

2009 SENATE POLITICAL SUBDIVISIONS

SB 2354

# 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2354

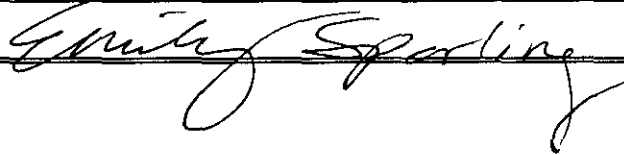
Senate Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: 01/29/2009

Recorder Job Number: 8121, 8185

Committee Clerk Signature



Minutes:

**Chairman Andrist** Opened the hearing on SB 2354

**Joe Stenvold** Member of the ND Association of Builders, Electrician. Spoke in support of 2354. He has been installing since the 1980s. Over the years there have been many improvements and changes in the safety regulations and building practices. He enumerated the various ways that electrical wiring has changed.

**Joel Feist** General Contractor, President of Minot Association of Builders, Member of the ND Association of Builders. Spoke in support of 2354. Discussed:

1. cost of installation which could run 5-7,000 dollars
2. Maintenance: who will do it?
3. The life span: unknown?
4. Damage: small children, things thrown and hung on the sprinklers
5. Additional cost of insurance: it will raise the cost of premiums due to possible water damage.

It is estimated that sprinklers will cost an extra of 5.8billion.

**Chairman Andrist** How are sprinklers triggered: by heat, flames, smoke?

**Feist** I'm not sure. I think heat, impact and flames can trigger it.

**Senator Olafson** Has a homeowner ever requested them to be put in?

**Feist** No, people complain when we put them in.

**C.J. Craven** Fire Chief of the city of Minot. Spoke in opposition to 2354. I am not here to debate the merits of sprinklers but would like to allow the normal process of public hearings to continue. This bill would not allow us to do that. We want to debate the issue in front of the Minot city council.

**Chairman Andrist** This bill would deny you that right?

**Craven** That is correct.

**Mark Sorenson, P.E.** Professional Fire Engineer. Spoke in opposition to 2354. The primary problem of this bill is that it takes away the local building sub committees ability to review the merits of sprinklers in residential systems. There are many myths of sprinkler systems. I would like to go through a few. Accidental discharge: not a problem. We have automatic sprinkler systems installed throughout the country in hotels, motels, dorm rooms and sorority houses.

**Senator Lee** Do you see any difference between the institutional settings that you mentioned and private dwellings?

**Sorenson** I really don't.

**Senator Lee** What about access to the outside, do you think that motels have that same access as a private home?

**Sorenson** Clearly in a high rise setting sprinklers have additional merit. But again, we are talking about fire sprinklers that have been installed in single level motels and sorority houses that mimic single family homes.

**Senator Lee** Can you think of any deaths in the past five years involving new construction that could have been prevented with sprinklers?

**Sorenson** I can't give you numbers in what would be called in new construction, you would have to define new construction.

**Senator Lee** Nobody has lived in it, that's new construction.

**Sorenson** In that case, I guess none.

**Senator Lee** What I mean is I am the first owner, we would expect that most of the deaths would happen in older homes that are not being retrofitted. My point is that the problem is not with new construction. You have no problem adding additional cost at a time when affordable housing is an issue?

**Sorenson** Not really but let me back up and restate my point which is that I don't believe this is the right venue for this particular clause. I think it should be handled within the building codes and committees as well as local jurisdictions. As far as the new construction is concerned, there are fewer fires because there is less new construction. In 20 years, that new construction will be old and we will see more fires. We have to remember that most fires are not a result of construction but of the contents of the home. Plastic in your home upholstery, etc. give off toxic noxious fumes. Those fumes kill people. That is the beauty of the fire sprinkler system, they put out fires early. It will help save lives and homes.

**Senator Olafson** One thing we have to watch for is unintended consequences. If we leave this decision at the local level, if one border city decides not to have sprinklers while another does, don't you think that will drive people towards the non-regulated city because it is cheaper? Do think this will have economic consequences?

**Sorenson** Potentially but a local committee could decide that. Is it necessarily a bad thing that one city is benefitting from increased fire suppression and another does not? There are pros and cons to this issue, and I think those should be discussed at the local level.

**Senator Lee** Made a similar point to Senator Olafson

**Sorenson** I believe this issue should not be handled in this format because if we put the bill out as written we are essentially having the legislature decide construction guidelines or rules. I don't think that is the job of the legislature that does not necessarily contain experts in the area.

Brief discussion of sprinklers and fires.

**Senator Anderson** If I am hearing you correctly, you are saying leave it up to the local subdivisions. I am wondering if we add an amendment at the beginning "unless specifically authorized by the governing body," would that be palatable?

**Sorenson** I think if you had that kind of language, why would we have that bill at all? There are no teeth to this law so there would be no reason to have this bill in the first place.

**Senator Anderson** A lot of big cities pay attention to these sorts of things but there are a lot of small towns that adopt things point blank. I am wondering then, if extra language would help clarify that for the smaller towns as they would have to accept it by understanding it.

**Sorenson** It would be an improvement but I question those jurisdictions. I don't know if they should be adopting these standards point blank regardless of what they state without review. I don't see any value in lessening the strength of this bill, I think it should be dismissed altogether.

**Senator Lee** How many single family homes that you know of have sprinkler systems? And, do you have one?

**Sorenson** I do not have one. I only know of one other home that I heard about, this is a relatively new phenomenon so that number does not surprise me. ND is a small state so the potential for something new to come in takes some time. Throughout the country there are sprinkler systems from AZ to AK.

**Dave Nuss** Denver Regional Manager: National Fire Protection Agency. Spoke in opposition to 2354. See attachment #1.

**Rick Graba** Fire Captain: Representing the Professional Firefighters of ND. Spoke in opposition to 2354. See attachment #2.

**Chairman Andrist** Suspended the hearing on SB 2354 until the afternoon.

**Job #8185**

**Chairman Andrist** Reopened the hearing on SB 2335.

**Ron C. Strand** Inspections Administrator, Represents the city of Fargo. Spoke in support of 2354. See attachment #3.

**Chairman Andrist** Do you know what has happened in MN? Is Moorhead going to require residential sprinklers?

**Strand** Moorhead will do what the state asks them to do and that decision is far downstream.

**Chairman Andrist** So as of now they are not required?

**Strand** No.

**Senator Dotzenrod** This bill does not allow you to have individual choice; it is interesting to have a local official coming to us asking us to take away a power.

**Strand** You have never heard me say that before and I hope you do not hear me say that again.

**Ray Ziegler** President of the ND Building Officials Association. Spoke in support of SB 2354. See attachment #4.

**Doreen Riedman** Executive Officer, ND Association of Builders. Spoke in support of SB 2354. See attachment #5.

**Senator Olafson** Can you explain what the International Code Council is?

**Riedman** The ICC sits down and looks over the sets of International Codes during a week long process. They look at 500+ amendments and vote on each amendment and bill. The process is very judicious. When the sprinkler bills came along there was a surge in the voting numbers during just those two votes.

**Senator Olafson** Has this bill hijacking ever happened before?

**Riedman** No, this was a surprise attack.

**Senator Anderson** Is this accurate that in 2005 185 mil. was spent on sprinklers but had this been in effect it would have been 5 billion?

**Riedman** Yes, that was stated in the testimony this morning as well. This is a huge industry.

**Chairman Andrist** Connie where you going to testify on this bill? Would this mandate be popular among your group?

**Connie Sprynczynatyk** Chief Administrative Officer for the League of Cities. Gave neutral testimony. We have never had this much dissention in the cities. We do not have unanimity about this bill. We have always stood for local control. Personally, I think what happened at the convention in Minneapolis was shameful. That is not the way we do business in ND. This state stands for integrity of process. I'm sure there will be discussion about these issues whether or not we pass this bill. I would also point out that the way the bill is written on page 2 line 22-25 which speaks about local control. Again, there are experts here who can speak at length about this bill.

**Chairman Andrist** I had not noticed sub section 6 until you called my attention to it.

Apparently it is part of the law now.

**Sprynczynatyk** Ray is our building official; I understand the difficulty as we represent all the cities. In my capacity with the insurance fund, I am very concerned about how a political subdivision exposes itself or shields itself from liability. I would say that no city should adopt a

model ordinance, any part of any code that they have not scrutinized and are prepared to enforce. What this does is gives them the option to select which pieces make sense.

**Senator Olafson** One of the concerns we have is the economic impact due to the cost of putting in sprinklers and the option to opt out of them, does that not create a concern for your committee members?

**Sprynczynatyk** Yes, this truly is one of those bills where I have friends on both sides of the issue. I understand that concern; uniformity would be a good policy.

**Senator Lee** It goes beyond the city limits and outer ring suburbs encouraging random lot development. We want local control but this is hard if it disrupts planned and orderly development. There is a need for standardization in some areas.

**Sprynczynatyk** I take the point; the opposite side is when there is a prevailing state interest typically that is when the legislature should/does step in. And that is the difficult question that this committee has and ultimately the senate. Is this a prevailing state interest?

**Senator Bakke** My understanding is that if you remodel a structure you have to bring it up to code. So if this were in the code, it would affect older houses as well?

**Sprynczynatyk** I will have to defer to others to answer that. That opens a whole other set of questions.

**John Gunkleman** President, ND Builders Association. Spoke in support of SB 2354. See attachment #6.

**Jason Eid** President of the Home Builders Association in Fargo/Moorhead. Spoke in Support of SB 2354. Asked around his company if there had ever been a request for a sprinkler, the answer was none since at least the 1970s.



**Hap Hildebrand** Eid Co. Building. Spoke in support of SB 2354. If you pass this bill you are going to give us all the opportunity to make up our own minds and make our own decisions and choose as to whether or not we want to install sprinkler systems.

**James Morken** Homeland Developers Inc. Spoke in support of SB 2354. I have personally experienced a sprinkler malfunction. It was quite a fiasco. We would like to have the state takeover in this instance because it takes the pressure off the smaller cities. We'd like to send a message.

**Rich Barta** City of Mandan, Building official of Spencer. Spoke in support of SB 2354. In Mandan, if the cost of remodeling exceeds 50% of the value of the home, the entire home must be brought up to code.

**Chairman Andrist** Is that a Mandan rule?

**Barta** I think that is pretty consistent throughout.

Brief discussion about how value of home is assessed.

**Raymond Lambert** ND State Fire Marshal. Spoke in opposition to SB 2354. See attachment #7.

**Senator Dotzenrod** Your testimony shows great respect for the process.

**Lambert** That is correct.

**Senator Dotzenrod** In our committee, there is great respect for the process as well. I think if we are respecting the process, we should follow the wishes of the counties which is to not pass the statute about sprinklers.

**Lambert** SB 2354 does not allow the local community to discuss and adopt codes if they so chose. It forbids them from doing so from the state down to the cities.

**Senator Lee** Do you think it is more common for a political subdivision to add or delete standards from the code?

**Lambert** It is my experience that they delete.

**Senator Lee** Do you think that as public education increases it is more likely that people would come back to the legislature to change this?

**Lambert** If this bill goes through as is, their only option would be to come back to the legislature to change it.

**Senator Lee** It's not that hard, and the other thing is how many states have already adopted the sprinklers in one or two family homes?

**Lambert** I do not have those numbers.

**Joe Boespflug** ND Fire Chief's Association. Spoke in opposition of SB 2354. See attachment #8.

**Chairman Andrist** Do you frequently adopt different codes for different areas?

**Boespflug** Not usually.

**Chairman Andrist** You do have authority to change different areas of the code related to different districts?

**Boespflug** We do but with passage of this bill we would not with sprinklers.

**Chairman Andrist** Has it been done in Bismarck?

**Boespflug** In relationship to the fire code, no, I am not aware of that.

**Senator Anderson** You state that the law will likely have unintended consequences, the way I see the law is that governments in ND can't mandate it but every home owner has the choice to put it in. What are the likely unintended consequences?

**Boespflug** An example that I was thinking of was public assembly and apartment buildings. When codes are developed prior to a buildings development and then changed during construction, we could end up with an unsafe building. We ran into that problem with some apartments.

**Senator Bakke** Help me understand this; a group met, put together a code, ND has adopted it. Is it now in our books that sprinklers are required?

**Boespflug** The model code that is on the national level, there are a number of national codes, this is a set of codes that comes into our process which is voted on by the building officials who determine which model is used. The model we use has a recommendation to add sprinklers.

**Chairman Andrist** How does something become a mandate in the international codes in ND?

**Boespflug** I don't believe it is a mandate, it is a model code.

**Chairman Andrist** So if we did not have this bill before us, sprinklers would still not be mandated?

**Boespflug** That is correct. Our belief is that we want to build good partnerships but if this bill passes it would say that sprinklers would not be mandated ever which would take the steam away from the movement and prevent them from working towards cheaper solutions. The fire chief's strategy was to bring together industry officials to discover how we could make these cheaper. We do not feel ready to mandate sprinklers; we are just concerned that the energy for public education will be diffused if this bill passes.

**Steve Nardello** Representing the ND Fire Chiefs Association, the city of Mandan, and the Mandan Firefighters. Spoke in opposition to SB 2354. I want to reiterate that if this bill does not pass, sprinklers will not be mandated. This bill is simply removing a tool that the fire departments could use. Sprinklers could be very important in rural areas when it takes longer for fire departments to reach people.

**Chairman Andrist** In the rural areas, new construction is almost at a standstill. I don't think this would affect rural areas as they would not adopt it due to the already high cost of building.

**Nardello** I do understand that but again, non passage of this bill would not mandate your community to have sprinklers.

**Senator Bakke** If this doesn't pass, it is possible for the city of Mandan to say this half of the city does not need to have sprinklers but any construction on the other half must have sprinklers?

**Nardello** Technically, but we prefer unanimity across the city. We have had to build an extra fire station to help deal with the problem of response time. We are not prepared to mandate

sprinklers but we would like to talk about with the public and contractors. I thought we use this as a property tax incentive.

**Senate Bakke** Is it conceivable that some fire chief could just mandate it without going through the proper channels?

**Nardello** That is correct but this is a building code so it would have to go through the building code process. There is a check and balance system.

**Peter O'Neill** Grand Forks Fire Chief. Spoke in opposition of SB 2354. See attachment #9.

**Senator Anderson** I know you guys have a tough problem but I agree with Senator Lee that this might not be the time to go the other way with the bill because I think local elected officials need to be convinced. They can then come before the legislature to change it.

**Senator Bakke** If this bill was not to pass, it will be up to the communities to decide about sprinklers?

**O'Neill** My understanding is that if this bill were to pass, communities would not have that opportunity. We do exempt codes in cities based on situations.

(Unsure of testifier, did not sign in or speak clearly) **Rodney Hicockson?** ND Fire Chiefs Association and Assistant Fire Chief. Spoke in opposition to SB 2354. Talked about the code process and the fact that what happened in Minneapolis was legal. Reiterated that nothing would change if this bill passed.

**Senator Olafson** If we do not pass this bill and down the road we have sprinkler requirements, do you see economic problems in for example, Bismarck and Mandan?

**Hicockson** Yes, but Mandan and Bismarck do cooperate. We do understand that builders want consistency.

**Senator Olafson** What if two cities do not cooperate?

**Hicockson** You could have competition.

**Senator Lee** I still want to know how many states have adopted this?

**Hicockson** I'm not aware of any states but I do think of lots of local jurisdictions have adopted it. Scottsdale has tailored their whole fire protection program around sprinklers.

**Connie Sprynczynatyk** I would just like to offer a suggestion. If you feel the compelling state interest is to put this provision into a place, do it for only a period of time. If you really want to pass this bill, put a sunset clause in it. I am saying this with my local elected official hat, and as such I understand that what might not work today may work later.

# 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2354

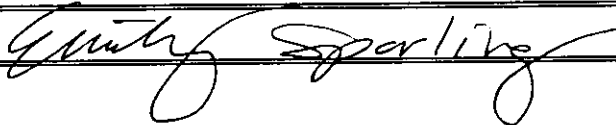
Senate Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: 01/30/2209

Recorder Job Number: 8235

Committee Clerk Signature



Minutes:

**Chairman Andrist** Reopened the discussion on SB 2354. My take on this is that we will see this bill again when sprinklers are cheaper and fool proof.

**Senator Anderson** I think it was a shameful way of doing the vote, but either for or against what I kept hearing was, we want local. Yet, the governing bodies were not asking for control.

The elected officials were not here.

**Chairman Andrist** We may find that sprinklers are unnecessary with the new wiring improvements.

**Senator Olafson** I do think the description of the vote was disturbing. I think it comes down to individual choice which this bill is not denying; I don't want to put cities at war with each other.

**Chairman Andrist** My biggest fear would be a sprinkler system freezing up in my absence! That is a real concern in the rural areas, more than fire.

**Senator Lee** I agree, I move to amend this to have a sunset clause in 2015 and **Do Pass**.

**Chairman Andrist** Effectively if nothing is done, that would repeal subsection 4.

**Senator Bakke** Second.

**Chairman Andrist** I am inclined to vote against the amendment.

**Senator Anderson** I think we should just pass it the way it is.

**Senator Lee** I am ok with that, I was just trying to make the bill more palatable. I would be happy to withdraw my motion.

**Chairman Andrist** I think that if this bill is properly brought to the floor it will pass.

**Senator Lee** I withdraw my motion to amend.

**Senator Bakke** Second.

**Senator Dotzenrod** I think this bill will convey a message back to the boards that we would like to see the people involved in this process before us.

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

**Senator Dotzenrod will carry the bill.**

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2354

Senate Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken  Do pass  Do not pass  Amend

Motion Made By J. Lee Seconded By J. Bakke

Senators	Yes	No	Senators	Yes	No
Chairman John M. Andrist	/		Senator Arden C. Anderson	/	
Vice Chairman Curtis Olafson	/		Senator JoNell A. Bakke	/	
Senator Judy Lee	/		Senator Jim Dotzenrod	/	

Total (Yes) 6 No 0

Absent \_\_\_\_\_

Floor Assignment Senator Dotzenrod

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

**REPORT OF STANDING COMMITTEE**

**SB 2354: Political Subdivisions Committee (Sen. Andrist, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2354 was placed on the Eleventh order on the calendar.**



2009 HOUSE POLITICAL SUBDIVISIONS

SB 2354

# 2009 HOUSE STANDING COMMITTEE MINUTES

## Bill No. SB 2354

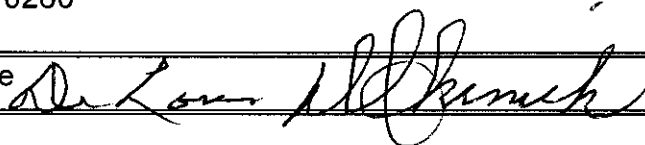
### House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: March 5, 2009

Recorder Job Number: 10260

Committee Clerk Signature



Minutes:

**Chairman Wrangham** opened the hearing on SB 2354.

**Rep. Carlson:** I have been a home builder for the last 28 years I think I have a little understanding about the business and how it functions. The major change in the bill is on the second page requires the state building code to adopt in single family dwellings or a residential building fire sprinklers. There has always been a debate in my business about public safety and how it should be used. I can tell you that the way I build a house today is not even close to the way I built a house in 1980. We have done so many changes and they are so different now. Went into a lengthily discussion on how they are different now to before. Used to have one smoke alarm on each floor; now we have one in every room. My point is the houses we build today are much safer than the houses we built 20 years ago. I you want to talk affordable housing; I can give you a quote from \$1.50 to \$4.00 a square foot to put in a residential sprinkler system. When you look at the actual incidents of fires happening; in many cases a lot of those things a loss of life could have been avoided if they would have had operational smoke alarms. You have to not only look at the cost, but what we have done building code wise over the last 25-30 years to make these houses safer if there was a fire. I think we have done a great deal and I think our building codes are very protective of having safe livable

housing for those people who are in them without having those sprinkler systems. If you want to talk about an issue in rural states I want to know if you would build that same house in rural ND or in the city of Fargo, ND; who is the inspector; who wrote the permit; what guidelines did they follow because the guidelines are not the same and the inspections are not the same. They should be and a builder will always build to that code. It will not be up to the scrutiny of the 20-30 inspections that Minot has in the city of Fargo that I am building. I think it is good not to have that mandated in the building codes. Any home owner that wants one can get one. I think it is a good policy not to mandate those sprinkler systems in those houses and I would hope this committee would uphold that.

**Rep. Klemm:** I had a recent experience with a broken water line. Our house was built 17 years ago and this water leak was in the inside the wall. Somehow cold air got inside and burst it so for about six weeks now we have been doing construction work to repair the water drains. Are we increasing the risk of that happening with having more water lines going all over the house to sprinkler systems in addition to the ones we normally have?

**Rep. Carlson:** I would say no. You are going to put them into places where they are not going to freeze or have excess to the cold air. It is unusual for an older home like yours to have that freezing problem but when insulation moves in houses or they settle it just takes a little crack somewhere. There is a lot of damage if one goes off.

**Rep. Hawken:** Rep. Carlson certainly has the expertise and has given you the outline of why we feel it is not necessary install sprinkler systems in individual homes. There is absolutely nothing to prevent anyone from building a home to install a sprinkler system to do that. This is a mandate and we feel it isn't necessary. I would request a do pass.

**John Gunkelman:** Owner of Dakota Construction of Fargo: (see testimony #1). He went over his testimony.

**Rep. Jerry Kelsh:** What is the cost of those sprinkler systems?

**John Gunkelman:** It is such a new field for us. Comparing it to a system that is put in an apartment style where they require a system in the range of \$1.60-\$3.00 a square foot.

**Rep. Klemin:** Why is this bill here? Why are we putting it in then?

**John Gunkelman:** This has now been adopted in the 2009 IRCW Code so if the state adopts it we are asking to actually take it out of the code.

**Senator Krebsbach:** I introduced the bill on behalf of the group you will be hearing from today giving you full detail on why they think it should not be a mandate. I certainly don't want to stand in the way of the protection of the people but at the same time you can see where this is going and make sure we don't implement something that becomes a mandate. We will hear from the experts and I would be happy to take any questions.

**Doreen Riedman,** Executive Officer ND Association of Builders: (see testimony #2).

**Rep. Jerry Kelsh:** Does this legislation have to be adopted by the Legislature and also if this bill would fall and this was adopted would that mean that if someone wanted to build a home out in the country someplace that they would have to follow these rules and have a sprinkler system even if the township didn't or small city didn't adopt that ruling?

**Doreen Riedman:** The 2009 International Residential Code would be adopted by the State Advisory Code as we referred to in an earlier bill. Then in their code process the 09 code would be in place to adopt this code and also in those home rule cities such as Fargo, Bismarck who will adopt the International Residential Code and they would have to precipitate their whole amendment so even if they took care of it and amended it out the state still have to amend it out. It is an \$8 million industry across the country if this would be voted in.

**Rep. Jerry Kelsh:** If townships or a small city did not adopt this code and this bill did not pass and we adopted this; the rules in that district and the state law would apply so I would have to put it in the century code. Is that true or false?

**Doreen Riedman:** I don't believe that community actually adopted the International Residential Code or the State Building Code, which is made up of the IRC. I have to correct myself; technically yes as a licensed contractor they must follow all building codes.

**Rep. Conrad:** The group at the International Residential Code Council; have they changed their rules of voting?

**Doreen Riedman:** I believe that is why it should be looked at. I think there are enough people that are pretty upset about the whole process and how it was jeopardized and I think it might be changed.

**Chairman Wrangham:** I believe that vote at the International Code Council that the vote was challenged and appealed. Can you tell us something about that?

**Doreen Riedman:** Our National Association of Home Builder's did appeal the process and we were denied. We respect the process but we were trying to say look what happened. That is why we are moving on now.

**Joe Stenvold:** STAX Electric: I am an electrical contractor and have been wiring since 1995 and have been an industrial contractor since 1990. Discussed the wiring codes and how they have changed from having one outlet per floor; from one outlet per room; which also puts more loads on that element; more load on that wire and more load on the fuse boxes. Some of the houses use to have 4 fuses and sometimes 8 fuses at one time. As time moved forward with the national electrical code changes which are every three years and ND has our own wiring standards we now have outlets within 6 feet of a doorway; outlets on a wall space no more than two feet apart; outlets can be no more than 12 feet apart; which normally was 8-10 ft. We

are regulated on how many lights to put on a circuit so with all that in mind there is enough load on the outlet there is much more on the switch; much more on the lights and wiring and back to the breaker box. A new breaker box in every new house of either 200-600 AMP breaker boxes which decreased the load and the wear and tear. We have smoke detectors; one per floor was the way it was; the battery operated. Now it is one per bedroom; one per hallway depending on the size; heat detectors in a furnace room and garage so with that huge safety net. He went into detail on the wiring requirements in the state regarding housing. Our homes are built much more effectively with 2X6 walls; great widows and whatnot so we have a less load on our heating system, which is also on the wiring system and the wires.

**Jason Eid, Eid-Co. Buildings, Inc., Fargo:** I am a third generation home building in Fargo, ND.(see testimony #3). The purpose of IRC is to provide minimum requirements for safeguard of life, limb, health and public welfare. Many of our cars today have airbags; I know for sure they are not required by our federal guidelines for safety on a motor vehicle. Seatbelts are required so there are additional safety nets that consumers can choose. It is really the consumer that should have that chose. That is all I wanted to add to my testimony.

**Rep. Kretschmar:** does Minnesota have any requirements different than ours?

**Jason Eid:** Minnesota has also adopted the laboring bill just as we do based upon the 2006. I understand that the Department of Labor and Industry which controls their building codes has made the decision to even to review the 2009 IRC and wait until the 12 comes out determine whether they should do this.

**Ben Koppelman:** Legion Construction & NDAB: I live in a small town outside of Fargo. I also set on the state electrical board. I can speak a little bit to what was eluded to earlier regarding what the electrical board has taken to prevent fires. I can relate to the problem and the safety issues. As a builder we have to pass that costs on to our customers and some of our

customers cannot afford this additional cost. We can create some duplication in our efforts and the costs might prevent many people from being in a home. I am in a rural community and I have a concern because I can see that the water storage could become a huge issue.

**Ray Ziegler:** President, ND Building Officials: I am not representing the city of Bismarck at this time. I am representing our association. As a building official I enforce about 3500 pages of building codes including electrical and plumbing, and volumes of ordinances. The reason we do this is to ensure public safety and the safety of our first responders such as our fire departments and ambulance drivers. We make for sure structures are built for when the wind and snow blows and elevator shafts meet code. That is all part of my job. I bring this up because I also determine where sprinkler systems are required a lot of times. We have them in bars, motels and restaurants in commercial situations. There are three types of sprinkler systems. The big commercial type that is designed to protect the structure. Then we have a smaller system; the R13's and R13D's. Basically at 13D is a small system designed to protect the room for about 10 years. If they think it was designed to protect my house, it is not there. I had a phone call a couple weeks ago from the firefighters. I have been out there about 30 some years and I have come across a lot of things in my years and the sprinkler systems worry me because not one of those deaths has been caused by heat; they were caused by smoke inhalation. The big concern is that people will become complacent and they don't change the batteries like they should. I am sure you can raise hands in this room to see who has not changed those batteries. I am afraid if they get a sprinkler system they might not maintain the smoke alarms because they think they don't need to. There are no maintenance free systems. There is nothing built by man that does not need maintenance. Our association is in favor of this bill. This bill does not mean only new homes, but remodeling and new

additions. Would they have to sprinkle their whole house at that time? There is a lot of work that has to be done with this bill.

**Opposition:**

**Ray Lambert:** ND State Fire Marshal: (see testimony #4).

**Rep. Headland:** Currently to your knowledge are there any political subdivisions in this state do mandate sprinkler systems?

**Ray Lambert:** There is none to my knowledge.

**Rep. Headland:** Currently anybody who is building a new home that chooses to add a sprinkler system has the ability to do so and this bill would not prohibit that, right?

**Ray Lambert:** The standard has just come into the state where we have an International Building Code. This has not been adopted by the state. It has a process to do so and I don't see that happening in the near future. Currently any individual listed who put a sprinkler system in their homes could adopt and do so.

**Rep. Headland:** Are you familiar with the process used to get this language in the International Building Code? The process that has been cited in previous testimony.

**Ray Lambert:** I do have familiarity with that. I am a member of the association that adopted the International Building Code.

**Rep. Conrad:** Were you at that meeting in Minneapolis where this happened?

**Ray Lambert:** No I was not.

**Rep. Conrad:** This was an unusual situation and that may be the reason this an unusual solution?

**Ray Lambert:** I find it unusual that ND's adopting process has only one participant and every member to my knowledge voted and there was an appeal process where I was brought into



and information was provided that members that voted at that time were certainly qualified voting members.

**Rep. Conrad:** The fire chief's were the ones that went in there and did that. Is that your understanding?

**Ray Lambert:** That is not my understanding.

**Rep. Conrad:** How would you understand it?

**Ray Lambert:** I am not sure how that took place. I was aware of the vote and process after the fact.

**Rep. Koppelman:** You started out by telling us all the things that you weren't going to testify to and then your testimony essentially ended up being sort of a PHILOSOPHICAL statement about local control. I share that local control is very desirable and many of us in this body believe that. But the Legislature is the policy making branch of government and frankly as it has been discussed if it were not for the fact that this incident occurred and that this requirement is now in this International Code we wouldn't be standing here talking about this. There is a higher authority that has nothing to do with local government and nothing to do with state government; the higher body that said thou shall. So I see that falling to the legislature to look at that; which is what we are being asked to do and determine whether it is good public policy for ND. Would you then advocate not having any state building code and just allowing every local entity put together whatever they want?

**Ray Lambert:** Absolutely not. I think the process adopted in market code' which is in the International Building Code develop model codes and at the National level there is all representation from all over the state and they come together to adopt this thing. Once that standard is adopted then it is available for the state to adopt that standard with the ability to

exempt portions of it. To have the state adopt and work their own standards of codes, I could in no way support that process.

**Rep. Zaiser:** In your view you would support sprinkler based on that being part of the code. What factors did you consider when making that recommendation? Was there any social or economic consideration at all?

**Ray Lambert:** I think I misspoke. I would vote a do not pass on this bill because it limits the ability of local authority to adopt this or not in the future.

**Rep. Zaiser:** That led to your consideration on the bill.

**Ray Lambert:** I think these standards are good and they have an option to adopt them or not.

**Rep. Headland:** Did I understand you correctly. A state should be able to take something like the International Building Code and adopt or delete provisions in that code that they see fit?

Isn't that what this bill is trying to do?

**Ray Lambert:** The model code that is available from the International Building Code is the adopted standard that comes to the state for their review and adoption. The state and the committee that put it together can review it and adopt it. They can adopt or delete this code.

**Rep. Koppelman:** what you are really saying is that you have no problem with a state being able to make judgment on whether to exclude or include items included in that International Building Code. You just prefer it to be done by the elected policy making branch of the government. Is that right?

**Ray Lambert:** Certainly with respect to the legislative body and I do respect the process that has been put in place for many years. That particular process was highly praised the way it works. It would incur some additional costs and that would be reasonable. I would like them to at least have the opportunity to at least see what comes into the national standards and if

this bill passes then you would not have that opportunity for recommending that community to adopt the standard that would mandate residential home building sprinkler systems.

**Rep. Jerry Kelsh:** Did you testify on the senate side?

**Ray Lambert:** Yes I did. There is a word or two change but basically it is the same testimony.

**Joel Boespflug: ND Fire Chief's Association:**(see testimony #5).

**Rep. Koppelman:** Do you agree today about what we have heard about today leading up to this bill being introduced was a rather the requirement and process were unusual or extraordinary?

**Joel Boespflug:** I can't answer that. I don't know. I know there are people in the room that can answer that.

**Rep. Koppelman:** Just answer the question about the requirement. Do you feel this kind of requirement is extraordinary to require sprinklers in single family homes?

**Joel Boespflug:** I have seen the affects of fire and loss. I might not give you the wide range answer, but, no this is not surprising. I think this is a good move; however, timing is everything and now is not the time.

**Rep. Koppelman:** You obviously favor this idea but you think it is too much too soon or the climate isn't right for it and down the road you can educate people more and build more acceptances and make it happen and you prefer to do it through the process that exists according to your testimony. We meet every two years in the legislature. This bill is a prohibition, but it could in affect become a moratorium by you folks for someone else coming back in two years or four years and saying we are ready now. In the mean time people in the state wouldn't be subjected to what you are describing today as highly emotional and objectionable for that reason.

**Joel Boespflug:** From what I understand of due process you have always been very fair to us. When a community is ready and it is the right thing to do. I don't know the outcome of the future. When a gated community comes to the legislative body and that is made of person's outside that community to me it seems it is more a local issue. I don't know if I myself could convince the Fargo or Minot or other cities to allow us to do that.

**Rep. Zaiser:** As a means of compromise would you be supportive of some sort of take out the preemption and instead of that preemption ask for a process for a city or jurisdiction would have to choose in the code there is a system to go through right now and I think that would be for me a fair compromise.

**Joel Boespflug:** I think we have the process available now for that.

**Rep. Koppelman:** Do you have a sprinkler system in your own home and do you know do most fire chiefs have them?

**Joel Boespflug:** I do not. Most fire chief's do not. Most people do not because they did not have that choice and as it becomes one of the choices as we look into the future and the cost is \$1000-\$2000 to build a home and we reduce these concerns about freezing and water damage and what they can actually do I think that answers your question would be quite different. To specifically answer your question no.

**Rep. Koppelman:** It would be voluntary in current law now.

**Joel Boespflug:** You certainly could.

**C.J. Craven: Fire Chief, City of Minot:** I like the committee to know that I haven't been wined and dined. I got up at 5:30 and got down here and I haven't even had breakfast yet. I am here to tell my obligations to the bill. I am not going into details because I want to speak to local control on the local city government; and local fire department. We already have in place. I fully expect when building officials meet in a normal process that was opted the building code

for the state of ND they will alleviate this provision from the code as they have in the past when we talked about the energy efficiency part of it on the last bill. As you heard on the last bill this process works very well. The building officials and home owners association were very supportive of the process when we read the last bill. We do have an opted in opted out position. When the state eliminates this provision; then the city of Minot has the ability by which to go to my council and ask them to put it back in. If you pass a law; put it in the century code you are taking that ability away from all those citizens. The ones you disallow maybe would be the ones that want sprinklers. If you have a volunteer fire department and 15-20 minute response time then they maybe a very good option in the future for rural communities that do not have 3-5 minute response time from their fire departments. So there are a lot of issues that come into play with this. I think the process we have in place now is very good process and it gives everyone the ability to view their codes and adopt them if you want to.

**Rep. Koppelman:** are there many new homes being built in smaller cities near Minot?

**C.J. Craven:** Yes there are.

**Rep. Koppelman:** So they are growing rapidly.

**C.J. Craven:** Up until this year.

**Rep. Koppelman:** So would you advocate putting them in existing homes or new ones?

**C.J. Craven:** I don't believe it is possible to have them in existing homes. It is too much work and expense. Most of the new building codes are not retroactive. We have buildings in Minot that have building codes from many different areas unless they have a model for a certain extend they don't have to come to that in code. The one thing you should consider is that the homes we build today will be those homes in sixty years.

**Rep. Zaiser:** What about deleting the preempt part of this bill and putting an enabling section which will enable your city to put this in.

**C.J. Craven:** I would prefer that and leave it on the table. Once the cities remove this and I know they will remove it. This provision from the building code when the state adopts it. I think would be to sunset this bill and give us four years or so to work on these provisions. And I can speak Mr. Chairman to the question before. It is very difficult in my mind once a state law is passed to come back and have it removed. Now is the time we want to adopt this code and the city of Minot, Bismarck, Fargo would like the ability to do that if they so chose. That is what we are asking for. I know this is not the time to adopt this requirement. To pass a state law on a building code like this is going outside the process. The city is having changes to adopt them or delete them. The state has the ability through their building codes officials to adopt them or delete them. We don't need to take that process away and pass a state law to omit the building codes.

**Rep. Headland:** You said you know if we let the process move forward that this provision will be taken out of it. What happens if the industry goes to the length it did to corrupt the International Building Code here in ND?

**C.J. Craven:** I have the upmost confidence in the building officials of ND that they will not be corrupted by outside influences. I take exception to the testimony before about the fire chief's were wined and dined. The fire service in ND got not one vote in this process. The builders just testified in support of this bill got the rest of the votes. So if they pass it that would mean the building officials now favor this.

**Jerry Vein: Grand Forks Fire Marshal:** (see testimony #7).

**Lois Hartman: ND Firefighter's Association:** (see testimony #8).

**Maria Figueroa: National Fire Protection Association:** The reason I am here today is to speak in opposition of this bill. I spent the last 25 years as a firefighter in Miami Dave Fire Rescue. I have seen the devastation of what fires can do to people; their communities;

families etc. Described the years of service and incidents that occurred in her fire work. This is not based on emotion, but on facts. Residential fire sprinkler's save lives. People die in home fires every day. Over 3,000 people died last year. The amount of people we lost on September 11<sup>th</sup> we are losing every year to house fires. I want to dispel some of the comments that were made here such as \$7000 system. When we talk about commercial systems NCA13 and NCA-13D. NCA13 cannot be compared to NCA13D. NCA13D is designed to be able to run a water supply. I will grant you if it is a rural area it requires a pump with more pressure is required. What is price worth for life? When we talk about life we also talk about property damage. In direct cost last year in the US we had \$7.2 billion in direct loses and that does not include how long that home maybe off the tax base until it is rebuilt. When we talk about fire and what it does to the environment and how we know that sprinkler systems reduce the amount of loss. The average response time is seven to twelve minutes for firefighters. You know that in 1975 someone had approximately 17 minutes to exit a home that was on fire. Today because of the furnishings and the stuff we put into our homes we have 3 minutes or less. Maybe we can get out but you know who is dying in these home fires that don't have fire sprinklers is the kids under five years old; the older adults that are disabled because they are unable of self rescue. We are talking about the time the fire was discovered to the time that the rescue is here is 7-12 minutes on average and that is just not good enough. We talk about smoke alarms. We wish smoke alarms would take care of the problem but the smoke alarms only let them know there is a fire and provided those people are able to escape within those 3 minutes that is great; if they could hear the alarm go off. There are people that cannot hear and they can't self rescue. I want to talk about how that system was corrupted in Minneapolis. I was there. I am not a voting member because I retired from the fire service by then. But the IDC has a process that was exercised before Minneapolis in Rochester it

happened. The same thing happened and it came up for a vote; the home builders had enough people there to kill that bill. The fire service because we care because we are the ones that have to go in and rescue dead bodies and put out those fires. It is not only people that are dying but it is our firefighters; our brothers and sisters that are dying and that is why we oppose this bill. The firefighter organization put out information to come on down and use your right to vote for this thing which is right and that is what we did. The fire service came down and yes we won. It was not only the fire service. There were a lot of building officials. There was a mother there that said it would have cost her less for the sprinkler system than the flowers in her daughter's funeral. The NFCA totally opposes this bill. All model codes that are done by professional by consensus and by vote now contain the requirement. All of them now contain this code. This is just an attempt to kill what we need to do with just providing one side of the issue information as it pertains to their side. I would urge you to please allow the ones that adopted the opportunity that are stated in the code. Each community is different; allow the community to oppose it. You can pass this bill you are suppose to kill any opportunity that any community has to protect their city.

**Rep. Headland:** I do respect your passion on this issue. We just heard one of our fire chief's say that he knows this section will be taken out when they meet. My question to you do you see your organization and the same group that were able to get this language into the International Building Code; do you see that same effort being put forth in the future here in ND to ensure what you want gets put into it even though it has been stated previously that they fully intend to take it out?

**Maria Figueroa:** I think what I heard is that they would need it to be taken out because fire is just one representative in that scenario and the reason that could happen is because the public; and I blame us and the firefighter community for not having educated a community so



they are demanding this. Even fire chiefs that I have seen around the nation don't know that when one smoke alarm goes off they don't all go off. I do believe that they will be there so it doesn't be taken out because it is in all the fire codes and it is a life saving issue. We believe if we allow that process to take place with facts and education that people including home builders would be my hope that they talk about how safe they are building now. It is not the building that makes you die; it is stuff you put in the building that is burning and the things that people do to create fires. People don't die in garages or because of electrical fires. Most people die from smoking material, kitchen fires, heaters etc. Three of the four deaths were due to safety issues.

**Rep. Headland:** I know I don't have to remind the people that we do represent the public.

**Rep. Jerry Kelsh:** I think the issue here is the process that got us here and that would include the safety factors. We have had two very opposing testimony about how we got to this point and you were saying that earlier testimony was inaccurate; would that be a fair analysis of what you said? Of how this got included in the fire code.

**Maria Figueroa:** Both sides did offer scholarships for people who traveled and I think one side mentioned that because there were people who were sponsored who did not have money from Washington to go. Yes that did occur. By the same token the other side on the fire service that was sponsored to go up there was just sponsored to go. They were not told how to vote. I have actually seen where the other side actually was documented that they said if you are going to go; we will pay for you to go. That happened.

**Jeff Schawlow:** (did not sign registration). Executive Director of the IRC Coalition: I had not planned to testify today. I am one of the couple of people who were in the room in Minnesota.

My organization, the IRC Coalition was the organization that coordinated the effort to take many people to Minnesota to vote their conscience as ICC members. The facts that were

given you today at best were miss representative by someone that was not involved in the process. I am here to answer any questions anyone has in regards to what happened in Minnesota and who did it and how it was done. It was my organization that did it and I can answer any questions. The IRC Coalition is made up not of industry. We have 115 organizations from 44 states plus the general public safety interest groups such the Point Society for Burning, prevention and other similar public interest groups who join together. The fire service has been fighting for residential sprinklers for 30 years and they lack a coordinated effort to be able to advance this cause successfully in the International Residential System. We need to do something to address that. So we need to get together and form a group that can advocate effectively as a single unit. Actually all the IRC fire sprinkler coalition had been specifically formed long before the meeting in Minneapolis. First of all sprinkler formulas going into the code since the 1980's with multifamily requirements and eventually branching out to one or two family homes. Both of the IRC sprinkler coalition was formed, I hope you pay attention to this is that the year before the Minnesota the National Association of Home Builders put together a \$250,000 scholarship program for people to go vote against residential sprinklers at the meeting in Rochester, NY and they were able to successfully get enough people to prevent the 2/3 majority vote. Fifty six percent was not enough and the fire service did not get that final number and they reason they need a 2/3 majority vote and so much effort was put forth in this final meeting is because the National Association of Home Builders has a set side of four votes on a committee that determines the initial ordinance so there is already a five percent process with the Home Builders having a weighted disposition in their direction and the only way to undo that is to generate a 2/3 vote at the final action hearing. When the home builders said they were going to put quarter million dollars to funding people to go to final action hearing to make sure that nobody gets a 2/3 vote that is when we responded. I will tell

you our funding program that we put together was put together because the documentation showed that home builders were giving money to individuals and most of those individuals who had agreed in advance to go against fire sprinkler requirements. Our program funded anybody that went would acknowledge that they would not vote for or against sprinklers. I guarantee you there were a lot of people that went on our funding program that voted against sprinklers and for those who think it was just the fire groups you can go to the website and see there are three national and three statewide building officials associations, New York, New Hampshire and ours that went on record as statewide associations supporting us up. It goes far beyond the fire service. There were lots of miss trusts. I think one compelling reason to not do this in ND today is because you will kill the potential to have a rule for residential sprinklers by signing you will never have market competition if people who are installing fire sprinklers look at ND and say it is prohibited by statue there will never be a market there. People will not go into the business. You will not see the costs come down as they have in other states. If you leave the process in place, as everybody has said, with the influence of people who are not willing to support sprinklers at this time in ND, it is not going to go forward. Its requirement in the code doesn't even kick in until January 1, 2011. We don't need to do anything today. If you leave the market as it are people will get into this business? Building contractors and sprinkler contractors. You will see the costs that took smoke alarms from well over \$100 originally to \$5 or less today. For the people who want to voluntarily install the systems today. You citizens of ND; shouldn't you have the right to let the market place bring the costs down? I got involved in this through the habitat to humanity with the installation of more than 75 sprinkler systems in habitat homes. Our systems go in as combined cold water fire sprinkler systems. Those systems cost \$.50 per sq. ft. to go in. That is labor and materials. They don't have to be expensive, if they are installed in a cost efficient manner and if you have market forces in place

they would be a handoff to our coalition to site an example for ND taking the insurance and tax cut and added cost of the system that I put in conservatively with the national average of \$1.61 sq.ft. The net cost to a home owner for a fire sprinkler system would be \$5/month. That same home owner is paying \$750/year for insurance that they may never use. \$5/month is a very small amount to pay to protect their family and property from fire. Whether you want to or whether you are required to be not the issue today. The issue today please don't kill the market in ND for the citizens here to have the opportunity to have the costs come down.

**Rep. Corey Mock:** I heard in earlier testimony that any major renovation to a property and as I am looking to purchase a house. If I was going to renovate a property; would I or anyone else as a home owner that is renovating or major reconstruction are required to install sprinklers?

**Jeff Schawlow:** Absolutely no. That was a specific item in the code. It says new. While some requirements in the code to kick in under remodel this specific requirement was deliberately limited to new. The reason being that the infrastructure required bringing new water supply into a house during a remodel is far different than adding more water or smoke alarms or something else. Absolutely remodel conditions do not require fire sprinklers under the International Residential Code.

**Rep. Headland:** If we don't pass this bill and allow the market to develop. I think markets are driving by demand. Currently anybody can put a sprinkler system in. If the demand was fair why would we not have \$5 sprinkler system heads today? You are asking us to create a mandate to create your market.

**Jeff Schawlow:** I am absolutely not asking this. That is already in the code. All I am asking you to do is let your process work and not make sure that there is never an opportunity for people who want to put these systems in to do it in a cost effective fashion. One of the things

the home owner will consider voluntarily installing the system is the cost. If you have enough contractors here to cover and there is no market the cost will be high and even people that want to put them in will not be able to do so.

**Neutral:**

**Connie Sprynczynatyk:** ND League of Cities: I just want to ask you to consider two things. First of all the league is made up of all the incorporated cities in this state and within those cities we have professional groups. As you can see this morning we have professional groups that agree and disagree to what this bill intends. I will simply acknowledge that. On the senate side asked them to present their case. You know the league always had heartburn when there is a mandate whether it says thou shall not or thou shall. As you can see this bill would take away the opportunity for local discussion. Did you all get a copy Jim Gilmour's letter? (See testimony #9). Let me just have you ask yourself two questions and that is directly what currently state law is. 5421.3 is the state building code section and surprisingly it is short, but brief; by policy of the legislative body you have established a building code advisory committee and you already have been informed about that and how it works. We have already heard testimony that for both sides that our process; the state advisory code committee will accept everything from the International Code and anything coming from outside the state and decides whether or not to recommend it as part of the state building code. If you go to page 2 of your bill look at lines 22, lines 22-25 that would be the area. Right now we have the ability to customize the state building codes. We do not have to adopt it wholesale. We can decide what works and what doesn't work. So I isolate my concerns to that portion. We would say if you allow the process to go forward you will work as well as it have worked.

**Chairman Wrangham:** I have to make a personal comment. I am not a big fan of special interests getting together and putting together what codes or whatever you want to call them

that are intended eventually to become public policy. In the discussion here this morning has not helped me get over that.

Hearing closed.

# 2009 HOUSE STANDING COMMITTEE MINUTES

## Bill No. SB 2354

### House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: March 13, 2009

Recorder Job Number: 10909

Committee Clerk Signature



Minutes:

**Chairman Wrangham** opened the hearing on SB 2354.

**Rep. Nancy Johnson:** I am trying to figure out a ways to not have a mandate that you search anyone and we should include that. I must admit it is not pulling together very good.

**Rep. Koppelman:** I do think if the bill is amended to include this I think we are defeating the purpose so I think the testimony that we heard is pretty compelling. If this becomes an issue in my view in a few years where these systems are widely available and common place and affordable and it is advisable to put them in the code we meet every two years and we know that interested parties are going to come before us and if we can change this at some point in the future so I think for now it is good legislation given the circumstances we were told about.

**Do Pass Motion Made By Rep. Koppelman: Seconded By Rep. Jerry Kelsh:**

**Discussion:**

**Rep. Corey Mock:** With all due respect I think there are concerns regarding the process that took place in Minneapolis. I agree with Rep. Koppelman concerns and I agree we can never consider it very true. In lieu of what you also said Rep. Koppelman you also said regarding we don't know where the technology will go regarding what the ET drafting local jurisdiction. I think we have seen Rep. Johnson's amendments do consideration and at least give up the

local jurisdictions to actually approve it; which denies unless approved by the legislative jurisdiction addresses the concerns. In all due respect I also think it would be nice to discuss the amendment that addresses the consideration of the opponent and the supporters of the bill and all the time they have taken researching it. I would like to see it amended. I think it would address a lot of the concerns and would perhaps give up the ability to (inaudible)

**Rep. Zaiser:** Your clause would allow cities to opt in to the code? Am I correct?

**Rep. Nancy Johnson:** Yes that is correct. It would be a mandatory not unless the city opted in. I learned this morning that Grand Forks, Fargo and Bismarck automatically adopt the International Building Code and they would already have to remove this requirement and that is the problem I had this morning and I did not have the change to get this worked through.

**Chairman Wrangham:** My understanding is the city's can adopt stricter standards than the state building code.

**Rep. Koppelman:** What Rep. Johnson has just said the crooks of the problem? We have many localities around our state. Years ago we subscribed to this International Building Code and as we talked about during the hearing that makes a lot of us a little bit nervous just to give some unaccountable third party out there somewhere in the country or the world the authority to buy reference dictate ND law and ND standards and that is what is occurring. You have all heard about the process and you can draw your own judgment as to whether that meeting was hijacked; or undue influence, whether people were paid to come and vote a certain way and that was the only thing they came to vote for. They did not stick around for the hundreds of votes etc. I wasn't there and I don't know I have heard the same things you heard. There are enough questions in my mind from hearing the testimony that we heard that that process wasn't pristine; apparently and if that is the case we represent the people of ND and we set the public policy for ND. I think this is good legislation now. I think if we don't do this now we are



setting up lobbying that we partly heard about in every community in ND. I don't think we want to subject our state to that.

**Rep. Conrad:** Is there any hope for that amendment or is it just a risk to say we can change it in two years the easiest way to do it?

**Rep. Nancy Johnson:** If those three cities automatically adopt the code they are requiring it themselves right now. My concern is the process is now required and the state building code authority will have to take a look at that and have the option of pulling that. I think it is workable.

**Rep. Conrad:** I am very concerned about us making this amendment going forth. I want to be on the record that this is a very unusual situation and we wouldn't do it except that it would be very costly. I would support the bill without making some amendments because I don't know if we can get the amendments to do what I would like to do.

**Chairman Wrangham:** We do have a do pass on the floor as our proletarian.

**Rep. Kretschmar:** For discussing the motion it is fine.

**Chairman Wrangham:** If we are discussing the motion do pass can an amendment be placed?

**Rep. Kretschmar:** Yes it is OK after the do pass.

**Chairman Wrangham:** do you want to offer an amendment?

**Rep. Nancy Johnson:** I do not have the right wording. I have worked with legislative council.

**Chairman Wrangham:** Can you have it done by this afternoon after session.

**Rep. Nancy Johnson:** I honestly at this point don't think there is an amendment that would work.

**Rep. Corey Mock:** I too have a couple of amendments drafted. I don't know how much we are going to get. I had one for a study and I had one on the code. The code itself doesn't take

effect until 2011. Other states are doing a similar process and banning it statewide. I think we have some time on our hands. Perhaps if it is easier for the committee to pass it that we essentially put a clause on it and see what other states do. If it becomes a thorn in its side of every that government that passed so if it is enacted people legislation and turn it into a study again and coming back in two years determine if this is true. I am concerned we are moving too quickly and reactionary and stepping into state government again. I don't think sprinkler systems should be in single family dwellings, but I also have concerned about how quickly this body is moving on prohibiting this down the line. I would like us to take a look at it and see if this is the most appropriate course of action and if we can't draft legislation that Rep. Johnson seems to be an improvement, then I would move that have tons of time; **there is an expiration date of January 31, 2011. Seconded By Rep. Zaiser.**

**Rep. Koppelman:** I am going to resist the motion for the amendment. If I heard the date correctly we have a problem because July 31, 2011 would put us in the next legislative session so I think it is a problem because what it would do it postpone the effective date of this legislation and I really think it is a clear enough issue that if people have concerns they are going to be back. Typically you put a sunset clause in so you come back and revisit and industry is clearly energized on this and trying to get it right so I think they will be back.

**Rep. Jerry Kelsh:** The code won't go in affect for two years so I think if we are going to put an expiration date I think to allow things to work and take a look at what happens I think we will be back.

**Rep. Kilichowski:** I am going to oppose the amendment too. I looked at the cities that automatically get dropped into the International Building Code. Maybe they should look at what they are getting into. They don't have to adopt that code.

**Chairman Wrangham:** this amendment would be for the sunset.

**Rep. Corey Mock:** I do want to comment on the fact the expiration date is giving it a trail. It is a larger issue. If there is concern that Rep. Kelsh's concern that two years may not be enough; I would withdraw my motion for this. Seconded withdrawn. Now I would **move to amend it and have Section 2 state expiration dates would be January 31, 2013.**

**Seconded By Rep. Zaiser. Vote 5 Yes 8 No Failed.**

**Do Pass Motion Made By Rep. Koppelman: Seconded By Rep. Jerry Kelsh:**

**Vote: 12 Yes 1 No 0 Absent Carrier: Rep. Koppelman:**

**Rep. Corey Mock:** My no vote was more a protest vote. I think we could have discussed it more.

Hearing closed.

**PROPOSED AMENDMENTS TO SENATE BILL NO. 2354**

Page 1, line 2, after "codes" insert "; and to provide an expiration date"

Page 2, after line 30, insert:

**"SECTION 2. EXPIRATION DATE.** This Act is effective through July 31, 20~~17~~<sup>13</sup>, and after that date is ineffective."

Renumber accordingly

Date: 3/13/09  
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2354

**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. Koppelman Seconded By Rep. Keish

Representatives	Yes	No	Representatives	Yes	No
Ch. Wrangham	✓		Rep. Conrad	✓	
Vice Chair Rep. Headland	✓		Rep. Keish	✓	
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. Koppelman

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

Date: 3/13  
 Roll Call Vote #: 1+2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2354

**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 Mock Seconded By Rep Zaiser

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) 5 No 8

Absent \_\_\_\_\_

Floor Carrier: \_\_\_\_\_

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

*withdrawn Jan 31, 2011 -  
 changed to Jan 31, 2013.*

**REPORT OF STANDING COMMITTEE (410)**  
March 13, 2009 1:08 p.m.

**Module No: HR-46-4833**  
**Carrier: Koppelman**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2354: Political Subdivisions Committee (Rep. Wrangham, Chairman) recommends DO PASS (12 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2354 was placed on the Fourteenth order on the calendar.**

2009 TESTIMONY

SB 2354



# }



**National Fire Protection Association**

Denver Regional Office, P.O. Box 325, Castle Rock, CO 80104  
Phone: 303-663-5550 • Fax: 303-663-5551 • www.nfpa.org

Testimony of:

**David Nuss**  
*Denver Regional Manager*  
*National Fire Protection Association*

January 29, 2009

RE: SB 2354 - OPPOSE

Dear Chair Andrist Members of the Political Subdivision Committee:

I write to express my strong opposition to SB 2354, a bill that hinders local fire authorities from determining the best fire protection policy for their communities. This is a serious public safety issue.

Local fire authorities rely on an array of tools, such as automatic fire sprinklers, to combat the threat of fire and provide their public safety service. Local fire protection policy is based on issues such as local fire department deployment capabilities, environmental concerns, firefighter safety needs, response-time goals, insurance services rating needs, and many other issues. Home fire sprinklers can impact all of these firefighting tactics and strategies. If passed, this bill will remove a valuable tool used by fire departments to meet their needs in providing the best public safety service to their communities.

Additionally, this bill is in direct contrast to all national model building, fire and life safety codes. This bill will withhold the life-saving benefits of home fire sprinklers from the citizens in North Dakota.

Each year, approximately 3,000 people die in home fires in the United States – more than all of the fatalities from natural disasters annually. Sprinklers would have saved the vast majority of these fire victims because sprinklers play a significant role in limiting life and property loss when a fire happens.

The fact is that home fire sprinklers save lives through a proven technology. SB 2354 ignores the success of this proven technology. I urge you – for the sake of public safety – to vote NO on SB 2354.



January 29<sup>th</sup>, 2009

Mr. Chairman and members of the committee, my name is Rick Graba. I am a Fire Captain with the City of Bismarck and the North Dakota State Advocate for the Courage to Be Safe So Everyone Goes Home Program. I am here today representing President Ed Grossbauer and over 400 brothers and sisters of the, IAFF affiliated, Professional Fire Fighters of North Dakota. PFFND members proudly serve and protect over 45% of North Dakota's population in Fargo, Bismarck, Bismarck Rural Fire Protection District, Grand Forks, and Minot.

The PFFND is here today in opposition of SB2354. In the past 30 years, more than 100,000 people, including many firefighters, have been killed by fires in unsprinklered homes. IT'S TIME to end this needless loss of life with a prudent solution. Each year, more than 100 firefighters are killed in the line of duty in the United States, and approximately 100,000 firefighter injuries are reported. To that end, the United States Fire Administration has adopted a goal of reducing firefighter fatalities by 50% within the next 10 years. To address the issues concerning firefighter injuries and deaths, a National Safety Summit was held in 2004. As a result of the summit, The National Fallen Firefighters Foundation has identified 16 Life Safety Initiatives that will help reduce needless firefighter injuries and Line of Duty Deaths. Initiative #15 states that "Advocacy must be strengthened for the enforcement of codes and the installation of home sprinklers."

- The fire service must embrace and advocate the need for residential sprinklers in their community.
- Fire service leaders must work hard to educate their local and state officials to pass sprinkler ordinances.

The Home Builders' Association's campaign against the installation of residential sprinklers is based on fear by scaring people into believing that homes will become unaffordable if installation of residential sprinklers becomes mandatory in single and two-family dwellings. National Institute of Standards and Technology, NIST has conducted a cost-benefit analysis of residential sprinkler systems and the reality is that the costs are not nearly what the homebuilders would have the public believe. The cost only goes down in communities that have had the code established for 5 years or more, to as low as one example of \$0.38/sq. ft. in a city that has had such a code for 30 years. The case for the installation of residential sprinklers has been further supported by the National Fire Protection Association, NFPA in their Fire Sprinkler Cost Assessment. In addition to the excessively high predictions made by the home builders, there is not any recognition on their part of the facts and benefits,

### **The Facts**

- In 2006, 66% of fire deaths and more than 25% of firefighter on-duty deaths occurred in one- and two-family dwellings.
- The available time to escape a flaming fire in a home has been significantly reduced, from an average of 17 minutes in 1975 to as few as 3 minutes in 2003. Modern furnishings burn fast, and smoke alarms may no longer warn in time for occupants to escape.
- Lightweight construction endangers occupants and firefighters. Sprinklers protect lightweight construction.
- When both fire sprinklers and smoke alarms are present in a home, the risk of dying in a fire is reduced by 82%, when compared to a residence without either.
- In almost 2,000 fire incidents in homes protected with fire sprinklers, NO fire related deaths were reported during the 2002-2005 reporting period.
- Home owners are saving 7% on average, on their insurance premiums for discounts granted homeowners with fire sprinklers.

Fires take more US civilian lives every year than all of the natural disasters combined and most of those lives are taken in the residential setting where the installation of residential sprinklers would be particularly effective. Furthermore, looking to the future, codes requiring the installation of residential sprinklers in single and two-family dwellings would seem likely to spur an expansion or even the creation of jobs in the construction industry as businesses grow to accommodate the new code, rather than hinder development, as many city administrators are concerned. The mission of the fire service is to Save Lives and Protect Property. We are interested in what the mission of the home builders is? Our perception is profits; unfortunately, the two do not always meld. The widespread use of residential sprinklers **will** improve outcomes for civilians and decrease firefighter injuries and Line of Duty Deaths while providing financial benefits as witnessed in cities that have adopted residential sprinkler ordinances. The Professional Firefighters of North Dakota ask that this committee to Oppose SB 2354 and recommend a "DO NOT PASS!"



INSPECTIONS DIVISION  
200 3<sup>rd</sup> Street North  
Fargo ND 58102  
Phone: 701-241-1561  
Fax: 476-6779

January 27, 2009

SENATOR JOHN M ANDRIST  
CHAIRMAN, POLITICAL SUBDIVISIONS COMMITTEE  
AND  
COMMITTEE MEMBERS

Re: Senate Bill 2354

Please accept this as constituting my written testimony in support of SB 2354 which represents my personal position as well as that of the city of Fargo.

**The proposed SB2354 which would prohibit any jurisdiction from requiring automatic sprinkler systems in one and two family dwelling should receive your "do pass" recommendation for the following reasons.**

**Your pass recommendation will assure uniformity across the state of North Dakota by eliminating the possibility of pockets of the state requiring sprinkler systems while other areas of the state do not. Uniformity will also foster better and more consistent enforcement statewide as well as overall cost savings from predictable code requirements and enforcement.**

**It will recognize that a statewide residential sprinkler requirement is not wanted by our citizen-consumers. You will perhaps hear that home owners want safety regardless of cost. However, the option to install sprinkler systems has been around for a very long time and consumers are not electing to spend the money for these systems. A public information and awareness campaign needs precede state or local requirements to install these systems in residences.**

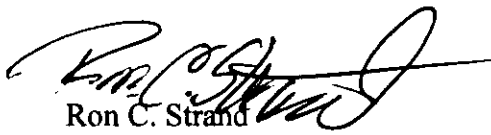
**It will recognize that the state of our economy and the construction of homes will be seriously compromised should sprinklers be required in homes at the present time. At an estimated \$4,000 to \$8,000 additional cost for inclusion of this system within a home, many potential home buyers will be priced out of the market and fewer homes will be built despite the fact that these homes are needed.**

**It will recognize that the costs of installation for these sprinkler systems will not be offset by insurance savings. The maximum savings on an annual home insurance premium is from 3 to 5% of that annual premium, a payback period of from 20 to 33 years. Within that time the owner, in all probability would have to have invested additional time and effort into testing and possible rehabilitation of the system which would not be without further cost.**

It will recognize that the construction of a sprinkler system in your home should be a personal not governmental decision. Before requirements for these systems are enacted, the public should be informed and aware of the positive and negative aspects of the systems. Then the time may have arrived for code requirements mandating these systems in homes. However, there has been no effort to inform the public. In the absence of that informational effort this bill should be passed to avoid premature adoption of a sprinkler requirement by any level of government in this state.

**With these ideas in mind we respectfully request that your committee report this bill with your do pass recommendation**

Sincerely,



Ron C. Strand  
Inspections Administrator

Fargo/Moorhead



Ray Ziegler  
President  
221 5 St N  
Bismarck, ND 58502  
(701) 258-2070



**NORTH DAKOTA  
BUILDING  
OFFICIALS  
ASSOCIATION**

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Past President  
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24

Bruce Taralson  
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Fargo, ND 58102  
(701) 476-4147

Todd Johnson  
Secretary/Treasurer  
1900 4<sup>th</sup> St. N.  
Wahpeton, ND 58075  
(701) 642-6565

**Testimony in support of SB 2354**

**Chairman and Fellow Political Subdivision Committee Members**

My name is Ray Ziegler and I am the President of the North Dakota Building Officials Association.

Prior to becoming involved in code enforcement, I was a city councilman in a small town. During my six years of community service, we went through the process of adopting a building code.

The main reason we adopted a code was to have a means of condemning rundown dilapidated structures. Our goal was not only to clean up the town but more importantly to create some attractive lots for people to hopefully build new homes on.

At the time we adopted the code we really had no idea what was in the entire code and I remember comments from fellow councilmen like, "There's 300 pages of pretty technical stuff here, and we're going to need to hire a building inspector to enforce this." We talked to other towns, asked questions and really did the best we could with the limited resources we had. Through the process of dealing with the unknowns, we took comfort in the fact that this code was recommended by the State and being used in other communities.

The point I need to make here is that for a small town with very limited resources we had to make decisions by trusting conclusions that others have come to. We simply did not have the resources and manpower like the big city of Fargo to research every aspect of the code. At the time, we were grateful for the big cities like Fargo and the State for protecting our interests.

Looking back now and realizing that if we would have adopted a code that mandated home sprinklers, it would have crushed our goals to create affordable lots for new homes. We banked on increased tax revenue from those new homes, maybe new families to increase school enrollment and all the other side effects that go with it.

When all is said and done the smaller communities rely on the State to adopt a code that can be reasonably enforced. By passing this bill, you will continue to help the small communities in their quest for affordable housing and warn off outside special interest groups and their private agendas.

Sincerely

Ray Ziegler



**Testimony in Support of Senate Bill 2354  
Senate Political Subdivisions Committee  
January 29, 2009**  
**Doreen Riedman, Executive Officer  
North Dakota Association of Builders**

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**STAFF**

- Doreen Riedman, Executive Officer  
Sandra Neiss, Administrative Assistant



Chairman Andrisc and members of the Senate Political Subdivisions Committee, the North Dakota Association of Builders (NDAB) asks for your support of Senate Bill 2354 which will keep residential sprinklers from being required in one- and two-family dwellings in our state.

The NDAB represents over 2,000 members statewide with employees numbering approximately 43,000. We are affiliated with five local builders associations in Bismarck-Mandan, Dickinson, Fargo-Moorhead, Grand Forks, and Minot; and are all part of a larger federation, the National Association of Home Builders (NAHB), which has over 200,000 members.

This legislation has been brought forward in response to an effort funded by fire sprinkler manufacturers that now requires residential sprinkler systems in all one- and two-family dwellings and townhomes.

It's not necessarily a move we want to make -- to halt cities, townships, and counties from adopting their own building codes -- but the fire sprinkler industry forced this upon us, and now we're trying to put the brakes on this runaway train. They put the requirement in the 2009 International Residential Code, much to the dismay of the building industry and most of the building officials. And now we're taking this step to put the code back to where it was before this travesty occurred to the code process.

**The story behind the ICC hearings:**

The International Code Council held their annual hearings and voting process last September in Minneapolis. During the weeklong voting process, at which building officials from across the country vote on various code issues, the process was hijacked by the fire suppression industry -- the folks who sell the sprinkler systems.

- Over 500 votes took place during the weeklong process. Each voting member was given a device on which to cast their vote at each hearing. On the day of the fire sprinkler vote, there was



a surge of new devices handed out. The vote on fire sprinklers totaled 1,753 from both sides; immediately following the vote over 1,200 devices were turned in. These 1,200 voters were flown in, put up for the weekend, wined and dined, and given a memorial trophy that said, "Thanks for your vote." All of this in order to purchase a vote in their favor.

**What this legislation will do:**

- Eliminate the need for each city, township, and county to amend out this section of the International Residential Code that was forcibly added during the tainted voting process.
- It will protect smaller communities that may unwittingly adopt the 2009 IRC.
- By making this decision once, at the state legislative level, we are dealing with this issue that has been emotional, and has been fueled and funded by the fire suppression industry – the folks who sell sprinkler systems.
- No one wants to be the one to have to have to present the amendment to remove this in their jurisdiction. They'll invite criticism from citizens who don't know the whole story, as well as the press who may attempt to sensationalize this with the help of the fire sprinkler industry.
- You will see the influence they have on the fire chiefs of some of the cities in our state. They represent some, but not all, of the larger cities in our state.
- It will still give individuals the right to install such systems in their homes if they wish.

We're looking out for our state and its interests. We're not asking for anything new here – we just want to go back to where we were before all this happened.

**The Opposition will...**

- Overstate the effectiveness of residential sprinklers by not addressing the leading factor in the safe evacuation of the occupants in a fire – the early warning provided by the smoke alarms.
- Dismiss homebuilders' and the public's concerns over design, installation, inspection, maintenance, effectiveness, and ultimately housing affordability nationwide.
- Draw on the emotions of city commissioners, citizens, and the press in every city in this state to make sure this doesn't get amended out at local levels, unless we pass this bill.

Look at the facts – the data doesn't bear this out. Then follow the money, and you'll see where this is coming from.



This Week at BAM/SPECIAL EDITION ICC UPDATE

From the Desk of Pam Perri Weaver

Monday, September 22, 2008

### **Fire Sprinkler Requirements for Single Family Residences Pass Overwhelmingly at the ICC Hearings This Weekend in Minneapolis.**

The homebuilders were out maneuvered this weekend by the fire fighters. The International Code Council (ICC) Final Action Hearings were held in Minneapolis and delegates voted early Sunday morning to add fire sprinkler requirements in all new single-family and multi-family residences in the 2009 International Residential Code.

The vote on single-family sprinkler requirements was 1,282 to 407.

The vote on multi-family sprinkler requirements was 1,220 to 488.

NAHB and others worked hard to get the proponents to acknowledge statistics but to no avail. No testimony would have been able to sway the votes in the room yesterday morning.

How could this happen? The ICC prides itself on vetting all code issues through a lengthy code committee process made up of code officials and industry professionals that analyze data, review scientific research, take testimony and debate the difficult issues of safety over cost. After thorough analysis, the committee determined that the data on fire sprinkler systems do not justify the cost. The ICC code committee therefore recommended to its members that they vote against fire sprinkler mandates.

However, the vote that took place this weekend at the Final Action Hearings was radically different from the recommendation. It was different because fire sprinkler manufacturers and plumbers/pipe fitters funded an organization called the IRC Fire Sprinkler Coalition who gave out travel money to fire fighters and anyone else they could to increase the votes. You can check out the coalition at <http://www.ircfiresprinkler.org/>.

This organization took advantage of the ICC process and paid travel and hotel expenses for fire fighters from all across the country. The fire fighters were instructed to vote on four fire sprinkler code proposals out of the 500+ being considered at the Final Action Hearings. Vote they did on Sunday morning and then they promptly left the room.

This coalition literally bought the code change.

While Minnesota laws prevent any public official from receiving this kind of "perk," many states do not have the same requirements. North Carolina is a case in point. They sent over 100 fire fighters to Minneapolis, paid for by plumbers and the Coalition. I know because I sat between two of them who told me exactly that. They also showed me their voting guide.

Can they do that? The ICC voting process allows that only representatives from government entities are able to vote in the Final Action Hearings. The IRC Fire Sprinkler Coalition took advantage of this provision and worked to qualify as many voters as possible to get a win on this issue.

The voting process, while legitimate according to ICC voting rules, was an awesome display of an industry using their influence and money to purchase a code change. They stood behind the bravery of fire fighters and the emotional testimony of victims and waived the banner of public safety at all costs. Some even had the audacity to point their fingers at home builders, accusing *them* of being greedy for fighting the change.

How cowardly that they are unwilling to tackle what the fire data is suggesting; that it is older homes that are more at risk for fires. If this group really wanted to address safety, the code would be changed to require that all homes be sprinklered. However this would require fighting real, existing homeowners rather than future "phantom" homeowners.

A colleague from the HBA in Michigan wrote in response to the vote, "The NAHB estimates had a residential sprinkler system been required in every residential dwelling in 2005, the sprinkler industry would have benefited to the tune of \$5,787,990,000. Yes, that's five billion, seven hundred and eighty-seven million, nine hundred and ninety thousand dollars in just one year. While the roughly \$185 million dollars the sprinkler industry did make by sprinkling 52,664 homes that year is an impressive chunk of cash, it's just pocket change from a child's piggy bank compared to what they could force consumers to cough up if sprinklers are mandated in all new homes."

Don't get me wrong; I am not calling foul play. I just want to make sure that when you hear the proponents of fire sprinklers say, "It's in the ICC recommendation and therefore it is legitimate." The real story is that the vote was bought and paid for by the fire sprinkler manufacturers and is not representative of the building code officials' perspective on the issue.

This will now become a state issue. We may be fighting this at the legislature or during the code process. We need to be ready for both. The BAM government relations and code committees will need to determine a strategy.

This time, BAM will have to fight to remove the sprinkling provisions from the 2009 IRC rather than fight to keep them out. I know NAHB will be working to assist us in any way possible and we do have the state law and a recent Minnesota Supreme Court decision on our side. Municipalities cannot require any building code provision that is stricter than the Minnesota State Building code.

Here is a piece of advice for all of us: perhaps it's good time to buy stock in TYCO, one of the largest manufacturers of fire suppression systems in the US. While Minnesota will fight this code proposal, if this code is adopted in many states or in many local jurisdictions, and our colleague in Michigan is right, at least we can make money in the stock market.



## Testimony in Support of Senate Bill 2354

**John Gunkelman, President**  
**North Dakota Association of Builders**

My name is John Gunkelman, the owner of Dakota Construction of Fargo, and president of the North Dakota Association of Builders. I've been a builder for over 30 years, and build primarily custom homes in the Fargo area.

### Sprinklers In Residences Are Unjustified

- Current trends in fire incidents do not warrant the installation of fire sprinklers.
- Home fires continue to decline despite the growth in housing stock. *(see attached chart)*
- Fire injuries and deaths continue to decline despite population growth. *(see attached chart)*
- Incidents can be further reduced with new safer housing stock, maintenance of existing smoke alarms, and fire safety education.
- Fires occur in less than four tenths of one percent of existing one-and two-family homes in given year.
- In North Dakota, since 2000, there have been 28 fire-fatalities in single-family dwellings. Of those, **95 percent had non-operating smoke alarms**, and none of those were in newly-constructed homes.
- Advances in construction practices and materials, the effectiveness of smoke alarms, and fire prevention and education efforts are working.

### New Homes are Safer

- Mandating fire sprinklers doesn't target homes where fire deaths are occurring.
- New technology and modern building codes make today's new homes safer.
  - fire blocking
  - draft stopping
  - emergency escape and rescue openings
  - electrical circuit breakers

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Deen Riedman,

Executive Officer

Sandra Neiss,

Administrative Assistant



- outlet spacing and capacity
- fire walls and fire separation
- adequate heating systems and energy efficient homes
- interconnected hardwired smoke detection systems

- More concern should be given to older homes with nonfunctioning smoke detectors or no prevention at all.
  - must be reached through education and public outreach
  - very few fire deaths occur in homes with working smoke alarms
  - smoke alarm technology continues to improve
- We must remember...**we build our homes to the building code, not the fire code.**

## Smoke Alarms Work

• US Fire Administration and National Fire Protection Association data continue to affirm that the majority of home fire fatalities occur when there are no operational smoke alarms.

• Installing and maintaining smoke alarms are the most practical, cost effective and proven way to reduce home fire fatalities in the U.S.

### Building Code Requirements and Changes Smoke Detectors - 1970s to Present

1967 National Building Code	No requirements for smoke detectors.
1976 National Building Code	1 smoke detector required.
1979 Southern Building Code	1 smoke detector required.
1983 CABO 1- & 2-Family Dwelling Code-	1 smoke detector in sleeping areas (i.e., hallway outside of bedrooms), and smoke detector must be hardwired (not just battery).
1986 CABO 1- & 2-Family- Dwelling Code -	Smoke detectors now required on each story of structure and in the basement.
1989 CABO 1- & 2-Family Dwelling Code -	No changes to the smoke detector requirements.
1992 CABO 1- & 2-Family Dwelling Code -	Smoke detectors are required to be interconnected; if one alarm sounds, they all sound.
1995 CABO 1- & 2-Family Dwelling Code -	Smoke detectors are now required in each sleeping room in addition to other current requirements.

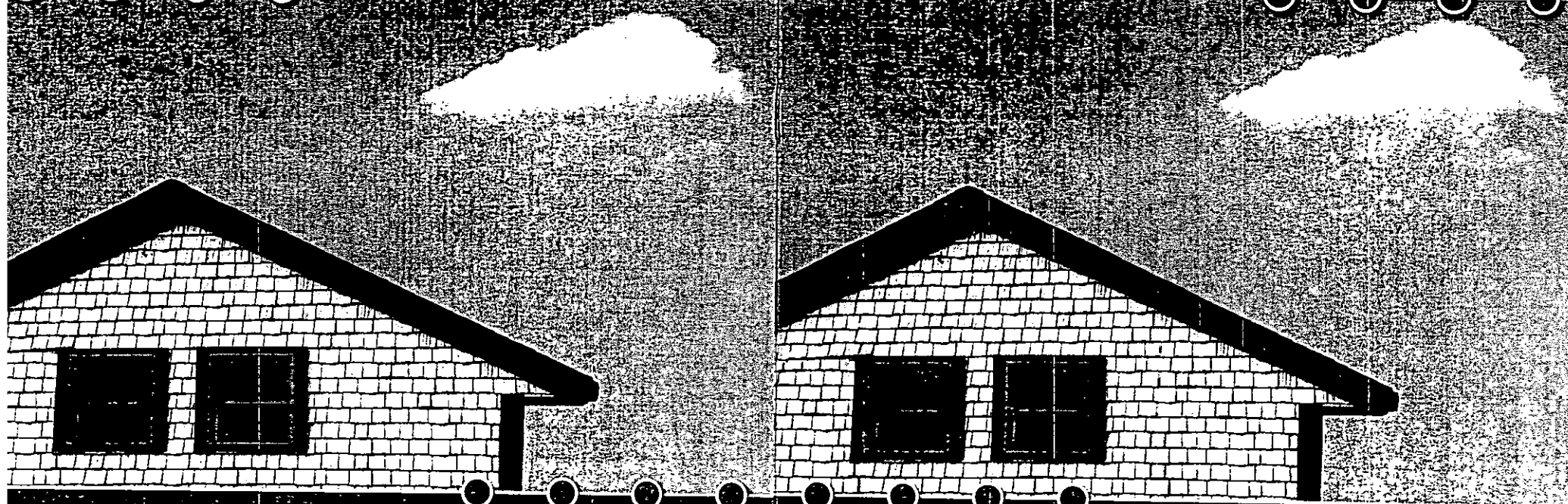
## Significant Concerns with Sprinklers

- Complicated design requirements - who designs the system?
- Difficult design in some types of home construction
- Manufacturers have different specifications on coverage areas, operating pressures, and flow rates of their sprinkler heads
- Limited water connection options - especially in rural areas
- Ongoing monthly and yearly consumer maintenance
- Failures due to non-operational systems as they age
  - water shut off, inadequate maintenance, blocked or painted heads, obstructed water distribution, frozen systems.

- Risk of freezing pipes during power outage
- Who certifies the system upon certificate of occupancy? Especially in rural areas where there are no inspections?
- And one of the biggest concerns is that of affordability. This would make housing costs out of reach for even more North Dakotans. (*see Housing Affordability Report and Press Release with Habitat for Humanity's opposition to residential sprinklers*)

I ask for your support of Senate Bill 2354.

# STATE OF AFFORDABLE HOUSING IN NORTH DAKOTA



## 2008 REPORT



**North Dakota  
Housing Finance Agency**

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**North Dakota  
Housing Finance Agency**



Center for  
**Technology  
Business**



North Dakota has clearly achieved an unprecedented level of economic growth and diversity over the past decade. In 2008, the growth surged as several industries – most notably energy and construction – experienced favorable conditions and brought new workers into the state to fill employer demands. The population expansion and dramatic employment increases created stresses in the state's housing market, especially in western North Dakota.

The stresses are demonstrated by the rise in median home values from 2005 to 2007 compared to the rise in median household income. While median home values increased at a rate of 20.5 percent during that period, median household income grew only 6.6 percent. That disparity is contrasted with the relatively uniform increase of both numbers from 2000 to 2005, when both grew approximately 19 percent (page 3).

This report also demonstrates how homeownership and even rent payments are out of reach for low- and fixed-income North Dakotans (pages 5-6, 8, 10-13). While North Dakota's housing market is not in the dire straits of some other states, this report does show that low- and fixed-income North Dakotans are finding it increasingly difficult to afford available housing.

Complicating the picture is the lack of precise information regarding rent prices. The report uses the Fair Market Rent (FMR) for each North Dakota county published by the U.S. Department of Housing and Urban Development (HUD) to represent current rent levels. FMR is the best available comprehensive and standardized data, but those familiar with the state's rental prices will readily identify that the numbers used in this report are substantially lower than the actual market conditions. Users of this report should apply their knowledge of the local rental market to the occupational wage data presented here to fully understand the difficulties faced by low- and fixed-income North Dakotans.

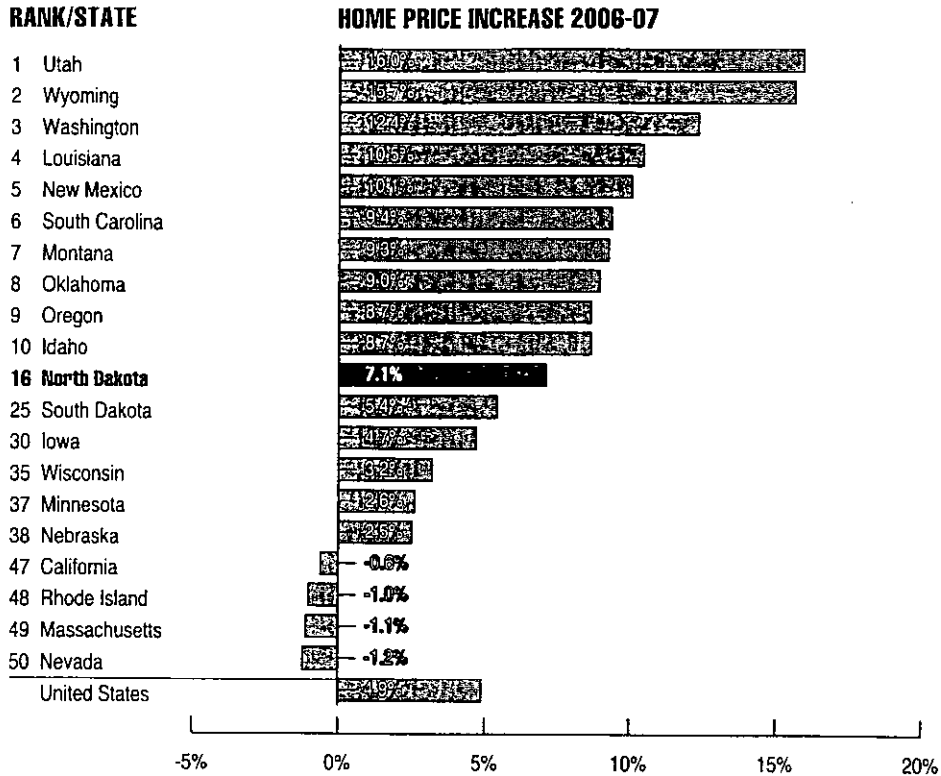
Occupations chosen for this report were intended to represent a cross-section of low- to middle-income North Dakotans. They are occupations present in every community, regardless of size. Where possible, data for recipients of Social Security retirement benefits are also presented to demonstrate the challenges faced by fixed-income citizens.

By presenting this information, the sponsors of this report seek to increase awareness of the housing situation in North Dakota and allow all interested parties to better address the critical issue of affordable housing in the state. Continued economic expansion and social well-being depend on affordable housing and the responsive public policy needed to support it.



## NORTH DAKOTA HOME PRICES VS. OTHER STATES

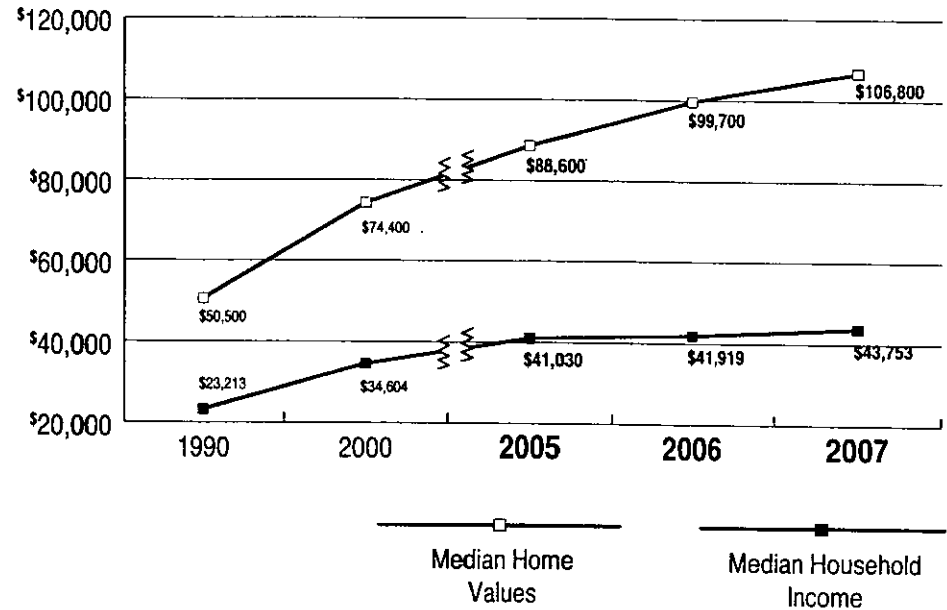
At 7.1 percent, North Dakota experienced the nation's 16th highest home price increase between 2006 and 2007. The western third of the U.S. led the way for the nation, with Utah, Wyoming, Washington, New Mexico, Montana, Oregon and Idaho all in the top ten for percentage growth.



Source: American Community Survey, U.S. Census Bureau

## MEDIAN HOME VALUES VS. MEDIAN INCOME

Median home values rose 20.5 percent between 2005 and 2007, while median household income grew 6.6 percent. From 2000 to 2005, the two numbers rose fairly evenly, 19.1 percent for median home value and 18.6 percent for median household income.

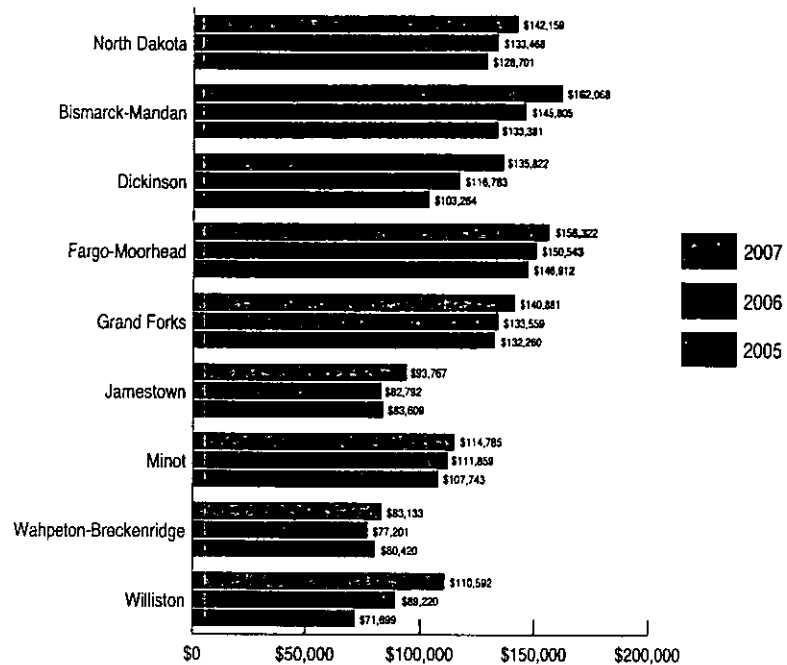


Sources: American Community Survey, U.S. Census Bureau  
Decennial Census, U.S. Census Bureau

The percentage increases in the western cities – Williston, Dickinson and Bismarck-Mandan – is substantially higher in 2006 and 2007 than in the state's other cities, where growth is steadier and less extreme.

The average home sale price in Williston rose by 24 percent in both 2006 and 2007. In those same years, the average price in the Dickinson area rose 13 percent and 16 percent, respectively. Fargo, meanwhile, experienced more moderate growth, with 2.5 percent in 2006 and 3.8 percent in 2007.

In the state overall, the average home sale price rose 3.7 percent in 2006 and 6.5 percent in 2007.

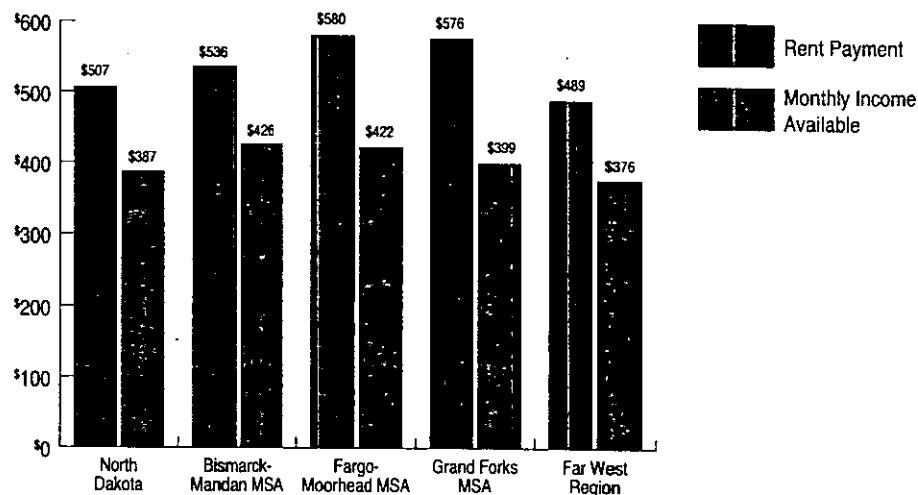


Source: Multiple Listing Service, North Dakota Association of Realtors

Rental and wage data indicate that entry-level workers in North Dakota have a difficult time renting a two-bedroom apartment on their own.

Disparities exist throughout the state between a cashier's median wage and the income needed to afford the rent on a two-bedroom apartment. However, the greatest disparity exists in the Grand Forks MSA, where a cashier's median wage is only 69 percent of the amount needed to afford rent on a two-bedroom apartment.

The graphs below assume a household can afford to spend 30 percent of its income on housing.



**Notes:**

- Assumes individual allocates 30% of gross income to housing costs.
- Rent cost represents a two-bedroom rental unit, using HUD's Fair Market Rent.
- The Far West Region includes the western North Dakota counties of Adams, Billings, Bowman, Divide, Dunn, Golden Valley, Hettinger, McKenzie, Slope, Stark and Williams. It contains the cities of Dickinson, Williston, Warford City, Crosby, Tioga, Bowman and Hettinger.

**Sources:**

Fair Market Rent: U.S. Department of Housing & Urban Development (HUD), 2007  
 Monthly Wage: Occupational Employment Survey, Job Service North Dakota, 2007

Many households with a single wage earner have difficulty affording the payment on an average priced home in their community. Many of the occupations included here can afford the rent on a two-bedroom apartment, but only when a second wage earner is included in the household.

Disparities exist throughout the state and vary between occupations. Similar details for selected areas of the state are presented in the Appendices.

NORTH DAKOTA				
	SINGLE INCOME		DUAL INCOME	
	MEDIAN MONTHLY WAGE	MONTHLY AMOUNT AVAILABLE TO SPEND ON HOUSING	MONTHLY WAGE WITH 2ND EARNER	MONTHLY AMOUNT AVAILABLE TO SPEND ON HOUSING
Carpenter	\$2,607	\$782	\$4,432	\$1,330
Cashier	\$1,331	\$399	\$2,263	\$679
Child Care Worker	\$1,433	\$430	\$2,437	\$731
Dental Assistant	\$2,489	\$747	\$4,231	\$1,269
Heavy Truck Driver	\$2,872	\$862	\$4,883	\$1,465
Police Officer	\$3,448	\$1,034	\$5,861	\$1,758
Retail Salesperson	\$1,574	\$472	\$2,676	\$803
Soc. Sec. Beneficiary	\$1,087	\$326	\$1,848	\$554

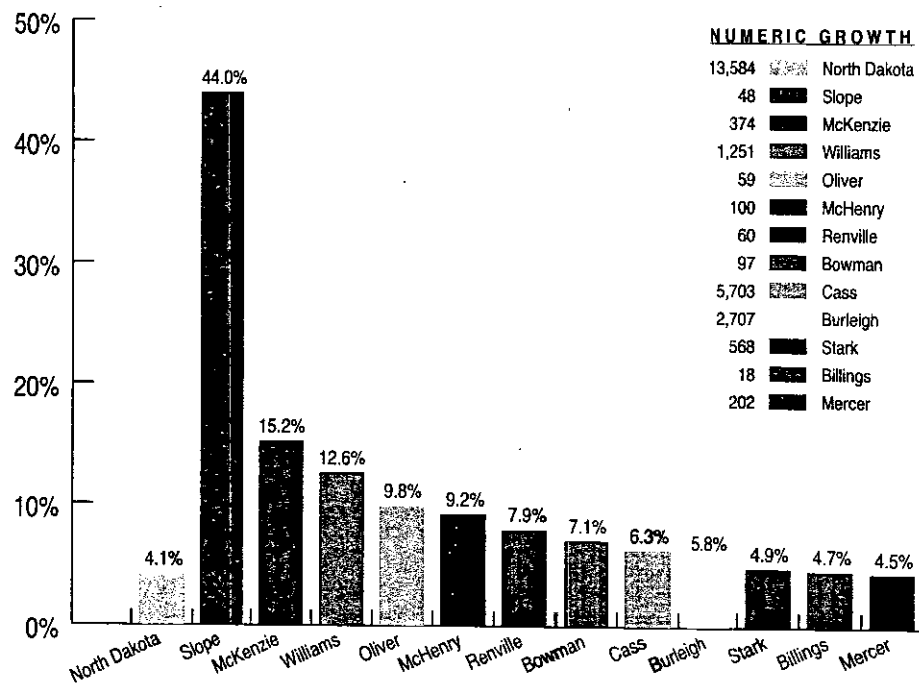
Fair Market Rent on 2-Bedroom Apartment: \$507  
 Monthly Payment on an Average Sale Price Home: \$1,067

- Notes:
- Assumes the wage of the second earner in the household is 70% of the primary earner's wage.
  - Rent cost represents a two-bedroom rental unit, using HUD's Fair Market Rent.
  - Assumes 5% down payment, 6.5% interest rate on a 30-year, fixed-rate mortgage, plus allocation of 25% of the monthly payment to property taxes, insurance and other costs such as PMI. Also assumes an individual allocates 30% of gross income to housing costs.

Sources:  
 Average Home Sales Price: North Dakota Realtors Association, MLS Listings, 2007  
 Fair Market Rent: U.S. Department of Housing & Urban Development (HUD), 2007  
 Wages: Occupational Employment Survey, Job Service North Dakota, 2007  
 Social Security Benefit: Social Security Administration, Average Retired Worker Benefit, September 2008

Employment in North Dakota grew 4.1 percent from 2005 to 2007, which translated to 13,584 new jobs being added to the state's economy. The largest employment increases came in the central and western parts of the state, as Slope, McKenzie, Williams, Oliver and McHenry were all among the fastest-growing. The employment surge in those parts of the state followed the growth in the energy industry.

Numerically, Cass County grew the most during that time period with 5,703 new jobs, followed by Burleigh County with 2,707 new jobs and Williams County with 1,251 new jobs.



Source:  
 Quarterly Census of Employment & Wages, Job Service North Dakota, 2007

## EMPLOYMENT GROWTH AND HOUSING AFFORDABILITY BY INDUSTRY

The average employee in every industry is able to afford the rent on a 2-bedroom apartment, with the exception of employees in Accommodation and Food Service. Home affordability is another matter, with employees in only four industries – Mining, Management, Finance and Insurance, and Wholesale Trade – able to afford an average sale price home.

NORTH DAKOTA								
	Q1 2006 Employment	Q1 2008 Employment	Numeric Change	Percent Change	Average Monthly Wage	Monthly Amount Available to Spend on Housing	Can Afford to Rent a 2-BR Apt	Can Afford to Buy an Avg. Sale Price Home
All Industries	326,103	340,910	14,807	4.5%	\$2,825	\$848	YES	NO
Accommodation and Food Services	27,103	29,222	2,119	7.8%	\$945	\$283	NO	NO
Health Care and Social Assistance	49,957	51,854	1,897	3.8%	\$2,973	\$892	YES	NO
Administrative and Waste Services	12,149	12,880	731	6.0%	\$1,850	\$555	YES	NO
Management of Companies and Enterprises	3,683	4,318	635	17.2%	\$5,811	\$1,743	YES	YES
Professional and Technical Services	12,339	13,305	966	7.8%	\$3,311	\$993	YES	NO
Finance and Insurance	15,394	16,447	1,053	6.8%	\$3,939	\$1,181	YES	YES
Transportation and Warehousing	10,965	11,808	843	7.7%	\$3,263	\$979	YES	NO
Retail Trade	42,318	42,920	602	1.4%	\$1,846	\$554	YES	NO
Wholesale Trade	18,641	19,241	600	3.2%	\$3,917	\$1,175	YES	YES
Manufacturing	25,981	26,602	621	2.4%	\$3,532	\$1,060	YES	NO
Construction	15,825	17,858	2,033	12.8%	\$3,137	\$941	YES	NO
Mining	4,209	5,641	1,432	34.0%	\$6,309	\$1,893	YES	YES

Fair Market Rent on 2-Bedroom Apartment: \$507

Monthly Payment on an Average Sale Price Home: \$1,067

### Notes:

- Rent cost represents a two-bedroom rental unit, using HUD's Fair Market Rent.
- Assumes 5% down payment, 6.5% interest rate on a 30-year, fixed-rate mortgage, plus allocation of 25% of the monthly payment to property taxes, insurance and other costs such as PMI. Also assumes an individual allocates 30% of gross income to housing costs.

### Sources:

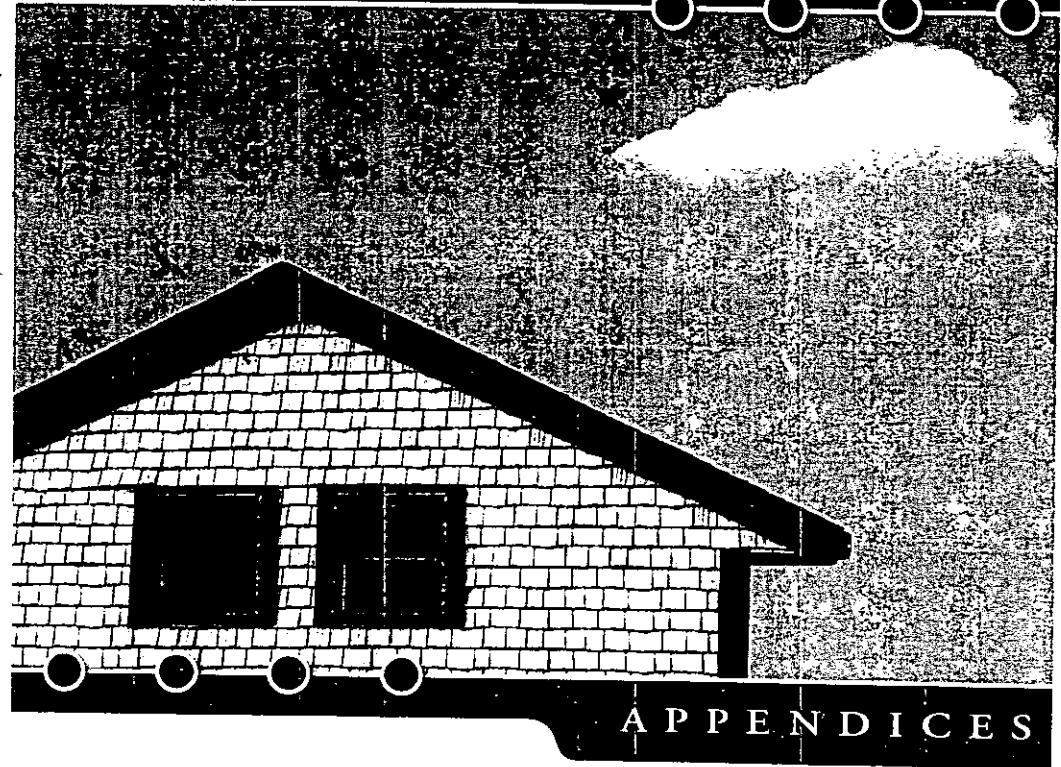
Average Home Sales Price: North Dakota Realtors Association, MLS Listings, 2007

Fair Market Rent: U.S. Department of Housing & Urban Development (HUD), 2007

Employment: Quarterly Census of Employment & Wages, Job Service North Dakota, Qtr 1 2006 & Qtr 1 2008

Wages: Quarterly Census of Employment & Wages, Job Service North Dakota, Qtr 1 2008

## STATE OF AFFORDABLE HOUSING IN NORTH DAKOTA



## BURLEIGH COUNTY

	SINGLE INCOME		DUAL INCOME	
	MEDIAN MONTHLY WAGE	MONTHLY AMOUNT AVAILABLE TO SPEND ON HOUSING	MONTHLY WAGE WITH 2ND EARNER	MONTHLY AMOUNT AVAILABLE TO SPEND ON HOUSING
Carpenter	\$2,427	\$728	\$4,125	\$1,238
Cashier	\$1,406	\$422	\$2,390	\$717
Child Care Worker	\$1,463	\$439	\$2,487	\$746
Dental Assistant	\$2,603	\$781	\$4,426	\$1,328
Heavy Truck Driver	\$2,525	\$758	\$4,293	\$1,288
Police Officer	\$3,467	\$1,040	\$5,893	\$1,768
Retail Salesperson	\$1,624	\$487	\$2,761	\$828

Fair Market Rent on 2-Bedroom Apartment: \$536

Monthly Payment on an Average Sale Price Home: \$1,216

## Notes:

- Assumes the wage of the second earner in the household is 70% of the primary earner's wage.
- Rent cost represents a two-bedroom rental unit, using HUD's Fair Market Rent.
- Assumes 5% down payment, 6.5% interest rate on a 30-year, fixed-rate mortgage, plus allocation of 25% of the monthly payment to property taxes, insurance and other costs such as PMI. Also assumes an individual allocates 30% of gross income to housing costs.
- Wage represents the entire metropolitan statistical area (MSA) of which the county is a part.

## Sources:

Average Home Sales Price: North Dakota Realtors Association, MLS Listings, 2007  
 Fair Market Rent: U.S. Department of Housing & Urban Development (HUD), 2007  
 Wages: Occupational Employment Survey, Job Service North Dakota, 2007

## CASS COUNTY

	SINGLE INCOME		DUAL INCOME	
	MEDIAN MONTHLY WAGE	MONTHLY AMOUNT AVAILABLE TO SPEND ON HOUSING	MONTHLY WAGE WITH 2ND EARNER	MONTHLY AMOUNT AVAILABLE TO SPEND ON HOUSING
Carpenter	\$2,616	\$785	\$4,447	\$1,334
Cashier	\$1,420	\$426	\$2,413	\$724
Child Care Worker	\$1,394	\$418	\$2,369	\$711
Dental Assistant	\$2,775	\$833	\$4,718	\$1,415
Heavy Truck Driver	\$2,926	\$878	\$4,974	\$1,492
Police Officer	\$4,053	\$1,216	\$6,889	\$2,067
Retail Salesperson	\$1,657	\$497	\$2,817	\$845

Fair Market Rent on 2-Bedroom Apartment: \$580

Monthly Payment on an Average Sale Price Home: \$1,173

## Notes:

- Assumes the wage of the second earner in the household is 70% of the primary earner's wage.
- Rent cost represents a two-bedroom rental unit, using HUD's Fair Market Rent.
- Assumes 5% down payment, 6.5% interest rate on a 30-year, fixed-rate mortgage, plus allocation of 25% of the monthly payment to property taxes, insurance and other costs such as PMI. Also assumes an individual allocates 30% of gross income to housing costs.
- Wage represents the entire metropolitan statistical area (MSA) of which the county is a part.

## Sources:

Average Home Sales Price: North Dakota Realtors Association, MLS Listings, 2007  
 Fair Market Rent: U.S. Department of Housing & Urban Development (HUD), 2007  
 Wages: Occupational Employment Survey, Job Service North Dakota, 2007

## GRAND FORKS COUNTY

	SINGLE INCOME		DUAL INCOME	
	MEDIAN MONTHLY WAGE	MONTHLY AMOUNT AVAILABLE TO SPEND ON HOUSING	MONTHLY WAGE WITH 2ND EARNER	MONTHLY AMOUNT AVAILABLE TO SPEND ON HOUSING
Carpenter	\$2,695	\$809	\$4,582	\$1,375
Cashier	\$1,290	\$387	\$2,192	\$658
Child Care Worker	\$1,302	\$391	\$2,213	\$664
Dental Assistant	\$2,635	\$790	\$4,479	\$1,344
Heavy Truck Driver	\$2,645	\$794	\$4,497	\$1,349
Police Officer	\$3,799	\$1,140	\$6,459	\$1,938
Retail Salesperson	\$1,532	\$460	\$2,605	\$781

Fair Market Rent on 2-Bedroom Apartment: \$576  
 Monthly Payment on an Average Sale Price Home: \$1,057

- Notes:
- Assumes the wage of the second earner in the household is 70% of the primary earner's wage.
  - Rent cost represents a two-bedroom rental unit, using HUD's Fair Market Rent.
  - Assumes 5% down payment, 6.5% interest rate on a 30-year, fixed-rate mortgage, plus allocation of 25% of the monthly payment to property taxes, insurance and other costs such as PMI. Also assumes an individual allocates 30% of gross income to housing costs.
  - Wage represents the entire metropolitan statistical area (MSA) of which the county is a part.

Sources:  
 Average Home Sales Price: North Dakota Realtors Association, MLS Listings, 2007  
 Fair Market Rent: U.S. Department of Housing & Urban Development (HUD), 2007  
 Wages: Occupational Employment Survey, Job Service North Dakota, 2007

## FAR WEST REGION

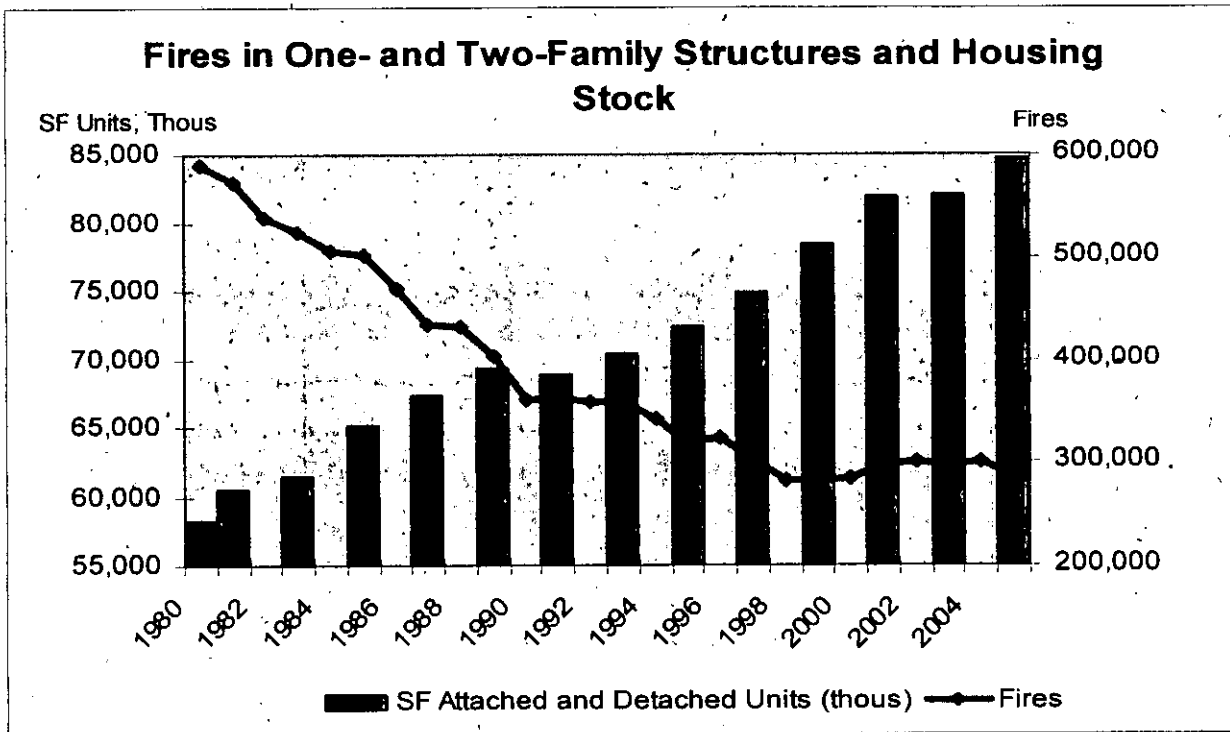
	SINGLE INCOME		DUAL INCOME	
	MEDIAN MONTHLY WAGE	MONTHLY AMOUNT AVAILABLE TO SPEND ON HOUSING	MONTHLY WAGE WITH 2ND EARNER	MONTHLY AMOUNT AVAILABLE TO SPEND ON HOUSING
Carpenter	\$2,467	\$740	\$4,193	\$1,258
Cashier	\$1,253	\$376	\$2,130	\$639
Child Care Worker	\$1,557	\$467	\$2,646	\$794
Dental Assistant	\$1,917	\$575	\$3,259	\$978
Heavy Truck Driver	\$3,214	\$964	\$5,463	\$1,639
Police Officer	\$3,139	\$942	\$5,336	\$1,601
Retail Salesperson	\$1,740	\$522	\$2,958	\$888

Fair Market Rent on 2-Bedroom Apartment: \$489  
 Monthly Payment on an Average Sale Price Home: \$915

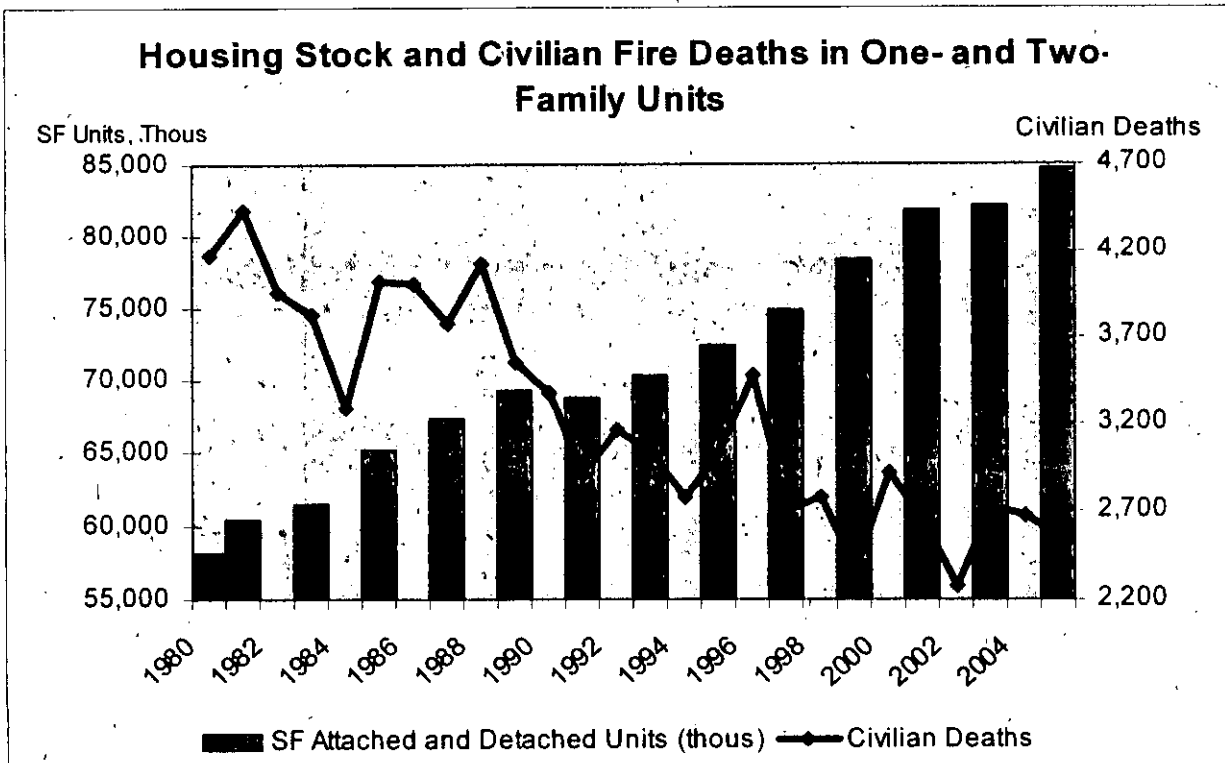
- Notes:
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  - The Far West Region includes the western North Dakota counties of Adams, Billings, Bowman, Divide, Dunn, Golden Valley, Hettinger, McKenzie, Slope, Stark and Williams. It contains the cities of Dickinson, Williston, Watford City, Crosby, Tioga, Bowman and Hettinger.

Sources:  
 Average Home Sales Price: North Dakota Realtors Association, MLS Listings, 2007  
 Fair Market Rent: U.S. Department of Housing & Urban Development (HUD), 2007  
 Wages: Occupational Employment Survey, Job Service North Dakota, 2007

# The Decline in Home Fires



# Decline in Home Fire Fatalities



Home > [Newsroom](#) > Habitat For Humanity, NAHB Say No To Fire Sprinkler Mandates

## HABITAT FOR HUMANITY, NAHB SAY NO TO FIRE SPRINKLER MANDATES

Normal View

**September 17, 2008** - As members of the International Code Council (ICC) prepare to vote on proposed changes to model building codes, Habitat for Humanity International and the National Association of Home Builders (NAHB) urge these members not to mandate fire sprinklers for all new homes.

Right now, fire sprinklers for one- and two-family homes and townhouses are optional in the International Residential Code, which most jurisdictions in the United States use as the basis of their own building codes.

Concerns over design and maintenance issues, along with expenses related to upkeep and use, have led code officials and other voting members of the Council to disapprove past proposals from residential fire sprinkler manufacturers, installers and other advocates to mandate these systems. Habitat and NAHB are urging these ICC members to do so again at the final code hearings scheduled for next week in Minneapolis.

"Our concerns center on the potential of pipes being susceptible to freezing in colder climates, damage from the accidental discharge of sprinklers and the availability of an adequate water supply in areas served by wells or where water is a scarce resource," said Sandy Dunn, NAHB president and builder in Point Pleasant, W. Va. "Some homeowners may choose to have them installed anyway, but that's where these systems should remain: as a choice, not a mandate."

Elizabeth Blake, senior vice president of advocacy, government affairs and legal with Habitat for Humanity echoed this concern, "Our affiliates build all across the country and around the world. Mandating fire sprinklers fails to recognize their varying needs, and runs the risk of requiring something that may be impractical for some of our partner families."

"Habitat's mission is to provide simple, decent and affordable shelter for families," said Blake. "Each home we don't build due to an added and unjustified regulatory requirement such as this can leave yet another family in substandard housing."

Both Habitat and NAHB encourage all home owners to check their own alarms regularly and to support community initiatives to install and maintain smoke alarm systems in all homes. In fact, recent studies from the National Fire Protection Association conclude that about 890 fatalities could be avoided each year if every home had at least one working smoke alarm.

"Advances in fire-resistant building materials and heating and electrical systems, emphasis on fire safety education and requirements for hard-wired smoke alarm systems have combined to make new homes safer than ever, Dunn said.

Consumers can visit [www.smokealarmswork.org](http://www.smokealarmswork.org) for more information.

About Habitat for Humanity International: Habitat for Humanity International is an ecumenical Christian ministry that welcomes to its work all people dedicated to the cause of eliminating poverty housing. Since its founding in 1976, Habitat has built nearly 300,000 houses worldwide, providing simple, decent and affordable shelter for more than 1.5 million people. For more information, visit [www.habitat.org](http://www.habitat.org).



#7

Testimony on Senate Bill 2354  
Political Subdivision Committee  
By Raymond Lambert, North Dakota State Fire Marshal  
January 29, 2009

Good morning, Mr. Chairman and Members of the Political Subdivision Committee, I am Raymond Lambert, North Dakota State Fire Marshal. This position falls under the North Dakota Office of Attorney General. I am here this morning to give testimony in opposition to the passage of Senate Bill 2354. My testimony does not center on the merits of installing residential sprinklers in single-family dwellings. Nor do I intend to discuss the cost of installation of a residential sprinkler system into single-family dwellings or the effect it may have on future sales in the open market of these particular type residences.

I am here to give testimony in opposition of Senate Bill 2354 as it clearly states that if passed the state, cities, counties, and townships would not retain the ability to manage and adopt their own codes. If passed, the state, cities, counties, and townships will be unable in the future to adopt codes that will require the installation of a residential sprinkler system into single-family dwellings. With the ongoing changes and updates in both the building code and fire codes at the national level that are available for adoption at the local level, the trend is toward requirement of installation of residential sprinklers in single-family dwellings.

The adoption processes currently in place for building codes and fire codes from the state level down to the local level have been in place for many years and

are well established. The adoption of Senate Bill 2354 into law would disrupt this process. If adopted, the state, cities, counties, and townships would lose the ability at the local level of government to adopt and function with the codes they desire.

It is my belief that government working at its best from the local level up is an ideal situation and has produced the best standards of governing throughout the state. Therein lies the gist of my opposition to the change in North Dakota law Chapters 54-51.3-03 that would prohibit the state, the cities, the counties, and the townships at the grass roots level to continue the ability to adopt the codes and standards that best suit each individual community. I feel passage of Senate Bill 2354 will set back the opportunity of the local governing bodies to do what they do best, that is provide the safest and most affordable community for their citizens.

Mr. Chairman and Members of the Political Subdivision Committee, I thank you for the opportunity to appear before you to provide my testimony in opposition of passage of Senate Bill 2354. I would be happy to answer any questions at this time.

Raymond Lambert  
North Dakota State Fire Marshal

**Testimony on Senate Bill 2354**  
**Senate Political Subdivisions Committee**

Joel Boespflug,  
North Dakota Fire Chief's Association

January 29, 2009

Good morning Mr. Chairman and members of the committee. My name is Joel Boespflug, and I am representing the North Dakota Fire Chief's Association in opposition to SB 2354.

We have a great amount of respect for the building officials and builders as they are valuable stakeholders to us in the development of reasonable life safety regulations. The building officials have welcomed fire chiefs to provide input and share information during the State Building Code adoption process, we don't have the authority to vote on the amendments but we at least appreciate the opportunity to discuss life safety regulations that have an effect on both of our professions. On the local level we promote interaction with builders and stakeholders prior to the adoption of code revisions to describe the intended level of safety and to ensure that the objective is both achievable and reasonable.

On the state level, this bill overrides the procedures and processes used in considering State Building code amendments with a preemptive prohibition. Fire sprinklers are only one component of the life safety codes and a deviation from the state process may lead to mass complex code issues in the legislative process. At the local level, the principle of local jurisdictional control of fire and life safety issues is violated. Local jurisdictions have to consider many factors, including cost of providing services, citizen expectations for service, sustainability of growth, etc. Building and Fire codes are but a few of the "tools" that local elected officials use to manage these issues, this preemptive law will likely have unintended consequences.

The process of community fire protection planning produces unique situations for each local jurisdiction. A primary objective for the fire service is to contain a fire to its room of origin and to engage in a fire attack prior to "flashover", a fire point where no human can survive and the fire extends beyond the room of origin. This life saving objective is most commonly achieved by deploying the appropriate amount of firefighting resources with minimal response time. Consider this scenario, a local jurisdiction expands to an area where topography is very challenging because of hills and valley. However, because of the views afforded by the hills and valleys, this area is considered prime real-estate and homes tend to be large and of high value. However, the fire response times to this area are longer, due to prohibitive expense of developing a robust street network. There are ways of addressing the growth:

1. Build a fire station in that area. Due to the low population density of the area from sparse road inter-connections, the station would serve very few people at a high expense to all property owners in the city.
2. The city could prohibit further development in the area, knowing that minimum and expected service levels will not be provided, or
3. Allow development to occur, but require fire sprinklers in the development properties. The early fire control provides vastly improved life safety and effectively mitigates the increased risk. However, SB 2354 would prohibit this local option and is restrictive to growth and development opportunities.

The ND Fire Chief's Association is not aware of any local fire department that is ready to recommend to their governing body that residential fire sprinklers be required. We believe that fire sprinklers are an excellent life safety tool, and we recognize the importance of partnering with building officials, builders, homeowners, and installers in a joint-effort to expand fire sprinkler education for the public, installers and regulatory officials. We are hopeful that the partnership will result in lower installation costs, and ultimately result in residential fire sprinklers being considered a reasonable and acceptable life safety provision for some communities.

ND Fire Chief's Association  
SB 2354

Mr. Chairman and members of the committee, the ND Fire Chief's Association respectfully recommends a Do Not Pass on this bill. Thank you for your patience and time this morning, I will be happy to answer your questions.

# Testimony on Senate Bill 2354

## Senate Political Subdivisions Committee

Peter O'Neill  
Grand Forks Fire Chief

January 29, 2009

Good afternoon Chairman Andrist and members of the committee. My name is Peter O'Neill and I am representing the interests of the Grand Forks Fire Department, as the Fire Chief, and speak in opposition of SB 2354.

We have had the misfortune to lose four residents in home fires in the past year in the City of Grand Forks and also have had two serious injuries to occupants. Though passionate in my own professional beliefs, I am not here to debate the merits of Fire Sprinklers.

The reason I have stayed this afternoon to testify, is to only ask for the opportunity to have the discussion, in the future, to meet with all interested parties within my community to discuss building code as it relates to residential fire sprinklers. After these discussions, again I stress in the

future, we can then determine, on a local level, whether or not to mandate residential sprinklers.

I believe it important to point out, that as the Fire Chief in the City of Grand Forks, many questions must be answered and concerns addressed before even I would recommend the adoption of this code.

At risk of repeating myself, if SB 2354 passes, the community of Grand Forks will not be given the opportunity to even discuss the merits of sprinklers and the lives they may save.

Chairman Andrist and members of this esteemed committee; I truly thank you for the opportunity to address this issue and respectfully ask you to recommend a DO NOT PASS on SB 2354. This has been a long day and I am totally impressed with your patience and willingness to hear the issues and would be happy to answer any questions to the best of my knowledge.



#2

**Testimony in Support of Senate Bill 2354  
House Political Subdivisions Committee  
March 5, 2009**

**Doreen Riedman, Executive Officer  
North Dakota Association of Builders**



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Lori Wilson, Administrative Assistant

Chairman Wrangham and members of the House Political Subdivisions Committee, the North Dakota Association of Builders (NDAB) asks for your support of Senate Bill 2354 which will keep residential sprinklers from being required in one- and two-family dwellings in our state. This legislation will not prevent homeowners from installing sprinkler systems in their homes, if they so desire.

The NDAB represents over 2,000 members statewide with employees numbering approximately 43,000. We are affiliated with five local builders associations in Bismarck-Mandan, Dickinson, Fargo-Moorhead, Grand Forks, and Minot; and are all part of a larger federation, the National Association of Home Builders (NAHB), which has over 200,000 members.

This legislation has been brought forward in response to an effort funded by fire sprinkler manufacturers that now requires residential sprinkler systems in all one- and two-family dwellings and townhomes.

It's not necessarily a move we want to make - to halt cities, townships, and counties from adopting their own building codes - but the fire sprinkler industry forced this upon us, and now we're trying to put the brakes on this runaway train. They put the requirement in the 2009 International Residential Code, much to the dismay of the building industry and most of the building officials. And now we're taking this step to put the code back to where it was before this travesty occurred to the code process.

**The story behind the ICC hearings:**

The International Code Council held their annual hearings and voting process last September in Minneapolis. During the weeklong voting process, at which building officials from across the country vote on various code issues, **the process was hijacked by the fire suppression industry - the folks who sell the sprinkler systems.**



- Over 500 votes took place during the weeklong process. Each voting member was given a device on which to cast their vote at each hearing. On the day of the fire sprinkler vote, there was a surge of new devices handed out. The vote on fire sprinklers totaled 1,753 from both sides. Then, immediately following the vote, over 1,200 devices were turned in. These 1,200 voters were flown in, put up for the weekend, wined and dined, and given a memorial trophy that said, "Thanks for your vote." All of this in order to purchase a vote in their favor. *(More details attached from my counterpart at the Builders Association of Minnesota who was in attendance.)*

**What this legislation will do:**

- Eliminate the need for each city, township, and county to amend out this section of the International Residential Code that was forcibly added during the tainted voting process.
- It will protect smaller communities that may unwittingly adopt the 2009 IRC.
- By making this decision once, at the state legislative level, we are dealing with this issue that has been emotional, and has been fueled and funded by the fire suppression industry – the folks who sell sprinkler systems.
- No one wants to be the one to have to have to present the amendment to remove this in their jurisdiction. They'll invite criticism from citizens who don't know the whole story, as well as the press who may attempt to sensationalize this with the help of the fire sprinkler industry.
- You will see the influence they have on the fire chiefs of some of the cities in our state. They represent some, but not all, of the larger cities in our state.
- It will still give individuals the right to install such systems in their homes if they wish.

We're looking out for our state and its interests. We're not asking for anything new here – we just want to go back to where we were before all this happened.

**The Opposition will:**

- Overstate the effectiveness of residential sprinklers by not addressing the leading factor in the safe evacuation of the occupants in a fire – the early warning provided by the smoke alarms.
- Dismiss homebuilders' and the public's concerns over design, installation, inspection, maintenance, effectiveness, and ultimately housing affordability nationwide.
- Draw on the emotions of city commissioners, citizens, and the press in every city in this state to make sure this doesn't get amended out at local levels, unless we pass this bill.

**Passing this legislation will:**

- **Assure uniformity across the state of North Dakota** by eliminating the possibility of pockets of the state requiring sprinkler systems while other areas of the state do not. Uniformity will also foster better and more consistent enforcement statewide as well as overall cost savings from predictable code requirements and enforcement.
- **Recognize that a statewide residential sprinkler requirement is not wanted by our citizen-consumers.** You will perhaps hear that homeowners want safety regardless of cost. However, the option to install sprinkler systems has been around for a very long time and consumers are not electing to spend the money for these systems. A public information and awareness campaign needs precede state or local requirements to install these systems in residences.
- **Assure that the installation of a sprinkler system in your home should be a personal not governmental decision.** Before requirements for these systems are enacted, the public should be informed and aware of the positive and negative aspects of the systems. Then the time may have arrived for code requirements mandating these systems in homes. However, there has been no effort to inform the public. In the absence of that informational effort this bill should be passed to avoid premature adoption of a sprinkler requirement by any level of government in this state.
- **Recognize that the state of our economy and the construction of homes will be seriously compromised** should sprinklers be required in homes at the present time. At an estimated \$4,000 to \$8,000 additional cost for inclusion of this system within a home, many potential homebuyers will be priced out of the market and fewer homes will be built despite the fact that these homes are needed.

Look at the facts – the data doesn't bear this out. Then follow the money, and you'll see where this is coming from. We respectfully ask you to support SB 2354.



*Building tomorrow's homes today*

**Testimony in Support of Senate Bill 2354**

**Jason Eid, President – Eid-Co Buildings, Inc., Fargo  
President – Home Builders Association of Fargo-Moorhead**

**Home Fire Sprinkler Installation Costs**

- Installation costs are typically far greater than what advocates state
- According to a study done by the National Fire Protection Association, the average cost of installation of sprinklers is \$1.61 /sq ft, which amounts to almost \$4,000 on the average size house.
  - This number was calculated on homes in primarily urban areas.
  - If you look deeper into the study, you will find it includes a few rural homes in Colorado which were on well water. In these homes, the cost was up to \$3.66 / sq ft. On the average sized home at this cost would be over \$9,000.
- There are additional hidden costs on top of actual sprinkler installation, especially prevalent in rural areas.
- In the rural communities, residents will have two options for a sprinkler system design when there is no access to a public water supply.
  - The first option is to **overdevelop the well** to provide the required flow rate and quantity for the sprinkler system. This is most commonly used when the fire sprinkler is designed as a multipurpose system, where the piping material is used to feed both the plumbing fixtures and the sprinklers. The well will need to provide adequate water supply to meet the NFPA 13D minimum requirement of a ten minute water supply for up two sprinkler heads. With the average sprinkler head flowing an average of 12-18 gallons per minute, the system will need a minimum of 240- 360 gallons of water available in the well. This will also require a variable speed pump to be installed in the well to accommodate the low flow rate for the domestic system and the higher flow rate for the sprinkler system. Booster pumps and pressure tanks can be used in lieu of the variable speed pump.

- The second option is to **install a standalone system** with a flow switch, pump and water storage tanks all located within a part of the structure protected from freezing. The flow switch monitors the static pressure in the fire sprinkler system. When there is a drop in pressure, the flow switch sends a signal to activate the pump, which transfers the water from the tanks into the sprinkler piping. Again, considering the ten minute supply requirements of 13D, the tanks will need to hold approximately 240-360 gallons.
- Annual maintenance also adds additional cost to homeowners.

### Significant Community Costs

- Must consider collective cost to the community and home buyers – not just on a single home basis.
- No reduction in taxes or fees
- Developmental tradeoffs are unrealistic and risky
- Installation costs nearly double the property loss due to fire alone
- Negligible effect on insurance rates – it seems that water damage from sprinklers going off inadvertently contribute to more claims, therefore there is no or little savings to premiums. Very little data available to make true comparisons.

### Impact on Housing Affordability

- According to a study done by the National Association of Home Builders, for each \$1,000 added to the price of housing, another 217,000 potential homebuyers nationwide are priced out of homeownership.
- At \$2.66 per square foot, a conservative estimate of one-time costs to install fire sprinklers in all new homes constructed in 2005: **\$10,265,405,500 (\$10 billion+)**
- Pricing consumers out of the newer home market will be counter productive to safety concerns by forcing them older less kept up homes that were not built to today's more stringent building codes.

### The Purpose of the IRC

- “to provide minimum requirements to safeguard life or limb, health and public welfare.”
- Mandating sprinklers is excessive --not a reasonable minimum. Sprinkler provisions already exist in the current code Appendix P and gives the options to communities to adopt it. So far, no community in North Dakota has adopted the sprinkler provisions in 2006.

When the 2006 International Residential Building Code was adopted by the state of North Dakota and by cities across the state, there was one unanimous vote cast against sprinklers in homes. Appendix P of the 2006 IRC gave the option to any jurisdiction to require sprinklers. Not one jurisdiction in North Dakota made this choice. Similarly, today's homebuyers are not

requesting sprinklers to be installed in their homes. I wonder how many of those in this room that are here in support of sprinklers have paid the money to install them in their own house? I know I haven't, and I doubt any of you have either. There is just not sufficient evidence at this time to justify the immense cost of sprinklers and the resulting impact it would have on the housing market. We are seeing right now in our country what happens when the housing market falls apart, I fear that these added costs would go a long way to crippling the housing market in North Dakota, especially with the added costs to the numerous rural communities.

I know this is an emotional issue for many people and can be a tough decision when faced with those emotions. As a builder, there is nothing I want more than to build a safe home for my customers, but I cannot justify this expense when selling a home.

Thank you for your time today. Please support Senate Bill 2354.

#7

Testimony on Senate Bill 2354  
House Political Subdivision Committee  
By Raymond Lambert, North Dakota State Fire Marshal  
March 5, 2009

Good morning, Mr. Chairman and Members of the House Political Subdivision Committee, I am Raymond Lambert, North Dakota State Fire Marshal. My position falls under the North Dakota Office of Attorney General. I am here this morning to provide testimony in opposition to the passage of Senate Bill 2354. My testimony does not center on the merits of installing residential sprinklers in one and two-family dwellings. Nor is it my intent to discuss the added cost of installation of a residential sprinkler system into one and two-family dwellings or the effect it may have on future sales in the open market of these particular type residences. This is not what this bill is about.

I am here to give testimony in opposition of Senate Bill 2354 as it clearly states if passed the state, cities, counties, and townships would not retain the ability to manage and adopt their own specific safety codes. If passed, the state, cities, counties, and townships will be unable in the future to adopt a code that will establish the safety requirements for one and two-family dwellings as they deem best suited for their individual community. With the ongoing changes and updates in both the building code and the fire codes, with the newest and safest technology available, we should not prohibit individual communities from future adoption of safety codes that they deem reasonable and necessary.

The adoption processes currently in place for building codes and fire codes from the state level down to the local level have been in place for many years and are well established. The current code adoption process has worked very well in the past and should be allowed to continue as is. The adoption of Senate Bill 2354 into law would disrupt the current adoption process. If Senate Bill 2354 is adopted, the state, cities, counties, and townships would lose the ability at each level of government to adopt and function with the codes they desire.

It is my belief that government working at its best from the local level up is an ideal situation and has produced the best standards of governing throughout the state. Passage of Senate Bill 2354 will set back the opportunity of local governing bodies to do what they do best, that is provide the safest and most affordable working and living environment for the citizens of that community.

Mr. Chairman and Members of the House Political Subdivision Committee, I ask for your "do not pass" vote on Senate Bill 2354. I thank you for the opportunity to appear before you to provide my testimony in opposition to this bill. I will be happy to answer any questions at this time.

Raymond Lambert  
North Dakota State Fire Marshal



**Testimony on Senate Bill 2354**  
**House Political Subdivisions Committee**

Joel Boespflug  
North Dakota Fire Chief's Association

March 5, 2009

Good morning Mr. Chairman and members of the committee. My name is Joel Boespflug, and I am representing the North Dakota Fire Chief's Association in opposition to SB 2354.

To further clarify our position, the Fire Chief's Association is not supportive of a residential fire sprinkler mandate in the next code adoption process because we feel that most fire officials, building officials, builders and homeowners are not yet prepared for such a change and forcing such a requirement in an untimely manner will have adverse reactions. Unfortunately this bill is a result of that type reaction, it's being generated by issues beyond the borders of our state, and both our local and state code adoption process can be harmed if it is passed.

When it was learned that the 2009 International Residential Code will require residential fire sprinklers in one and two family dwellings, the Fire Chief's

Association discussed a number of concerns and I contacted the ND State Fire Marshal and the ND Building Official's Association President to inform them that the Fire Chief's Association supports an amendment to the code adoption process to remove the one and two family residential fire sprinkler requirement. We feel strongly that we first need to prepare persons for such a change by providing education, answering the many questions that exist, lowering costs by growing the number of installers and forming partnerships. We felt it was best to consider the model code again three to six years into the future after persons have had a fair chance to learn more about the systems, the costs and the benefits.

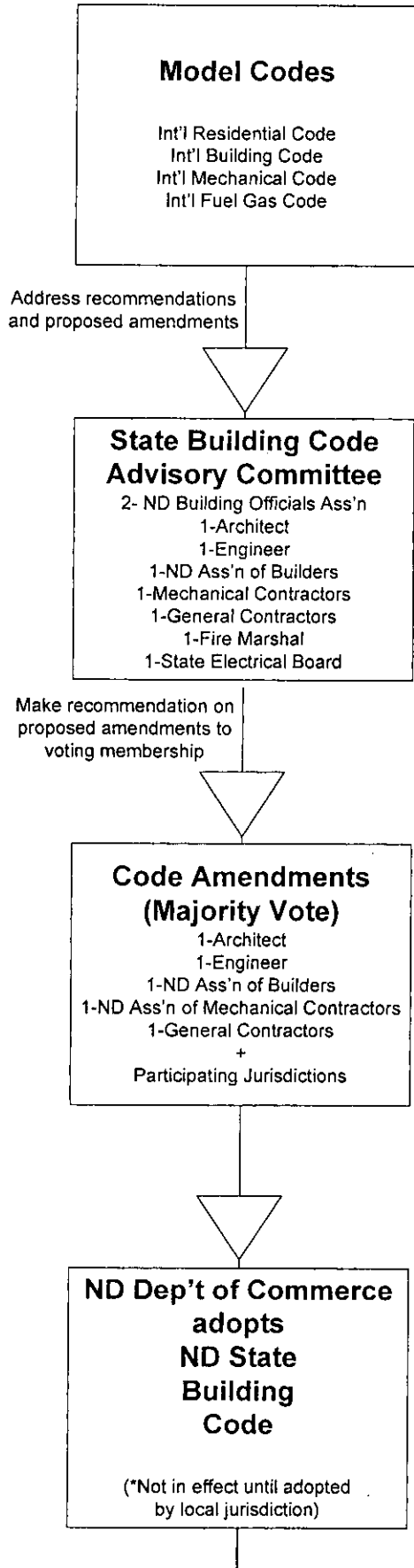
The ND Fire Chief's Association opposes this bill because it overrides the procedures and processes used in considering State and Local Building code amendments with a preemptive prohibition. The codes are complex and a process does exist in our state for professionals to address the impact of code requirements and develop necessary amendments. In the State Building Code adoption process, the International Residential Code is reviewed and this is the code that contains the requirement for residential sprinklers in one and two family dwellings. The process, established in Century Code, defines who is eligible to vote on the amendments and those rights are granted to the ND Association of Builders, ND Association of Mechanical Contractors, General Contractors, an engineer, an architect and local jurisdictions where the vote is typically cast by the building official of that jurisdiction. The fire service has no ability to vote on

ND Fire Chief's Association  
SB 2354

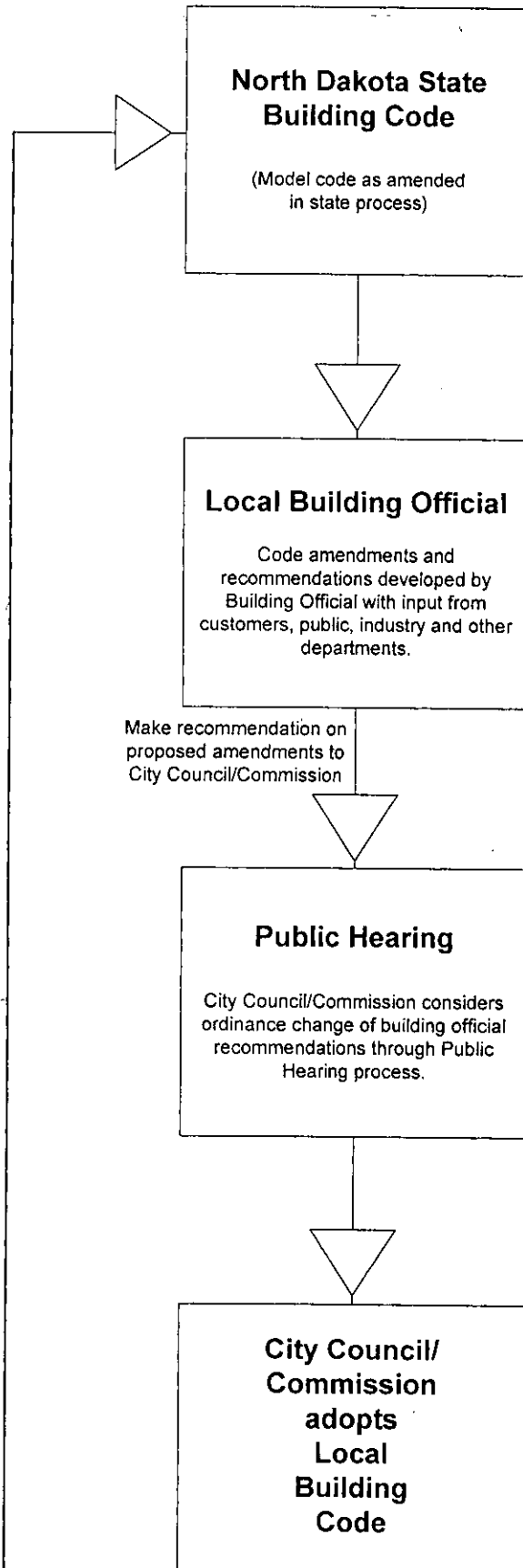
state building code or any of the amendments to that code. Attached please find a diagram that illustrates the ND State Building Code adoption process.

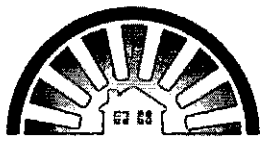
Mr. Chairman and members of the committee, the ND Fire Chief's Association recommends a Do Not Pass on this bill. Thank you for the opportunity to address you and I will be happy to answer your questions.

## State Building Code Adoption Process



## City Building Code Adoption Process

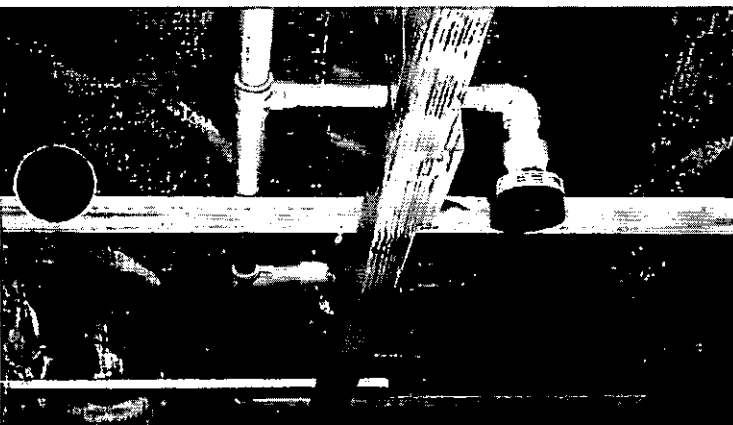




# INTERNATIONAL RESIDENTIAL CODE FIRE SPRINKLER COALITION

## Sample Residential Fire Sprinkler Cost Analysis

#6



### Habitat for Humanity, Austin, Texas

- Homes range from 900-1,400 sqft
- All homes get fire sprinklers since 2004
- To date, more than 75 homes sprinklered
- Additional cost of plumbing contractor labor and materials approximately is about 50-cents per square foot. Plumbing contractor takes approximately ½-day longer for a 2 person crew to handle the sprinkler installation.
- Austin program is modeled after a similar Habitat program that has sprinklered hundreds of homes in North Carolina. They have experienced three "saves" of habitat homes based on successful operation of fire sprinklers in their homes.

### Estimated monthly cost:

- For a 1,200 sq. ft. home, roughly \$600 total
- With a 30 year mortgage at 4.75% interest rate, the monthly payment is \$3.13, which would be further reduced by a mortgage interest deduction on income tax and insurance savings.

### North Dakota Home - Estimated Monthly Payment Impact of Residential Sprinklers

2,000 sqft home example	Non sprinklered	Sprinklered
Basic cost at \$100/sqft	\$200,000	\$200,000
Added sprinkler system cost assuming 100% pass through (at \$1.61/sqft national average per NFP Research Foundation Report)	0	\$3,220
Total cost	\$200,000	\$203,220
Loan amount	\$160,000	\$163,220
Monthly base payment (Annual interest rate 4.75% / 30 year fixed)	\$1043.29	\$1060.09
Gross difference		\$16.80
Estimated monthly insurance savings for sprinklers: on a \$750 policy per year credit (Amer. Family Insurance Group)		(\$6.25)
Additional Itemized Tax Deduction 28% fed + 3.92 state		(\$5.36)
Net increase associated with sprinklers		\$5.19

## Testimony on Senate Bill 2354

### House Political Subdivisions Committee

Jerry Vein  
Grand Forks Fire Marshal

March 5, 2009

Chairman Dwight Wrangham and Committee Members:

My name is Jerry Vein, Fire Marshal with the Grand Forks Fire Department.

I have been in the fire service for the last 39 years. On entering the fire service, I was required to take an oath. In that oath, I promised that I would protect life and property; that oath still stands for me today.

I believe that sprinkler systems, together with smoke alarms, are the best way to protect life and property from fire. The National Fire Protection Association (NFPA) has stated that a person's survival in a fire is greatly increased with the combination of home sprinkler systems and smoke alarms.

In the past year, Grand Forks has lost four residents in home fires and also had two occupants receive serious injuries. If these homes had been

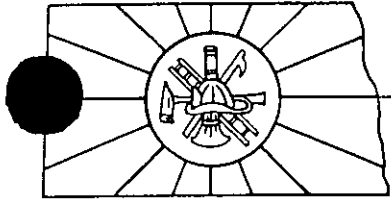
equipped with residential sprinkler systems at the time of construction, I believe that some, or all, of those deaths may have been prevented.

I believe that the price of sprinkler systems will be lower in the years to come, as new technology is developed for their installation.

At this time, Grand Forks is not prepared to adopt a residential sprinkler code. We will need more discussions with all parties involved, and with the local community as a whole. We only look for the opportunity to discuss this code at a local level!

I thank you for the opportunity to address this issue and ask this committee for a NO vote on SB2354.

# 3



*North Dakota  
Firefighter's Association*

P.O. Box 6127 • Bismarck, ND 58506-6127

Phone: 701-222-2799  
Fax: 701-222-2899

Chairman Wrangham and members of the House Political Subdivision Committee, my name is Lois Hartman. I am the Executive Director of the North Dakota Firefighter's Association. I submit this letter on behalf of the North Dakota Firefighter's Association in opposition to SB2354. This bill removes the ability of local authorities to make decision regarding home fire sprinkler systems that could save life and property. Such decisions should be left at the local level.

The residential sprinkler systems have come a long way in the past few years. I have seen the tests conducted by the US Fire Administration using home fire sprinkler systems in extinguishing fires. By the time a fire sets off the home fire alarm, it is also setting off the home sprinkler, extinguishing the fire immediately. The savings in fire and smoke damage is quite significant. Yes, there is some water damage, but that is minimal compared to the fire and smoke damage with just a fire alarm. In rural areas, it could very well be the difference between saving a home or not.

Also, please consider that every time a firefighter enters a burning building, his life is at risk. Residential sprinkler systems not only protects the life and property of the home owner but also the life of the firefighters.

Mr. Chairman and members of the committee, please vote against SB2354 and leave the life safety decision making authority with the local jurisdiction. Thank You.





**PLANNING AND DEVELOPMENT**

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#9

**MEMORANDUM**

**TO: HOUSE POLITICAL SUBDIVISIONS COMMITTEE**

**FROM: JIM GILMOUR, DIRECTOR OF PLANNING AND DEVELOPMENT** 

**DATE: MARCH 4, 2009**

**SUBJECT: HB 2354**

I am contacting you on behalf of the City of Fargo regarding House Bill 2354, which would prohibit the state building code or codes adopted by political subdivisions from including requirements for fire sprinklers in single family dwellings and buildings with two dwelling units.

The City of Fargo is monitoring this bill, and is not opposing or supporting the bill at this time. The reasons for not taking a position at this time are as follows:

1. The City of Fargo agrees there should not be a building code requirement for sprinklers in single family dwellings or residential buildings with no more than two dwelling units. This opinion is shared by our Fire Chief, Inspections Division, and our Community Development staff that works on affordable housing projects.
2. The City of Fargo is generally opposed to state limits on the ability of local governments to modify building codes as needed. Fargo would very likely remove this sprinkler requirement from the building code without action from the State.
3. The City of Fargo has reduced the number of bills it is actively supporting and opposing, and is concentrating its efforts on those bills that have the most impact on City of Fargo residents.

If you have any questions or concerns, please feel free to contact me at 241-1476 or [jgilmour@cityoffargo.com](mailto:jgilmour@cityoffargo.com).

**CC: Bruce Hoover, Fire Chief**  
**Ron Strand, Inspections Administrator**  
**Dan Mahli, Senior Planner for Community Development**

**PROPOSED AMENDMENTS TO SENATE BILL NO. 2354**

Page 1, line 2, after "codes" insert "; and to provide an expiration date"

Page 2, after line 30, insert:

**"SECTION 2. EXPIRATION DATE.** This Act is effective through July 31, 20~~17~~<sup>13</sup>, and after that date is ineffective."

Renumber accordingly