

**2021 HOUSE ENERGY AND NATURAL RESOURCES**

**HB 1059**

# 2021 HOUSE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee

Coteau AB Room, State Capitol

HB 1059

1/14/2021

relating to requiring an excavator to call 911 upon damage to a facility that releases any flammable toxic or corrosive gas

Chairman Porter opened the hearing on HB 1059 at **9 AM**. Roll call was taken, all members were present: Representatives Porter, Damschen, Anderson, Bosch, Devlin, Heinert, Keiser, Lefor, Marschall, Roers Jones, M Ruby, Zubke, Guggisberg, and Ista.

### Discussion Topics:

- Enforcement of the One-Call law
- Damage, escape of flammable, toxic, or corrosive gas or liquid
- Unified spill reporting system
- Integrity of pipelines inside and out

Rep Lefor moved Amendment 21.8038.01001, Seconded by Rep M Ruby. Voice Vote. Motion carried.

Rep Ruby moved a Do Pass as Amended, seconded by Rep Ista. Roll call vote:

Representatives	Vote
Representative Todd Porter	Y
Representative Chuck Damschen	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	Y
Representative Bill Devlin	Y
Representative Ron Guggisberg	Y
Representative Pat D. Heinert	Y
Representative Zachary Ista	Y
Representative George Keiser	Y
Representative Mike Lefor	Y
Representative Andrew Marschall	Y
Representative Shannon Roers Jones	Y
Representative Matthew Ruby	Y
Representative Denton Zubke	Y

Motion carried. 14-0-0 Carrier is Rep Ista.

### Additional Written testimony:

Patrick Fahn, Director of Public Utilities, Public Service Commission #781

Karl H Rockeman, Director of Water Quality, ND Dept of Environmental Quality #773

**9:23 AM** hearing closed.

*Kathleen Davis, Committee Clerk*

January 14, 2021

DA 1/14/21  
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PROPOSED AMENDMENTS TO HOUSE BILL NO. 1059

Page 1, line 10, after the period insert "If the damage results in the escape of flammable, toxic, or corrosive gas or liquid, the excavator shall:

- (1) Call 911 immediately;
- (2) Notify the pipeline operator immediately; and
- (3) Notify the state unified spill reporting system within 24 hours.

b."

Page 1, line 14, remove "If the damage results in the"

Page 1, remove lines 15 through 17

Page 1, line 18, overstrike "b." and insert immediately thereafter "c."

Page 1, line 22, overstrike "c." and insert immediately thereafter "d."

Page 2, line 3, overstrike "b" and insert immediately thereafter "c"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1059: Energy and Natural Resources Committee (Rep. Porter, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends  
**DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1059 was placed  
on the Sixth order on the calendar.

Page 1, line 10, after the period insert "If the damage results in the escape of flammable,  
toxic, or corrosive gas or liquid, the excavator shall:

- (1) Call 911 immediately;
- (2) Notify the pipeline operator immediately; and
- (3) Notify the state unified spill reporting system within 24 hours.

b."

Page 1, line 14, remove "If the damage results in the"

Page 1, remove lines 15 through 17

Page 1, line 18, overstrike "b." and insert immediately thereafter "c."

Page 1, line 22, overstrike "c." and insert immediately thereafter "d."

Page 2, line 3, overstrike "b" and insert immediately thereafter "c"

Renumber accordingly

## **House Bill 1059**

**Presented by:** Patrick Fahn, Director of Public Utilities  
Public Service Commission

**Before:** House Energy and Natural Resources Committee  
The Honorable Todd Porter, Chairman

**Date:** January 14, 2021

### **TESTIMONY**

Mr. Chairman and committee members, I am Patrick Fahn, Director of Public Utilities.

As directed by the Legislature, the Commission has participated in the United States Department of Transportation's One-Call Grant program since 2015. This includes education of the public to reduce third-party damage to underground facilities and enforcement of the One-Call law. Continued state oversight of the One-Call program requires an annual audit and scoring by the Pipeline and Hazardous Materials Safety Administration (PHMSA).

One item of concern noted by PHMSA during our past few audits was the absence of a requirement in North Dakota Century Code 49-23 requiring an excavator to call 911 emergency services to report damage and escape of flammable, toxic, or corrosive gas or liquid resulting from a strike. This agency bill is presented to ensure we continue to meet PHMSA requirements and to support a continued satisfactory determination of our One-Call program by PHMSA.

Mr. Chairman, this concludes my testimony. Thank you for the opportunity to present this information. I will be happy to answer any questions.

**Testimony**  
**House Bill 1059**  
**House Energy and Natural Resources Committee**  
**January 14, 2021, 9:00 a.m.**  
**North Dakota Department of Environmental Quality**

Good morning Chairman Porter and members of the House Energy and Natural Resources Committee. My name is Karl Rockeman, and I am the director of the Division of Water Quality within the North Dakota Department of Environmental Quality. The Division of Water Quality protects and monitors our water resources to ensure the quality of surface and groundwater for the public's use. I am here to testify in support of HB 1059 and offer an amendment for consideration.

We support the addition of the requirement to contact 911 in the event of a release. Releases of flammable, toxic or corrosive gases and liquids can present an immediate threat to life and health that requires an emergency response. Such releases may also require a state level response, and we'd ask the committee to consider adding notification to the state unified spill reporting system.

On Page 1, Line 17, before the period add "and within 24 hours notify the state unified spill reporting system"

This concludes my testimony. I am happy to answer any questions you may have.

**2021 SENATE POLITICAL SUBDIVISIONS**

**HB 1059**

# 2021 SENATE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Sakakawea, State Capitol

HB 1059  
2/18/2021

A BILL for an Act to amend and reenact subsection 1 of section 49-23-06 of the North Dakota Century Code, relating to requiring an excavator to call 911 upon damage to a facility that releases any flammable toxic or corrosive gas.

**Chairman Burckhard** opened the hearing on HB 1059 at 10:26 a.m. Members present: Burckhard, Anderson, Lee, Larson, Kannianen, Oban, Heitkamp.

### Discussion Topics:

- Reporting requirements
- Reporting process
- Duplication of reporting

**[10:27] Brian Kroshus, Commissioner, Public Service Commission.** Introduced HB 1059 and provided testimony #6868 in favor.

**[10:31] Karl Rockeman, Director, Water Quality Division, ND Environmental Quality.** Provided testimony #6866 in favor.

**[10:37] Brady Pelton, Counsel and Director, Government Affairs, North Dakota Petroleum Council.** Provided testimony #6903 in favor.

**[10:39] Danette Welsh, Director, Government Relations, ONEOK Inc.** Provided testimony #6881 in favor.

**[10:42] Carey Burke, Associated General Contractors of North Dakota.** Provided testimony #6848 in favor.

**Senator Kannianen** moves to **ADOPT AMENDMENT 21.8038.02001** - proposed by Brian Kroshus.

**Senator Anderson** seconded.

Senators	Vote
Senator Randy A. Burckhard	Y
Senator Howard C. Anderson, Jr.	Y
Senator Jason G. Heitkamp	Y
Senator Jordan Kannianen	Y
Senator Diane Larson	Y
Senator Judy Lee	Y
Senator Erin Oban	Y

The motion passed 7-0-0

**Senator Kannianen** moves **DO PASS, AS AMENDED.**

**Senator Oban** seconded.



<b>Senators</b>	<b>Vote</b>
Senator Randy A. Burckhard	Y
Senator Howard C. Anderson, Jr.	Y
Senator Jason G. Heitkamp	Y
Senator Jordan Kannianen	Y
Senator Diane Larson	Y
Senator Judy Lee	Y
Senator Erin Oban	Y

The motion passed 7-0-0

**Senator Kannianen** will carry HB 1059

**Additional written testimony: (2)**

**Zac Smith, Director, Communications and Government Relations, NDAREC.** Provided written testimony #6885 in favor.

**David Crothers, Broadband Association of ND.** Provided written testimony #6840 in opposition.

**Chairman Burckhard** closed the hearing on HB 1059 at 10:51 a.m.

*Patricia Lahr, Committee Clerk*

February 18, 2021

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1041

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1059

Page 1, line 13, after the underscored semicolon insert "and"

Page 1, line 14, remove "; and"

Page 1, line 15, remove "(3) Notify the state unified spill reporting system within 24 hours"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1059, as engrossed: Political Subdivisions Committee (Sen. Burckhard, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends  
**DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1059  
was placed on the Sixth order on the calendar.

Page 1, line 13, after the underscored semicolon insert "and"

Page 1, line 14, remove ";and"

Page 1, line 15, remove "(3) Notify the state unified spill reporting system within 24 hours"

Renumber accordingly

## **House Bill 1059**

#6868

**Presented by:**     **Brian Kroshus, Public Service Commissioner**  
                          **Public Service Commission**

**Before:**            **Senate Political Subdivisions Committee**  
                          **The Honorable Randy Burckhard, Chairman**

**Date:**             **February 18, 2021**

### **TESTIMONY**

Mr. Chairman and committee members, I am Commissioner Brian Kroshus of the Public Service Commission.

As directed by the Legislature, the Commission has participated in the United States Department of Transportation's One-Call Grant program since 2015. This includes education of the public to reduce third-party damage to underground facilities and enforcement of the One-Call law. Continued state oversight of the One-Call program requires an annual audit and scoring by the Pipeline and Hazardous Materials Safety Administration (PHMSA).

One item of concern noted by PHMSA during our past few audits was the absence of a requirement in North Dakota Century Code 49-23 requiring an excavator to call 911 emergency services to report damage and escape of flammable, toxic, or corrosive gas or liquid resulting from a strike.

This agency bill is presented to ensure we continue to meet PHMSA requirements and to support a continued satisfactory determination of our One-Call program by PHMSA by requiring an excavator to call 911 in the event of an incident as described above.

To clarify, the commission supports the addition of language requiring an excavator to call 911 emergency services in addition to current statute which requires an excavator to notify the operator of the impacted facility “as soon as reasonably possible.”

Further, the commission also supports the notification of the pipeline operator if the damage results in the escape of flammable, toxic, or corrosive gas or liquid by the excavator.

The commission does not support expanding notification requirements beyond calling 911 emergency services and the operator under this chapter as a part of One-Call enforcement.

Mr. Chairman, this concludes my testimony. Thank you for the opportunity to present this information. I will be happy to answer any questions.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1059

Page 1, line 15, remove “(3) Notify the state unified spill reporting system within 24 hours.”

Renumber accordingly



Environmental Quality

Testimony in Support of  
**House Bill No. 1059**

Senate Political Subdivisions Committee

February 18, 2021

## TESTIMONY OF

**Karl Rockeman, Director of Water Quality**

Good morning Chairman Burckhard and members of the Senate Political Subdivisions Committee. My name is Karl Rockeman, and I am the director of the Division of Water Quality within the North Dakota Department of Environmental Quality. The Division of Water Quality protects and monitors our water resources to ensure the quality of surface and groundwater for the public's use. I am here to testify in support of HB 1059.

We support the addition of the requirements to contact 911, the operator, and the state in the event of a release. Releases of flammable, toxic or corrosive gases and liquids can present an immediate threat to life and health that requires an emergency response and may also require a state level response.

My comments will focus on the responsibility and process for the state notification. Timely notification is important for the response and investigation of a release. It makes sense that the party responsible for the release also bears the responsibility for reporting it. They are in the best position initially to provide the who, what and where details. Minimizing the links in the communication chain reduces the chance of a notification failure. Concerns about duplicate reports or adding updated information that may become available later can be easily addressed through existing process, as is current practice.

Also, due to the extensive outreach regarding one-call notice requirements, this section of code is likely familiar to excavators, and currently reads as a checklist of steps to take in the event of a third-party release.

For these reasons, the DEQ supports this commonsense addition to code and asks for a due pass recommendation. This concludes my testimony and I would be happy to answer any questions.

**Engrossed House Bill 1059**  
**Testimony of Brady Pelton**  
**Senate Political Subdivisions Committee**  
**February 18, 2021**

Chairman Burckhard and members of the Senate Political Subdivisions Committee, my name is Brady Pelton, general counsel and director of government affairs for the North Dakota Petroleum Council (“NDPC”). The North Dakota Petroleum Council represents more than 650 companies in all aspects of the oil and gas industry, including oil and gas production, refining, pipeline, transportation, mineral leasing, consulting, legal work, and oilfield service activities in North Dakota. I appear before you today in support of Engrossed House Bill 1059.

This bill, introduced at the request of the North Dakota Public Service Commission, would require an excavator to immediately call 911 emergency services and notify the operator of an underground facility if strike damage to that underground facility resulted in a release of flammable, toxic, or corrosive gas or liquid. The addition of this requirement is necessary to maintaining a satisfactory determination of North Dakota’s One-Call program by the Pipeline and Hazardous Materials Safety Administration (“PHMSA”), which the oil and gas industry strongly supports.

However, we do request committee consideration of removing the requirement for an excavator to report such a release to the state’s unified spill reporting system. Amended into House Bill 1059 by the House at the request of the North Dakota Department of Environmental Quality (“DEQ”), this requirement is duplicative and unwarranted. Existing law already requires the immediate reporting of spills or releases by the operator, and requiring that an excavator do the same for a single event is unnecessarily redundant. Concerns with this language will be described in greater detail by those following me in testimony.

Thank you for the opportunity to share information with you today. We respectfully urge the committee to remove the language on page 1, line 15 of the engrossed bill and a subsequent **Do Pass as Amended** recommendation on Engrossed House Bill 1059. I would be happy to try to answer any questions.





Written Testimony Provided To:  
**Senate Political Subdivisions**  
By Danette Welsh  
February 18, 2021

**Regarding: House Bill No. 1059**

Mr. Chairman and members of the committee,

For the record, my name is Danette Welsh, and I serve as director of government relations for ONEOK, Inc. As one of the state's leading natural gas gathering and processing midstream companies, ONEOK currently has over 450 employees managing more than 7,000 miles of pipelines and over 1 billion cubic feet per day of natural gas processing facilities in the Williston Basin.

I stand before you in support of House Bill 1059, as it relates to the North Dakota Public Service Commission's request to require an excavator to immediately call 911 and notify the operator of an underground facility transporting flammable, toxic or corrosive gas or liquid materials if that underground facility – most likely a pipeline – has been struck and the damage results in a release. ONEOK feels this requirement which is found in many other states' damage prevention laws, is appropriate.

We do, however, request the committee consider removing the requirement for an excavator to report a release to the state's unified reporting system. This requirement was amended into the bill by the House at the request of the Department of Environmental Quality (DEQ).

Under existing law, both the DEQ and the state's Department of Mineral Resources (DMR) have jurisdiction over spill reporting and cleanup requirements. The spill reporting requirement currently included in HB 1059 unnecessarily adds a third regulatory agency into spill reporting jurisdiction. Additionally, it creates a scenario where multiple reports on the same event would be filed as HB 1059 would require a report from the excavator, and existing law for the DEQ and DMR require immediate reporting by the operator.

As the operator of thousands of miles of underground facilities in this state, we have concerns with a requirement for a third party to report information on a release related to one of our facilities, even when the third party is at fault for the release. The details provided in the initial report are important to the public's understanding of responsible operating and of prudent regulatory oversight, and we believe these conflicting reporting requirements will create confusion and distrust.

In closing, we ask you give careful consideration to whether it is necessary to add a third regulatory body into the mix of managing spill reporting requirements, and whether having conflicting reporting requirements is in the best interest of accurate public transparency.

Thank you for the opportunity to provide comment; we respectfully request removal of the spill reporting requirement from this bill and a subsequent 'yes' vote on HB 1059.

**February 18, 2021**

**Senate Political Subdivisions Committee  
HB 1059**

Mr. Chairman and members of the Senate Political Subdivisions Committee, my name is Carey Burke and I am with the Associated General Contractors of North Dakota (AGC of ND). The AGC of ND has been in existence since 1951 and is the largest construction trade association in North Dakota representing 400 members who perform all types of commercial construction (highway/bridge, vertical commercial, water/utility) and related construction industries. Prior to working at the AGC, for 22 years I was the 3<sup>rd</sup> generation in a family-owned excavating company in north central North Dakota, so I come to you today not only on behalf of the commercial excavating industry, but as an excavator myself.

The AGC of ND supports two of the three requirements in the bill before you today. The originally submitted bill required the excavator to call 911 immediately when there is damage to a facility that releases any flammable, toxic, or corrosive gas. In house committee, requirement number two was added requiring the excavator to also notify the pipeline operator immediately when there is damage to a facility as I just mentioned. We support those requirements. Most commercial excavators are already calling 911 immediately if they damage an underground facility, followed immediately by a call to the facility owner. However, we oppose the third requirement, which would have the excavator notify the State Unified Spill Reporting System within 24 hours, for two main reasons:

1) Per NDIC 43-02-03-30, such reporting to the Unified Spill Reporting System is already required by the “persons controlling or operating” the damaged facility (language attached). Requiring the excavator to report the damage is redundant, creating unnecessary work not only for the excavator, but for the state as well.

2) Per the NDIC code, the spill reporting system requires information that we, the excavators, are not in the best position to provide and, based on my experience trying to file a report, not able to provide within the required 24 hours with the current system.

For these reasons, we encourage you to remove the third requirement and issue a DO PASS on HB 1059.

Thank you for the opportunity to testify today and I would address any questions of the committee.

NDIC-DMR 43-02-03-30. NOTIFICATION OF FIRES, LEAKS, SPILLS, OR BLOWOUTS.

**All persons controlling or operating any well, pipeline and associated above ground equipment, receiving tank, storage tank, treating plant, or any other receptacle or production facility associated with oil, gas, or water production, injection, processing, or well servicing, shall verbally notify the director immediately and follow up utilizing the online initial notification report within twenty-four hours after discovery of any fire, leak, spill, blowout, or release of fluid. The initial report must include the name of the reporting party, including telephone number and address, date and time of the incident, location of the incident, type and cause of the incident, estimated volume of release, containment status, waterways involved, immediate potential threat, and action taken.**

If any such incident occurs or travels offsite of a facility, the persons, as named above, responsible for proper notification shall within a reasonable time also notify the surface owners upon whose land the incident occurred or traveled. Notification requirements prescribed by this section do not apply to any leak or spill involving only freshwater or to any leak, spill, or release of crude oil, produced water, or natural gas liquid that is less than one barrel total volume and remains onsite of a site where any well thereon was spud before September 2, 2000, or on a facility that was constructed before September 2, 2000, and do not apply to any leak or spill or release of crude oil, produced water, or natural gas liquid that is less than ten barrels total volume cumulative over a fifteen-day time period, and remains onsite of a site where all wells thereon were spud after September 1, 2000, or on a facility that was constructed after September 1, 2000. The initial notification must be followed by a written report within ten days after cleanup of the incident, unless deemed unnecessary by the director. Such report must include the following information: the operator and description of the facility, the legal description of the location of the incident, date of occurrence, date of cleanup, amount and type of each fluid involved, amount of each fluid recovered, steps taken to remedy the situation, root cause of the incident unless deemed unnecessary by the director, and action taken to prevent reoccurrence, and if applicable, any additional information pursuant to subdivision e of subsection 1 of North Dakota Century Code section 37-17.1-07.1. The signature, title, and telephone number of the company representative must be included on such report. The persons, as named above, responsible for proper notification shall within a reasonable time also provide a copy of the written report to the surface owners upon whose land the incident occurred or traveled. The commission, however, may impose more stringent spill reporting requirements if warranted by proximity to sensitive areas, past spill performance, or careless operating practices as determined by the director.

History: Amended effective April 30, 1981; January 1, 1983; May 1, 1992; July 1, 1996; January 1, 2008; April 1, 2010; April 1, 2014; October 1, 2016; April 1, 2018; April 1, 2020.

Senate Daily Journal - Date 02-01-2021 Hazconnect - Facility Home

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The State of North Dakota Emergency Response Commission is responsible for the collection and maintenance of North Dakota's EPCRA notifications and reporting of sections 302, 311 and 312 (Tier II). The purpose of this online reporting portal is to provide State and local officials with specific information on hazardous chemicals present at your facility for use in emergency preparedness planning and emergency response.

From January 1, 2021, North Dakota facilities must submit their EPCRA sections 302, 311 and 312 reports using this online reporting system. Updates can also be submitted at any time during the year.

Submission of the Tier II report form by facilities that meet the reporting requirements established under Section 312 of SARA Title III is required. Specifically, facilities are required to report their possession of Extremely Hazardous Substances (EHS) stored at 500 pounds or the Threshold Planning Quantity (TPQ), whichever is less. In addition, facilities must report any hazardous chemical for which a Safety Data Sheet (SDS) is required under the OSHA Hazard Communication Standard, and which is stored in the amount of 10,000 pounds or more. For more information on the list of EHS and their TPQ, or to obtain more information on the reporting requirements, please review the information available on the North Dakota Emergency Response Commission website at <https://www.des.nd.gov/response-section/haz-chem-preparedness-and-response>.

If you have any questions or need assistance, please contact SARA Program Manager at [nddeshazchem@messages.nd.gov](mailto:nddeshazchem@messages.nd.gov) or 701-328-8100.

**IMPORTANT: You must submit a 2020 ANNUAL REPORT to complete your submission for this year! (Submitting a 2021 UPDATE does NOT meet this requirement).**

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**Facility Status Summary**

	Active	Inactive
Facility	0	0

**Billing Summary**  
Total Amount Due : 0.00

**Incident Status**

4:34 PM 2/16/2021

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northdakota.hazconnect.com/Common/ResourceLink/ResourcelinkList.aspx

**Resource Links**

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Description	Link
Facility Training Video	<a href="#">Click here for the video</a>
Do you need to fill out an Emergency Release Notification? If the answer is YES. Then Click below.	Do you need to fill out an Emergency Release Notification? If the answer is YES. Then Click below.
To view instructions on how to fill out an EPA Trade Substitution Form, Click Below.	To view instructions on how to fill out an EPA Trade Substitution Form, Click Below.
To fill out an EPA Trade Substitution #%%Form, Click Below.	<a href="http://www.epa.gov/oswer/oe1/docs/chem/ts-form.doc">http://www.epa.gov/oswer/oe1/docs/chem/ts-form.doc</a>


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2/16/2021

February 18, 2021

#6885

To: Senate Political Subdivisions Committee

RE: Support of House Bill 1059

From: Zac Smith, communications and government relations director, NDAREC

Chairman Burckhard and members of the Senate Political Subdivisions committee, the North Dakota Association of Rural Electric Cooperatives (NDAREC) represents sixteen electric distribution cooperatives and five generation and transmission cooperatives that generate, transmit, and distribute electricity across the state of North Dakota. NDAREC supports HB 1059 on behalf of its members but would ask for removal of line 15 of the engrossed bill as proposed in amendments by the Public Service Commission.

HB 1059 requires an excavator to call 911 and notify a pipeline operator immediately if damage results in a potentially dangerous product is released. However, NDAREC and its members do not believe that excavators should also be required to contact the State Unified Spill Reporting System. The bill already requires notification of the pipeline operators, and pipeline operators are familiar with and know reporting to the State Unified Spill Reporting system in a way the excavator may not. Because the excavator is already required to notify the operator of any damage and the operator is required to report that information the additional onus of reporting to the State Unified Spill Reporting System seems redundant and a step that would potentially be missed in an emergent situation.

I thank the Committee for its time, the opportunity to provide written testimony, and consideration. NDAREC would urge adoption of the Public Service Commission amendment and, thereafter a Do Pass recommendation on House Bill 1059.



**HOUSE BILL 1059**

#6840

**SENATE POLITICAL SUBDIVISIONS COMMITTEE  
FEBRUARY 18, 2021**

**DAVID CROTHERS  
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.

The Association opposes the inclusion of an amendment adopted by the House of Representatives that is found in its entirety on Page 1, Line 15 of House Bill 1059. That language mandates an excavator to make a notification, which is already required by an "operator" of an underground facility under Federal law, and states "notify the state unified spill reporting system within 24 hours". That provision duplicates already existing requirements, causes unneeded expense for excavators and serves no good public policy purpose.

Members of the Broadband Association of North Dakota have built over 40,000 miles of underground infrastructure throughout the State, which makes them "operators" under the law. However, those very same companies also perform thousands of digs each year deploying and repairing their networks, which makes them "excavators". Those locally-owned companies believe the language requiring an additional and time consuming burden does not benefit anyone when the operator of a facility covered under the law is already forced to "notify the state unified spill reporting system within 24 hours".

Members of the Association urge this committee to adopt an amendment striking the language found on Page 1, Line 15 of Senate Bill 1059.