addition, the Federal Trade Commission and the Federal Communications Commission can protect consumers of IP-enabled services. This legislation does not change that.

HB 1385 also does not impact traditional telephone services. The bill simply acknowledges that the Internet and next-generation IP services should not be governed by outdated telephone regulations that simply do not apply. The larger debate about regulating the Internet is taking place on a national scale before the FCC in Washington. That debate could take years to resolve. Meanwhile, North Dakota can affirmatively exercise its rights as a state, proactively put a stake in the ground for the free market, and send a clear signal that it will not regulate Internet services. North Dakota can't wait for Washington. Technology providers need the certainty that legislative action can provide, and North Dakotans need greater access to the advanced services that broadband can deliver.

HB 1385 will allow North Dakota to join 30 states across this country that have passed similar legislation, and position the state for the future by showing that North Dakota is a place that embraces technology.

Sincerely,

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



Verizon Wireless  
1515 E. Woodfield Road  
Suite 1400  
Schaumburg, IL 60173

#5  
HB 1385  
2-4-15

TESTIMONY REGARDING  
HOUSE BILL 1385  
House Industry Business & Labor Committee  
February 4, 2015

Good morning Chairman Keiser and members of the House Industry Business & Labor Committee, my name is Mike McDermott and I am the Executive Director of State Government Affairs for Verizon Communications.

I am appearing before you today for two reasons. First is to provide testimony in support of the primary intent of House Bill 1385, as introduced. And second, to suggest an amendment to rectify a certain provision in the bill that left unaddressed, may lead to unintended consequences.

Regarding the primary intent of the bill, Verizon generally supports the concept of regulatory certainty for emerging technology, and agrees that achieving the regulatory certainty for Internet Protocol-enabled services such as Voice over Internet Protocol ("VoIP") provided in the state is a good thing.

However, the unintended consequences of HB 1385 can be found at page 5 line 6, a reference to "any state high-cost universal service fund". Simply put, this fund is actually non-existent. North Dakota does not have a state universal service high-cost fund today (and in the past, has rejected attempts to create one).

This provision seems inconsistent with the basic intent of the bill, which is to codify the regulatory status quo by providing certainty with regard to the continued light touch state regulatory treatment of IP-enabled services in North Dakota, and to keep VoIP free from costly regulation in the future. This same type of legislation has been adopted by roughly 30 states and is intended to foster certainty, and encourage additional innovation, adoption and investment in technology and communications services within the state.

The parties involved with crafting HB 1385 along with others who participated directly with the working group have assured Verizon independently that the inclusion of that clause is "neutral" as to whether providers of VoIP service must participate in contribute to any potential state high-cost universal service fund.

Furthermore proponents indicated that in the event the ND Legislative Assembly does indeed establish such a fund in the future, it shall, at that time, determine what types of

services and service providers are subject to assessments for the fund. They further stated that this section of HB 1385 was not intended to independently include nor exempt providers of voice over internet protocol service from a subsequent enabling legislation which may enact such a fund and mandated contribution thereto.

To reinforce this intent, a proposed amendment is attached to my testimony and would further clarify that the clause included in HB 1385 does not pre-determine the inclusion of or exclusion of VoIP service. The inclusion of this amendment would be consistent with the intent and the fact that no other communication technology has a statutory requirement to pay into such a fund before it has been created by state law.

In conclusion, Verizon supports legislation intended to maintain the regulatory status quo, provide certainty with regard to the continued non-regulation of IP-enabled services in North Dakota, and keep VoIP free from costly regulation in the future. Such regulatory certainty attracts investment dollars and promotes adoption of new technologies. Furthermore, this bill simply codifies the state's current policy for these new and growing services and, from a regulatory standpoint, treats them similarly to other consumer services in the state.

For these reasons, Verizon supports the primary intent of HB 1385 and the amendment to reinforce that the provisions found on page 5 line 6 do not predetermine the need for a state universal high cost fund nor predetermine which entities should contribute at such time as the legislature decides to create such a fund.

Thank you and I would be willing to try to respond to any questions.

**PROPOSED AMENDMENTS  
TO  
HOUSE BILL NO. 1385**

Page 5, line 6, after "fund" insert "if determined to be a type of service included and subject to the fund if and when enabling legislation implements the fund"

Renumber accordingly

#6

HB 1385

2/4/15

**House Industry, Business and Labor Committee**  
**Rep. George Keiser, Chair**  
**Feb. 4, 2015**  
**HB 1385**

Dear Committee Members:

As the largest rural, not-for-profit health care system in the nation, Sanford Health appreciates the importance of high-speed Internet access for the delivery of healthcare. Simply put, many rural North Dakota communities have little or no access to broadband or the newest Internet-based services that support health and wellness for people who live long distances from a health care provider.

We would like to encourage the committee's support of HB 1385. This bill will help support continued investment in North Dakota's technology infrastructure, help deliver increased connectivity to the patients we serve and remove geographical barriers to healthcare in North Dakota.

Using smart devices and apps powered by high-speed broadband, patients can do things like transmit medical data and imaging in real-time and connect to providers or specialists across the state or across the country using video-conferencing services. To take advantage of these services, our rural, underserved communities need expanded broadband coverage, increased data capacity and higher connection speeds.

Thank you for your consideration.

Sincerely,  
Marnie Walth  
Public Policy and Strategic Planning Director  
Sanford Health  
701.323.8745

# 7  
HB 1385  
2/4/15

## House Bill 1385

**Presented by:** Brian P. Kalk, Commissioner  
Public Service Commission

**Before:** House Industry, Business and Labor Committee  
The Honorable George Keiser, Chairman

**Date:** February 4, 2015

### TESTIMONY

Mister Chairman and committee members, I am Brian Kalk, Public Service Commissioner. The Public Service Commission is taking a neutral position on House Bill 1385. However, the Commission did want to point out some concerns with the bill.

The Commission believes that both the impacts of HB 1385 and the benefits are unclear.

The Commission believes that in the future, if they aren't already, all telecommunications services will either be either voice over internet protocol service or internet protocol-enabled service. With that in mind, our first impression of the bill is that it removes from the Commission, oversight provided in N.D.C.C. Chapter 49-03.1 requiring that telecommunications public utilities obtain a certificate of public convenience and necessity before providing telecommunications services. It is in this certification process that the Commission designates the boundary of the exchanges within which an incumbent local exchange company provides telecommunications services. We are unsure of the impacts this will have to customers within North Dakota or the distribution of funds from the federal universal service fund.

pg 1

It also appears the Commission's authority under N.D.C.C. Section 49-21-06 regarding a complaint against the price for any essential or nonessential service and under N.D.C.C. Section 49-21-07 regarding a complaint of unjust or unreasonable discrimination in price or practice for a telecommunications service would be removed.

Mister Chairman, this concludes my testimony. I will be happy to answer any questions.

2/18/15 #1

# NORTH DAKOTA HOUSE OF REPRESENTATIVES



STATE CAPITOL  
600 EAST BOULEVARD  
BISMARCK, ND 58505-0360



## Representative Blair Thoreson

District 44  
1246 Second Street North  
Fargo, ND 58102-2723

Business: 701-850-1994  
Cell: 701-793-7134  
[bthoreson@nd.gov](mailto:bthoreson@nd.gov)

## COMMITTEES:

Appropriations -  
Government Operations Division, Chairman

## TESTIMONY IN SUPPORT OF HB 1385

Senate Industry, Business and Labor Committee

Sen. Jerry Klein, Chair

Wednesday, February 18, 2015

### OVERVIEW

- Consumers are increasingly choosing new technologies to connect and communicate, and are moving away from older ones, especially plain old telephone service.
- Consumers are redefining the marketplace and spurring companies to invest in innovative Internet-based communication platforms and apps
- These investments are **capital-intensive** and it is imperative that the companies that are making these huge investments have certainty that these innovative new services and products will not be regulated like plain old telephone services that were created decades ago to manage a monopoly system that no longer exists.
- This legislation is consistent with how wireless services are currently regulated. There are protections at the state level, but the regulations flow from the federal level. Because of this light regulatory touch, wireless coverage has flourished throughout the country and throughout North Dakota.
- HB 1385 recognizes that a **state-by-state patchwork of rules and regulations does not make sense in an industry that serves national and international markets.**

- **This bill works to ensure that:**

- North Dakota consumers will remain protected by the state consumer protection laws enforced by the North Dakota Attorney General. In addition, the Federal Communications Commission also provides consumer protections.
- VoIP does NOT enjoy any taxation advantage over other technologies.
- Local governments' zoning regulations are not affected.

**Thirty (30) other states have passed this type of legislation.** Passage of HB 1385 will send a strong signal that North Dakota embraces business-friendly policies and it will encourage private investment in broadband infrastructure throughout the State.

**Bill Section by Section:**

**SECTION 1**

1. Defines Internet protocol-enabled service to mean any service, capability, functionality or application that uses the Internet to send or receive voice, data or video communications.
  - What is IP? IP stands for Internet Protocol. This is the broadband technology that is already being rapidly deployed to meet consumer demand for access to websites and applications that connect people; examples include e-health apps, e-mail, agriculture apps, online banking, distance-learning apps.
  - VoIP stands for Voice over Internet Protocol; a technology for communicating which uses IP and a consumer's broadband (high speed internet) connection to send and/or receive calls.

**SECTION 2**

2. Acknowledges that Internet protocol-enabled service or Voice over Internet Protocol service should not be regulated like traditional phone service and should not be governed by outdated telephone regulations that do not apply.
3. Lists all the current rules and regulations that VoIP would be subject to.
  - a) Subjects VoIP service to any **future** assessments that may be required for a state high-cost universal fund, if the state ever implements one. **Keep in mind that, for this requirement ever to kick in, legislation would first need to be drafted to create such a fund and rule making would then need to take place to implement such a fund once the legislation was passed.**

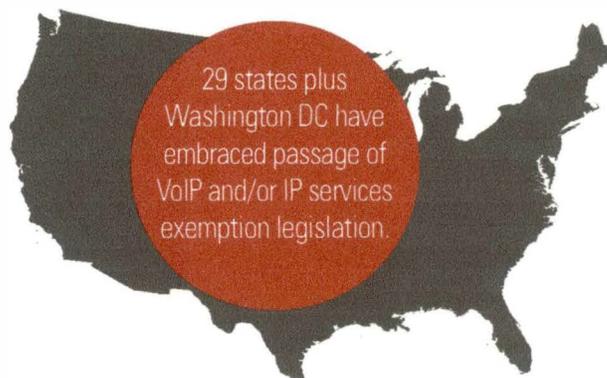
- b) Subjects VoIP to any required assessment for 911 or E911 service fees.
  - c) Subjects VoIP to any required surcharge for state Telephone Relay Service (TRS) for the deaf.
  - d) Subjects VoIP to any required telecommunications gross receipts tax. This bill does not change any taxation issues for VoIP or any other communication service, but this is explicitly stated in HB 1385
4. **This section identifies current telephone industry rules and regulations that will NOT be changed or modified by the bill or applied to IP-based services. These are traditional legacy telephone rules that will remain unchanged.**
- a) Refers to the current wholesale activities between carriers. It simply says that HB 1385 does not impact these carrier-to-carrier activities or existing North Dakota Public Service Commission authority to monitor these activities.
  - b) Affirms that HB 1385 will not in any way impact current federal laws (referred to as sections 251-252 of the Federal Communications Act) for intercarrier agreements. Current federal rules governing interaction between carriers, unbundled access, resale services, number portability, etc. will remain the same.
  - c) Will not affect the current authority of the North Dakota commission over traditional intrastate telephone services including rates, terms and conditions.
  - d) Does not affect current video or cable rules or obligations.
  - e) Reaffirms the North Dakota commission's delegated authority within the current rules governing the federal high cost fund or federal universal service fund issues....none of which is impacted by HB 1385.
  - f) Doesn't change current Carrier of Last Resort or Lifeline telephone service obligations for traditional carriers.
  - g) Doesn't change any generally applicable laws, regulations or rules governing business in the state, such as consumer protection laws. The North Dakota Attorney General will continue to provide protections for consumers.
  - h) Doesn't change the zoning authority of cities, counties and townships.
  - i) Affirms that the North Dakota One Call system (811) applies to underground facilities used to provide VoIP and Internet Protocol-enabled services.

Chairman Klein and members of the Senate Industry, Business and Labor Committee, thanks to VoIP, North Dakotans now have access to low-cost, feature-rich communications services using advanced Internet Protocol technology. By following the approach to regulation that HB 1385 will ensure, North Dakota will maintain the regulatory environment which has encouraged broadband investment and delivery of VoIP and other cutting-edge communications services that bring investment and economic growth to North Dakota. Moreover, this approach is the same one followed by 30 other states and the FCC, which will help to maintain certainty in the communications market.

I appreciate the opportunity to present this information and I ask for a "DO PASS" recommendation from this committee for HB 1385. Thank you.

## HB 1385 IS KEY TO MORE HIGH-SPEED BROADBAND: Preparing Today to Meet the Needs of North Dakotans Tomorrow

- IP stands for "Internet Protocol." It's the broadband technology of the future that is already rapidly being deployed to meet consumer demand for popular apps that connect people in their daily lives... such things as Facebook, Netflix, ehealth, email, agricultural applications, online banking and Skype, just to name a few.
- The Internet has flourished because of the exponential growth in consumer demand for these services and robust innovation free from outdated regulations.
  - Supporting HB 1385 brings a modern legislative approach to a technology that is increasingly important for consumers and provides certainty for investors and innovators in the broadband and Internet "app" economy by ensuring advanced IP-enabled services won't be hindered by legacy telephone regulations.
  - This pro-business policy would encourage the kind of investment that will upgrade North Dakota's communications infrastructure and bring important consumer benefits (including new choices, better products, services, devices and greater functionality) and help achieve state priorities in areas such as education, healthcare and energy.
  - Attracting technology investment in the state's broadband infrastructure is especially important for the energy industry. Demand for voice, data and other high-speed, Internet-based applications has exploded in the Bakken-area and across the state's oil industry.
  - North Dakota has a well-deserved reputation for attracting high-tech investment to the state which it should maintain by adopting this bill — to make clear that IP-enabled services will not be slowed down by legacy telephone regulations and that this state will continue to be open for growth and economic opportunity.



## HB 1385 IS GOOD FOR NORTH DAKOTA BUSINESSES AND THE HEALTH, SAFETY AND WELFARE OF ITS CITIZENS.

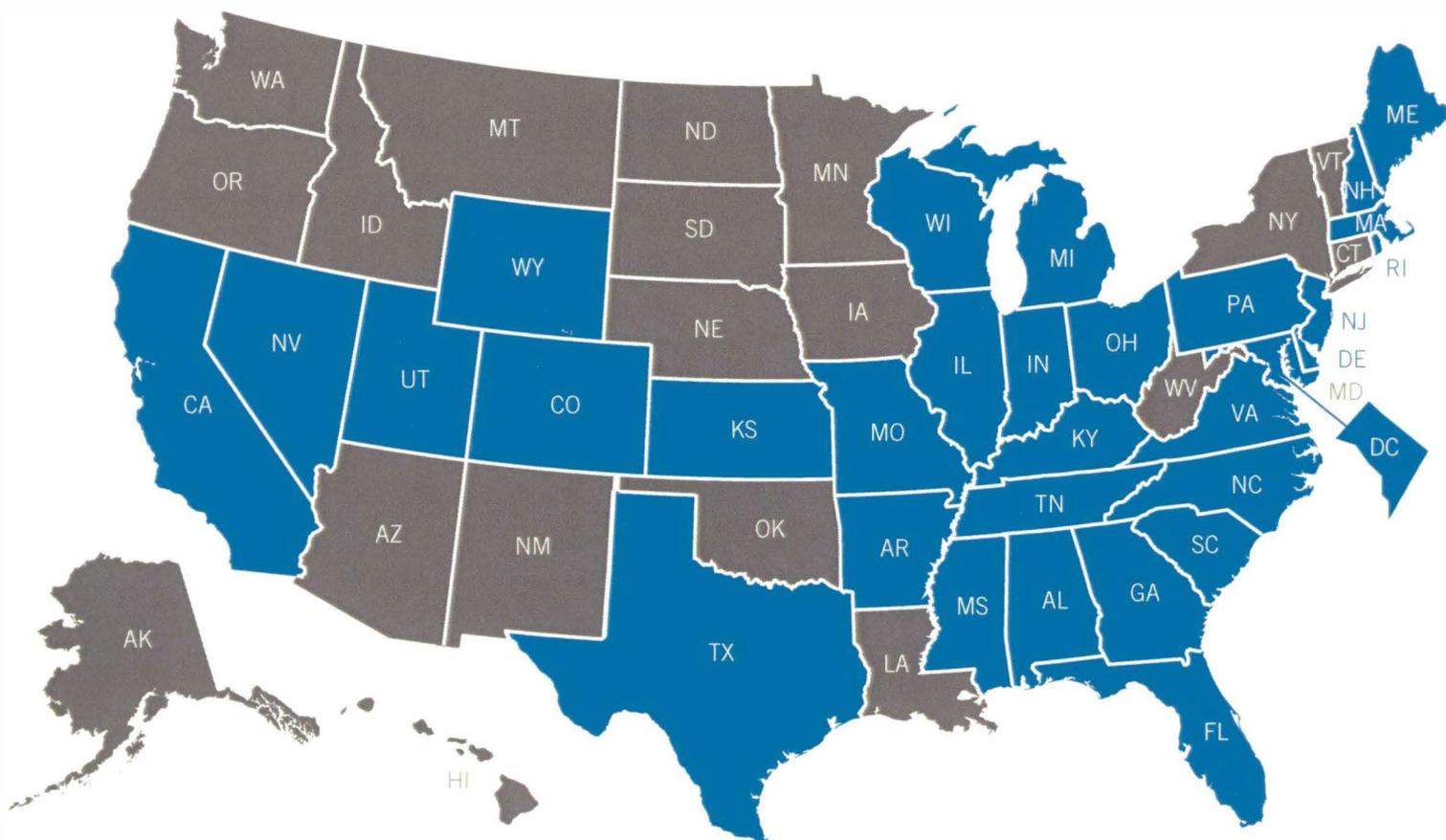
### SUPPORTED BY:

North Dakota Petroleum Council  
Greater North Dakota Chamber  
CenturyLink  
Sycorr  
Avenue Right  
Appareo Systems  
AT&T  
Myriad Mobile

Minot Area Chamber of Commerce  
Center for Innovation  
Chamber Grand Forks - East Grand Forks  
North Dakota Corn Growers Association  
Sanford Health  
North Dakota Stockmen's Association  
Bismarck-Mandan Chamber  
Clifton Labs

North Dakota Hospital Association  
Todaymade  
CoSchedule  
 Fargo-West Fargo-Moorhead Chamber  
Silicon Plains  
Rhombus Guys Pizza

# State VoIP & IP-Enabled Services Exemption Status



- Exemption from state regulation for VoIP and/or IP-Enabled Services
- No explicit exemption from state regulation for VoIP or IP-Enabled Services

- |   |   |   |
|---|---|---|
| 1.) Alabama: <b>SB 373</b>                                    | 11.) Kansas: <b>HB 2326</b>                           | 21.) Nevada: <b>AB 486</b>                |
| 2.) Arkansas: <b>SB 797, SB 948</b>                           | 12.) Kentucky: <b>HB 337</b>                          | 22.) Ohio: <b>SB 162</b>                  |
| 3.) California: <b>SB 1161</b>                                | 13.) Massachusetts: <b>H. 4800</b>                    | 23.) Pennsylvania: <b>SB 1000</b>         |
| 4.) Colorado: <b>HB 14-1329</b>                               | 14.) Maryland: <b>SB 864</b>                          | 24.) Rhode Island: <b>HB 5975, SB 968</b> |
| 5.) District of Columbia: <b>B17-0032, A17-0339, L17-0165</b> | 15.) Maine: <b>LD 1466, HP 1075, LD 1784, HP 1309</b> | 25.) Tennessee: <b>HB 1421</b>            |
| 6.) Delaware: <b>SB 53, HB 96</b>                             | 16.) Michigan: <b>HB 4314</b>                         | 26.) Texas: <b>SB 980</b>                 |
| 7.) Florida: <b>SB 1322, HB 1465, SB 2626</b>                 | 17.) Missouri: <b>HB 1779, SB 651</b>                 | 27.) Utah: <b>SB 229</b>                  |
| 8.) Georgia: <b>SB 120</b>                                    | 18.) Mississippi: <b>HB 825</b>                       | 28.) Virginia: <b>HB 1198, HB 1885</b>    |
| 9.) Illinois: <b>SB 107</b>                                   | 19.) New Hampshire: <b>SB 48</b>                      | 29.) Wisconsin: <b>SSSB 13</b>            |
| 10.) Indiana: <b>HB 1279</b>                                  | 20.) New Jersey: <b>S. 2777, A. 4339</b>              | 30.) Wyoming: <b>HB 18</b>                |

# APPAREO

1810 NDSU Research Circle North  
Fargo, ND 58102

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Fax (701) 356-3157

www.Appareo.com

January 26, 2015

North Dakota Legislative Committee on Industry, Business and Labor  
State Capitol  
600 East Boulevard  
Bismarck, ND 58505-0360

Honorable Committee Members,

We are writing to urge your support for HB 1385; legislation that would help bring more technology investment to North Dakota and expand the state's broadband infrastructure.

Our company, Appareo Systems, is a recognized leader in the custom design, development and manufacture of innovative electronic and software solutions for aerospace and agriculture original equipment manufacturers. We are headquartered in Fargo and use cutting edge technologies to develop our products and services and communicate with our customers. Additionally, we have offices in Paris-France, Tempe-Arizona, and remote employees throughout the United States and Canada.

High-speed Internet is essential to businesses like ours and is vitally important to the emerging technology sector that is growing rapidly in the Red River Valley. HB 1385 would help expand the availability of broadband across the state. High-speed Internet access lays an important foundation for economic development, job creation and the opportunity for businesses and entrepreneurs to connect with customers, markets, and suppliers no matter where they are located. As a state, we need a world-class, high-speed broadband infrastructure in place to serve the needs of the business community. This legislation would encourage the kind of investment that will upgrade North Dakota's communications infrastructure now and into the future.

We urge your support for HB 1385 and thank you for your consideration.

Sincerely,



David Batcheller  
President and COO



Brandon Dahl  
IT Manager



Tony Grindberg  
Aviation Unit Business Manager



Joe Heilman  
Ag OEM Account Executive



# THE CHAMBER

FARGO MOORHEAD WEST FARGO

February 3, 2015

North Dakota Senate Committee on Industry, Business and Labor  
State Capitol  
600 East Boulevard  
Bismarck, ND 58505-0360

Re: HB 1385

Dear Committee Members:

On behalf of the Fargo Moorhead West Fargo Chamber of Commerce, its Board of Directors and more than 2,100 members, I strongly urge you to support HB 1385. This legislation would make our state a more attractive place for communications companies to confidently invest capital to upgrade the broadband networks that have become the lifeblood of so many businesses in North Dakota.

As you may know, technological innovation has been booming in North Dakota, and Fargo Moorhead West Fargo in particular has quickly evolved into a technology hub fueled by mobile app developers, software and IT companies, entrepreneurs and a variety of tech start-ups. These companies, along with businesses from every sector, increasingly rely on high-speed broadband to run their operations. This influx of tech, software and mobile app companies is leading to great things for our state.

This past December, Fargo hosted its first Hackathon. For four hours, 50 participants worked on apps related to either healthcare or agriculture. Teams presented functional apps that did everything from monitor pill dosages to assessing land value. The overwhelmingly positive community and business support for this event is endemic of the booming tech industry in our area. To keep innovation thriving and allow our emerging sector of tech startups and entrepreneurs to maintain momentum, we must have increased access to reliable, high-speed broadband networks and technologies.

HB 1385 establishes regulatory certainty and will help attract the investment needed to upgrade and expand our high-speed broadband networks. This investment will allow our state to continue building the framework needed to make North Dakota a tech hub for large companies and start-ups alike. I believe HB 1385 is an important step in bolstering our state's reputation as having a powerful technology sector that fosters and encourages innovation. I urge you to support HB 1385.

Sincerely,

Craig Whitney  
President/CEO  
Fargo Moorhead West Fargo Chamber of Commerce



February 17, 2015

North Dakota Senate Committee on Industry, Business and Labor  
State Capitol  
600 East Boulevard  
Bismarck, ND 58505-0360

**Re: Support for House Bill 1385**

Dear Committee Members:

I am writing to you on behalf of the Williston Chamber of Commerce to urge your support of HB 1385, legislation that will help to expand and enhance North Dakota's broadband networks.

Not long ago, Williston was just a town of 10,000 people. Thanks, in part, to the growth of the oil and gas industries, our area has grown exponentially over the last few years. Through this time, we've sought to maintain a diverse economy and be well prepared for whatever is next. While this growth is great, our infrastructure—especially our broadband networks—has become strained and investment is critical to continue bringing our businesses access to the technologies and services they need to remain successful.

High-speed broadband connections and technologies are increasingly playing a vital role to enhance the safety and efficiency of oil and gas companies' operations. Access to high-speed broadband technologies and apps allow oil companies to manage and gather data remotely from wireless sensors on pumps in dangerous environments, thus eliminating the need to repeatedly send workers into these high-risk areas. And, this data can be shared in real-time with employees and experts across the country or across the world—allowing companies to manage a number of wells simultaneously and better make time critical decisions such as when facing a leak or a fire.

Not only will HB 1385 be beneficial to our oil and gas companies, but it will enhance the quality of life for all of our citizens. The Williston Chamber is dedicated to turning our area's extraordinary economic growth into a place where people want to live and thrive, not just work. By creating *regulatory certainty*, this legislation will encourage investment and help to expand access and enhance North Dakota's broadband networks. For our citizens and businesses, this translates into more access to mobile apps and services they want, such as streaming music, movies and sports games, online banking, email, gaming and video calling.

We are thankful that your colleagues in the House passed this bill unanimously (85-0) last week. This is a great signal to our Chamber Members that we are going to continue to take very seriously attracting high tech and broadband investment to our great state.

HB 1385 is smart, forward-looking legislation that will greatly benefit our oil and gas companies and our citizens. I respectfully urge your support.

Sincerely,

Scott J. Meske, President  
Williston Area Chamber of Commerce



**Testimony**  
**Kelvin Hullet, President**  
**Bismarck-Mandan Chamber**  
**HB 1385**

Mr. Chairman and members of the Committee, I am Kelvin Hullet, President of the Bismarck-Mandan Chamber. I am here today in support of HB 1385 asking you to assist in upgrading North Dakota's communications infrastructure and expand consumer choice in our state. It is essential that our state continue its pro-business policies and ensure we effectively compete in the digital world. As you know, the North Dakota House moved this legislation forward to you.

Today, the internet and broadband technologies are integrated into the lives of businesses and consumers in an international marketplace. We use our wired and wireless devices to maintain relationships; do our banking; find a business or service; keep up with the news; trade stocks; utilize the "Apps" on our home page and once in a while, make a phone call. The 1,100 members of our organization need access to a robust communications network that allows them to run their business effectively and efficiently.

At our organization, we spend a significant part of our time thinking about the growth of the community. How do we maintain the current economy and what are the challenges to the next steps in expanding? We are no longer competing just within our state or our region. Today, our companies do business around the world. One only needs to look at the \$30 million Dooson Acceleration Center in South Bismarck to understand the world is in our community. This facility is the research and development headquarters for an international company based in South Korea.

It is important that we position North Dakota to maintain and attract this type of business investment and upgrade our communications infrastructure to meet our businesses' needs today while preparing them to do business tomorrow. When combined with healthcare, energy and the technical services in our community, the demand for voice, data and other high-speed, internet based applications is imperative to the daily business needs of our businesses.

In North Dakota, we have a reputation for many things such as being an easy place to do business. We also have a reputation for attracting investment to the state. HB 1385 will ensure that IP-enabled services are welcomed as part of our economy. We ask you to place a do-pass on HB 1385 and send it to the full Senate for approval.



February 3rd, 2015

North Dakota Senate Committee on Industry, Business and Labor  
State Capitol  
600 East Boulevard  
Bismarck, ND 58505-0360

Dear Members of the House Industry, Business and Labor Committee,

I am writing as an active member of North Dakota and Fargo's emerging tech hub in support of HB1385, which you will be hearing in committee this week.

Sycorr is a veteran owned business that builds software and provides technology consulting to financial based businesses. We are technologists who are passionate about solving business problems for banks and credit unions. We chose to Fargo and North Dakota for so many of the reasons HB1385 is important. Fargo is a rising star among Midwestern cities. Artists, builders, inventors, innovators – they all call this place home. In fact, Fargo is a bustling community of entrepreneurs that we are proud to be a part of. There's a quality of life here that's hard to find anywhere else on earth; we're raised on work ethic and taught to be passionate about all we do.

Certainty in public policy is important for the business community to continue to attract the kind of technology investment that has made us such a wonderful and attractive place for businesses to start and grow. This is critical for the kinds of services we at Sycorr provide to our customers in financial services.

As our strong economy continues to grow and diversify, our hope is that technology companies, such as ours, will always look to North Dakota as THE place to be. HB1385 is a key component to the kind of regulatory certainty technologists, entrepreneurs and other drivers of a strong economy are looking for. We hope you will quickly enact this common sense legislation.

Sincerely

Jeremy Neuharth  
Co-Founder, Sycorr  
325 5th St North  
Fargo, ND 58102  
1-855-212-1155



February 11, 2015

Members of the Senate Committee on Industry, Business & Labor,

The Heartland Technology Alliance is a 501c4 non-profit awareness and advocacy organization based in Des Moines, IA, but operating throughout the Upper Midwest. Our board of successful tech entrepreneurs established the Alliance with the mission of elevating the public discussion about technology and connectivity so that those of us in the Upper Midwest can better understand both what technology needs to succeed as well as what opportunity it holds for us here in the Heartland.

Toward that end, we are paying close attention to public policy measures that set a positive tone for technology. We believe HB 1385 holds such promise.

Internet Protocol, most commonly known as IP, forms the foundation for the advanced networks that are designed for high-speed communications between our connected devices, like tablets, smartphones, web-based game stations, and laptops. Unlike older phone lines built for traditional voice service and fax machines, IP Networks are the bridge to the future, and built to handle data-heavy web-surfing, video-chats, voice traffic (Voice over IP) and mobile apps.

The telecom laws that govern the old phone lines were passed decades before Facebook, YouTube, Netflix, GPS applications, or even laptops, let alone the smartphones and tablets that allow you to have a high-speed connection in the palm of your hand. The telecommunications industry that existed when these laws passed has changed greatly.

On top of that, the advanced networks being deployed today have given rise to a tech industry and an app economy that has become an economic engine for innovation and job creation. Beyond economic impacts, consumers are using these new networks to do amazing things. Kids now have robust online learning experiences. Patients and doctors use mobile technology to share high-resolution images and diagnoses across hundreds of miles. Businesses' operations can run exclusively on wireless devices. All of this is possible on IP-based networks and simply not possible on old telephone lines. Herein lies the concern; it does not make sense to dampen this progress with outdated

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[www.heartlandtechalliance.org](http://www.heartlandtechalliance.org)

regulations. HB 1385 will keep North Dakota out of the business of regulating new technologies with old regulations.

HB 1385 is good for technology, good for technology consumers, and quite arguable good for North Dakota as it continues its drive to be a technology leader in the U.S.

Roughly thirty states have applied some version of IP enabled legislation to foster innovation and continued growth of advanced communications through certainty and predictability. In HB 1385, North Dakota has an opportunity to join those ranks and effectively hang an "Open for Technology Businesses" sign over the state.

Thank you for the opportunity to provide comments. I hope to meet you in person and discuss technology issues at some point in the near future. In the meantime, I welcome the opportunity to answer any questions you may have on technology issues.

Regards,

A handwritten signature in black ink, appearing to read "John Stineman", with a long horizontal flourish extending to the right.

John Stineman  
Executive Director, Heartland Technology Alliance  
(515) 707-2506  
john@heartlandtechalliance.org



# SILICON PLAINS

February 17<sup>th</sup>, 2015

North Dakota Senate Committee on Industry, Business and Labor  
State Capitol  
600 East Boulevard  
Bismarck, ND 58505-0360

Dear Senators, and Members of the Senate Industry, Business and Labor Committee,

I am writing to urge your quick and enthusiastic support and passage of HB1385

Here at Silicon Plains, we bring together a combination of the hardest to find yet most needed business IT services to the central plains: IT managed service and support, server hosting and enterprise software development. We were founded on the principles of servant leadership and continue to develop that focus as we grow.

As we grow, we ask that you as our legislative body continue to appreciate and champion the critical nature of avoiding burdensome regulations. Consumers like us need to know that there is a certain level of certainty as we seek to serve our own customers and clients. You know from North Dakota's tremendous economic success that being a state that is friendly to business and consumers is a key to prosperity.

North Dakota has emerged as an amazing tech hub in the United States. That is why the tech community, the business community, health care, Ag and so many others are rallying around legislation like HB1385. It is this and other public policy that will continue to give us the kinds of confidence we need to continue to be an integral part our customers' technology strategy.

Please join your house colleagues in passing HB1385 to send a signal we will continue to be open for business.

Yours truly,

Dan Polk  
President, Silicon Plains  
701-390-9876

2207 E Main Ave  
Bismarck, ND 58501



February 17, 2015

North Dakota Senate Committee on Industry, Business and Labor  
State Capitol  
600 East Boulevard  
Bismarck, ND 58505-0360

Dear Members of the Senate Industry, Business and Labor Committee,

I am writing as an entrepreneur in the Tech industry in support of HB1385, which you will be hearing in committee.

Here at TodayMade, we believe that when work isn't art, good enough becomes acceptable, thinking is optional, and apathy reigns. Clients are a checkbox on a work order and the goal is to get them done and move 'em on out. There is a big difference between getting things done, though, and doing it better. Our story is the story of real people, the way we approach our art, and why. We often joke that we are a company of refugees from businesses that had treated what we did like a commodity, rather than an art form. When we build things, we do it for the sake of the art just as much as the sake of the project.

North Dakota has become an awesome place to grow and plant a business like ours. The entrepreneurial spirit is alive and well, and our public servants in Bismarck take seriously the importance of creating a place friendly to businesses like our in the high tech industry. That is why it was so exciting to see the House pass this bill 85-0 and give a clear signal that our state is excited about being a regional tech leader in this country. HB1385, which you are considering now in the Senate, is such a great step in continuing that promise, I hope you will be supportive and encourage strong support among your colleagues.

Sincerely

Shannon Luney  
Creative Director, Todaymade



MYRIAD  
MOBILE

#2

503 7th St N  
Fargo, ND 58102  
Phone: 701.369.0633

February 16, 2015

North Dakota Senate Committee on Industry, Business and Labor  
State Capitol  
600 East Boulevard  
Bismarck, ND 58505-0360

Dear Members of the Senate Industry, Business and Labor Committee,

We all know that North Dakota has become a popular destination for the technology industry. A business-friendly environment is one major factor for this. Much of our state's economic strength and appeal can be attributed to factors that HB1385 helps promote. As a proud member of North Dakota's ever-growing technology community, I am writing you to encourage the bill's passage.

Innovators, entrepreneurs, researchers, scientists, artists and other professionals alike chose North Dakota as an ideal and suitable place to foster their companies' growth. There are many reasons that these businesses choose to be located here, one of which is a comfort that comes from consistency in regulatory public policy. Our businesses all rely heavily on high speed Internet, and new technology such as Internet Protocol services and Voice over Internet Protocol. HB1385 will encourage investment in our state's broadband services by providing regulatory certainty for these technologies. This is critical to all businesses – and to the state's ability to continue its growth in the technology sector.

North Dakota's policy makers have attracted the leaders of the knowledge economy by creating an environment ideal for growth, and it is common sense that we all want the state's prosperous trends to endure. This is why HB1385 is so crucial to the maintaining our state's status as an emerging economic star.

Sincerely,

Jake Joraanstad, CEO



February 13, 2015

North Dakota Senate Committee on Industry, Business and Labor  
State Capitol  
600 East Boulevard  
Bismarck, ND 58505-0360

Dear Members of the Senate Industry, Business and Labor Committee,

I am writing this letter to request that you support HB1385 - a bill that will help make North Dakota more attractive for technology and broadband investment.

North Dakota is a welcome place for entrepreneurs, new industries and established industry leaders alike. In addition to our state's foundational core of Midwestern values, leaders working in these industries take comfort in the public policy stability that North Dakota is known for. Industry leaders rely on the certainty that comes from correctly anticipating how our leaders will respond when new public policy issues arise.

HB1385 will help bring regulatory certainty to the technology and broadband sectors by updating North Dakota's regulatory approach to new technologies like Voice over Internet Protocol. Having the right policies in place on this front will help make North Dakota a welcoming place for technology companies and more attractive for needed high speed Internet service.

North Dakota's leaders have helped shape our state's ideal climate for industry and economic growth, and common sense tells us that passing the HB1385 will help maintain that state's favorable image. I hope you will support this important legislation.

Sincerely,

Blaine Booher  
Fargo, ND  
[blaine@cliftonlabs.com](mailto:blaine@cliftonlabs.com)  
513-400-5606



**Testimony**  
**Kevin Strege**  
**Bismarck-Mandan Chamber**  
**HB 1385**

Mr. Chairman and members of the Committee, I am Kevin Strege, here today representing the the Bismarck-Mandan Chamber. I am here today in support of HB 1385 asking you to assist in upgrading North Dakota’s communications infrastructure and expand consumer choice in our state. It is essential that our state continue its pro-business policies and ensure we effectively compete in the digital world. As you know, the North Dakota House moved this legislation forward to you.

Today, the internet and broadband technologies are integrated into the lives of businesses and consumers in an international marketplace. We use our wired and wireless devices to maintain relationships; do our banking; find a business or service; keep up with the news; trade stocks; utilize the “Apps” on our home page and once in a while, make a phone call. The 1,100 members of our organization need access to a robust communications network that allows them to run their business effectively and efficiently.

At our organization, we spend a significant part of our time thinking about the growth of the community. How do we maintain the current economy and what are the challenges to the next steps in expanding? We are no longer competing just within our state or our region. Today, our companies do business around the world. One only needs to look at the \$30 million Dooson Acceleration Center in South Bismarck to understand the world is in our community. This facility is the research and development headquarters for an international company based in South Korea.

It is important that we position North Dakota to maintain and attract this type of business investment and upgrade our communications infrastructure to meet our businesses’ needs today while preparing them to do business tomorrow. When combined with healthcare, energy and the technical services in our community, the demand for voice, data and other high-speed, internet based applications is imperative to the daily business needs of our businesses.

In North Dakota, we have a reputation for many things such as being an easy place to do business. We also have a reputation for attracting investment to the state. HB 1385 will ensure that IP-enabled services are welcomed as part of our economy. We ask you to place a do-pass on HB 1385 and send it to the full Senate for approval.

**House Bill 1385**  
**Testimony of Kent Blickensderfer**  
**Presented to Chairman Jerry Klein**  
**Senate Industry, Business and**  
**Labor Committee**  
**February 18, 2015**

Chairman Klein and committee members my name is Kent Blickensderfer. I represent CenturyLink in North Dakota. CenturyLink is the successor company to the former Qwest, US West Communications and Northwestern Bell Telephone Company. Century Link today has a worldwide network with local telecom operations in 37 US states.

House Bill 1385 was the result of months of collaboration between companies to agree on a bill to update regulatory policies as they pertain to some of the latest technologies surrounding telecommunications. This bill amends section 49-21 of the century code to place into law what has largely already been practiced—a hands-off regulatory approach to voice over internet protocol and internet protocol enabled services. We believe that this legislation, similar to that passed in other states, will codify current practice and allow companies invest and expand their hi-tech networks now and into the future with a certainty that these networks will be free from traditional regulation.

Pages 1 through 4 deal with definitions but the heart of the bill can be found on page 5. I will go through what the bill does and perhaps just as importantly, doesn't do here. The first section on page 5 deregulates the service. Everything after that defines what the bill doesn't deregulate or excuse carriers from regarding certain obligations notwithstanding the declaration in the first section.

For example, IP-enabled services are still subject to all of the same taxes, surcharges and fees as other telecommunication services such as 911 fees and gross receipts taxes. This is

important for a couple of reasons. One is to maintain a level playing field with all carriers regardless of their chosen technology. Another is to ensure that carriers honor their obligations in North Dakota if the state should ever determine a need to enact a state high-cost or universal service fund. You're likely going to hear from some today who want that section removed but we believe section 2a is of paramount importance to the bill and was actually a condition of CenturyLink's support. The reason is that in the unlikely event that the state ever implements a state USF, we don't want our customers to be the only ones funding it. This section doesn't make any predetermination as to who will have to pay in or how much they will pay, but we felt it important not to use VOIP deregulation language as a sole excuse not to participate. If North Dakota were to pass enabling legislation for a state USF, the rules on payers and recipients will be determined after thoughtful deliberation and input from legislators and the state's regulatory agency, the Public Service Commission. CenturyLink does not intend to use nor do we condone using the deregulation language of this legislation to attempt to dodge an obligation to the high-cost and rural areas of North Dakota.

<sup>Sub</sup> Section 3 ensures the PSC retains its authority to oversee interconnection agreements, <sup>of Section 2</sup> disputes between carriers and implement certain sections of the federal telecom act. On line 24, there is another important carve-out for consumers. If a company has an obligation to provide certain essential telecommunications services under the law today, they must continue to live up to that obligation under the provisions of this bill. And finally, nothing in this bill takes away the franchising or zoning rights of political subdivisions or releases a VOIP provider from the provisions of North Dakota One-Call statutes.

HB1385 represents collaboration and compromise on behalf of several companies. Please give House Bill 1385 your favorable consideration and a "Do-Pass" recommendation for the full Senate. Questions?

#4



Cheryl Riley  
President, External Affairs  
Northern Plain States

AT&T Services, Inc.  
1807 Capitol Avenue  
Suite 200B  
Cheyenne, WY 82001

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CR6557@att.com  
www.att.com

February 18, 2015

North Dakota Legislative Committee on Industry, Business and Labor  
State Capitol  
600 East Boulevard  
Bismarck ND 58505

**RE: HB 1385**

Honorable Committee Members:

AT&T supports the passage of HB 1385.

This bill is about bringing advanced services and technology to North Dakota, and encouraging investment and innovation in next generation broadband networks. Equally important, it's about providing consumers with choices – choices that they have come to expect and are demanding from our industry.

Passage of this bill will provide economic certainty for companies who want to invest in North Dakota and bring IP technology and all of its attendant benefits to this state. These benefits include things like allowing a farmer in rural North Dakota to sit at his computer and monitor the water levels in his fields or giving a child in rural North Dakota the ability to access the latest distance-learning application.

At the same time, this bill ensures that consumers will continue to be protected. The North Dakota Attorney General will still have the authority to assist consumers if they have concerns over the practices of a provider – which is consistent with where consumers of wireless services and broadband service go today if they have such issues. In addition, the Federal Trade Commission and the Federal Communications Commission can protect consumers of IP-enabled services. This legislation does not change that.

HB 1385 also does not impact traditional telephone services. The bill simply acknowledges that the Internet and next-generation IP services should not be governed by outdated telephone regulations that simply do not apply. The larger debate about regulating the Internet is taking place on a national scale before the FCC in Washington. That debate could take years to resolve. Meanwhile, North Dakota can affirmatively exercise its rights as a state, proactively put a stake in the ground for the free market, and send a clear signal that it will not regulate Internet services. North Dakota can't wait for Washington. Technology providers need the certainty that legislative action can provide, and North Dakotans need greater access to the advanced services that broadband can deliver.

HB 1385 will allow North Dakota to join 30 states across this country that have passed similar legislation, and position the state for the future by showing that North Dakota is a place that embraces technology.

Sincerely,

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



Verizon Wireless  
1515 E. Woodfield Road  
Suite 1400  
Schaumburg, IL 60173

TESTIMONY REGARDING  
HOUSE BILL 1385  
Senate Industry Business & Labor Committee  
February 18, 2015

Good morning Chairman Klein and members of the Senate Industry Business & Labor Committee, my name is Mike McDermott and I am the Executive Director of State Government Affairs for Verizon Communications.

I am appearing before you today for two reasons. First is to provide testimony in support of the primary intent of House Bill 1385, as introduced. And second, to suggest an amendment to rectify a certain provision in the bill that left unaddressed, may lead to unintended consequences.

Regarding the primary intent of the bill, Verizon generally supports the concept of regulatory certainty for emerging technology, and agrees that achieving the regulatory certainty for Internet Protocol-enabled services such as Voice over Internet Protocol ("VoIP") provided in the state is a good thing.

However, the unintended consequences of HB 1385 can be found at page 5 line 6, a reference to "any state high-cost universal service fund". Simply put, the fund that is referenced in the bill is actually non-existent. North Dakota does not have a state universal service high-cost fund today (and in the past, has rejected attempts to create one).

The parties involved in the working group responsible for crafting HB 1385, of which Verizon was a participant, have assured Verizon independently that the inclusion of the reference to "any state high-cost universal service fund" was intended to be "neutral". We were assured that this language was neither a predetermination as to the need for a high cost fund nor a predetermination as to who pays into a high cost fund.

Simply put, this provision seems inconsistent with the basic intent of the bill, which is to codify the regulatory status quo by providing certainty with regard to the continued light touch state regulatory treatment of VoIP and IP-enabled services in North Dakota. This same type of legislation has been adopted by roughly 30 states and is intended to foster certainty, and encourage additional innovation, adoption and investment in technology and communications services within the state.

Furthermore, proponents indicated that in the event the ND Legislative Assembly does indeed establish such a fund in the future, it shall, at that time, determine what types of services and service providers are subject to assessments for the fund. They further stated that this section of HB 1385 was not intended to independently include nor exempt providers of voice over internet protocol service from a subsequent enabling legislation which may enact such a fund and mandated contribution thereto.

To reinforce this intent, a proposed amendment is attached to my testimony and would further clarify that the clause included in HB 1385 does not pre-determine the inclusion of or exclusion of VoIP service. The inclusion of this amendment would be consistent with the intent and the fact that no other communication technology has a statutory requirement to pay into such a fund before it has been created by state law.

In conclusion, this bill, with the proposed amendment, simply codifies the state's current policy for these new and growing services and, from a regulatory standpoint, treats them similarly to other consumer services in the state. Such regulatory certainty attracts investment dollars and promotes adoption of new technologies.

For these reasons, Verizon supports the primary intent of HB 1385 and the amendment to reinforce that the provisions found on page 5 line 6 do not predetermine the need for a state universal high cost fund nor predetermine which entities should contribute at such time as the legislature decides to create such a fund.

Thank you and I would be willing to try to respond to any questions.

**PROPOSED AMENDMENTS  
TO  
HOUSE BILL NO. 1385**

Page 5, line 6, after "fund" insert "if determined to be a type of service included and subject to the fund if and when enabling legislation implements the fund"

Renumber accordingly

TESTIMONY IN SUPPORT OF PROPOSED AMENDMENT TO HB 1385

Good afternoon Chairman Klein and members of the Senate Industry Business & Labor Committee. My name is Constance Hofland. I am an attorney with the law firm of Zuger Kirmis & Smith here in Bismarck. We represent the Motion Picture Association of America and propose an amendment to HB 1385.

We and the Motion Picture Association of America staff apologize for not offering this amendment on the house side.

HB 1385 affirms current law and prohibits the state and political divisions, from regulating Voice over Internet Protocol (VOIP) and IP enabled services. The bill also includes savings clauses which delineate existing authority of the state and sets forth the continued applicability of other general laws.

The proposed amendment that we offer adds one additional savings clause to ensure that the state and subdivisions can have policies and procedures that protect intellectual property. Inclusion of the amendment ensures that policies and procedures that are aimed at combating the theft of audiovisual works (movies and television programs), sound recordings and software are not negated by the bill.

An example of such a policy might be procedures or specific directives articulated to carry out an Executive Order that prohibits the use of government computers and other state-issued devices for downloading, streaming, viewing or otherwise using unlicensed software, sound recordings or audiovisual works.

This additional savings clause is consistent with the rest of the bill's effort to reaffirm that North Dakota will not apply utility-type regulation to VOIP or IP-enabled services.

## PROPOSED AMENDMENT TO HOUSE BILL NO. 1385

Page 5, after line 30, insert:

- "j. The establishment or enforcement of standards, requirements, procedures, or procurement policies, applicable to any state entity or political subdivision, or to the employees, agents, or contractors of any state entity or political subdivision, relating to the protection of intellectual property."

Renumber accordingly

**Senate Industry, Business and Labor Committee**  
**Sen. Jerry Klein, Chair**  
**Feb. 18, 2015**  
**HB 1385**

Dear Committee Members:

As the largest rural, not-for-profit health care system in the nation, Sanford Health knows the importance of high-speed Internet access for the delivery of healthcare better than most. Simply put, many rural communities have little or no access to broadband or the newest Internet-based services that support health and wellness for people who live long distances from a health care provider.

We would like to encourage the committee's support of HB 1385. This bill will encourage continuing investment in North Dakota's technology infrastructure, help deliver increased connectivity to the patients we serve and remove geographical barriers to healthcare in rural North Dakota.

Using smart devices and apps powered by high-speed broadband, patients can do things like transmit medical data and imaging in real-time and connect to providers or specialists across the state or across the country using video-conferencing services. To take advantage of these services, our rural, underserved communities need expanded broadband coverage, increased data capacity and higher connection speeds.

Thank you for your consideration.

Sincerely,  
Marnie Walth  
Public Policy and Strategic Planning Director  
Sanford Health  
701.323.8745  
Marnie.walth@SanfordHealth.org

**House Bill 1385**

**Presented by:** Julie Fedorchak, Chairman  
**Public Service Commission**

**Before:** Senate Industry, Business and Labor Committee  
**The Honorable Jerry Klein, Chairman**

**Date:** February 18, 2015

**TESTIMONY**

Mister Chairman and committee members, I am Julie Fedorchak, Chairman of the Public Service Commission. The Public Service Commission is taking a neutral position on House Bill 1385. However, the Commission did want to address some concerns with the bill.

The Commission believes both the impacts and the benefits of HB 1385 are unclear.

The Commission believes in the future, if they aren't already, all telecommunications services will either be voice over internet protocol service or internet protocol-enabled service. With that in mind, our first impression of the bill is it removes from the Commission, oversight provided in N.D.C.C. Chapter 49-03.1 requiring telecommunications public utilities obtain a certificate of public convenience and necessity before providing telecommunications services. It is in this certification process the Commission designates the boundary of the exchanges within which an incumbent local exchange company provides telecommunications services. We are unsure of the impacts this will have to customers within North Dakota or the distribution of funds from the federal universal service fund.

It appears the Commission's authority under N.D.C.C. Section 49-21-06 regarding a complaint against the price for any essential or nonessential service would be removed. It also appears the Commission's authority under N.D.C.C. Section 49-21-07 regarding a complaint of unjust or unreasonable discrimination in price or practice for a telecommunications service would be removed as well.

If any amendments are proposed, the Commission would like an opportunity to review them and provide the committee with the Commission's position.

Mister Chairman, this concludes my testimony. I will be happy to answer any questions.