

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2209

2005 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2209

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2209

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date January 17, 2005

Tape Number	Side A	Side B	Meter #
1	X		33.0 - end
		X	0.0 - 4.3
Committee Clerk Signature <i>Lisa Van Berkom</i>			

Minutes:

Senator Duane Mutch, Chairman of the Senate Industry, Business and Labor Committee opened the hearing on SB 2209 relating to the definition of one-call operators.

All members of the committee were present.

Curt Peterson (35.0) representing the Association of General Contractors of North Dakota testified in support of SB 2209 stating the intent of the bill is to provide safety for those who do ground dredging or excavating. Being involved with the one-call program since it's inception, the North Dakota Department of Transportation (DOT) has been exempt from the law. The ditches of the roads in North Dakota are full of water, electric, telephone lines and cables buried in the right of ways of the DOT. SB 2209 will add the DOT as an operator. This will require a lot of work on the behalf of the DOT to locate and document these buried lines.

Senator Duane Mutch asked if the DOT would be liable for lines buried on their right of ways if they are considered to be an operator.

Curt Peterson the owner of the line is liable for damages, but there will be a fiscal impact on the DOT to record past locations of lines on their right-of-ways.

Senator April Fairfield asked why the DOT was not included in the one-call from the beginning and asked for clarification that if listed as an operator would they not be the owners.

Curt Peterson responded that things were just left out back in the early years. There are locators out there who will do their best to find these to be recorded. Operators are considered owners of the lines which includes the DOT and their owned lines.

Senator Joel Heitkamp asked if Curt also represented the Board of one-call and inquired what other sates are doing.

Side B

Curt Peterson confirmed he was also representing the Board of the one-call and was not sure what was done elsewhere in the country although most DOTs have identified their lines.

Senator Heitkamp stated there will be a fiscal impact of some kind because when a one-call is made the DOT will have to send some one out there to identify their lines.

Senator Jerry Klein (1.3) confirmed that the DOT will not be responsible for anything put in the ground except for only the lines they have installed but the DOT has the responsibility to identify anything that has been buried in their right-of-ways.

Senator Heitkamp further explained the concept and stated the cost will be good in the long run.

Senator Mutch asked for opposing testimony and hearing none closed the hearing on SB 2209.

Senator Duaine Espegard made a motion for a Do Pass of SB 2209.

Senator Heitkamp second the motion.

Concerns were raised why the DOT were not present to testify on SB 2209.

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Senate Industry, Business, and Labor Committee

Bill/Resolution Number SB 2209

Hearing Date 1-17-05

Discussion was held as to the need of a fiscal note on SB 2209, deciding this could not be determined until later.

Roll vote for a DO PASS of SB 2209 was taken indicating 7 YEAS, 0 NAYS AND 0 ABSENT OR NOT VOTING.

Senator Heitkamp will carry SB 2209.


2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2209

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date 1-19-05

Tape Number	Side A	Side B	Meter #
2	X		4439-4710
Committee Clerk Signature 			

Minutes:

Vice-Chairman Klein opened discussion on Senate Bill 2209. All Senators were present with the exception of Senator Mutch.

Krebsbach moved to reconsider SB 2209, seconded by **Espegaard**. Passes unanimously

Krebsbach moved a DO PASS recommendation and to re-refer SB 2209 to the Senate

Appropriations Committee. Seconded by **Heitkamp**. Passes unanimously.

Carrier- Senator Heitkamp

FISCAL NOTE
 Requested by Legislative Council
 01/24/2005

Bill/Resolution No.: SB 2209

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures				\$168,520		\$119,520
Appropriations				\$168,520		\$119,520

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

The implementation of this Bill would require the DOT to provide the utility data in a format that is acceptable to and can be used by the "ONE-CALL" center. The DOT estimates this implementation process would cost \$50,000.00. Additionally, this legislation requires the DOT to locate these utilities for anyone digging within the Right-of-Way. This cost amounts to \$59,760.00 per year (see below for details).

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Currently there are no revenues that would be generated by this legislation.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

There are two areas of cost:

IMPLEMENTATION

The DOT estimates the cost to gather and arrange the information for "ONE-CALLS" use to be \$50,000

ANNUAL COSTS

For Rural Areas and Small Cities (the largest 13 cities will be asked to address the location on state highways going through those cities)

Review – 550 permits that require review x 1 hr/each x \$40/hr = \$22,000

Locate – Approximately 1/2 of 550 permits x 2 hrs/locate x \$50/hr = \$27,500

For Highway Projects:

Review: ONE-CALL tickets on 114 projects x 1 hr/each x \$40/hr = \$4,560

Locate: Approximately 1/2 of 114 tickets x 2 hr/locate x \$50/hr = \$5,700

SUMMARY OF COSTS

One Time Implementation Cost = \$50,000

Annual Cost = \$59,760

The DOT would hire private locators and so there is no effect on FTE's.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Francis Zeigler	Agency:	NDDOT
Phone Number:	328-2598	Date Prepared:	01/27/2005

Date: 1-17-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 82209

Senate Industry, Business and Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Espgaard Seconded By Heitkamp

Senators	Yes	No	Senators	Yes	No
Senator Mutch, Chairman	✓		Senator Fairfield	✓	
Senator Klein, Vice Chairman	✓		Senator Heitkamp	✓	
Senator Krebsbach	✓				
Senator Nething	✓				
Senator Espgaard	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sam Heitkamp

If the vote is on an amendment, briefly indicate intent:

Date: 1-19-05
Roll Call Vote #: 1

**2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.**

Senate Industry, Business and Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number SB 2209

Action Taken Rereferred to Senate Appropriations

Motion Made By Krebsbach Seconded By Heitkamp

Senators	Yes	No	Senators	Yes	No
Senator Mutch, Chairman			Senator Fairfield	<input checked="" type="checkbox"/>	
Senator Klein, Vice Chairman	<input checked="" type="checkbox"/>		Senator Heitkamp	<input checked="" type="checkbox"/>	
Senator Krebsbach	<input checked="" type="checkbox"/>				
Senator Nething	<input checked="" type="checkbox"/>				
Senator Espegard	<input checked="" type="checkbox"/>				

Total (Yes) 6 No 0

Absent 1

Floor Assignment Heitkamp

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
January 19, 2005 3:36 p.m.

Module No: SR-12-0733
Carrier: Heltkamp
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2209: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2209 was rereferred to the Appropriations Committee.

2005 SENATE APPROPRIATIONS

SB 2209

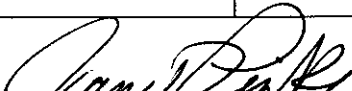
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2209

Senate Appropriations Committee

Conference Committee

Hearing Date January 28, 2005

Tape Number	Side A	Side B	Meter #
1	a		
Committee Clerk Signature 			

Minutes:

Vice Chairman Grindberg call the hearing on SB 2209 to order. Roll call was taken 5 were absent.

Mark Dougherty, representative, Associated General Contractors of North Dakota

presented written testimony in **support of SB 2209**. He described the purpose of SB 2209 indicating that the ND DOT should be required to participate in the One-Call system instead of being exempt.

Francis Ziegler, PE, Director, Office of Project Development, ND DOT, presented written testimony indicating the DOT is not opposed to SB 2209, but he was present to discuss the costs involved. He discussed the utilities currently in the right of way that would have to be located. He discussed the fiscal note attached to the bill which would involve an annual cost of \$59,760. He stress that he hopes the impact of this legislation would not negate the process currently in use

Page 2

Senate Appropriations Committee

Bill/Resolution Number *Click here to type Bill Number*

Hearing Date *Click here to type Hearing Date*

Questions raised included why the DOT would want the change when they have been exempt, the source of the money for this bill and whether some of the communities might be opposed to this legislation. The suggestion was to have the League of Cities representative attend a sub committee hearing.

Hearing no further questions, **Vice Chairman Grindberg** closed the hearing.

REPORT OF STANDING COMMITTEE (410)
February 11, 2005 12:42 p.m.

Module No: SR-28-2550
Carrier: Heitkamp
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2209: Appropriations Committee (Sen. Holmberg, Chairman) recommends DO PASS
(10 YEAS, 3 NAYS, 2 ABSENT AND NOT VOTING). SB 2209 was placed on the
Eleventh order on the calendar.

2005 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2209

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2209

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 3-7-05

Tape Number	Side A	Side B	Meter #
1		x	45.1-end
2	x		0-16.0
Committee Clerk Signature <i>Jody Renke</i>			

Minutes:

Chairman Keiser: Opened the hearing SB 2209.

Senator Krebsbach: Appeared in support of the bill and also was a sponsor.

Senator Heitkamp: Appeared in support of the bill. I you are going to have a one call system, it needs to be a one call system, where you know you have everything covered, I understood the exemption, the beginning for the state, but I think there ducks should be in a row now, if you look at the risk of exposure to them, I don't think it is very great, I can tell you that the one call system today verses what it was in the beginning, I used to get one call notices, and understand that I manage a rural water system that has only 2600 miles of pipe in the ground so imagine the risk of exposure of potential one calls that I have had and it has gotten so tight now that when we get a one call notice it is legitimate, in the beginning it was a 50-50 shot at best, it has just simply gotten better at what it does. The state submitted testimony to us what they thought the cost might be to them, I don't want to say that information is false, I just don't think it is brought to

you out of a realistic example and if there numbers haven't changed to what they were on our side I would suggest to you that I would submit a contract to do there one call notification for them. I don't think it needs to go to that point, so if you are on that board trying to run a one call system, you really do need to be able to subject them to the fact that you made one call and got the job done.

Mark Dougherty, Associated General contractors of ND: Appeared in support of SB 2209 and provided a written statement (**SEE ATTACHED TESTIMONY**).

Francis G. Ziegler, Director, Office of Project development NDDOT: Appeared in a neutral position on SB 2209. and provided a written statement (**SEE ATTACHED TESTIMONY**).

Representative Froseth: I move a **DO PASS** motion with re-referral to **APPROPRIATIONS**

Representative N. Johnson: I **SECOND** the **DO PASS** motion and **RE REFER** to **APPROPRIATIONS**.

Motion carried. VOTE: 13-YES 0-NO 1-Absent (DOSCH)

Representative Clark will carry the bill on the floor.

Hearing closed.

Date: 3-7-05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2209

House INDUSTRY, BUSINESS AND LABOR Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass w/ re-referral to Appropriations

Motion Made By Rep Froseth Seconded By Rep. Johnson

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman	X		Rep. B. Amerman	X	
N. Johnson-Vice Chairman	X		Rep. T. Boe	X	
Rep. D. Clark	X		Rep. M. Ekstrom	X	
Rep. D. Dietrich	X		Rep. E. Thorpe	X	
Rep. M. Dosch	A				
Rep. G. Froseth	X				
Rep. J. Kasper	X				
Rep. D. Nottestad	X				
Rep. D. Ruby	X				
Rep. D. Vigesaa	X				

Total (Yes) 13 No 0

Absent (1) Dosch

Floor Assignment Rep. Clark

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 7, 2005 1:06 p.m.

Module No: HR-41-4266
Carrier: Clark
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2209: Industry, Business and Labor Committee (Rep. Kelsner, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2209 was rereferred to the Appropriations Committee.

2005 HOUSE APPROPRIATIONS

SB 2209

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2209

House Appropriations Committee
Government Operations Division

Conference Committee

Hearing Date Monday, March 14, 2005

Tape Number	Side A	Side B	Meter #
1	X		00-24.0
Committee Clerk Signature <i>Rose W. Timm</i>			

Minutes:

Chairman Carlisle opened the Hearing on SB 2209 concerning the one-call system operators.

Mr. Mark Dougherty, Membership Services Director, Associated General Contractors of North Dakota, read his testimony into the record (See Handout #1). **Chairman Carlisle** asked if there were a funding mechanism to pay for this relative to the NDDOT. **Mr. Dougherty** responded that the NDDOT has a fiscal note on this bill. He said that no other operator has that either other than their own funding mechanisms.

Chairman Carlisle said that those who use the one-call aren't charged. **Mr. Dougherty** added that the operators pay for the system.

Rep. Timm asked if the NDDOT has to call when digging on their own property. **Mr. Mel Khmbeitz, QWEST**, said that today, they would have to call to get a locate. This would put them into the system. **Rep. Timm** so that everybody else would know. **Mr. Khmbeitz** said if

QWEST made a call for a locate on NDDOT property, that would include NDDOT facilities in that right away. One-Call System would make the contact to all the companies involved.

Rep. Kroeber asked why it's different now. **Chairman Carlisle** said they're exempted right now.

Rep. Timm said this legislation was inspired by an incident that took place in Grand Forks. He asked for more details. **Mr. Dougherty** said a company was digging across NDDOT property and they hit an unlocated utility. Luckily, it wasn't live.

Chairman Carlisle asked if his Association requested this legislation of Sen. Krebsbach. **Mr. Dougherty** confirmed.

Mr. Francis G. Ziegler, P.E., Director, Office of Project Development, NDDOT, read his testimony in favor of SB 2209 into the record (See Handout #2). He also asked that the Committee grant the spending authority to grant the one-call systems. He said that SB 2012 doesn't include any revenue or spending authority for this system.

Rep. Timm asked if this bill went through Senate Appropriations and **Dir. Ziegler** said yes.

Rep. Timm noted they didn't put any funding in. He asked why it would cost \$50,000 to gather information when they issue permits now giving that same information. **Dir. Ziegler** explained that the one-call system needs maps of the eight districts. The NDDOT has to gather that all together in one format and deliver it to one-call. **Rep. Timm** asked what they do now and **Dir. Ziegler** said the permit is issued, the contractor is informed of a utility, but the contractor has to locate it. **Rep. Timm** asked if there's a fee for that. **Dir. Ziegler** said the permit costs \$25 for one crossing and \$50 for multiple crossings. **Rep. Timm** asked what the total fees amount to in a biennium and whether or not the NDDOT would lose that fee income. **Dir. Ziegler** said \$10,000.

The NDDOT will still charge the fee for those requesting permits. The added costs come from gathering that information for the one-call center. Also, when a ticket comes back from one-call, the Agency will have to go out and locate utilities. Before, the contractor had to locate.

Chairman Carlisle said this is only on the right of way and **Dir. Ziegler** confirmed.

Chairman Carlisle confirmed that what's needed is spending authority. He asked representatives from Legislative Council or OMB why the Senate Appropriations didn't do this.

There was no response. **Rep. Williams** asked if initially there was money in this bill. **Rep. Timm** asked **Dir. Ziegler** if he needed the Committee to put money into the bill or whether that could come out of the operating budget now. **Dir. Ziegler** asked for funding and the line item in order to spend it. **Rep. Timm** asked if he wanted the fees raised. **Dir. Ziegler** said the Agency could increase fees to cover the costs. **Chairman Carlisle** said if the Agency can increase fees, then all that's needed is spending authority. **Dir. Ziegler** confirmed.

Chairman Carlisle consulted with **Ms. Roxanne Woeste, Legislative Council**, as to spending authority options. **Ms. Woeste** said it could be placed in this bill or the budget bill.

Rep. Timm asked if **Dir. Ziegler** is fully opposed to this bill. **Dir. Ziegler** said that philosophically, the Agency is opposed, but they recognize the need for safety. **Rep. Timm** asked how philosophically. **Dir. Ziegler** said it will take staff time and funding from a very tight budget. **Rep. Williams** said "Philosophically, you support the bill because of the concept of safety; financially, from a budgetary standpoint, you don't support the bill." **Dir. Ziegler** conceded that was a better way to put it.

Rep. Kroeber asked if the Agency's ticketing process is within the one-call time frame. **Dir.**

Ziegler said the permits are turned out relatively fast, usually within the two-day time period. If there are insurance issues, the process gets held up, but that's not because of the NDDOT.

Rep. Timm asked how the Director felt about the possibility of fees going up for permits if the bill goes into effect. **Dir. Ziegler** said that option will be fine; the permit is usually taken by whoever is crossing. This usually takes place in the design phase well ahead of when the one-call comes in. The one-call is only for when they actually dig. Don't have to make a one-call during the design phase. He added that the appropriation isn't really a big number when you consider the worth of a life.

Rep. Timm asked Mr. Khmbeitz how he feels about the possibility of paying higher rates for the permits. **Mr. Khmbeitz** said he speaks for QWEST only, but if that's the only way that we accomplish a true one-call system, the utility would support that concept.

Rep. Kroeber asked whether or not having this in place would have prevented the incident referred to earlier in Grand Forks. **Dir. Ziegler** said from what he has heard:

What happened was...this is the right away fence and the utility came up and they marked the utility. They stopped there. The digger thought, well, it stops right here, so if I go around the outside on the DOT property, I'll miss it. So, the marking, the orange lines, whatever they are...stop right at the fence and they went inside and thought they could get around it. The wire went through.

Rep. Kroeber asked if they knew they were on DOT property. **Dir. Ziegler** said he did not know. **Rep. Kroeber** said they will still need a permit to go across DOT property. But, if someone calls one-call, they will know they are crossing DOT property, right. **Dir. Ziegler** said yes. **Dir. Ziegler** also added that what typically happens with one-call, is they plot the area around the crossing. That's called a polygram and all the utilities in that one area are located. In

this case, even though it was on DOT property, there's a very good chance that would have been located within that property also.

Rep. Kroeber asked about the time frame were this legislation passed. **Dir. Ziegler** said they have already begun the process. It will be in place by August 1 when the legislation will go into effect.

Rep. Williams asked if it's possible to handle the expenses without raising fees. **Dir. Ziegler** said the increased fees would cover the costs, but the Agency still needs a line item authority.

Chairman Carlisle welcomed students from Bismarck to "the Penthouse."

Mr. Dougherty added one last comment. He encouraged the Committee to add the \$50,000 appropriation for the required funds. He said it wasn't their intent to put any onus on the DOT. It's a one-time expense; the rest is \$59,000 a year. It's not too much to ask the people of N.D. to protect the workers out there.

Chairman Carlisle closed the Hearing on SB 2031.

(Meter #24)

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2209

House Appropriations Committee
Government Operations Division

Conference Committee

Hearing Date Monday, March 14, 2005

Tape Number	Side A	Side B	Meter #
1		X	18.0-25.2
Committee Clerk Signature <i>David Timberlake</i>			

Minutes:

Chairman Carlisle opened discussion on SB 2209 regarding the one-call system operators. He told the Committee that SB 2209 was a re-referral. The Senate sent it over, but it needs spending authority so DOT can implement the system. They will increase their fees to pay for it.

Rep. Timm said he didn't think the fees would pay for all of it. **Rep. Williams** said they need the authority to spend. **Chairman Carlisle** directed this to **Mr. Donald Wolf, Legislative Council**, that an amendment was needed to provide spending authority. **Rep. Timm** said the amount would be \$168,520. **Rep. Kroeber** said that \$50,000 need to set up the system and \$59,000 a year after that. **Mr. Wolf** asked if this spending authority should be attached to the DOT appropriation bill or in SB 2209. **Rep. Timm** said it should be in the appropriation bill SB 2012. Then this bill could go through.

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Government Operations Division
Bill/Resolution Number SB 2209
Hearing Date Monday, March 14, 2005

Rep. Williams suggested the carrier be informed. **Chairman Carlisle** suggested that **Rep. Timm** carry the bill to the Full Committee. **Rep. Clark** can carry it to the floor.

Rep. Thoreson asked whether or not the Committee had to make any recommendations on this bill since the amendment would be attached to the budget bill.

Rep. Timm said it should go out as a Do Pass to Full Committee. It would go to the floor after the Full Committee acts.

Rep. Thoreson moved a Do Pass on SB 2209; **Rep. Timm** seconded.

Hearing no further discussion, **Chairman Carlisle** called for Roll Call Vote #1. Motion carried.
5-0-1.

Chairman Carlisle asked **Rep. Kroeber** to take the bill to full committee. **Rep. Clark** will carry it to floor.

(Meter #25.2)

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2209
One Call System Operator

House Appropriations Full Committee

Conference Committee

Hearing Date March 15, 2005

Tape Number	Side A	Side B	Meter #
2		B	#3.5 - #14.9
Committee Clerk Signature <i>Chris Anderson</i>			

Minutes:

Rep. Ken Svedjan, Chairman opened the discussion on SB2209.

Rep. Joe Kroeber explained that this bill removes the Department of Transportation (DOT) from being exempt from the one-call system. As the law stands now, an estimator who would be working within the department's right of way would have to call the one-call number but they would also have to call the DOT to have them locate their facilities. Over the past number of years a number of the DOT facilities have been disrupted and there have been some injuries as well so this is becoming an issue of safety. The fiscal note is \$168,520. \$50,000 is for a one time cost for an interpretation process that would allow DOT to provide their utility data in a format that could be used by the one-call system. This also requires the DOT to locate their utilities for anyone digging into their right of ways. This cost is about \$59,760 per year. The total fiscal impact for the two years, plus the \$50,000 one time cost, is \$168,520. The DOT would hire private locators to do this work so there would be no additional FTE's long term.

They do have a fee structure in place now for reviewing what they call permits on the fee schedule and they use \$25 for one crossing and \$50 for two crossings. If they had to get fees for this they already have the ability to do so. DOT requested spending authority in their budget and we will add to their budget the authority to spend \$168,520 for SB2209 in subcommittee.

Rep. Joe Kroeber moved a Do Pass motion on SB2209

Rep. Ron Carlisle seconded

Rep. Ken Svedjan, Chairman asked if this was an additional appropriation or if this was just granting the authority to spend it.

Rep. Joe Kroeber answered that DOT asked for line item authority to spend the \$168,520.

Rep. Mike Timm, Vice Chairman commented on the Department of Transportation budget is in committee now and we have requested the amendment to give them the authority to spend this money. The highway department did not testify in favor of this bill unless they were given the authority to spend the money. They will recoup some of the costs from the fees. This spending authority would be out of DOT's special funds.

Rep. Al Carlson asked why they needed a spending authority. Why would marking facilities cost any extra money.

Rep. Mike Timm, Vice Chairman answered that they need to develop a new map for the entire state marking all right of ways and they are estimating \$50,000 for this. Their ongoing costs would then be \$59,000 or so per year.

Rep. Joe Kroeber commented that this was correct and they would need to locate all their facilities, including those under the roadways, that the normal one-call system doesn't really deal with at this point.

Rep. Francis J. Wald asked if there was any discussion concerning the liability of the state for any excavation in areas where these right of ways are not marked

Rep. Joe Kroeber answered that liability was not discussed but it would be assumed that the liability would remain at it currently stands. This bill would actually add a safety factor for construction people since many do not know that they have to make a second call to DOT. The association of contractors came in support of this bill even saying that they would pay any additional fees in order to get this up and going.

Rep. Mike Timm, Vice Chairman commented that everyone will still have to pay for permits and these revenues will help them to pay for this project and to maintain it. They are collecting about \$10,000 a year now. If they raise the fees they will be able to recoup more of this costs.

Rep. Al Carlson commented that he was still confused because the one call system is currently responsible for making the lines that go under roadways. All DOT has done is to grant the easements for the utilities to run under the roadway, so why would DOT have to mark these.

Rep. Joe Kroeber responded that the one-call system does not have all the information on what lies on DOT property. This is what this bill would do. DOT has signal and weigh apparatus on highway areas and other things that are not on the present one-call system.

Ms Roxanne Woeste of legislative council explained that the current practice is for the contractor to make two phone calls in order to dig in a right of way. One to the one-call system to mark the area along the right of way and then a second call to the DOT for the area under the right of way. These two phone calls have to be made before the permit will be granted. After the permit is granted then the contractor would be responsible for making sure that someone came

out to mark the right of way. This bill would give the one-call system the information so it could truly be a "one-call" system.

Rep. Al Carlson asked why the assembly should spend more money on this when to accomplish the same thing it would mean making a second phone call.

Rep. Ron Carlisle explained that the point was to make the one call process really a one call process and this would better ensure the safety factor across the state

Rep. Bob Skarphol commented that the Department of Transportation is working on a GIS system with 150 layers that everyone has access to as well as the one-call system. (meter Tape #2, side B, #12.5)

Rep. Ron Carlisle read a list of things that would have to be marked if this bill were to pass.

Rep. Ken Svedjan, Chairman asked why this wasn't already covered under the one-call system

Rep. Mike Timm, Vice Chairman answered that the Department of Transportation was exempted when the one-call legislation was passed. It was the compromise made to get the one-call legislation passed.

Rep. Joe Kroeber read a comment from Mark Dougherty from the Association of General Contractors, "What is the price of a life if someone dies because they thought the North Dakota One-Call System contract takes care of all utilities, when at the present time it doesn't."

Rep. Ken Svedjan, Chairman called for a roll call vote on the Do Pass motion for SB2209.

Motion carried with a vote of 16 yeas, 5 nays and 2 absences. Rep Clark will carry the bill to the house floor.

Rep. Ken Svedjan, Chairman closed the discussion on SB2209.

Date: 3/14/05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 532209

House House Appropriations Government Operations Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS.

Motion Made By Rep. Thoreson Seconded By Rep. Timm

Representatives	Yes	No	Representatives	Yes	No
Chairman Carlisle	✓		Rep. Kroeber	✓	
Rep. Timm	✓		Rep. Williams	✓	
Rep. Kempenich					
Rep. Thoreson	✓				

Total (Yes) 5 No 0

Absent 1

Floor Assignment Rep. Kroeber to Full Committee; Liaison on Floor Rep. Clark

If the vote is on an amendment, briefly indicate intent:

Date: March 15, 2005
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB2209

House Appropriations - Full Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS

Motion Made By Rep. Kroeber Seconded By Rep. Carlisle

Representatives	Yes	No	Representatives	Yes	No
Rep. Ken Svedjan, Chairman	X		Rep. Bob Skarphol		X
Rep. Mike Timm, Vice Chairman	X		Rep. David Monson	X	
Rep. Bob Martinson	X		Rep. Eliot Glassheim	X	
Rep. Tom Brusegaard	AB		Rep. Jeff Delzer		X
Rep. Earl Rennerfeldt		X	Rep. Chet Pollert	X	
Rep. Francis J. Wald	X		Rep. Larry Bellew		X
Rep. Ole Aarsvold	X		Rep. Alon C. Wieland	X	
Rep. Pam Gulleson	AB		Rep. James Kerzman	X	
Rep. Ron Carlisle	X		Rep. Ralph Metcalf	X	
Rep. Keith Kempenich	X				
Rep. Blair Thoreson	X				
Rep. Joe Kroeber	X				
Rep. Clark Williams	X				
Rep. Al Carlson		X			

Total Yes 16 No 5

Absent 2

Floor Assignment Rep. Clark

If the vote is on an amendment, briefly indicate intent: Amendment GO DO PASS 5-0-1
Kroeber (House Floor Rep. Clark)

REPORT OF STANDING COMMITTEE (410)
March 15, 2005 12:31 p.m.

Module No: HR-47-4984
Carrier: Clark
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2209: Appropriations Committee (Rep. Svedjan, Chairman) recommends DO PASS
(16 YEAS, 5 NAYS, 2 ABSENT AND NOT VOTING). SB 2209 was placed on the
Fourteenth order on the calendar.

2005 TESTIMONY

SB 2209

TESTIMONY
SB 2209
Francis G. Ziegler, P.E., Director
Office of Project Development
NDDOT

The NDDOT was specifically excepted from the One Call System when the One Call Legislation was enacted in 1995.

The reasons for the exception at that time were:

- 1) All the DOT's highway facilities are located within the right-of-way, which we control with the use of a permitting system.
 - 2) The NDDOT does not use their underground facilities to transport a product and charge for that product.
- These reasons have not changed since 1995.

Currently the NDDOT has the following types of utilities that are on the right-of-way and that in our opinion would need to be located if this legislation passed.

- i. Traffic signals (285 ea of which we have maintenance on 33 ea)
- ii. Flashing beacons (39 ea)
- iii. Lights standards and high mast (8078 ea of which we have maintenance on 4743 ea)
- iv. Lift Stations (electrical) (estimate 12 ea)
- v. Automatic Traffic Recorder (ATR) (45 ea)
- vi. Weight in Motion (WIM) (12 ea)
- vii. Road, Weather Information System (RWIS) (19 ea)
- viii. Waterline (rest areas) (18 rest areas)
- ix. Propane (rest areas) (18 rest areas)
- x. Sewer Lines (rest areas & cities) (18 rest areas)
- xi. Storm Sewer (rest areas & cities) (18 rest areas). There are approximately 301 cities in North Dakota. For estimating purposes we are assuming 70% of these cities are on a state highway and have a storm sewer system (210 cities)
- xii. Bridge Deicing (1ea)

Under drains, edge drains, and culverts are not included. This would be done before anyone is allowed to dig in the right-of-way.

We have not been requested to do a fiscal note, but for the benefit of the Committee, we have attached a cost to implement the One Call System, an Annual Cost for One Call notification fees, and cost for staff or contractors to review the tickets and locate utilities when necessary.

Thank you.

ATTACHMENT
Costs for Implementation and Operation of One Call for NDDOT
SB 2209
Francis G. Ziegler, P.E., Director
Office of Project Development
NDDOT

A. IMPLEMENTATION COSTS

In order for the NDDOT to become part of "One Call", we would need to provide utility location information to "One Call" and to those doing the locating. The effort to gather and arrange this information is estimated to cost a minimum of \$50,000.

B. ANNUAL COSTS

1. Permitted Activities

Review – 400 permits/year x 1 hr/each x \$40/hr = \$16,000
Locates – Estimate ½ of all permits would require locates
½ x 400 Permits/year x 2 hrs/each x \$75/hr = \$30,000

2. Activities in Cities

Estimate 150 excavation activities in cities. (We are assuming that the 13 largest cities would provide locates for state highways within the cities; therefore, no costs have been included for these cities).

Review – 150 permits/year x 1 hr/permit x \$40 = \$6,000
Locate – Estimate that ½ of all permits would require locates
½ x 150 permits/year x 2 hrs/each x \$75/hr = \$11,250

3. DOT Roadway Contracts

Currently contractors are required by contract to pay for the cost of the locates. With One Call the DOT would have to do the review and locate the utilities.

In 2004 the DOT had 114 projects.

Review – 114 projects x 1 hr/ea x \$40/hr = \$4,560
Locate – assume that ½ of all projects require a locate.
½ x 114 projects x 2 hrs/project x \$75/hr = \$8,550

C. SUMMARY

A.	Implementation Cost	\$50,000
B.	Annual Cost	\$76,360

TESTIMONY
SB 2209
Francis G. Ziegler, P.E., Director
Office of Project Development
NDDOT

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- 2) The NDDOT does not use their underground facilities to transport a product and charge for that product.

These reasons have not changed since 1995.

Currently the NDDOT has the following types of utilities that are on the right-of-way and that in our opinion would need to be located if this legislation passed.

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- ix. Propane (rest areas) (18 rest areas)
- x. Sewer Lines (rest areas & cities) (18 rest areas)
- xi. Storm Sewer (rest areas & cities) (18 rest areas). There are approximately 301 cities in North Dakota. For estimating purposes we are assuming 70% of these cities are on a state highway and have a storm sewer system (210 cities)
- xii. Bridge Deicing (1 ea)

Under drains, edge drains, and culverts are not included. This would be done before anyone is allowed to dig in the right-of-way.

The NDDOT has submitted a Fiscal Note that shows expenditures of \$50,000 for the initial implementation of this process. The implementation cost is for compiling the utility information in a format that is acceptable to and can be used by the "One-Call" System. Additionally, the Annual Cost of reviewing tickets and locating the utility is \$59,760.

The following is a breakdown of the costs:

IMPLEMENTATION

The DOT estimates the cost to gather and arrange the information for "ONE-CALLS" use to be \$50,000

ANNUAL COSTS

For Rural Areas and Small Cities (the largest 13 cities will be asked to address the location on state highways going through those cities)

Review – 550 permits that require review x 1 hr/each x \$40/hr = \$22,000

Locate – Approximately 1/2 of 550 permits x 2 hrs/locate x \$50/hr = \$27,500

For Highway Projects:

Review: ONE-CALL tickets on 114 projects x 1 hr/each x \$40/hr = \$4,560

Locate: Approximately 1/2 of 114 tickets x 2 hr/locate x \$50/hr = \$5,700

SUMMARY OF COSTS

One Time Implementation Cost = \$50,000

Annual Cost = \$59,760

SB 2012 our appropriations budget does not include any revenue or spending authority for "One-Call" system administration.

3-7-05



Associated General Contractors of North Dakota
Curt Peterson, Executive Vice President
Phone: 223-2770, Cell: 391-2770, E-mail: cpeter@agcnd.org

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Swon to
House
appropriates*

**Testimony
Senate Bill No. 2209**

Presented by: Mark Dougherty for the Associated General Contractors of North Dakota

Chairman Mutch and Senate Industry, Business and Labor committee members, for the record my name is Mark Dougherty and I represent the Associated General Contractors of North Dakota. The Association supports Senate Bill No. 2209.

I'm here in support of Senate Bill 2209. This bill would remove the North Dakota Department of Transportation's exemption from being an operator as defined in Chapter 49-23-01 of the North Dakota Century Code.

All other entities that operate underground utilities in the State of North Dakota are required to participate as an operator in the One-Call system and we feel the ND-DOT should be required to participate, also.

With the exemption as it exists, an excavator who would be crossing or working within the Departments right of way would not only have to call the ND One-Call number for utility locating but, is required to call the Department of Transportation to locate their facilities. Over the past number of years Department of Transportation utilities have been disrupted and excavators have risked injury when encountering un-located utilities on highway right of way. As the DOT uses more underground utilities to direct traffic through the use of electronic signage and other operations, the amount of their utilities will grow and the safety risk for the public and the excavators will increase. We realize there is fiscal note for this bill but, please understand the amount of money required for the Department to become a part of the North Dakota One-Call System will not decrease with time but, will grow as time passes and what is the price of a life if someone dies because they thought the ND One-Call System contact takes care of all utilities.

We feel that for the safety of the States excavators and the traveling public we need to remove the North Dakota Departments of Transportation's exemption as an operator from Chapter 49-23-01.

#2:
H. App. G.O.
Mon. 3/14/05
SB 2209

TESTIMONY
SB 2209
March 14, 2005
Francis G. Ziegler, P.E., Director
Office of Project Development
NDDOT

The NDDOT was specifically excepted from the One Call System when the One Call Legislation was enacted in 1995.

The reasons for the exception at that time were:

- 1) All the NDDOT's highway facilities are located within the right-of-way, which we control with the use of a permitting system.
- 2) The NDDOT does not use their underground facilities to transport a product and charge for that product.

These reasons have not changed since 1995.

Currently the NDDOT has the following types of utilities that are on the right-of-way and that in our opinion would need to be located if this legislation passed.

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- ii. Flashing beacons (39 ea)
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- xii. Bridge Deicing (1ea)

Under drains, edge drains, and culverts are not included. This would be done before anyone is allowed to dig in the right-of-way.

There is an implication that this will allow contractors to dig on NDDOT right-of-way after making only "one-call". Two calls are still needed: 1) to the NDDOT to obtain a permit and 2) to "one-call".

The NDDOT has submitted a Fiscal Note that shows expenditures of \$50,000 for the initial implementation of this process. The implementation cost is for compiling the utility information in a format that is acceptable to and can be used by the "One-Call" System. Additionally, the Annual Cost of reviewing tickets and locating the utility is \$59,760.



Associated General Contractors of North Dakota
Curt Peterson, Executive Vice President
Phone: 223-2770, Cell: 391-2770, E-mail: cpeter@agcnd.org

SENATE BILL NO. 2209

Mr. Chairman and Senate Industry, Business and Labor committee members, for the record my name is Mark Dougherty and I represent the Associated General Contractors of North Dakota.

I'm here in support of Senate Bill 2209. This bill would remove the North Dakota Department of Transportation's exemption from being an operator as defined in Chapter 49-23-01 of the North Dakota Century Code.

All other entities that operate underground utilities in the State of North Dakota are required to participate as an operator in the One-Call system and we feel the ND-DOT should be required to participate, making the ND One-Call system a true one-call.

With the exemption as it now exists, an excavator who would be crossing or working within the Departments right of way would not only have to call the ND One-Call number for utility locating but, is required to call and coordinate the Department of Transportation to locate their facilities. Over the past number of years Department of Transportation utilities have been disrupted and excavators have risked injury when encountering un-located utilities on highway right of way or when they have unknowingly wondered into the Department right of way. As the DOT uses more underground utilities to direct traffic through the use of electronic signage and other operations the size of their utility will grow significantly and the risk of accidents for the public and the excavators will increase. We realize there will be a sizable fiscal note for this bill but, please understand the amount of money required for the Department to become a part of the North Dakota One-Call System will not decrease with time but, will grow faster as time passes and what is the price of a life if someone dies because they thought the One-Call takes care of all utilities.

We feel that for the safety of the States excavators and the traveling public we need to remove the North Dakota Departments of Transportation's exemption as an operator from Chapter 49-23-01.