

**Sixtieth Legislative Assembly of North Dakota  
In Regular Session Commencing Wednesday, January 3, 2007**

HOUSE CONCURRENT RESOLUTION NO. 3026  
(Representatives Mueller, Nelson, Wall)  
(Senators Klein, O'Connell, Wanzek)

A concurrent resolution directing the Legislative Council to study the feasibility and desirability of establishing legislation for the enforcement and assessment of civil penalties for violation of the one-call excavation notice system.

**WHEREAS**, there is currently a one-call excavation notice system that was established in 1995 that is operated through the North Dakota One-Call Board, a nonprofit corporation established within North Dakota Century Code Chapter 49-23; and

**WHEREAS**, the purpose of the one-call excavation notice system is for the protection of the health, safety, and welfare of the public, the owners and operators of underground facilities, and for the preservation of the underground facilities; and

**WHEREAS**, the provisions of the North Dakota one-call excavation notice system do not include a civil process for the enforcement of the one-call excavation notice system or for any civil penalty assessed with the violation of the system; and

**WHEREAS**, according to the Common Ground Alliance, an association dedicated to ensuring public safety, environmental protection, and the integrity of services by promoting effective damage prevention practices in North America, Damage Information Reporting Tool for 2005, "DIRT Report", nationwide 16,089 reports of damage or "near-miss" events were due to "No notification made to the One-Call notification center" and is the leading root cause of cases of underground facility damage, 31.2 percent; and

**WHEREAS**, in 2004, 10,421 events were reported; and

**WHEREAS**, official minutes from the North Dakota One-Call Board meeting of November 17, 2005, state that since year 2000, the director of Education and Public Relations for ND One-Call has sent out 100 certified letters because of damage complaints which the director has received; and

**WHEREAS**, there are federal grant funds available from the United States Department of Transportation's Pipeline and Hazardous Material Safety Administration that may be used to develop or carry out state damage prevention programs in support of public safety, subject to a determination that an effective damage prevention program includes enforcement of state damage prevention laws and regulations for all aspects of the damage prevention process, including public education, and the use of civil penalties for violations assessable by the appropriate state authority;

**NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:**

That the Legislative Council study the feasibility and desirability of establishing legislation for the enforcement of and assessment of civil penalties for violation of the one-call excavation notice system; and

**BE IT FURTHER RESOLVED**, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-first Legislative Assembly.

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Chief Clerk of the House

\_\_\_\_\_  
Secretary of the Senate

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2007,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State