

2021 SENATE FINANCE AND TAXATION

SB 2137

2021 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

SB 2137
1/12/2021

A BILL for an Act to create and enact a new section to chapter 57-39.2 of the North Dakota Century Code, relating to a sales and use tax exemption for enterprise information technology equipment and computer software purchased for use in a qualified data center; to provide an effective date; and to provide an expiration date.

Chair Bell calls the meeting to order. "All members are present." [10:01]

Discussion Topics:

- Data centers
- Power Consumption
- Economic impact
- Climate
- Incentives

Senator Myrdal [10:02], introduces SB 2137

Representative Damschen [10:08], provides oral testimony in favor of SB 2137

Matthew Marshall, Minnkota Power Cooperative and Economic Development Association of North Dakota [10:10] submits testimony in support. #577, #578

Shannon Duerr, [10:43] Executive Director, Cavalier County Job Development Authority submits testimony in support. #467

Shannon Fleischer, [10:47] Office of the State Tax Commissioner provided neutral testimony and submits a proposed amendment. #604

Additional written testimony:

Justin Dever, MDU Resources Group, Inc. submits written testimony. #584

Chair Bell adjourns the meeting. [10:50]

Joel Crane, Committee Clerk

#577

Senate Bill 2137

Senate Finance & Taxation Committee

North Dakota transmission infrastructure is constrained.



- Reports from North Dakota Transmission Authority have established that North Dakota produces more power than it can export into energy markets outside the state.
- This could be an opportunity to attract large users making all of our energy resources more efficient.

Benefits of adding energy users like data centers in North Dakota

- Adds to the viability of our energy resources.
- Diversifies the economy.
- Provides opportunity in rural areas.
- Adds jobs and tax base in the areas located.

Types of data centers in 2021

- Large scale developments.
 - Amazon
 - Google
 - Facebook
 - Apple
 - Microsoft
- Extremely large investments often producing hundreds of Jobs.
- Recent announcements in the region.
 - Minnesota 2019
 - Iowa 2020
 - Nebraska 2019
 - Wyoming 2017

Types of data centers in 2021 (continued)

- Colocation data centers
 - Range in size and offer secure space for companies to locate IT equipment.
 - Range in size and can offer an array of services.

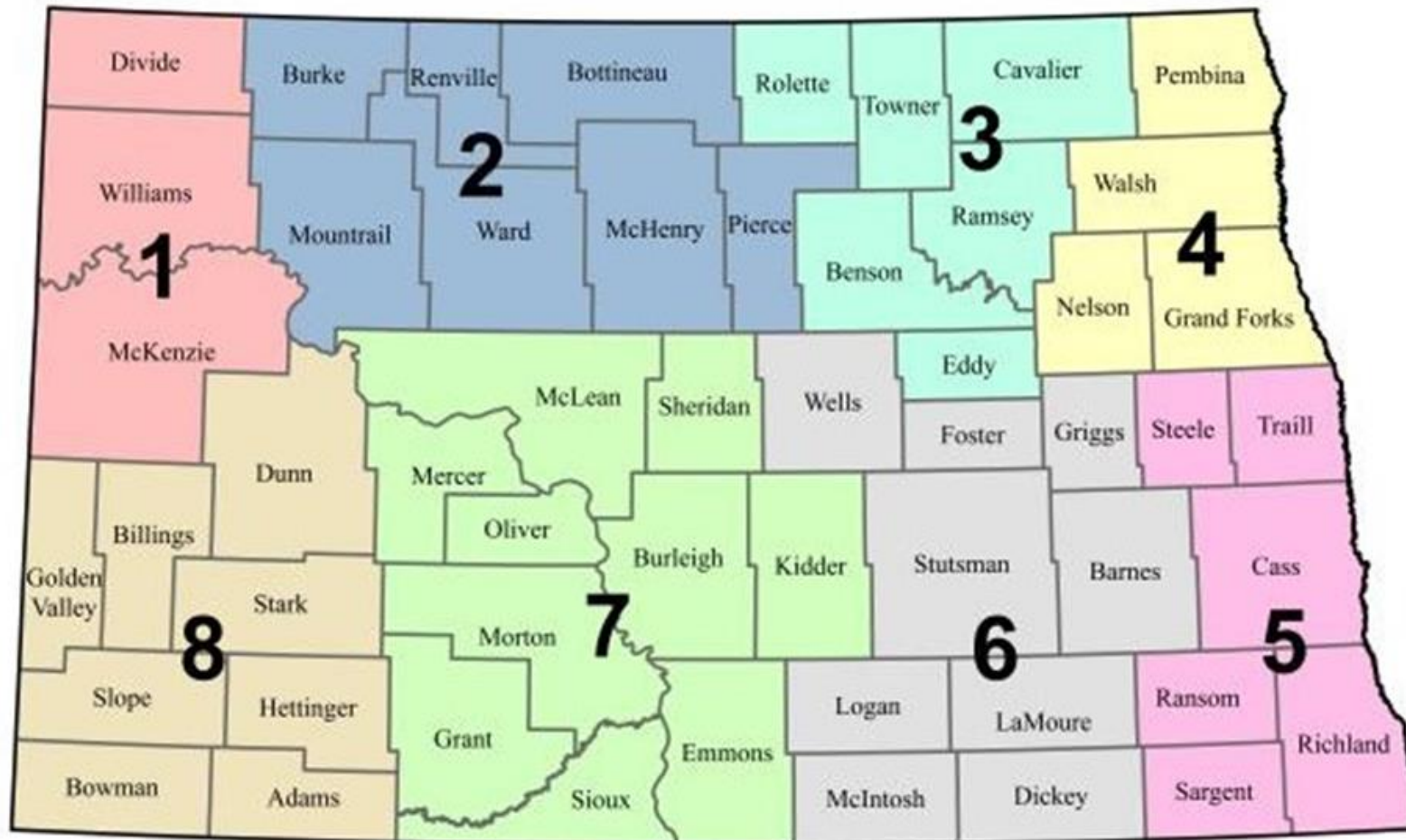
Types of data centers in 2021 (continued)

- New interruptible data centers - Focus on computing that can be interrupted.
 - Video Rendering
 - Artificial intelligence
 - Block chain computing
- These emerging data centers can help our energy resources operate efficiently.

Senate Bill 2137

- Enhancements to the old data center incentive by making it more effective.
 - Extends sunset to 2030
 - Allows 4 data centers in each regional council territory and any qualified data center with investment over \$150,000,000.00
 - Requires data centers must be at least 15,000FT²
 - Requires data centers use at least 50% of the space for computing.
 - Data centers can only be considered eligible if built or refurbished after December 31, 2020
 - Updates the language to be inclusive of all types data centers.

ND regional council territories



Senate Bill 2137

- Most States that have made major announcements recently have Data Center specific tax incentives.
 - Passing SB 2137 will make sure we are on a level playing field with competing states.
- Will give rural areas of ND a chance to land a data center project.
- Enhances the language from the original tax incentive to make it more effective.

Questions

■ Thank you!

Matthew Marshall
Economic Development Administrator
Minnkota Power Cooperative
5301 32nd Avenue South
Grand Forks, ND 58201
Office: (701) 795- 4224

January 12, 2021

North Dakota Senate Finance and Taxation Committee

RE: Testimony in support of SB 2137

Dear Chairwoman Bell,

This letter is in support of SB 2137. In January of 2019, Google and Xcel Energy announced they were negotiating on a site for a 300-megawatt data center in Becker Minnesota. The facility is expected to require over \$600 million in capital investment and will be the closest mega sized data center to North Dakota. Investments like these are continuing with the increased demand in cloud computing services driven by the global pandemic and changing economies. Historically once a data center opens, investment in the facility continues providing employment opportunities for supporting companies and help diversify local economies. North Dakota is positioned to take advantage of upcoming data center investment by leveraging our abundance of energy, cold climate, and low risk of natural disasters. Passing SB 2137 will ensure we are not eliminated from consideration for not having tax incentive specific to data centers.

In addition, landing large stable data loads that consume power locally will make North Dakota's electrical infrastructure more efficient benefiting all energy stakeholders. According to John Weeda in a January 2021 report from the North Dakota Transmission Authority, our electrical transmission system will require substantial investment in order to deliver power to markets outside of the state. Encouraging large energy users to locate within North Dakota will help all energy resources to stay viable in a rapidly changing generation and transmission environment.

North Dakota had an existing framework to help with the attraction of data centers that only needs slight modification in order to increase the effectiveness. The primary tool used was a sales and use tax exemption dedicated to data centers (57-39.2-04.13). That program, which expired at the end of 2020, allowed operators, owners, and tenants of a qualified data center a sales tax exemption on information technology equipment, computer software, and other expenses related to constructing and running a data center. The proposed legislation (SB 2137), offers some slight modifications to ensure the incentive moving forward is effective and creates opportunity throughout the state.

Suggested modifications:

- **2030 Sunset:** Like other large scale projects that develop in North Dakota, data centers can take years to come to fruition. Data projects can require extraordinary due diligence periods and in some cases large scale infrastructure projects need to coincide with development of the facility. Extending the sunset 10 years will allow projects the time needed to develop.

- **Removing the 4 data center limit:** There are several different types of data centers that could be a good fit throughout the state. Large scale (Amazon as an example), interruptible (artificial intelligence as an example), and Co-location to name a few. Some of these operations would be fantastic fit for rural communities throughout the state due to the possibility of lower workforce requirements. To open opportunity for all, the state should limit the incentive to 4 per regional council territory. This modification will provide statewide opportunity but would limit the overall number of projects approved. Extremely large data centers are rare thus limiting projects with capital investments exceeding \$150,000,000.00 is not in the best interest of the state.
- **Adjusting the qualified data center requirement to 15,000 FT²:** Adjusting the requirement to 15,000 FT² aligns with how typical buildings are built.
- **Removing the uninterrupted power requirement:** In recent years data center technology has changed allowing them to take excess energy when available then shut down when needed. As North Dakota finds itself in a situation where transmission is constrained, having a user able to use available stranded power will benefit all energy users by lowering cost for all.
- **Requiring the Data Center to have 50% of its space dedicated computing equipment:** Data centers require significant support space for cooling, staffing and other back of house operations. However, the old data center tax incentive did not have a minimum space requirement as it relates to actual computing. In theory, a facility could have qualified if it met all of the requirements but had very little space dedicated to computers. The proposed language is intended to make sure we are encouraging true data centers.

With the passage of SB 2137 electrical utilities, data providers, economic developers, and other stakeholders can form a coalition to create a targeted marketing effort and work together to attract additional data centers to the state of North Dakota.

Thank you for your service and please let me know if there is any additional information we can provide.

Sincerely,



Matthew Marshall

Economic Development Administrator

Office: (701) 795- 4224

Cell: (701) 630- 4658

mmarshall@minnkota.com

RE: Testimony for SB 2137
Senate Finance and Taxation Committee
January 12, 2021

Good Morning Chair Bell and Members of the Senate Finance and Taxation Committee.

My name is Shannon Duerr and I am the Executive Director of the Cavalier County Job Development Authority. I also serve on the Board for the Economic Development Association of North Dakota. I am testifying today in support of Senate Bill 2137.

Recruiting industries such as the data center industry to the state is an important step in diversifying the economy of North Dakota and a step that this bill can help the state achieve.

The data century industry is extremely competitive and states like Virginia, Kansas, Iowa, and Illinois have very robust incentives and attract much of the industry. North Dakota has many attributes that make it very attractive for the industry such as a high number of free cooling days, remoteness (good for promoting physical security), a very robust fiber infrastructure network, network redundancy, and relatively competitive infrastructure pricing. However, to compete with other states we must match or beat what they offer.

In Cavalier County, we are working on redeveloping a cold-war era military site, The Stanley R Mickselsen Safeguard Complex into a data center. Attributes of the site such as remoteness, fencing, and three-foot-thick concrete walls make it extremely attractive for very secure data center development. However, we have been cautioned by our engineers and others with extensive data center development experience that recruiting a business without being able to offer the same or better incentives than other states would be difficult. In many cases, for a site to even be considered by a data center company, the state must offer incentives like what is being proposed in Senate Bill 2137.

The ability to offer these incentives would allow rural areas that can offer the remote locations the industry is starting to desire to compete with larger cities. In addition to remote locations becoming increasingly desired by the industry, rural areas are also a good fit for the industry because data centers do not require many employees. The provision in this bill that calls for four data centers per region would provide rural areas a great tool for recruiting this industry. Recruiting a project of this magnitude has the potential to be a game changer which could lead to long term economic prosperity for many rural communities due to the tax revenue received by the county and the well-paying jobs.

This bill could make a big impact on the state's future by helping to attract an industry to all areas of the state. Additionally, industries already in the state such as energy and communications would benefit substantially as the data center industry is a heavy user of both.

Thank you for the opportunity to address this committee and express support for SB 2137.

21.0455.0100

Prepared for the
Senate Finance & Taxation Committee

PROPOSED AMENDMENTS TO SENATE BILL NO. 2137

Page 1, line 3, replace “an” with “for a retroactive”

Page 1, line 19, remove “approved by the tax commissioner as qualified data centers”

Page 1, line 20, after “region” insert “with a capital investment of one hundred fifty million dollars or less”

Page 1, line 20, replace “facilities” with “any facility”

Page 4, line 4, after “**EFFECTIVE DATE**” insert “- **RETROACTIVE APPLICATION**”

Page 4, line 4, after “is” insert “retroactively”

Page 4, line 4, after “effective” insert “, and applies to”

Page 4, line 4, remove “for”

Page 4, line 5, replace “June 30, 2021” with “December 31, 2020”

ReNUMBER accordingly

Sixty-seventh
Legislative Assembly
of North Dakota

SENATE BILL NO. 2137

Introduced by

Senators Myrdal, Oehlke, Patten

Representatives Damschen, Mock, Monson

- 1 A BILL for an Act to create and enact a new section to chapter 57-39.2 of the North Dakota
2 Century Code, relating to a sales and use tax exemption for enterprise information technology
3 equipment and computer software purchased for use in a qualified data center; to provide ~~an~~
4 ~~for a retroactive~~ effective date; and to provide an expiration date.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1.** A new section to chapter 57-39.2 of the North Dakota Century Code is created
7 and enacted as follows:

8 **Sales and use tax exemption for enterprise information technology equipment and**
9 **computer software used in a qualified data center.**

- 10 1. Gross receipts from sales of enterprise information technology equipment and
11 computer software purchased for use by a qualifying business in a qualified data
12 center are exempt from the tax imposed by this chapter. To qualify for the exemption,
13 the enterprise information technology equipment or computer software must be
14 incorporated into or physically located within the qualified data center. Purchases of
15 upgraded or replacement enterprise information technology equipment and computer
16 software for use in a qualified data center also are exempt.
17 2. The future owner of a proposed data center shall apply to the tax commissioner to be
18 certified as a qualified data center. The exemption provided in this section is limited to
19 the first four facilities ~~approved by the tax commissioner as qualified data centers~~ in
20 each region ~~with a capital investment of one hundred fifty million dollars or less~~ and
21 ~~facilities~~ ~~any facility~~ with capital investments exceeding one hundred fifty million dollars.
22 Applications must be processed in the order received by the tax commissioner. An
23 applicant shall respond to a request for additional information from the tax commissioner
24 within thirty days of the request or the application may no longer be considered.

- 1 e. "Qualified data center" means a newly constructed or substantially refurbished
2 facility located in this state:
- 3 (1) Comprised of one or more buildings, the primary purpose of which is to
4 contain a data center, consisting of an aggregate amount of fifteen thousand
5 square feet [1394 square meters] or more, no fewer than fifty percent of
6 which is used for data processing;
- 7 (2) Located on a single parcel or on contiguous parcels;
- 8 (3) On which construction is completed or which is substantially refurbished
9 after December 31, 2020;
- 10 (4) Having the following attributes:
- 11 (a) Sophisticated fire suppression and prevention systems;
- 12 (b) Enhanced security with security features including permanent security
13 guards; video camera surveillance; an electronic system requiring
14 pass codes, key cards, or biometric scans such as hand scans or
15 retinal or fingerprint recognition to restrict access to selected
16 personnel; or other similar security features; and
- 17 (5) Certified by the tax commissioner as a qualified data center.
- 18 f. "Region" has the same meaning provided in section 54-40.1-02.
- 19 g. "Substantially refurbished" means a data center used to house enterprise
20 information technology equipment in which fifteen thousand square feet [1394
21 square meters] or more has been rebuilt, modified, or improved through methods
22 including energy efficiency improvements, building improvements, and the
23 installation of enterprise information technology equipment, environmental
24 controls, and computer software.
- 25 6. In determining the total square footage of a qualified data center, the square footage
26 of office space, meeting space, mechanical space, and other support facility spaces
27 must be included if those spaces are used to support the operation of enterprise
28 information technology equipment.
- 29 7. Qualified data center owners that intend to collocate operators or tenants within the
30 center shall provide the operators or tenants with documentation from the tax
31 commissioner that the center meets the definition of a qualified data center under this

TESTIMONY IN SUPPORT OF SENATE BILL 2137
SENATE FINANCE AND TAXATION COMMITTEE
JANUARY 12, 2021

JUSTIN DEVER - SENIOR PUBLIC AFFAIRS SPECIALIST, MDU RESOURCES GROUP, INC.

Good morning, Mr. Chairman and members of the committee. My name is Justin Dever and I am testifying today in support of Senate Bill 2137 on behalf of MDU Resources Group and its subsidiary Montana-Dakota Utilities Co. Montana-Dakota serves 158 communities in North Dakota with electricity and natural gas.

Value-added energy projects like data centers can be a win-win for the state and local communities. They can help diversify the state's economy, provide jobs for North Dakotans, and add to the tax base.

Attracting data centers can provide a unique opportunity to add value to our state's electric generation. As you may know, large data centers consume significant amounts of power. This is power that could be generated and used in the state, bypassing transmission constraints that limit the amount of power exported out of state.

North Dakota has natural advantages in attracting data centers, such as the state's cool climate which assist in cooling. North Dakota also has competitive electricity rates, an important factor considering the amount of power they consume. However, incentives like the one proposed in SB 2137 are needed for North Dakota to be competitive with other states, such as Minnesota and Iowa, which are among the majority of states that have incentive programs targeting data centers.

Mr. Chairman and members of the committee, thank you for allowing me to visit with you today.

2021 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

SB 2137
1/12/2021 PM
Subcommittee on SB 2137

A BILL for an Act to create and enact a new section to chapter 57-39.2 of the North Dakota Century Code, relating to a sales and use tax exemption for enterprise information technology equipment and computer software purchased for use in a qualified data center; to provide an effective date; and to provide an expiration date.

Senator Patten calls the meeting to order. Present are Senator Patten; Senator J. Roers; Shannon Fleischer, associate director with the Tax Commissioner; Matthew Marshall, Minkota Power; Brady Pelton, ND Petroleum Council; Josh DeMorett, Conoco Phillips/Chairman of the policy committee at the ND Petroleum Council. [3:03]

Discussion Topics:

- Mobile Data Centers tax exemption status
- Well site size
- Data centers
- Crypto currency
- Dedicated utilities
- Digital Flare Mitigation
- Stranded gas
- Mobile gas capture
- Containerized units

Senator Patten [3:08] presents and submits testimony #1174.

Senator Patten adjourns the meeting [3:42].

Joel Crane, Committee Clerk

#1174

A New Technology for Flare Mitigation

Crusoe Energy Systems Inc.



A Digital Flare Mitigation Solution



A NEW TECHNOLOGY IS AVAILABLE TO CONVERT WASTED NATURAL GAS INTO COMPUTING

- ❖ Crusoe converts “stranded” natural gas into electricity for energy-intensive computing on the well site
- ❖ Digital Flare Mitigation (DFM) solves critical regulatory challenges for oil and gas companies by achieving beneficial use and reducing emissions

Crusoe's Objective: help operators maintain and increase oil production by solving the regulatory and environmental challenges of associated gas

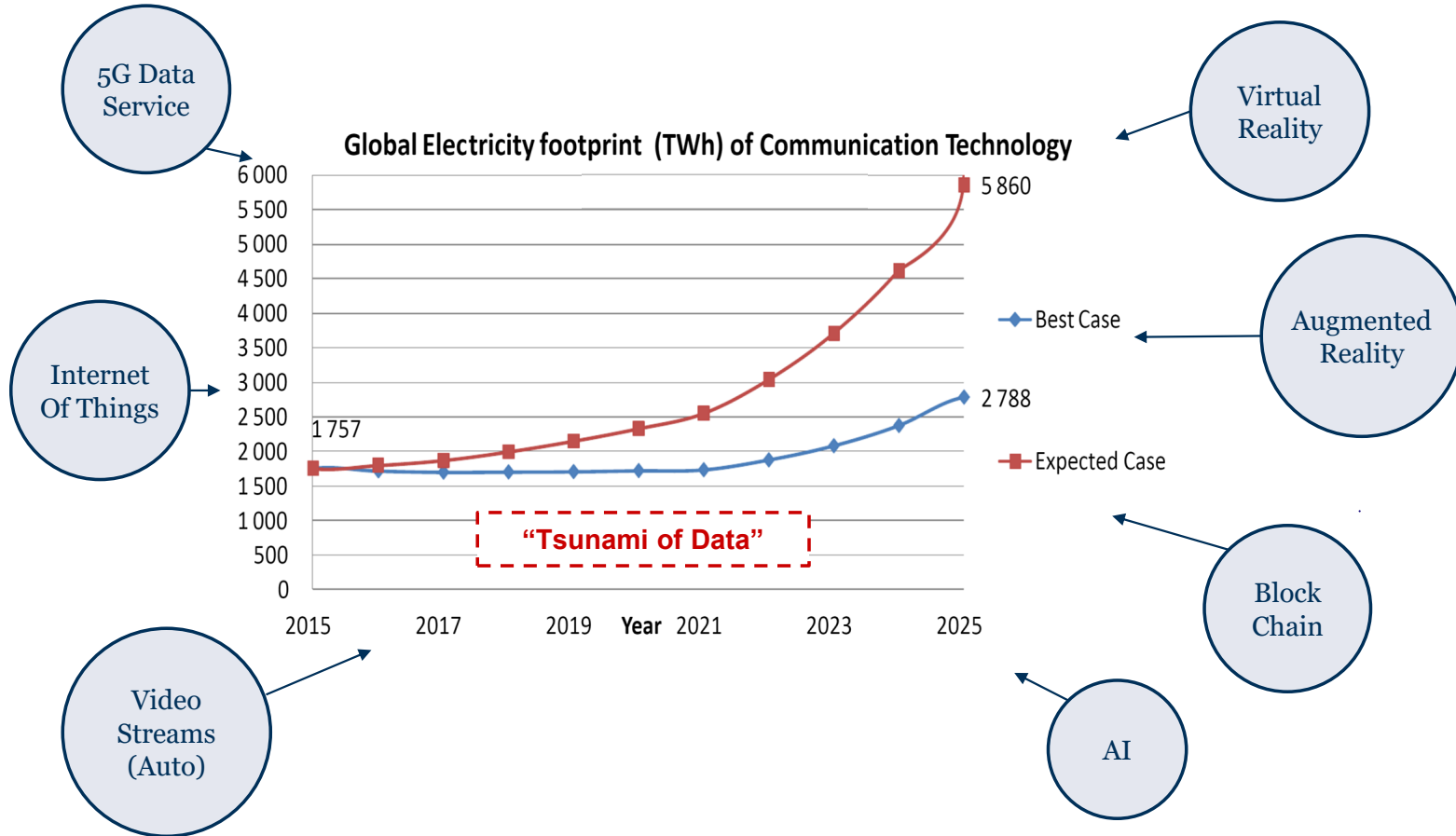


Why Digital Flare Mitigation?

- ✓ DFM is the most cost-effective solution in flare mitigation
- ✓ Modular design allows for rapid turnkey deployment and mobilization
- ✓ Highly scalable from 70 mscfd to multiple mmscfd
- ✓ High reliability with few failure points

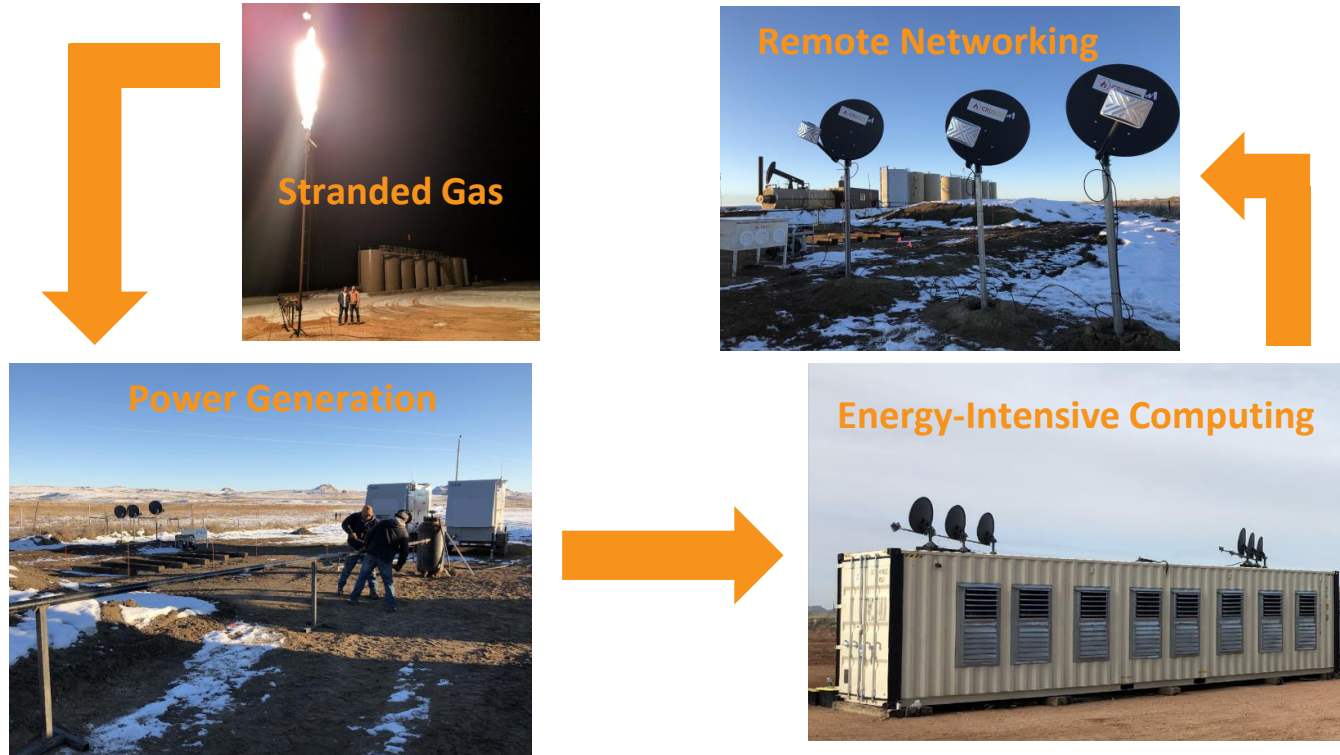
Energy Intensive Computing

RAPID GROWTH IN DATA NEEDS



Digital Flare Mitigation

COMPONENTS OF A DIGITAL FLARE MITIGATION SYSTEM



- ❖ The Digital Flare Mitigation System is a mobile and modular assembly of power generation, computing and remote telecommunications systems optimized specifically for stranded gas resources
- ❖ Designed for portability, rapid commissioning, rugged oilfield conditions and modular scalability

Easy Integration, Compact Footprint



DEPLOYMENTS COMPLETED IN AS FEW AS 4 DAYS



Step 1: Connection Point

Operator provides simple manifold and valve to existing gas line

Typically, manifold directly onto line leading to flare

1-2 Days

Step 2: Generator

Crusoe provides generator system, delivered on portable trailer or skid

1 Day

Step 3: Compute Module

Computing modules delivered by truck

Satellite antennae installed and aligned after delivery

1-5 Days

Step 4: Startup

Computers connected to generator

Generator start up

Flare becomes back-up gas plan

1 Day

Digital Flare Mitigation Use Cases



ACHIEVE REGULATORY COMPLIANCE WITHOUT MIDSTREAM INFRASTRUCTURE

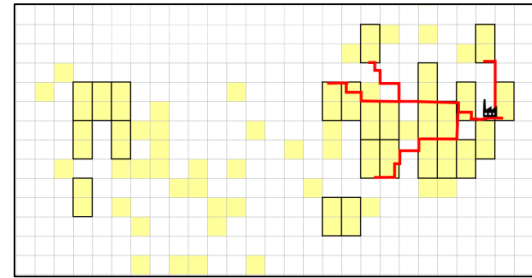


Existing Flared Gas

Superior gas-capture alternative for producing wells that are currently being flared

USE CASES

- ✓ Producing wells without midstream infrastructure
- ✓ Delayed pipeline arrival
- ✓ Extended gas plant downtime
- ✓ Pipeline capacity challenges
- ✓ Joint Power Generation



Development Flexibility

Gas offtake plan for future wells to be drilled outside existing infrastructure

USE CASES

- ✓ Drilling exploratory step-out wells ahead of pipeline build
- ✓ Satisfy expiring leases outside of existing infrastructure service areas
- ✓ Delineate acreage prior to formal midstream agreement, avoid minimum drilling commitments

Case 1: ROW Issues

SOLUTION FOR GAS ON LONG-TERM STRANDED ACREAGE

ROW Issues can leave wells without access to a market for associated gas

Topography

Badlands and other natural features have caused midstream challenges for years



Severe topography has no impact on DFMS effectiveness

Surface Owner Challenges

Inability to get Right-of-Way agreement executed by Surface Owner(s)



DFMS operates under existing Surface Use Agreement and does not typically require additional approvals

Digital Flare Mitigation Systems:

- Remove the need to build out physical infrastructure
- Provide beneficial use for gas outside traditional markets

Case 2: Offload Capacity

PRODUCING OIL WITH TAKEAWAY ISSUES



Decreases in offload capacity can leave a well without gas takeaway for extended periods of time

Extended Gas Processing Plant Downtime

Interruptible Gas Contracts

Compressor Station Issues

Downstream Capacity Issues



Digital Flare Mitigation Systems:

- Allows operator to continue oil production while addressing regulatory requirements
- Decouples well's run-time from downstream performance

Case 3: Exploration Wells & Delineation



GAIN COMFORT IN DRILLING WELLS AHEAD OF INFRASTRUCTURE



Digital Flare Mitigation Systems:

- Facilitates regulatory compliance while evaluating performance of exploration wells
- Allows operator to continue to delineate acreage position before agreeing to midstream contract with minimum volume commitments
- Easy mobilization allow DFM to act as stop-gap prior to arrival of pipeline

Case 4: Midstream Partnership

BRIDGE SOLUTION FOR MIDSTREAM PROVIDERS



Digital Flare Mitigation Systems:

- Gas-capture tool for midstream partners prior to build-out completion
- Improve midstream economics by deferring capital expenditures until production levels warrant pipeline construction
- Stop-gap solution allows midstream partners to propose more competitive deal terms which delay implementation of minimum volume commitments

Joint Power Generation



OPTIMIZE ON-SITE POWER GENERATION CAPACITY

Crusoe as Power Provider

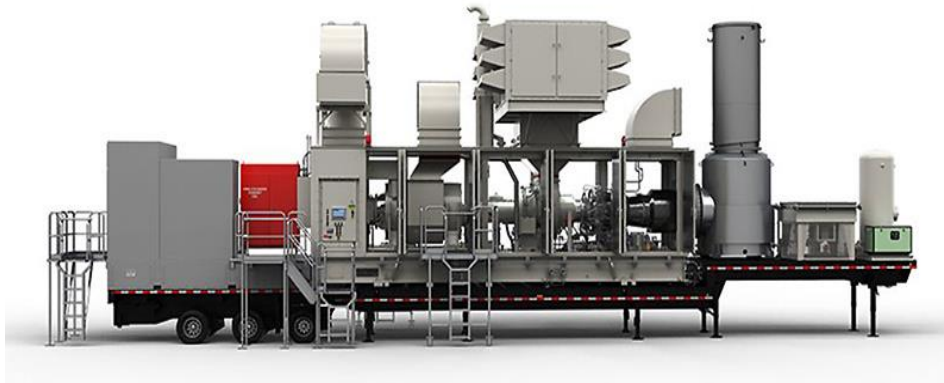
Purchase electricity directly from Crusoe by the kWh at a fraction of the cost of renting generators directly

- ✓ *Crusoe utilizes large volumes of stranded gas to power turbine generator, 1MMcfd+*
- ✓ *Operator pays only for electricity used to run ESPs or other well site needs by the kWh*
- ✓ *Remainder of power utilized for energy-intensive computing*

Excess Power Gen Capacity

Monetize consistently underutilized excess power generation capacity by selling electricity to Crusoe on the well site

- ✓ *Large turbine generators like ones used for electric frac fleets consistently underutilize generation capacity*
- ✓ *Crusoe's trailer-mounted compute modules follow turbines and pay by the kWh*
- ✓ *Operator monetizes spare capacity while maintaining stable load regime*



Crusoe's Background

OIL & GAS INDUSTRY OPERATIONS TEAM



✓ Operating since 2018

- Digital Flare Mitigation Systems operating in Powder River Basin (WY), Williston Basin (ND) and DJ Basin (CO)
- Ongoing simultaneous multi-basin operations

✓ Excellent safety record: zero injuries to date

✓ Approved MSAs with multiple publicly traded oil and gas companies

- PEC and ISN third party verification of safety procedures and training policies

✓ Crusoe consults with leading regulatory, permitting and public relations firms to ensure positive stakeholder management

✓ Operations & business development teams assembled from high-quality E&P and service companies:

THE CRUSOE TEAM

❖ Chase Lochmiller, CEO

- Technology and cloud computing background

❖ Cully Cavness, President

- E&P, midstream and power generation finance background

❖ Ken Parker, VP Facilities Engineering, Operations & Safety Manager

- Lifetime safety record: EMR of 0.2 vs. industry average of ~0.6-2.0
- 25 years of operational experience domestically and internationally

❖ Andrew Likens, VP Business Development

- Former Land Manager, facilitated several multi-rig development programs

❖ Nick Corredor, Field Operations Manager

- Field operational leadership roles within oilfield service companies

PIONEER
NATURAL RESOURCES



BG GROUP



Key Points



TECHNOLOGY FEATURES

✓ Facilitates flare mitigation and regulatory compliance

- Achieves a bona fide beneficial use and 3rd party gas offtake plan
- Reduces flaring, waste and emissions of NO_x, SO_x and VOCs (smog precursors)

✓ No lengthy land acquisition, right-of-way negotiation or pipeline permitting process

✓ Modular, easily mobilized and scalable to match available gas resource

- 70 mcfpd up to multiple mmcfpd, can add or subtract modules as gas resource changes over time

✓ Fast to implement

- Commissioned in days once components arrive on-site
- System delivery lead time of several weeks to several months dependent on gas volumes

✓ No minimum drilling commitments or onerous volume guarantees

✓ Fully interruptible

Appendix

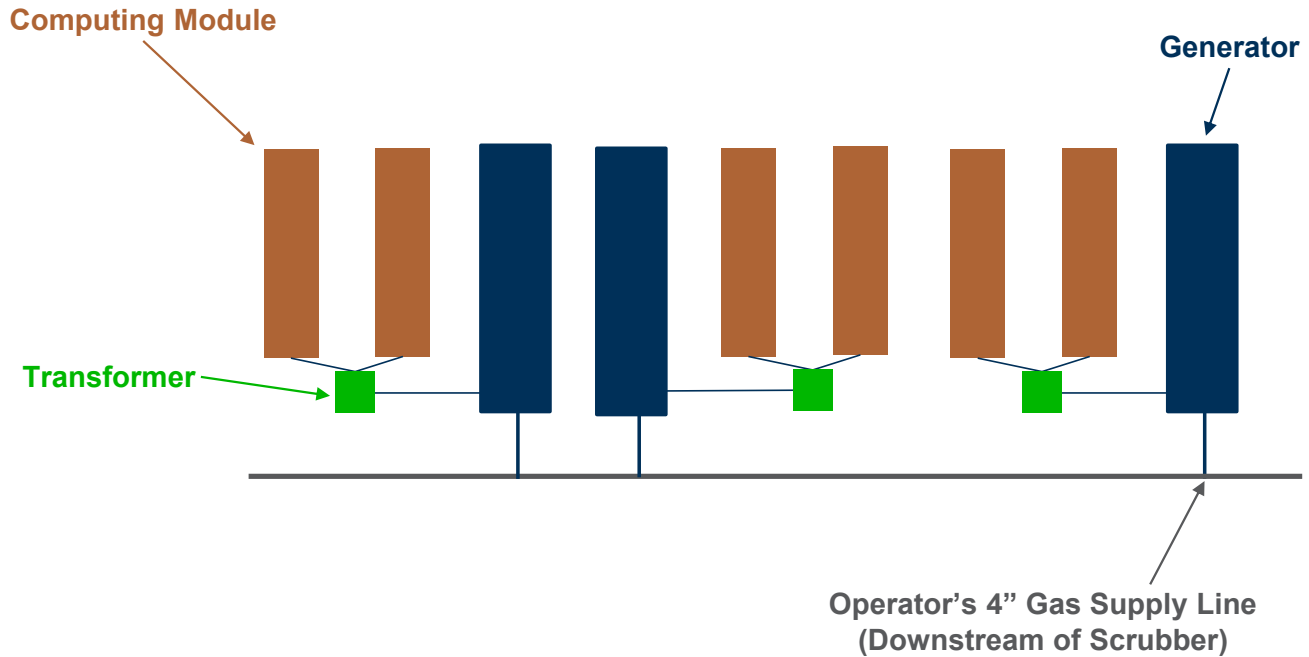
Crusoe Energy Systems Inc.
September, 2019



Site Diagram w/ Skid Generators



600 MCFD LAYOUT ILLUSTRATION



Easy Integration, Compact Footprint



2021 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

SB 2137
2/15/2021

A BILL for an Act to create and enact a new section to chapter 57-39.2 of the North Dakota Century Code, relating to a sales and use tax exemption for enterprise information technology equipment and computer software purchased for use in a qualified data center; to provide an effective date; and to provide an expiration date.

Chair Bell calls the meeting to order. "Present are Senator Bell, Kannianen, Meyer, J. Roer, Patten, Weber, Piepkorn" [10:15]

Discussion Topics:

- Effective & expiration dates
- Retroactive application
- Region and number limitations

Senator Bell [10:15] introduced amendment [21.0455.01003] #6656

Senator Meyer [10:17] moved to approve amendment
Senator Kannianen Second

Dee Wald, [10:21] General Counsel, ND Tax Department provided oral information.

Motion Passed by Voice Vote

Senator Meyer Motion to DO PASS as Amended
Senator Kannianen Second

Senators	Vote
Senator Jessica Bell	Y
Senator Jordan Kannianen	Y
Senator Scott Meyer	Y
Senator Dale Patten	Y
Senator Merrill Piepkorn	Y
Senator Jim Roers	Y
Senator Mark Weber	Y

Motion Passed 7-0-0

Senator Meyer carries

Chair Bell adjourns the meeting. [10:23]
Joel Crane, Committee Clerk

February 15, 2021

C3
2/15
1041

PROPOSED AMENDMENTS TO SENATE BILL NO. 2137

Page 1, line 3, after the semicolon insert "and"

Page 1, line 3, remove "an"

Page 1, line 4, replace "effective date; and to provide an expiration date" with "for retroactive application"

Page 1, line 18, remove "The exemption provided in this section is limited to"

Page 1, remove lines 19 through 21

Page 3, line 12, remove "permanent security"

Page 3, line 13, remove "guards:"

Page 3, line 18, remove "\"Region\" has the same meaning provided in section 54-40.1-02."

Page 3, line 19, remove "g."

Page 4, replace lines 4 through 7 with:

"SECTION 2. RETROACTIVE APPLICATION. This Act applies retroactively to purchases made after December 31, 2020."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2137: Finance and Taxation Committee (Sen. Bell, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2137 was placed on the Sixth order on the calendar.

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#6656

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2021 HOUSE FINANCE AND TAXATION

SB 2137

2021 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Room JW327E, State Capitol

SB 2137
3/15/2021
AM

A bill relating to a sales and use tax exemption for enterprise information technology equipment and computer software purchased for use in a qualified data center.

Chairman Headland opened the hearing at 9:00am.

Representatives	Present
Representative Craig Headland	Y
Representative Vicky Steiner	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	Y
Representative Jason Dockter	Y
Representative Sebastian Ertelt	Y
Representative Jay Fisher	Y
Representative Patrick Hatlestad	Y
Representative Zachary Ista	Y
Representative Tom Kading	Y
Representative Ben Koppelman	Y
Representative Marvin E. Nelson	Y
Representative Nathan Toman	Y
Representative Wayne A. Trottier	Y

Discussion Topics:

- Sales tax exemptions for data centers
- Data centers in North Dakota
- New data centers to North Dakota

Senator Myrdal introduced bill (no written testimony).

Matt Marshall, Economic Development Administrator with Minnkota Power Cooperative, support (#9057 and 9137).

Justin Dever, MDU Resources Group, support (#9084).

Josh Teigen, Director for the Economic Development and Finance Division with the Department of Commerce, support (#9124).

Shannon Fleischer, North Dakota State Tax Commissioner's Office, answered questions from the committee.

Additional written testimony:

Rachel Retterath, Great River Energy, support #9116.

Teran Doerr, Executive Director for Bowman County Development Corporation, support #8988.

Connie Ova, CEO with Jamestown Stutsman Development Corporation, support #8987.

Mark Bring, Director of Legislative Affairs with Otter Tail Power Company, support #8971.

Joe Raso, Cass County Regional Economic Development Growth and Prosperity with Greater Fargo Moorhead Economic Development Corporation, support #8968.

Keith Lund, President and CEO of Grand Forks Region Economic Development Corporation, support #8958 and 8959.

Chairman Headland closed the hearing at 10:13am.

Chairman Headland opened up for discussion at 10:23am.

Committee discussion.

Chairman Headland closed discussion at 10:33am.

Mary Brucker, Committee Clerk



#9057

5301 32nd Ave S
Grand Forks, ND 58201-3312
Phone 701.795.4000
www.minnkota.com

March 15, 2021

North Dakota Senate Finance and Taxation Committee

RE: Testimony in support of SB 2137

Dear Chairman Headland,

Landing large stable data loads will help consume power locally making North Dakota's electrical infrastructure more efficient benefiting all energy stakeholders. According to John Weeda in a January 2021 report from the North Dakota Transmission Authority, our electrical transmission system will require substantial investment in order to deliver power to markets outside of the state. Encouraging large energy users to locate within North Dakota will help all energy resources to stay viable in a rapidly changing generation and transmission environment.

North Dakota had an existing framework to help with the attraction of data centers that only needs slight modification in order to increase the effectiveness. The primary tool used was the sales and use tax exemption for enterprise information technology equipment and computer software used in a qualified data center (57-39.2-04.13). That program, which expired at the end of 2020 allowed operators, owners, and tenants of a qualified data center a sales tax exemption on information technology equipment, computer software, and other expenses related to constructing and running a data center. If changed, the proposed legislation (SB 2155) offers some slight modifications to ensure it is effective and creates opportunity throughout the state.

With the Passage of SB 2137, electrical utilities, data providers, economic developers, and other stakeholders can form a coalition to create a targeted marketing effort and work together to attract additional data centers to the state of North Dakota.

Thank you for your service and please let me know if there is any additional information we can provide.

Sincerely

Matthew Marshall
Economic Development Administrator
Office: (701) 795- 4224
Cell: (701) 630- 4658
mmarshall@minnkota.com

Senate Bill 2137

House Finance & Taxation Committee

1

North Dakota transmission infrastructure constrained.



2

- Reports from North Dakota Transmission Authority have established that North Dakota produces more power than it can export into energy markets outside the state.
- This could be an opportunity to attract large users making all of our energy resources more efficient.

Benefits of adding energy users like centers in North Dakota

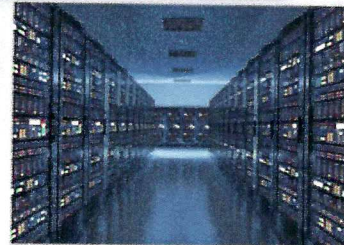
- Adds to the viability of our energy resources.
- Diversifies the economy.
- Provides opportunity in rural areas.
- Adds jobs and tax base in the areas located.

3



Types of data centers in 2021

- Large scale developments.
 - Amazon
 - Google
 - Facebook
 - Apple
 - Microsoft
 - Extremely large investments often producing hundreds of jobs.
- Recent announcements in the region.
 - Minnesota 2019
 - Iowa 2020
 - Nebraska 2019
 - Wyoming 2017



4



Types of data centers in 2021 (continued)

- Colocation data centers
 - Range in size and offer secure space for companies to locate IT equipment.
 - Range in size and can offer an array of services.



5

Types of data centers in 2021 (continued)

- New interruptible data centers - Focus on computing that can be interrupted.
 - Video Rendering
 - Artificial intelligence
 - Block chain computing
- These emerging data centers can help our energy resources operate efficiently.



6

Senate Bill 2137

- Most States that have made major announcements recently have Data Center specific tax incentives.
 - Passing SB 2137 will make sure we are on a level playing field with competing states.
- Will give rural areas of ND a chance to land a data center project.
- Enhances the language from the original tax incentive to make it more effective.

7



Senate Bill 2137

- Enhancements to the old data center incentive by making it more effective.
 - Allows time needed to develop projects and allows all communities in the state to have an opportunity.
 - Requires data centers must be at least 15,000FT²
 - Requires data centers use at least 50% of the space for computing.
 - Updates the language to be inclusive of all types data centers.

8



Questions

- Thank you!

Matthew Marshall
Economic Development Administrator
Minnkota Power Cooperative
5301 32nd Avenue South
Grand Forks, ND 58201
Office: (701) 795- 4224





1200 W. Century Ave.
Bismarck, ND 58503
Mailing address:
P.O. Box 5650
Bismarck, ND 58506-5650
(701) 530-1000
www.MDU.com

TESTIMONY IN SUPPORT OF SENATE BILL 2137
HOUSE FINANCE AND TAXATION COMMITTEE
MARCH 15, 2021

JUSTIN DEVER - SENIOR PUBLIC AFFAIRS SPECIALIST, MDU RESOURCES GROUP, INC.

Good morning, Mr. Chairman and members of the committee. My name is Justin Dever and I am testifying today in support of Senate Bill 2137 on behalf of MDU Resources Group and its subsidiary Montana-Dakota Utilities Co. Montana-Dakota serves 158 communities in North Dakota with electricity and natural gas.

Value-added energy projects like data centers can help diversify the state's economy, provide jobs for North Dakotans, and add to the tax base.

Attracting data centers provide an opportunity to add value to our state's electric generation. Large data centers consume significant amounts of power. This is power that could be generated and used in the state, bypassing transmission constraints that limit the amount of power that can be exported out of state.

North Dakota has natural advantages in attracting data centers, such as the state's cool climate which assist in cooling. North Dakota also has competitive electricity rates, an important factor considering the amount of power they consume. However, incentives like the one proposed in SB 2137 are needed for North Dakota to be competitive with other states, such as Minnesota, Iowa, and Wyoming which are among the many states that have incentive programs targeting data centers.

Mr. Chairman and members of the committee, thank you for allowing me to visit with you today.

Mr. Chairman and members of the Committee,

My name is Josh Teigen and I have the honor of serving as the Director for the Economic Development and Finance Division for the ND Department of Commerce.

I am here today to testify in support of SB 2137 both on behalf of the ND Dept of Commerce, but also on behalf of the Empower Commission. By statute, the Empower Commission is to be chaired by a member of the Dept of Commerce. While I am not that Chairperson, I am here on behalf of James Leiman, who currently serves as chair.

It is no secret that growing tax revenues is one of the paramount objectives for a lawmaker at any level. This is most commonly done through job creation. Thus, you may be wondering why we are supporting incentives for an industry that is typically lower on employment than others. The job numbers are lower than a manufacturing facility for example but looking purely at employment is a shortsighted viewpoint if you do not look at all the other factors at play.

Research has shown that for everyone data center worker, there were five jobs supported elsewhere in the economy by operating expenditures – after the surge in jobs caused by capital expenditures. The induced economic impact and ripple effect of a data center is significant.

Let's not forget that perhaps the second most crucial element of tax revenue growth is accomplished through capital investment. While low on employment, data centers are highly capital-intensive. Capital investment in a data center is easily in the tens of millions of dollars. This investment comes in the form of construction of a new building, purchases of computer servers, and perhaps most importantly, consumption of electricity, and lots of it. States and local communities are both poised to reap the tax benefit of data centers through construction materials, equipment purchases, power consumption, and direct and indirect jobs

The impacts of data center development are real and long lasting. A state/community should be equally (if not more) motivated to recruit data center developments as it would any other typical economic development project. The reason that I say that perhaps we should be more motivated is because this is an infrastructure play. Our world is rapidly moving into more of a digital economy as we transition into the information age across the globe. Data centers are an integral piece of infrastructure to enable continued innovation in growth on a global stage.

Data centers are also crucial for supporting other industries as we look at a cohesive approach to diversifying the economy. Industries such as UAS, energy, agriculture, and technology all stand to benefit from a data center infrastructure in the state of ND.

Our energy industry stands to benefit significantly from data centers as well. We all know the balance between supply and demand, and increased demand leads to higher energy prices which is good for ND and good for our energy producers. Data centers are massive consumers of energy, so beyond all the economic benefits on the surface, a demand increase for ND energy is always a good thing.

Data centers also have a significant positive impact on community development. They tend to require enhancements to infrastructure such as roads, water, sewer, and to a lesser extent power. This infrastructure development tends to support higher employment uses and, in some cases, accelerates employment growth that otherwise would not occur in the foreseeable future.

Although data centers tend to entail minimal job creation this job impact comes with minimal costs of services for roads and schools. Schools are not expected to experience much (if any) strain because of the lack of new students brought about by a data center development.

As you have hopefully heard, data centers are a tremendous driver of economic growth, diversification, and resiliency for an economy. We will never experience a time where we are consuming less data than we are now. ND is already behind in this area. It is time to make the prudent investment to enable this industry to develop and flourish within the state of ND. I encourage you to pass SB 2137 and will stand for any questions that you may have.



1611 East Century Avenue
Bismarck, North Dakota 58503
701-250-2176
greatriverenergy.com

March 15, 2021

Chairman Headland and House Finance and Taxation Committee Members,

On behalf of Great River Energy, I am submitting testimony in support of Senate Bill 2137 to provide a sales and use tax exemption for data center technology equipment and computer software for use in data centers.

Incentives like SB2137 help North Dakota compete with other states that are targeting data centers.

Great River Energy supports SB2137 and we respectfully ask that the committee provide a “Do-Pass” recommendation on this legislation.

Thank you for your consideration,

Rachel Retterath

Manager, Business Development & Governmental Affairs
Great River Energy
Lobbyist #77

**Testimony of Teran Doerr, Executive Director
Bowman County Development Corporation
In Support of SB 2137
March 12, 2021**

Chairman Headland and the Finance and Taxation Committee:

I'm Teran Doerr, Executive Director of the Bowman County Development Corporation. It is in that capacity I am submitting written support for SB 2137.

This legislation will ensure we are competitive with our neighboring states giving North Dakota a chance to attract data centers that diversify the economy and balance our state's electrical system.

With the passage of Senate Bill 2137 electrical utilities, data providers, economic developers, and other stakeholders can work to target and attract additional data centers for the state of North Dakota.

Thank you for the opportunity to submit written testimony in support of SB 2137.



**Testimony of Connie Ova, CEO
Jamestown/Stutsman Development Corporation
SB 2137
March 15, 2021**

Chairman Headland and members of the House Finance and Taxation Committee. I'm Connie Ova, CEO of the Jamestown/Stutsman Development Corporation. I stand before you in support of SB 2137, which creates an opportunity for diversification of the state's economy. It also keeps North Dakota competitive with our neighboring states.

The benefit of data centers is not reserved only for emerging industries but also provides a competitive advantage for traditional industries like healthcare, finance, engineering, and more, as these industries become more data intensive each year. Policies like SB-2137 would not only put us on more even footing with other states in attracting data centers but would also strengthen the global competitiveness of companies that are already here.

Attracting large data loads will help consume power locally making North Dakota's electrical infrastructure more efficient benefiting all energy stakeholders. According to John Weeda in a January 2021 report from the North Dakota Transmission Authority, our electrical transmission system will require substantial investment to deliver power to markets outside of the state. Encouraging large energy users to locate within North Dakota helps all energy resources in a rapidly changing generation and transmission environment

JSDC understands the difficult position you have to determine the state's future, and we appreciate all the thoughtfulness you have put into managing this responsibility. Please consider how programs and resources support the communities in the entire state as you make these decisions.

I urge the committee's support of SB 2137.



Bill Number	Name	Lobbyist #	Support	Oppose	Neutral
2137	Mark B Bring, Director of Legislative Affairs	61	X		



51 Broadway, Suite 500
Fargo, ND 58102
www.gfmedc.com
www.liveinfargo.com

Testimony

House Finance and Taxation Committee SB-2137 March 12, 2021

Honorable Chairman Headland:

The Greater Fargo Moorhead Economic Development Corporation (GFMEDC) is writing to affirm our support for SB-2137 which would provide a data center sales tax abatement similar to the one that sunset at the end of 2020.

As a regional economic development organization our focus remains strongly trained on industries that hold great promise for the state's economic future, strengthen the composition of local industry clusters, and support continued economic diversification. Data Centers provide critical infrastructure that enables the full potential of emerging technology sectors like Precision Agriculture, Autonomous Technology, and Unmanned Aircraft Systems (UAS). Furthermore, policy like SB-2137 signals to innovators in these data intensive industries that our state is in a position to support their current and future data processing and cloud computing needs.

The benefit of data centers is not reserved only for emerging industries but also provides a competitive advantage for traditional industries like healthcare, finance, engineering, and more, as these industries become more data intensive each year. Policies like SB-2137 would not only put us on more even footing with other states in attracting data centers but would also strengthen the global competitiveness of companies that are already here. This legislation is important to ensure we are competitive with our neighboring states and give North Dakota a chance to attract data centers that diversify the economy and balance our state's electrical system.

We believe strongly in this legislation to enhance North Dakota's economy and to create a lasting impact to the state and urge your support SB-2137 as you consider this important public policy.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Raso".

Joe Raso
President & CEO

March 12, 2021

Finance and Taxation Committee
Chairman Craig Headland
cheadland@nd.gov

Re: Support for Senate Bill 2137

Representative Headland,

The Grand Forks Region Economic Development Corporation (EDC) would like to express its support and endorsement for SB 2137. This legislation is precisely what is needed to ensure North Dakota remains competitive with our neighboring states, giving North Dakota a chance to attract data centers that grow and diversify the economy.

The Grand Forks Region EDC has identified the data processing and high-tech sector as a top priority and recognizes the economic impact it could have on our state and region. This tax exemption will leverage past state investment within this industry and will create a lasting impact by positioning our state as a national leader, attracting a growing number of companies to the state. Beyond growth, this strategy will help diversify the economy and hedge against commodity downturns.

It is with enthusiasm that the EDC supports SB 2137 and would be happy to discuss that support further. If you have any questions, do not hesitate to reach me at 701.746.2720 or keithl@grandforks.org.

With Kind Regards,

Keith Lund
President & CEO

March 12, 2021

Finance and Taxation Committee
Chairman Craig Headland
cheadland@nd.gov

Re: Support for Senate Bill 2137

Representative Headland,

The Grand Forks Region Economic Development Corporation (EDC) would like to express its support and endorsement for SB 2137. This legislation is precisely what is needed to ensure North Dakota remains competitive with our neighboring states, giving North Dakota a chance to attract data centers that grow and diversify the economy.

The Grand Forks Region EDC has identified the data processing and high-tech sector as a top priority and recognizes the economic impact it could have on our state and region. This tax exemption will leverage past state investment within this industry and will create a lasting impact by positioning our state as a national leader, attracting a growing number of companies to the state. Beyond growth, this strategy will help diversify the economy and hedge against commodity downturns.

It is with enthusiasm that the EDC supports SB 2137 and would be happy to discuss that support further. If you have any questions, do not hesitate to reach me at 701.746.2720 or keithl@grandforks.org.

With Kind Regards,



Keith Lund
President & CEO

2021 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Room JW327E, State Capitol

SB 2137
3/15/2021
PM

A bill relating to a sales and use tax exemption for enterprise information technology equipment and computer software purchased for use in a qualified data center.

Chairman Headland opened discussion at 2:38pm.

Representatives	Present
Representative Craig Headland	Y
Representative Vicky Steiner	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	Y
Representative Jason Dockter	AB
Representative Sebastian Ertelt	Y
Representative Jay Fisher	Y
Representative Patrick Hatlestad	Y
Representative Zachary Ista	Y
Representative Tom Kading	Y
Representative Ben Koppelman	Y
Representative Marvin E. Nelson	Y
Representative Nathan Toman	Y
Representative Wayne A. Trottier	Y

Discussion Topics:

- Proposed amendment 21.0455.02001
- Committee decision

Vice Chairman Steiner made a motion to adopt amendment 21.0455.02001 (#9288 and 9289).

Representative D. Anderson seconded the motion.

Voice vote-motion carried.

Representative D. Anderson made a motion for a DO PASS AS AMENDED.

Vice Chairman Steiner seconded the motion.

Roll call vote:

Representatives	Vote
Representative Craig Headland	Y
Representative Vicky Steiner	Y

Representative Dick Anderson	Y
Representative Glenn Bosch	Y
Representative Jason Dockter	AB
Representative Sebastian Ertelt	N
Representative Jay Fisher	Y
Representative Patrick Hatlestad	Y
Representative Zachary Ista	Y
Representative Tom Kading	N
Representative Ben Koppelman	N
Representative Marvin E. Nelson	Y
Representative Nathan Toman	N
Representative Wayne A. Trottier	Y

Motion carried 9-4-1

Representative D. Anderson is the bill carrier.

Chairman Headland closed the discussion at 2:51pm.

Mary Brucker, Committee Clerk

JP
3/15/21

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2137

Page 3, after line 29, insert:

- "8. By January thirty-first of each year, a qualified data center owner shall file with the tax commissioner, on forms and in the manner prescribed by the tax commissioner, a report showing for the previous calendar year:
- a. The amount of the exemption claimed under this section;
 - b. The number of jobs created or retained by the qualified data center; and
 - c. The type and value of any local incentives provided to the qualified data center.
9. Upon receipt of a written request from the chairman of the legislative management or the chairman of a standing committee of the legislative assembly, the tax commissioner shall disclose any information described under subsection 8. This subsection does not authorize disclosure of the qualified data center owner's name, social security number, federal employer identification number, address, or any other information prohibited from disclosure under chapter 57-38."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2137, as engrossed: Finance and Taxation Committee (Rep. Headland, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2137 was placed on the Sixth order on the calendar.

Page 3, after line 29, insert:

- "8. By January thirty-first of each year, a qualified data center owner shall file with the tax commissioner, on forms and in the manner prescribed by the tax commissioner, a report showing for the previous calendar year:
- a. The amount of the exemption claimed under this section;
 - b. The number of jobs created or retained by the qualified data center; and
 - c. The type and value of any local incentives provided to the qualified data center.
9. Upon receipt of a written request from the chairman of the legislative management or the chairman of a standing committee of the legislative assembly, the tax commissioner shall disclose any information described under subsection 8. This subsection does not authorize disclosure of the qualified data center owner's name, social security number, federal employer identification number, address, or any other information prohibited from disclosure under chapter 57-38."

Renumber accordingly

21.0455.02001

FIRST ENGROSSMENT

Sixty-seventh
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2137

Introduced by

Senators Myrdal, Oehlke, Patten

Representatives Damschen, Mock, Monson

1 A BILL for an Act to create and enact a new section to chapter 57-39.2 of the North Dakota
2 Century Code, relating to a sales and use tax exemption for enterprise information technology
3 equipment and computer software purchased for use in a qualified data center; and to provide
4 for retroactive application.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1.** A new section to chapter 57-39.2 of the North Dakota Century Code is created
7 and enacted as follows:

8 **Sales and use tax exemption for enterprise information technology equipment and**
9 **computer software used in a qualified data center.**

- 10 1. Gross receipts from sales of enterprise information technology equipment and
11 computer software purchased for use by a qualifying business in a qualified data
12 center are exempt from the tax imposed by this chapter. To qualify for the exemption,
13 the enterprise information technology equipment or computer software must be
14 incorporated into or physically located within the qualified data center. Purchases of
15 upgraded or replacement enterprise information technology equipment and computer
16 software for use in a qualified data center also are exempt.
- 17 2. The future owner of a proposed data center shall apply to the tax commissioner to be
18 certified as a qualified data center. An applicant shall respond to a request for
19 additional information from the tax commissioner within thirty days of the request or
20 the application may no longer be considered.
- 21 3. To receive the exemption at the time of purchase, the qualified business shall obtain
22 from the tax commissioner a certificate that the enterprise information technology
23 equipment or computer software the qualified business intends to purchase qualifies
24 for the exemption. If a certificate is not received before the purchase, the qualified

business shall pay the applicable tax imposed by this chapter and apply to the tax commissioner for a refund.

4. If the enterprise information technology equipment is purchased or installed by a contractor subject to the tax imposed by this chapter, the qualified business may apply for a refund of the difference between the amount remitted by the contractor and the exemption imposed or allowed by this section. Application for a refund must be made at the times and in the manner directed by the tax commissioner and must include sufficient information to permit the tax commissioner to verify the sales and use taxes paid and the exempt status of the sale or use.

5. For purposes of this section:

a. "Computer software" includes software used or loaded at a qualified data center, software maintenance, software licensing, and software customization.

b. "Data center" means a centralized repository for the storage, management, and dissemination of electronic data and information organized around a particular body or bodies of knowledge.

c. "Enterprise information technology equipment" includes:

(1) Computer hardware, servers, routers, cooling systems, and cooling towers.

(2) Temperature control infrastructure and power infrastructure used for transformation, distribution, or management of electricity used for the maintenance and operation of a qualified data center.

(3) Exterior dedicated business-owned substations, backup power generation systems, battery systems, or other related infrastructure.

(4) Racking systems, raised flooring, cabling, or trays necessary for the maintenance and operation of a qualified data center.

d. "Qualified business" means the owner, operator, or tenants of a qualified data center.

e. "Qualified data center" means a newly constructed or substantially refurbished facility located in this state:

(1) Comprised of one or more buildings, the primary purpose of which is to contain a data center, consisting of an aggregate amount of fifteen thousand

square feet [1394 square meters] or more, no fewer than fifty percent of which is used for data processing;

(2) Located on a single parcel or on contiguous parcels;

(3) On which construction is completed or which is substantially refurbished after December 31, 2020;

(4) Having the following attributes:

(a) Sophisticated fire suppression and prevention systems;

(b) Enhanced security with security features including video camera surveillance; an electronic system requiring pass codes, key cards, or biometric scans such as hand scans or retinal or fingerprint recognition to restrict access to selected personnel; or other similar security features; and

(5) Certified by the tax commissioner as a qualified data center.

f. "Substantially refurbished" means a data center used to house enterprise information technology equipment in which fifteen thousand square feet [1394 square meters] or more has been rebuilt, modified, or improved through methods including energy efficiency improvements, building improvements, and the installation of enterprise information technology equipment, environmental controls, and computer software.

6. In determining the total square footage of a qualified data center, the square footage of office space, meeting space, mechanical space, and other support facility spaces must be included if those spaces are used to support the operation of enterprise information technology equipment.

7. Qualified data center owners that intend to colocate operators or tenants within the center shall provide the operators or tenants with documentation from the tax commissioner that the center meets the definition of a qualified data center under this section. Operators or tenants shall obtain and submit a copy of the documentation with all applications for sales tax exemption on information technology equipment and computer software purchased for use in the qualified data center.

1 8. By January thirty-first of each year, a qualified data center owner shall file with the tax
2 commissioner, on forms and in the manner prescribed by the tax commissioner, a
3 report showing for the previous calendar year:

4 a. The amount of the exemption claimed under this section;

5 b. The number of jobs created or retained by the qualified data center; and

6 c. The type and value of any local incentives provided to the qualified data center.

7 9. Upon receipt of a written request from the chairman of the legislative management or
8 the chairman of a standing committee of the legislative assembly, the tax
9 commissioner shall disclose any information described under subsection 8. This
10 subsection does not authorize disclosure of the qualified data center owner's name,
11 social security number, federal employer identification number, address, or any other
12 information prohibited from disclosure under chapter 57-38.

13 **SECTION 2. RETROACTIVE APPLICATION.** This Act applies retroactively to purchases
14 made after December 31, 2020.

21.0455.02001
Title.

Prepared by the Legislative Council staff for
Representative Steiner
March 15, 2021

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2137

Page 3, after line 29, insert:

- "8. By January thirty-first of each year, a qualified data center owner shall file with the tax commissioner, on forms and in the manner prescribed by the tax commissioner, a report showing for the previous calendar year:
- a. The amount of the exemption claimed under this section;
 - b. The number of jobs created or retained by the qualified data center; and
 - c. The type and value of any local incentives provided to the qualified data center.
9. Upon receipt of a written request from the chairman of the legislative management or the chairman of a standing committee of the legislative assembly, the tax commissioner shall disclose any information described under subsection 8. This subsection does not authorize disclosure of the qualified data center owner's name, social security number, federal employer identification number, address, or any other information prohibited from disclosure under chapter 57-38."

Renumber accordingly

2021 CONFERENCE COMMITTEE

SB 2137

2021 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

SB 2137
4/9/2021
Conference Committee

A BILL for an Act to create and enact a new section to chapter 57-39.2 of the North Dakota Century Code, relating to a sales and use tax exemption for enterprise information technology equipment and computer software purchased for use in a qualified data center; and to provide for retroactive application.
--

Chair Meyer calls the meeting to order. Senators Meyer, Bell, Piepkorn and Representatives D. Anderson, Bosch, Toman are present. [10:02]

Discussion Topics:

- Employment number reporting
- Disclosure of confidential information

Committee Discussion [10:02]

Senator Bell [10:04] moved Senate Accede to House Amendments

Senator Piepkorn seconds

Motion carries 6-0-0

Senator Meyer carries

Representative D. Anderson carries

Chair Meyer adjourns the meeting. [10:07]

Joel Crane, Committee Clerk

**2021 SENATE CONFERENCE COMMITTEE
ROLL CALL VOTES**

BILL/RESOLUTION NO. SB 2137 as engrossed

Senate Finance and Taxation Committee

- Action Taken** ☒ **SENATE accede to House Amendments**
☐ **SENATE accede to House Amendments and further amend**
☐ **HOUSE recede from House amendments**
☐ **HOUSE recede from House amendments and amend as follows**
- ☐ **Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Senator Bell Seconded by: Senator Piepkorn

Senators				Yes	No		Representatives				Yes	No
Chair Meyer				X			D. Anderson				X	
Bell				X			Bosch				X	
Piepkorn				X			Toman				X	
Total Senate Vote				3			Total Rep. Vote				3	

Vote Count Yes: 6 No: 0 Absent: 0

Senate Carrier Meyer House Carrier D. Anderson

LC Number _____ . _____ of amendment

LC Number _____ . _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

REPORT OF CONFERENCE COMMITTEE

SB 2137, as engrossed: Your conference committee (Sens. Meyer, Bell, Piepkorn and Reps. D. Anderson, Bosch, Toman) recommends that the **SENATE ACCEDE** to the House amendments as printed on SJ page 1171 and place SB 2137 on the Seventh order.

Engrossed SB 2137 was placed on the Seventh order of business on the calendar.