

2009 HOUSE POLITICAL SUBDIVISIONS

HB 1451

2009 HOUSE STANDING COMMITTEE MINUTES

Bill No. HB 1451

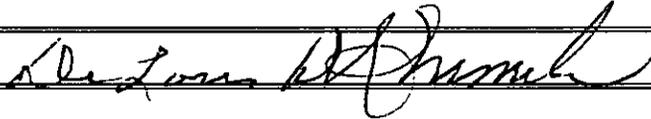
House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: February 13, 2009

Recorder Job Number: 9472

Committee Clerk Signature



Minutes:

Chairman Wrangham opened the hearing on HB 1451.

Rep. Hunskor: (see testimony #1). I would also add that the infraction carry a penalty of \$500 or a Class B misdemeanor of \$1000 or 30 days in jail.

Rep. Koppelman: Do you think people do this because it will be a slap on the wrist if you are caught and do you think somebody before they start burning is going to say well it is only going to cost my \$500; but it could cost me \$1000?

Rep. Hunskor: I know how that works since I am from a rural farming community and last fall we had some dry weather and one farmer saw another one out there burning when there was a band on and he said I really don't care, I need to get this done and \$500 is not that important.

Rep. Klemin: discussing wording in the bill.

Rep. Nancy Johnson: what is the penalty?

Rep. Hunskor: \$500 for an infraction or \$1000 or 30 days in jail or both.

Mary Senger, Emergency Manager for Burleigh County: (see testimony #2).

Rep. Headland: So you believe if we double the fine and put people in jail for 30 days that will deter them from activities that they are currently doing? I don't buy into it because I don't really

believe anybody purpose does anything that they can't control. I understand how things happen and occasionally things get out of control and you have these wildfire problems but I don't believe this will have any impact on that decision who is smoking a cigarette and throws it away or somebody that goes camping and think that their campfire is controlled for whatever the reason. If you really want to deter people from starting any kind of a fire I think the penalty would have to be much greater.

Mary Senger: Other county emergency managers have related to me that people have actually walked into the fire department and said where I pay my \$500. We are not saying you can't burn, we are telling you when you can and can't so when conditions are favorable for fires we are asking them not to and some people think they are beyond that. The other part about moving the penalty to a separate section is kind of in the century code for making it a little more pronounced.

Rep. Jerry Kelsh: Do fire bands fall on the day of or the day before? I know sometimes people just don't know. If it was called the day before; but if it is called that morning and somebody started a fire an hour later; I have a little problem with that. I know there are some people that don't care. How do you monitor an incident burn?

Mary Senger: You go through the County Commission; one commissioner can declare a burn ban that lasts two weeks. The full commission has to meet to extend that. It is up to the commissioners when they want to do it. In our county they go through every news media available.

Rep. Kretschmar: In my area if someone wants a controlled burn they have to call an 800 number and the information comes out.

Mary Senger: It is different in every county, but it is the local jurisdiction so they are included in the burn ban.

Rep. Corey Mock: I understand in the counties; but there are residences that are living in the more suburban area and there is fireplace and a burn ban for the fourth of July. Do they do this by ordinances?

Mary Senger: The city of Bismarck has their ordinance. In rural Burleigh County they initiate a burn ban through the commissioner, but again they have the ban which includes various things.

Rep. Corey Mock: This would apply even if you were in the fringe of the city. If the conditions for a rural fire were higher they can have a fire anyway?

Mary Senger: It would depend on where you were at.

Rep. Klemin: Have you given the thought of some other approach to this because a lot of insurance policies don't provide coverage for intentional acts. Recited fire that burned 100,000 in western ND and that wasn't the farmer in the field, but someone burning garbage and the determination was they did not have insurance coverage because they were burning during red flag warning time. I don't know how this would be approached, but most attorneys don't like to prosecute Class B Misdemeanor's anyway so if there was a way of doing it so that it would affect them more in their pocket book. Then maybe \$5000 would do that if that was the fine.

Mary Senger: that would be a good tool to utilize when we have public hearings.

Chairman Wrangham: Do we have a universal definition for open burning?

Mary Senger: It is county by county. The local counties institute their burn bans and they decide what open burning really is in their county.

Don Frye, City of Carrington: I am also on the board of directors for the ND League of Cities. I am here to support this bill and give you four specific examples of how to address some of these questions. The first fire started during a burn ban 4/12/08-4/22/08. This ban

was in affect and everyone notified and announced on the radio, paper etc. Course a fire started during a ban and burned 100 acres. This individual was more concerned about burning the materials he had. The second one was dated 4/17/09 during the burn ban burned trees from a pile that got away from him with significantly higher winds than normal, burned about 10 acres. He said the fine wasn't a deterrent for him. The next one was on 4-17-09 later in the day that started and covered about 40 acres and CRP; and the last one I want to talk about is 4-02 with 20 mile hour winds burning old farm trees; individual informed the fire chief that maybe he should stick around because when I light the fire in another field and the result and then proceeded to write checks for \$500. I am not sure the higher fine will help, but clearly something must be done or someday we are going to have one of our volunteers caught in a fire that all they were doing was burning something they wanted to.

Rep. Kretschmar: On the fires you referred to do your fire department go out on them?

Don Frye: Yes there are all fire reports that I read from.

Chairman Wrangham: Were any of these individual further charged with additional charges of some sort?

Don Frye: In one case, the last one I read, the state attorney spoke with the Judge and the judge said he had more important things to do.

Chairman Wrangham: Obviously the amount of money is not a problem if someone is going to write out a check for two \$500. Do you think these people did not think they were going to have a problem or do they expect to pay the fine? Why do they do this? What is the answer? Do you have any other suggestions?

Don Frye: Obviously two of those individuals' fines were insignificant; they did not care. All

four were not aware that the ban was on. But this cost the fire department a significant amount and some of them did not even have insurance.

Greg Wilz: Deputy Director, Department of Emergency Services: (see testimony #3).

I heard the question earlier why do people do this? At some level they weigh what is the cost of doing this and they decide it is something I can deal with. In most cases people underestimate the power of the dry conditions and the power of the winds and what the actual affect is so I urge a Do Pass.

Rep. Hatlestad: would you suggest an increase in the punishment to the individual, but a way in which the fire department could recoup its expenses?

Greg Wilz: That would actually be good. We ran into too many barrier and wall to do that before. I think in most cases the insurance company said no and did not pay.

Rep. Headland: When would the fine is applied? An individual has a controlled burn and he doesn't have a problem and the fire doesn't get away. Understanding that there is a ban on, but in an instance where a farmer would have to break up some CRP and had a proper fire break and the wind was down in the morning, he burned it off and went about his business. Are these fines going to be applied in this case where there wasn't any problem? He tried to manage the fire and he needed to get rid of this dry material in order to convert this CRP to farmland.

Greg Wilz: Yes it should be applied to him. He is weighing his personal gain over that of the greater good. He is putting people at risk and when there is a fire warning in place he should be fined.

Ray Lambert, ND State Fire Marshall: I recommend the bill does pass. The current law has been in effect for a long period of time. We have had many calls where the desire to open burn stubble fields for ditch overruled the burn ban that was there and a \$500 fine was not a problem. So when this came out I was very much in support of it. In regard to the law; there is in current law, if you intentionally start a fire regardless of how innocent it maybe at the time,

you are responsible for that fire. We have prosecuted individuals for starting a grass or ditch fire that got out of control; burned neighbor's properties and they were held responsible under current law for their actions. With the burn ban in place it makes it much easier for local communities to control and to advise individuals in that community that there is a ban so if fires need to get out of their control. The law clearly states willful meaning if the burn ban goes into effect at noon today and at 2:00PM today they do an open burn and you did not know about it; then under the misdemeanor you would have to prove it was done intentionally and willfully. There have been cases where insurance companies will refuse to pay if that fire turns out to be intentionally set and you are charged. The ND law that covers insurance recoups fire departments for the funds that they spend to fight these fires, it does allow insurance companies to be billed. What it does not do is mandate the insurance company pay that bill.

So it is the insurance's discretion whether they will pay for a fire. So the fire department is at loss and we need to figure out how to change this. I don't track the Forest Service's expenses, but if we can prevent one or two fires I know that would help us.

Rep. Zaiser: would you seek stiffer penalties be proposed?

Ray Lambert: The \$500 has not been a deterrent. I have no problem seeing it raised. I am comfortable in how this bill is written.

Rep. Zaiser: Would you want to amend the bill to have the insurance company pay that fire department?

Ray Lambert: The ND law allows the fire department's to submit the bill. The insurance companies themselves have opted not to pay.

Rep. Conrad: Are the rural departments able to come up with the cost. Is that a burden to them? Could we ask them what it costs them for the fire?

Ray Lambert: The ND State Firefighters Assoc. has on hand national standards for costs of what a chemical 1-man, 2-man crew, 4-man and five man crew and county employees and what their costs would be. The volunteer fire service is volunteer so that cost is minimal at best.

Rep. Headland: Are there different areas of the state that we could look at applying different restrictions on. My thoughts are it is certainly in an area of grasslands; you want to do everything you can to detour somebody from burning. My fear here is that I am not advocating that I am disagreeing with anything that has been said here, but farmers sometimes use controlled burn as a tool and I would hate to get in a position where we have possibility of neighbors or anyone else criminalizing people for using a tool that I understand only applies during a burning ban. Could we apply stiffer fines to certain areas versus an area where the risk is very low?

Ray Lambert: The law itself clearly states if it is willful; I think the protection of the farmer out there or ranchers it is fair and I don't see a problem with this. If there was a willful disrespect for the law it is in place to prosecute that individual.

Rep. Jerry Kelsh: We put a burn ban in affect and that afternoon he came home and started a garden pit on fire and was under deep criticism and did not know there was a burn ban. Does the willful part in the language give him defense?

Ray Lambert: Yes I think it would. It was not willful. That individual is still subject to federal law for punishment.

Mark Kelle, Wilton Fire Department. Just my experience of 20 years of a volunteer firefighter and 10 years of law enforcement officer with Burleigh County. April 8, 2005 I was burned in one of those fires. I suffered third degree burns on my arms and hands. An individual started the fire and if the penalty had been higher it might have been a deterrent.

Many fires have been started, not just by farmers; people driving down the section lines for no reason can start these fires. It is not just farmers or land owners, it happens to people out camping. These dry conditions a fire will start very fast. There was 60 mile an hour winds the day of the fire I got burned in. Fighting fires if very expensive. By putting a fine or it will not stop it but it might deter them.

Opposition: None

Neutral: None

Hearing closed.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill No. HB 1451

House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: February 13, 2009

Recorder Job Number: 9475

Committee Clerk Signature



Minutes:

Chairman Wrangham reopened the hearing on HB 1451.

Motion made for a Do Pass By Rep. Jerry Kelsh: Seconded By Rep. Koppelman:

Rep. Hatlestad: I was wondering if it would be appropriate to put an amendment on it to assess the cost of the firefighting to the individual deemed responsible either through insurance, personnel payment or assessment against the property.

Rep. Klemin: I think the state fire marshal said there was a law in place so this was not necessary.

Rep. Zaiser: I think the insurance companies should be required to pay. I don't know if it would be appropriate to do an amendment because it would bring a whole another element into this.

Rep. Headland: I don't intend to vote against the do pass, but I do believe that it is not going to be much of a deterrent and I think as competitive as it has gotten out in farm county on land there are going to be cases where you have neighbors turning on neighbors and I have no problem increasing the fine, but making a criminal act, I disagree with. But I do plan on supporting it.

Chairman Wrangham: I do not plan on supporting it

Rep. Jerry Kelsh: I don't think anyone is going to jail the first time around. If someone spends 30 days in jail that may be a real deterrent because that will be in the papers.

Rep. Kretschmar: I plan to support this bill.

Vote: 12 Yes 1 No 0 Absent Carrier: Rep. Jerry Kelsh:

Hearing closed.

Date: 2/13/09
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1451

HOUSE POLITICAL SUBS COMMITTEE

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DP DNP DP AS AMEND DNP AS AMEND

Motion Made By Rep Kelsh Seconded By Rep. Koppelman

Representatives	Yes	No	Representatives	Yes	No
Ch. Wrangham		✓	Rep. Conrad	✓	
Vice Chair Rep. Headland	✓		Rep. Kelsh	✓	
Rep. Hatlestad	✓		Rep. Kilichowski	✓	
Rep. N. Johnson	✓		Rep. Mock	✓	
Rep. Klemin	✓		Rep. Zaiser	✓	
Rep. Koppelman	✓				
Rep. Kretschmar	✓				
Rep. Pietsch	✓				

Total (Yes) 12 No 1

Absent 0

Floor Carrier: Rep. Kelsh

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

REPORT OF STANDING COMMITTEE

HB 1451: Political Subdivisions Committee (Rep. Wrangham, Chairman) recommends DO PASS (12 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1451 was placed on the Eleventh order on the calendar.

2009 SENATE POLITICAL SUBDIVISIONS

HB 1451

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1451

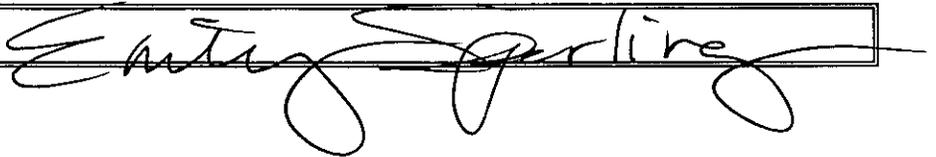
Senate Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: 03/12/2009

Recorder Job Number: 10778

Committee Clerk Signature



Minutes:

Chairman Andrist Opened the hearing on HB 1451.

Brief discussion with some students visiting the committee

Mary Senger Emergency Manager for Burleigh County. Spoke in support of HB 1451. See attachment #1.

Chairman Andrist You mentioned fines but would this make a first violation a class B misdemeanor?

Senger Yes

Senator Olafson Can you walk us through how the bill deals with the difference between an intentionally set fire and accidental fires.

Senger Spoke about the difference between the two. Much of it depends on whether or not someone is aware of a ban; they do try to get the word out. They have seen an increase in fires and the expense it takes to put them out.

Senator Olafson Proposed a hypothetical situation involving a farmer accidentally starting a fire. He wanted to know if the farmer would be charged with a violation under the section.

Senger I am not an attorney but I would think that would be considered accidentally. We do provide information to help people know what procedures to take during a burn ban.

Senator Olafson My understanding is that this bill deals with intentional burns, not accidents.

Discussion about what is permitted during a burn ban. See attachment #1 for a brochure detailing those restrictions.

Senator Anderson We know that this changes the penalty to \$1,000 and 30 days, what would happen with an arsonist?

Senger I'm not sure what subsequent offenses would do but I would assume that it would escalate.

Greg Wilz Deputy Director DES. Was unable to attend but submitted written testimony in support of 1451. See attachment #2.

Jerry Hjelmstad ND League of Cities. Spoke in support of 1451. The League of Cities is in support of the bill. Told a personal story related by a mayor about farmers asking where they could pay the burn ban fine because they wanted to burn a portion of their fields. They strongly urge a do pass.

Mark Keller Burleigh County Sherriff Department. Spoke in support of 1451. Gave personal testimony regarding his injuries sustained while working as a volunteer firefighter. Spoke about the cost of his medical bills, in excess of 3 million, and the cost of the fighting a fire. He stated that had a fire ban been in effect, his injuries may not have happened. Spoke about deterrents through various penalties.

Brief discussion about the importance of legislation with the students in attendance

Senator Dotzenrod If this is a class B misdemeanor, does that mean a judge makes the decision about consequences?

Senator Olafson Yes

Senator Bakke What happens if someone dies?

Hjelmstad I am assuming at that point other laws would kick in. This particular law only deals with violations of the burn ban.

Chairman Andrist Closed the hearing on HB 1451

Senator Olafson I move **Do Pass**

Senator Anderson Second

The Clerk called the role on the motion to **Do Pass. Yes: 6, No: Absent: 0.**

Senator Bakke will carry the bill.

Let the record show that **Senator O'Connell (#6)** is in support of HB 1451. Submitted written testimony on behalf of Representative **Bob Hunsakor**. See attachment #3.

REPORT OF STANDING COMMITTEE (410)
March 12, 2009 11:58 a.m.

Module No: SR-48-4685
Carrier: Bakke
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1451: Political Subdivisions Committee (Sen. Andrist, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1451 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

HB 1451

#1

HOUSE POLITICAL SUBDIVISION

HB1451

REPRESENTATIVE BOB HUNSKOR

GOOD MORNING CHAIRMAN WRANGHAM AND MEMBERS OF THE POLITICAL SUBDIVISION COMMITTEE.

FOR THE RECORD, MY NAME IS BOB HUNSKOR, STATE REPRESENTATIVE FROM DISTRICT 6, WHICH INCLUDES BOTTINEAU, RENVILLE AND PART OF WARD COUNTY,

HB1451 IS BEFORE YOUR COMMITTEE TODAY AT THE REQUEST OF THE EMERGENCY MANAGEMENT ASSOCIATION.

WE HAVE NO CONTROL OVER NATURAL HAZARDS SUCH AS WINTER STORMS AND FLOODS, BUT WE DO HAVE TOOLS WE CAN UTILIZE TO MINIMIZE DAMAGE DURING DRY WEATHER CONDITIONS.

NORTH DAKOTA HAS EXPERIENCED WILD FIRES WHICH HAVE DONE SUBSTANTIAL DAMAGE AND HAVE REQUIRED ASSISTANCE FROM THE NORTH DAKOTA NATIONAL GUARD AND FEDERAL FIREFIGHTING CREWS.

IN MY PART OF THE STATE, WITH MANY CONTINUOUS MILES OF CRP, A WILDFIRE UNDER WINDY CONTITIONS WOULD BE VERY DIFFICULT TO STOP.

SOME FIRES MAY BE DUE TO LIGHTNING... SPONTANEOUS COMBUSTION IN HAY OR BALES; OTHERS MAY BE MAN MADE...CAMPFIRES, BURNING GARBAGE OR A CARELESSLY THROWN CIGARETTE.

IF WE CAN REDUCE THE NUMBER OF MAN MADE WILDIRES DURING CONDITIONS THAT WOULD CAUSE THEM TO SPREAD IN UNPREDICTABLE APTTERNS WE MAY SAVE LIVES AND PROPERTY.

CHAIRMAN WRANGHAM, POLITICAL SUBDIVISION COMMITTEE MEMBERS, IT IS THE HOPE OF THE SPONSORS OF THIS BILL THAT CHANGING THE PENALTY FOR A VIOLATION OF A BURNING BAN FROM AN INFRACTION TO A CLASS B MISDEMEANOR WOULD ACCOMPLISH THAT PURPOSE.

I WOULD RESPECTFULLY ASK THIS COMMITTEE FOR A DO PASS ON HB1451. THANK YOU.

#2

HB 1451 Testimony
House Committee – Political Subdivisions
February 13, 2009
By Mary H. Senger, Burleigh County Emergency Manager

Mr. Chairman and members of the committee, my name is Mary Senger. I am the Emergency Manager for Burleigh County.

Our State experiences varying degrees of weather patterns. Spring and summer storms are not an anomaly and have come to be the “norm”. Past years have also brought a lack of moisture, decreased humidity, and high winds—prime conditions for the rapid spread of fires.

Last year brought extreme drought conditions throughout the State resulting in numerous burn bans being instituted in nearly 75% of the Counties. Burn bans are a tool for Counties to utilize in these extreme conditions and are enacted by the County Commission. Burleigh County tied their burn ban to the Rural Fire Danger index issued by the National Weather Service. When conditions were in the “Very High” or “Extreme” categories and/or when a “Red Flag Warning” was issued, open burning was not permitted. Citizens were allowed to do open burning when conditions were safer versus conditions that afforded rapid spread of fire and difficulties to extinguish.

Information on the burn ban was relayed through The Bismarck Tribune, local radio and television stations, as well as various internet sites. TV meteorologists and local radio personalities provided the daily fire index report repeatedly throughout the day.

Currently the penalty for violating a burn ban is an infraction with up to a \$500 fine. A second offense is a Class B misdemeanor which can result in up to 30 days and \$1,000 fine. Numerous citizens did not feel the \$500 fine was much of a deterrent for their activities. Comrades in other counties relayed the same experience.

It is estimated that North Dakota has 8,000 firefighters with over 90% being volunteers. Volunteers have become a premium in our State, and it remains a feat to adequately staff and train volunteer departments to serve their local communities. The data below represents fires that are reported, and it is also estimated that the numbers represent 30% of the actual fires that occur.

Year	Number of Fires	Acres Burned	Average Acres/Fire
2005	376	19,816	52.7
2006	991	62,870	63.4
2007	523	34,618	66.2
2008	485	49,024	101.1

Some testimony given to Senate

An increased penalty for violating a burn ban may further deter unnecessary fires and response expenses, thereby decreasing the number of times volunteers are called away from their other jobs. More importantly, we can further protect lives and property.

I would be happy to answer any questions you may have.

**Indoor Activity Guidelines
for the Very High Index
(Stage 1 Restrictions)**

Open Burning	Use fire tools and monitor the fire at all times. Restrict burning to early morning and late evening hours when low wind conditions exist. <i>Examples</i> <u>Campfires</u> : Clear area around fire. <u>Brush, Field, Ditch, Haystack</u> : Clear fuel from the area surrounding the burn site.
Off-Road Motorized Travel	Carry fire extinguishers and fire tools. Pay attention to fire hazards posed by exhaust systems and catalytic converters.
Smoking	Restrict smoking to areas free of combustible materials. Use ashtrays and proper disposal containers.
Fireworks	Carry fire extinguishers and fire tools. Restrict use to late afternoon and evening hours when low wind conditions exist, or as outlined by restrictions from local authorities. Consumer fireworks are only legal from June 27 to July 5.
Equipment Operations	Carry fire extinguishers and fire tools, as recommended. <i>Examples</i> <u>Farming</u> : Conduct frequent inspections of farm machinery to reduce debris accumulation. <u>Petroleum Industry</u> : Confine blasting for seismic exploration by 10 feet or more of soil. Inspect and properly maintain equipment. <u>Welding</u> : Use spark arresters as recommended and keep a 10-foot radius surrounding a welding site cleared of combustible material. <u>Railroads</u> : Conduct weekly inspection of exhaust arrester systems and brakes.
Exclusions	Fire operations by trained fire professionals.

**Outdoor Activity Guidelines
For the Extreme Fire Danger Index
(Stage 2 Restrictions)**

Open Burning	Open burning is prohibited. Open burning does not include fires in enclosed chambers that pass through a chimney or a stack and utilized on a flat surface.
Off-Road Motorized Travel	Off-road motorized travel is prohibited except for persons engaged in a trade, business or occupation where it is required. Fire extinguishers and fire tools are required.
Smoking	Restrict smoking to inside of vehicles, places of habitation and areas cleared to mineral soil. Use ashtray and proper disposal containers.
Fireworks	Use of fireworks by individuals is prohibited. Consumer fireworks are only legal from June 27 to July 5.
Equipment Operations	<u>Farming</u> : Conduct frequent inspections of farm machinery to reduce debris accumulation. Remain at the work site one-half hour after operations are completed. <u>Petroleum Industry</u> : Confine blasting for seismic exploration by 10 feet or more of soil. Inspect and properly maintain equipment. Monitor burning of by-products. Remain at the work site one-half hour after operations are completed. <u>Welding</u> : Use spark arresters, as required, and keep a 10-foot radius surrounding a welding site cleared of combustible materials. Water tanks with 100 gallons and 100 feet of hose are required. <u>Railroads</u> : Conduct weekly inspections of exhaust arrester systems and brakes.
Exclusions	Fire operations by trained fire professionals.

North Dakota Rural Fire Danger Guide



Daily Rangeland Fire Index

www.crh.noaa.gov/bis/?n=fireweather

www.nd.gov/des/info/firedanger.html

Last updated: April 2008

This brochure is a collaborative project of the North Dakota Department of Emergency Services, your local emergency manager, the ND Forest Service, the State Fire Marshal, and the ND Fire Council.

In North Dakota, it is a common practice during spring and fall to burn fields, trees, and debris in agricultural and rural settings. It's also common practice for outdoor enthusiasts to build campfires while enjoying the state's outdoor recreational opportunities. Equipment operators also increase their activities during warmer months.

Each year, approximately 500 rural fires grow out of control, endangering people and wildlife, and causing damage to nearby acreage, buildings, and other property. Inadequate control and burning during high fire danger conditions cause the majority of these fires.

The **North Dakota Rural Fire Danger Guide**, designed for landowners, equipment operators, and outdoor enthusiasts, outlines procedures that will greatly reduce the chance that rural fires will threaten lives and property.

Fire Danger Index

The Fire Danger Index, issued by the National Weather Service (NWS), serves as a guide to reduce the number of uncontrollable outdoor fires. The index is an indication of rural fire potential throughout the state and provides citizens with needed information about fire safety conditions.

The index contains five ratings: **low, medium, high, very high, and extreme**. Fires are more likely to occur on higher index days and more likely to grow in size. The Fire Danger Index does not predict how a fire will behave; however, the indices give an indication of overall fire activity.

Normally, the NWS calculates the Fire Danger Index for each county using predicted values for temperature, humidity, wind speed, cloud cover, and vegetative greenness.

The NWS also issues Fire Weather Forecasts and Red Flag Warnings that refer to weather conditions which could sustain extensive rural fire activity. These forecasts and warnings are used to alert land management agencies and land users when dangerous burning conditions and increased rural fires exist.

When the vegetative greenness component deteriorates to the point of creating an unusual fuel condition with a high Emission Release Component (ERC), the North Dakota Fire Council will scientifically analyze this condition and recommend specific counties be placed in the extreme category, regardless of daily weather conditions including temperature, humidity, wind speed, and cloud cover.

Index Rating	Fire Danger Description
Low	Weather and fuel indicators show the probability of fire occurrence is low.
Medium	Weather and fuel conditions indicate some potential for fire occurrence. Expect predictable fire behavior with moderate rates of spread.
High	Fires are active. Expect moderate and occasional high rates of spread.
Very High (Stage 1)	Fires spread rapidly and show erratic behavior. Dangerous burning conditions exist.
Extreme (Stage 2)	Potential for large fires exists. Fires spread rapidly. Extreme fire behavior is probable. Critical burning conditions exist.

Outdoor Activity Guidelines

The NWS issues the North Dakota Rangeland Fire Danger Statement each morning during fire season, typically from April 1 to October 31. Information about current fire danger indices is available through county sheriff offices, the NWS (www.crh.noaa.gov/bis/?n=fireweather) or the ND Department of Emergency Services (www.nd.gov/des/info/firedanger.html).

When the fire danger index reaches the very high or extreme categories, certain guidelines for outdoor activities are recommended to reduce the chance of life-threatening or property-damaging rural fires.

During severe, extended dry conditions or drought, the Governor may issue a proclamation mandating these guidelines. Fines and other penalties may be assessed for failing to comply.

Local governments may institute a burn ban regardless of the fire danger index.

First offense of a Burn Ban infraction is a \$500 fine. Second offense is a Class B misdemeanor: up to 30 days in jail and \$1,000 fine.

By law, landowners, equipment operators, and outdoor enthusiasts are required to use firebreaks and proper precautions during all open burning situations. The following three charts list other outdoor activity guidelines for the five fire danger indices.

Outdoor Activity Guidelines For the Low, Medium, and High Fire Danger Indices

	<i>Examples</i>
Open Burning	<u>Campfires</u> : Clear the area around the fire. <u>Brush, Field, Ditch Haystack Fires</u> : Clear fuel from the area surrounding the burn site.
Off-Road Motorized Travel	Pay attention to fire hazards posed by exhaust systems and catalytic converters.
Smoking	Use ashtrays and other proper containers.
Fireworks	Avoid fire potential by following safety guidelines for projected aerial devices. Consumer fireworks are only legal from June 27 to July 5.
Equipment Operations	Conduct routine maintenance to reduce conditions that may cause a fire.
Exclusions	Fire operations by trained fire professionals.

Contact your local fire department for additional information.

TESTIMONY - HB 1451
HOUSE COMMITTEE – POLITICAL SUBDIVISIONS
FEBRUARY 13, 2009
BY GREG WILZ
DEPUTY DIRECTOR, DEPARTMENT OF EMERGENCY SERVICES

Mr. Chairman and members of the committee, my name is Greg Wilz. I am the Deputy Director of the Department of Emergency Services (NDDDES) and Director of Homeland Security for the state of North Dakota. My intent is to provide information relating to HB 1451 and on behalf of NDDDES, provide strong support for its tenets.

In order to emphasize the importance HB 1451, I feel it is important to present a very conservative picture concerning the cost structure of a conventional wildland fire managed by just a single rural department in North Dakota. Typically, three engines and ten firefighters are dispatched for five hours of on scene activity. The following represents low to moderate estimates and does not include approximate costs for damaged response equipment or personal property losses.

3 engines @ \$150/ hour X 5 hours plus fuel	\$ 2,400
10 firefighters @ \$12.50/hour X 5 hours	\$ 625
Fire equipment and personal protective equipment	<u>\$ 200</u>
Total Cost per Fire	\$ 3,225
Approximate 2005 Response Cost (376 fires)	\$ 1,212,000
Approximate 2006 Response Cost (991 fires)	\$ 3,195,000

Although the ramification of this bill acts as a measured deterrent, it is truly intended to facilitate better decision making on the part of our citizens that will save tax payer dollars, protect property, and reduce potential injury or loss of life.

I urge committee members to pass HB 1451.

Thank you, I will try to answer any questions you may have.

Same testimony given to Senate

#3

SENATE POLITICAL SUBDIVISIONS COMMITTEE

HB 1451

REPRESENTATIVE BOB HUNSKOR

CHAIRMAN ANDRIST AND MEMBERS OF THE SENATE POLITICAL SUBDIVISIONS COMMITTEE.

FOR THE RECORD, MY NAME IS BOB HUNSKOR, STATE REPRESENTATIVE FROM DISTRICT 6, WHICH INCLUDES BOTTINEAU, RENVILLE AND PART OF WARD COUNTY.

HB1451 IS BEFORE YOU TODAY AT THE REQUEST OF THE EMERGENCY MANAGEMENT ASSOCIATION.

WE HAVE NO CONTROL OVER NATURAL HAZARDS SUCH AS WINTER STORMS AND FLOODS, BUT WE DO HAVE TOOLS WE CAN UTILIZE TO MINIMIZE DAMAGE DURING DRY WEATHER CONDITIONS.

NORTH DAKOTA HAS EXPERIENCED WILD FIRES WHICH HAVE DONE SUBSTANTIAL DAMAGE AND HAVE REQUIRED ASSISTANCE FROM THE NORTH DAKOTA NATIONAL GUARD AND FEDERAL FIREFIGHTING CREWS.

IN MY PART OF THE STATE, WITH MANY CONTINUOUS MILES OF CRP, A WILDFIRE UNDER WINDY CONDITIONS WOULD BE VERY DIFFICULT TO STOP.

WHILE IT IS TRUE THAT SOME FIRES MAY BE DUE TO LIGHTNING OR SPONTANEOUS COMBUSTION IN HAY OR BALES; IT IS ALSO TRUE THAT THEY MAY BE MANMADE...CAMPFIRES, BURNING GARBAGE OR A CARELESSLY THROWN CIGARETTE.

IF WE CAN REDUCE THE NUMBER OF MANMADE WILDFIRES DURING CONDITIONS THAT WOULD CAUSE THEM TO SPREAD IN UNPREDICTABLE PATTERNS, WE MAY SAVE LIVES AND PROPERTY.

ON A PERSONAL NOTE, I HAVE HAD COFFEE WITH FARMERS IN MY PART OF NORTH DAKOTA WHO WERE PLANNING ON BURNING THEIR FIELDS WHILE A BURNING BAN WAS ON. WHEN TOLD OF THE BURNING BAN THEIR RESPONSE WAS, "I'LL JUST PAY THE FINE."

CHAIRMAN ANDRIST, POLITICAL SUBDIVISIONS COMMITTEE MEMBERS, IT IS THE HOPE OF THE SPONSORS OF THIS BILL THAT CHARGING THE PENALTY FOR THE VIOLATION OF A BURNING BAN FROM AN INFRACTION TO A CLASS B MISDEMEANOR WOULD ACCOMPLISH THAT PURPOSE.

I WOULD RESPECTFULLY ASK THIS COMMITTEE FOR A DO PASS ON HB1451. THANK YOU.