



NORTH DAKOTA ASSOCIATION OF TELECOMMUNICATIONS COOPERATIVES

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ONE CALL EXCAVATION NOTICE SYSTEM

ECONOMIC IMPACT COMMITTEE

SEPTEMBER 17, 2015

DAVID CROTHERS NORTH DAKOTA ASSOCIATION OF TELECOMMUNICATIONS COOPERATIVES

My name is David Crothers from the North Dakota Association of Telecommunications Cooperatives. The Association represents all of the cooperative and independent telephone companies in the State. Those companies serve over 150,000 homes and small businesses and approximately 96 percent of the geographic territory of the State.

Members of the Association strongly support the Economic Impact Committee's study of the State's One Call statutes.

Senate Bill 2167, which provided the language for this study, has four elements:

- 1) Study the financial and operational impact on the underground facilities owners due to the tremendous increase in the number of locates they are required to perform;
- 2) Review who should be responsible for paying for the expenses of locating in certain situations;
- 3) Are penalties for violators of One Call statutes appropriate; and
- 4) Enforcement of penalties by the Public Service Commission.

Members of the Association believe that each provision of Senate Bill 2167 warrants study by this committee.

The magnitude of the problem largely depends on where the underground facilities are located. Predictably, the northwestern quadrant of the State...Oil Country...has been the epicenter of the problems experienced by members of the independent telecommunications industry. The issues associated with performing locates of our underground facilities are progressively less severe as one moves eastward to the point that there are very few problems east of Highway 83.

However, where there are problems, they are severe, time consuming and profoundly expensive for the members and customers of our telecommunications companies.

For example, Reservation Telephone Cooperative is a telephone company with 5,000 customers that six years ago had two part time employees doing fewer than 10,000 locates annually. Today, they have 12 people locating underground facilities, do in excess of 40,000 locates a year and are spending \$1.4 million annually to perform the work. Not one cent of that \$1.4 million is compensated by anyone.

Members of the Association believe that locating one's facilities is unnecessarily expensive and an unfair portion of that cost is being passed on to ratepayers and customers.

There was legislation during the Sixty-Fourth Legislative Assembly (ATTACHED) limiting the number of free locates an excavator could receive to two before the third and subsequent locates by the owner of an underground facility could charge for the service. That legislation (Senate Bill 2147) was defeated.

The problem that members of the Association have experienced is that a number of excavators are calling in the same locate requests over and over again. One small North Dakota telephone company testified they have received over 20 locate requests for individual pieces of property within their service territory. Reservation Telephone Cooperative...the company spending \$1.4 million annually...is spending in excess of \$400,000 each year on relocates.

Members of the Association were perhaps wrong to suggest that excavators should be responsible for locating expenses after two free locates, but it surely is not good public policy to require those same locally-owned companies to perform 20 free locates

for an excavator and pass those substantial costs on to their customers. At some point fairness dictates that excavators be held responsible for the costs they cause others.

Members of the Association also look forward to this committee's determination of whether penalties for violations of the State's One Call statutes are sufficient and whether there should be additional remedies in addition to monetary fines by the Public Service Commission. I believe you will hear testimony from underground facility owners during the interim about speedier hearings and adjudication, as well as whether the menu of penalties should be expanded to allow for business license revocation by the State's Secretary of State.

Again, members of the Association look forward to working with the Economic Impact Committee throughout the interim.

Introduced by

Senators Rust, Burckhard, Warner

Representatives B. Anderson, Froseth, Onstad

1 A BILL for an Act to provide for a pilot program for oil and gas development impact funding for
2 one-call locates; and to provide an appropriation.

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

4 **SECTION 1. PILOT GRANT PROGRAM FOR ONE-CALL LOCATES.** Within legislative
5 appropriations, the public service commission shall conduct a pilot grant program during the
6 biennium beginning July 1, 2015, and ending June 30, 2017, to reimburse the cost of one-call
7 locates as a result of oil and gas development. The commission shall develop criteria for a valid
8 claim and for fairly distributing reimbursements among the valid claims to the private operators
9 with underground facilities most affected by oil and gas development. The commission may use
10 up to five percent of the funding for administration of the program.

11 **SECTION 2. APPROPRIATION.** There is appropriated out of any moneys in the general
12 fund in the state treasury, not otherwise appropriated, the sum of \$2,000,000, or so much of the
13 sum as may be necessary, to the public service commission for the purpose of a grant program
14 to reimburse the cost of one-call locates as a result of oil and gas development, for the
15 biennium beginning July 1, 2015, and ending June 30, 2017.

**Sixty-fourth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2015**

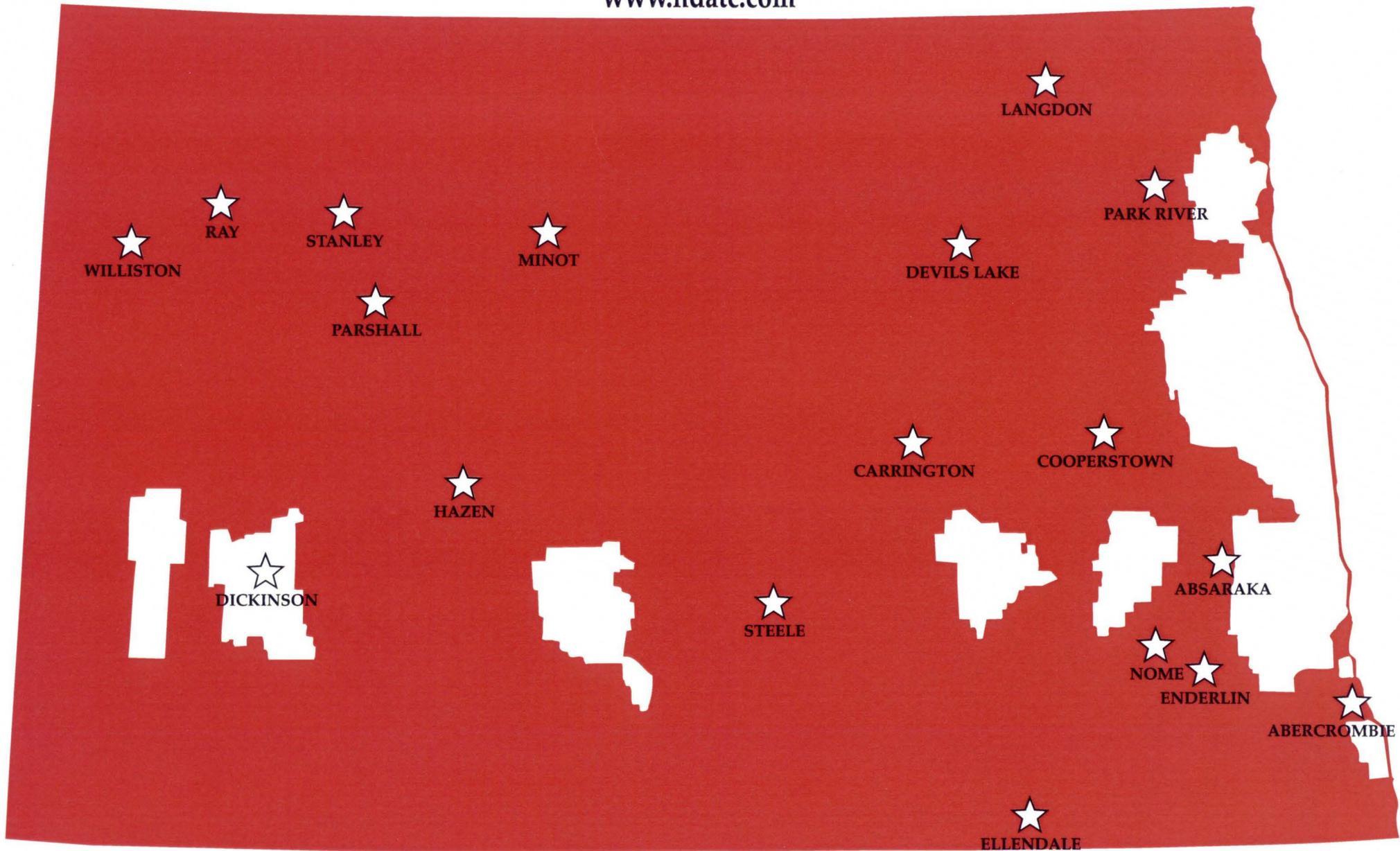
SENATE BILL NO. 2167
(Senators Rust, Burckhard, Warner)
(Representatives B. Anderson, Froseth, Onstad)

AN ACT to provide for a legislative management study of the one-call system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - ONE-CALL EXCAVATION NOTICE SYSTEM. During the 2015-16 interim, the legislative management shall consider studying the one-call excavation notice system. The study must include the financial and operational impact on the underground facilities owners from the tremendous increase in the number of locates, a review of who should be responsible for the expenses associated with locating underground facilities in certain situations, the appropriateness of penalties for one-call excavation notice system violators, and the enforcement of penalties by the appropriate state agencies. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations to the sixty-fifth legislative assembly.

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INDEPENDENT TELEPHONE COMPANY TERRITORY IN NORTH DAKOTA

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CONSOLIDATED TELCOM

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DICKEY RURAL TELEPHONE

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THE NORTH DAKOTA RURAL TELEPHONE INDUSTRY

- **High-Speed Internet in 278 North Dakota rural communities.**
- **Independent telcos serve 96 percent of North Dakota's geographic territory.**
- **Over \$1.3 billion total investment in local telecom infrastructure.**
- **Over \$72 million in payroll for rural residents in 2013.**
- **Over 39,000 miles of fiber optic cable.**
- **\$298 million in 2010-2012 construction spending on rural telecom infrastructure.**
- **1100 highly trained and educated employees in rural North Dakota communities.**

MLGC

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RED RIVER COMMUNICATIONS

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