



SENATE BILL 2111

**SENATE TRANSPORTATION COMMITTEE
JANUARY 21, 2021**

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BROADBAND ASSOCIATION OF NORTH DAKOTA**

My name is David Crothers from the Broadband Association of North Dakota (BAND). The Association represents all of the cooperative and independent broadband companies in the State. Those companies serve over 96 percent of North Dakota's geographic territory.

Members of the Association believe Senate Bill 2111 is groundbreaking in its scope and would codify the State of North Dakota's desire to compete with private industry.

The Association believes that adoption of this legislation would be a sharp departure from North Dakota's long-standing policy of not using taxpayer-subsidized assets to offer the same services as those provided by the private sector.

Examples of areas in telecommunications law where North Dakota explicitly prohibits competition between the State and private industry can be found at NDCC 15-10-45, where Northern Tier Network, a higher education research network, is limited to research only and not available beyond the university community; NDCC 54-59-05(13), which limits North Dakota Information Technology to providing service to government and educational entities; and, limitations on who may access telecom services in technology parks in another part of the Century Code.

The tower industry and placing the equipment to send and receive signals is a highly competitive business throughout the United States, including North Dakota. There are no fewer than 600 free-standing towers throughout every county in the State.

Members of the Broadband Association of North Dakota own just over 100 of them.

When the State enters a business and starts offering services to the public that others are offering it comes at the expense of private industry. The State does not pay for the land the towers sit upon or the construction and maintenance of the towers. Debt does not need to be serviced. That is all paid for by taxpayers.

Today, the large wireless carriers like Verizon, AT&T and T-Mobile rent space on towers owned by investors, including BAND members. Those mobile carriers have an established history of not wanting to own towers. They want to transfer that capital risk to others.

For example, in 2013 AT&T sold 9,700 of their towers throughout the United States, including in North Dakota, for \$4.85 billion dollars to an investor-owned company named Crown Castle. AT&T then agreed to lease back space on the towers they just sold. The other wireless carriers do the same thing: T-Mobile sold 7,200 towers to the same company in 2012 and Sprint sold 3,000 towers earlier. AT&T sold an additional 1,000 towers to a different group just fifteen months ago.

What is especially economically perverse, however, is that passage of Senate Bill 2111 incentivizes those that rent space from private tower owners to leave and relocate to State Radio towers or threaten to leave because they now have another tower provider to negotiate with.

The Association did note that a witness, AT&T, in this bill's original hearing testified that passage of the bill would benefit them as they "seek to build out for FirstNet". AT&T has already been compensated for building out FirstNet. The Federal Communications Commission gave AT&T a 25-year contract to manage the network, 20 MHz of wireless spectrum for free and \$6.5 billion initially. The FCC also gave AT&T permission to use FirstNet to offer service to the public when an emergency is not taking place.

Separately, perhaps most critically of all, there are no limitations placed on the Department of Transportation in Senate Bill 2111. There is nothing that prohibits the agency from building more towers to accommodate requests from the public. At

its extreme, the State could have future towers they want paid for by others simply by designing them large enough to be revenue generators. While that may not be the motivation today, the incentive to do exactly that increases with each passing year. More and more communications, functions and applications are becoming wireless. That increases the need for tower space.

The issue, and implications, is not limited to just mobile communications like cell phone companies, however. There are many users on these towers.

Towers and the equipment that goes on them are both becoming physically smaller due to technological advances. The world is on the cusp of deploying a variety of new wireless technologies and applications.

Precision agriculture, the Internet of things, telemetry, autonomous vehicles, broadband delivery from low earth orbital satellites and beyond line-of-sight navigation for unmanned aerial vehicles (UAV) all will require space on towers. The market for those things exists today, but their usage is about to explode. The technology exists today for autonomous vehicles to travel streets and highways without a driver. Unmanned taxis carry passengers through the streets of Phoenix, Arizona. The question for policymakers is, when driverless cars and trucks drive down the length of Interstate 94 should private industry or the State of North Dakota be the owner of the towers they are communicating with. That is the significance of Senate Bill 2111.

Finally, the Broadband Association of North Dakota believes that Senate Bill 2111 is bad public policy. Adoption of its provisions create State-subsidized competition with private tower owners. It also discourages investment by the private sector. It further encourages the growth of State government and will offer a product that others already provide. Additionally, it is a sharp departure from established law in North Dakota that explicitly prohibits State competition with private industry.

The Broadband Association of North Dakota asks that you reconsider your "DO PASS" recommendation for Senate Bill 2111.

All 50 states vote yes on AT&T's \$40 billion emergency response network FirstNet

[Danny Crichton@dannycrichton](mailto:Danny.Crichton@dannycrichton) / 3:38 PM CST•December 29, 2017
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From wildfires in California to hurricanes on the Gulf and Atlantic coasts, communications are the bedrock of emergency response and management. However, those communications can be challenging when quickly evolving situations cross multiple jurisdictions — a truth painfully learned on 9/11, [when more than a dozen agencies found it difficult to relay critical information to the right people at the right time](#).

Today, AT&T announced that [all 50 states, Puerto Rico and the District of Columbia have officially signed on to FirstNet](#), a government program operated by AT&T to provide universal emergency response communications across the country. States had until yesterday to officially opt-in or opt-out of the FirstNet system. [California, Florida, Mississippi and New York were among the states](#) that waited until the last minute to confirm their participation.

This is a major win for AT&T, [which officially won the FirstNet contract this past March](#). The contract stipulated that AT&T would manage the network for 25 years, and the company committed to spending \$40 billion to manage and operate the network. In exchange, the company would receive 20 MHz of critical wireless spectrum from the FCC, as well as payments from the government totaling \$6.5 billion for the initial network rollout.

The true win for AT&T though is in the actual spectrum itself, [which is in the 700 Mhz band](#) commonly used for LTE signals. While the FirstNet spectrum is prioritized for first responders, it also can be used for consumer wireless applications when an emergency is not taking place, which should improve cellular reception and bandwidth for AT&T customers, particularly in urban areas.

The bigger loss, though, is with the U.S. taxpayer. FirstNet has had something of a painful birth and maturation process. Originally created as part of the Middle Class Tax Relief and Job Creation Act of 2012, it was designed by Congress to create an exclusive network for first responders, who presumably couldn't use consumer technology like smartphones to communicate with each other. That was following [recommendations from the 9/11 Commission that encouraged](#) Congress to allocate a dedicated public safety spectrum.

The program has had a glacial implementation process ever since. [As Steven Brill described in The Atlantic last year](#): "FirstNet is in such disarray that 15 years after the problem it is supposed to solve was identified, it is years from completion—and it may never get completed at all. According to the GAO, estimates of its cost range from \$12 billion to \$47 billion, even as advances in digital technology seem to have eliminated the need to spend any of it."

At issue is whether the rapid improvement of consumer wireless technology — which is available today — far outweighs the performance of a hypothetical public safety network that remains a glimmer in the mind's eye.

Most interoperability problems have been solved by modern technology, and so the question becomes what the buildout is really for anyway. Why did the government give exclusive access to a critical part of the spectrum that could have benefited millions of consumers, while also provided expedited access for first responders?

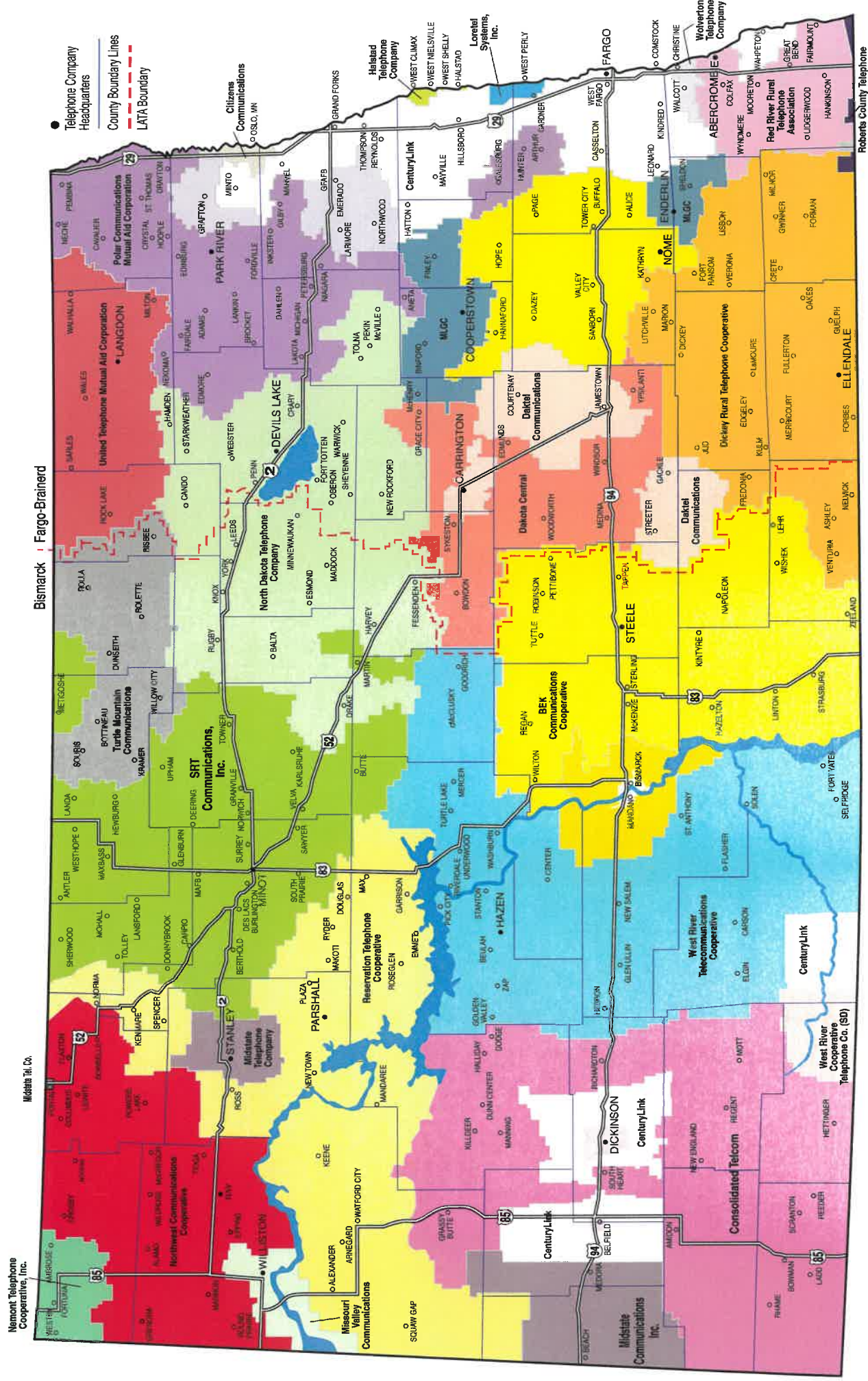
For AT&T, the victory provides a new source of revenue from local police and fire departments, who will presumably come to rely on FirstNet for their emergency communications. It also gets a serious boost in its spectrum, along with free cash from taxpayers. But for all of us, it seems billions of dollars will be spent to create a specialist comm channel, when existing technologies are more than up to the task of providing these highly reliable services.



● Telephone Company Headquarters

County Boundary Lines

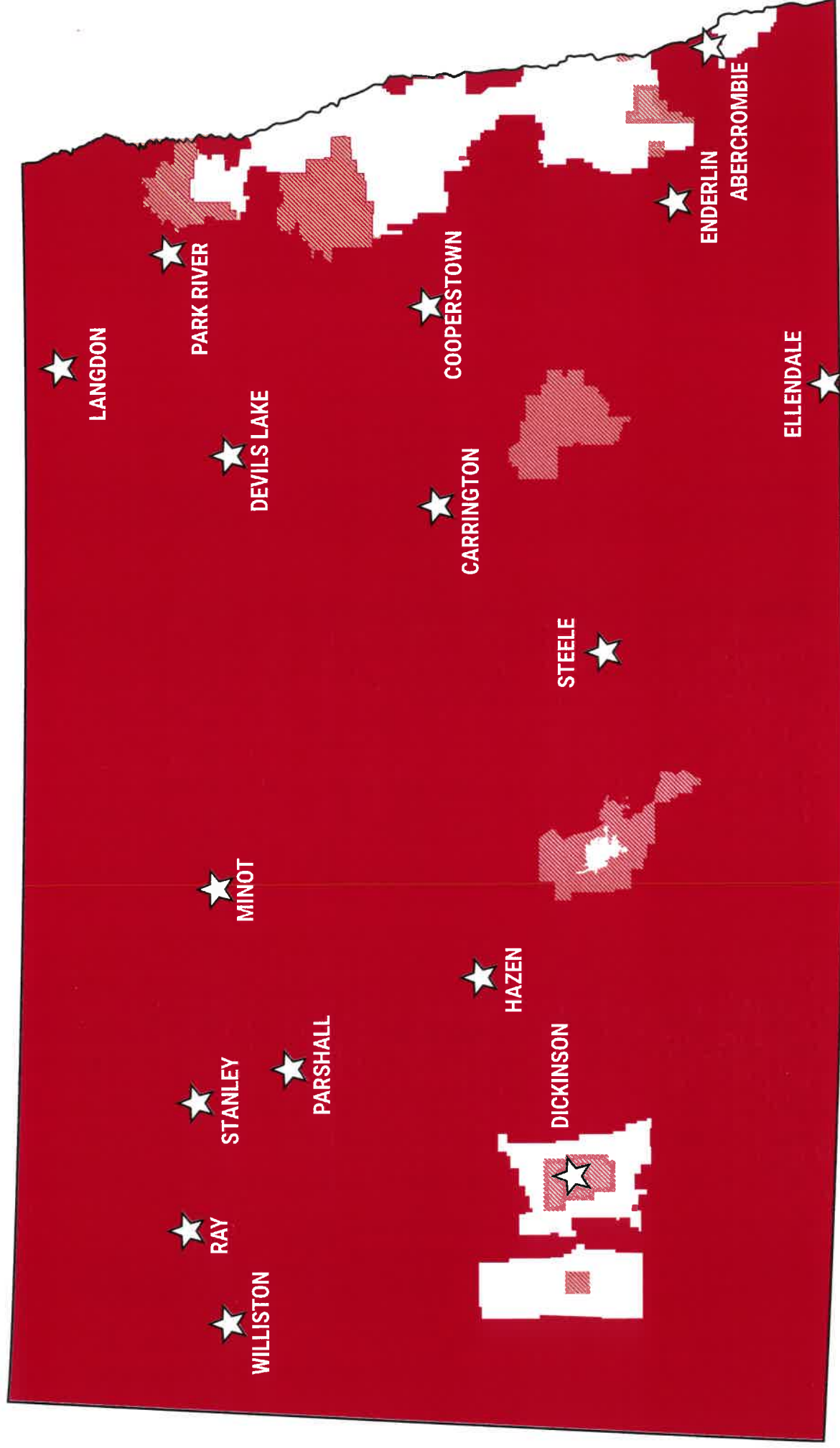
LATA Boundary





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