

**2025 SENATE ENERGY AND NATURAL RESOURCES**

**SB 2339**

# 2025 SENATE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee Peace Garden Room, State Capitol

SB 2339  
1/31/2025

Relating to strict liability and a wildfire mitigation plan of a qualified utility; and to provide for a report.

10:10 a.m. Chairman Patten opened the hearing.

Members present:

Chairman Patten, Vice Chairman Kessel, Senators: Beard, Boehm, Enget, Gerhardt, and Van Oosting.

### **Discussion Topics:**

- Enhance wildfire mitigation
- Enhance utility safety
- Enhance public security

10:10 a.m. Senator Greg Kessel, District 39, introduced the bill and submitted testimony in favor #33166 and #38393.

10:15 a.m. Anne Sherword, Area Vice President of Xcel Energy, testified in favor and submitted testimony #33202.

10:21 Rebecca Naslund, Power Companies of ND, testified in favor and submitted testimony #33109.

10:29 a.m. Dennis Pathroff, Power Companies of ND, testified in favor and submitted testimony #33098.

10:38 a.m. Josh L. Kramer, General Manager of ND Association of Rural Electric Cooperatives, testified in favor and submitted testimony #33105.

10:40 a.m. Paul Fitterer, General Manager of Capital Electric Cooperative, testified in favor and submitted testimony #33134.

10:48 a.m. Chairman Patten closed the hearing.

10:48 a.m. Senator Kessel moved amendment LC# 25.1247.01002.

10:49 a.m. Senator Beard seconded.

Senators	Vote
Senator Dale Patten	Y
Senator Greg Kessel	Y
Senator Todd Beard	Y
Senator Keith Boehm	Y
Senator Mark Enget	Y
Senator Justin Gerhardt	Y
Senator Desiree Van Oosting	Y

Motion Passed 7-0-0

10:50 a.m. Vice Chairman Kessel moved a Do Pass as amended.

10:50 a.m. Senator Beard seconded.

Senators	Vote
Senator Dale Patten	Y
Senator Greg Kessel	Y
Senator Todd Beard	Y
Senator Keith Boehm	Y
Senator Mark Enget	Y
Senator Justin Gerhardt	Y
Senator Desiree Van Oosting	Y

Motion Passed 7-0-0

10:53 a.m. Vice Chairman Kessel will carry the bill.

**Additional written testimony:**

Deborah Birgen, Missouri River Energy Services, submitted testimony in favor #32090.

Zach Martin, Government Affairs Manager, ALLETE / MN Power, submitted testimony in favor #33081.

10:54 p.m. Chairman Patten closed the hearing.

*Kendra McCann, Committee Clerk*

Sixty-ninth  
Legislative Assembly  
of North Dakota

**PROPOSED AMENDMENTS TO**

**SENATE BILL NO. 2339**

Introduced by

Senators Kessel, Bekkedahl, Patten

Representatives Novak, J. Olson, Porter

JB  
1-31-25  
10/3

1 A BILL for an Act to create and enact a new chapter to title 49 of the North Dakota Century  
2 Code, relating to strict liability and a wildfire mitigation plan of a qualified utility; and to provide  
3 for a report.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** A new chapter to title 49 of the North Dakota Century Code is created and  
6 enacted as follows:

7 **Definitions.**

8 As used in this chapter:

- 9 1. "Qualified utility" means an electric public utility, rural electric cooperative, **municipal**  
10 **electric utility, municipal joint action agency,** or electric transmission provider as  
11 defined in section 49-03-01.5.
- 12 2. "Wildfire mitigation plan" means a plan submitted to the commission **or the qualified**  
13 **utility's board of directors** in accordance with this chapter.
- 14 3. "Hazardous vegetation" means plants, such as trees, shrubs, and grass which are dry,  
15 diseased, dead, or in close proximity to power lines and could come into contact with  
16 power lines, especially in dry and windy conditions, and lead to electrical faults or  
17 wildfires.

18 **Limitation on strict liability standard for a qualified utility.**

19 A court may not apply a standard of strict liability to a qualified utility in any cause of action  
20 alleging the qualified utility caused wildfire related damages.

Jan 2013

**Wildfire mitigation plan.**

1. A qualified utility may prepare a wildfire mitigation plan in accordance with this chapter.
2. A wildfire mitigation plan under this section must include:
  - a. A description of areas within the service territory of the qualified utility which may be subject to a heightened risk of wildfire;
  - b. A description of the procedures, standards, and time frames the qualified utility will use to safely and reliably operate and inspect its infrastructure affected by hazardous vegetation;
  - c. A description of the procedures and standards the qualified utility will use to perform vegetation management. The procedures and standards under this section must be compliant with the American national standards institute standard A300, part 7;
  - d. A description of the modifications or upgrades to facilities and preventative programs the qualified utility will implement to reduce the risk of its electric facilities initiating a wildfire;
  - e. A description of procedures for ~~de-energizing power lines and~~ disabling reclosers to mitigate potential wildfires taking into consideration:
    - (1) The ability of the qualified utility to reasonably disable reclosers and access the proposed power line ~~to be~~ if it becomes de-energized;
    - (2) The balance of the risk of wildfire with the need for continued supply of electricity to a community; and
    - (3) Any potential impact to public safety, first responders, and health and communication infrastructure.
  - f. A description of procedures the qualified utility intends to use to restore its electrical system in the event of a wildfire;
  - g. A description of the costs for implementation of the plan, including system improvements and upgrades;
  - h. A description of community outreach and public awareness efforts before and during a wildfire season; and

- 1 i. A description of potential participation with state or local wildfire protection or  
2 mitigation plans.

3 **Wildfire mitigation plan submission.**

- 4 1. An electric public utility or electric transmission provider may submit for filing a wildfire  
5 mitigation plan to the commission. An electric public utility or electric transmission  
6 provider shall publish on its website all wildfire mitigation plans within thirty days of  
7 filing. If an electric public utility or electric transmission provider submits a wildfire  
8 mitigation plan the plan must be updated and resubmitted to the commission every  
9 three years.
- 10 2. A rural electric cooperative, municipal electric utility, or municipal joint action agency  
11 may submit a wildfire mitigation plan to its board of directors. The electric cooperative,  
12 municipal electric utility, or municipal joint action agency shall publish on its website all  
13 wildfire mitigation plans within thirty days of approval from its board of directors. If a  
14 rural electric cooperative, municipal electric utility, or municipal joint action agency  
15 submits a wildfire mitigation plan, the plan must be updated and reapproved by the  
16 board of directors every three years.
- 17 3. The preparation and publishing of, and compliance with, the qualified utility's wildfire  
18 mitigation plan constitutes prima facie evidence that the qualified utility exercised a  
19 reasonable standard of care.

20 **Annual report.**

- 21 1. An electric public utility or electric transmission provider with a wildfire mitigation plan  
22 on file may submit an annual report detailing the utility's compliance with the plan to  
23 the commission, no later than December thirty-first of each year the plan is effective. If  
24 the utility submits an annual report, the utility shall publish the report on its website.
- 25 2. A rural electric cooperative, municipal electric utility, or municipal joint action agency  
26 with a wildfire mitigation plan shall submit an annual report to its board of directors or  
27 governing body summarizing the rural electric cooperative's, municipal electric utility's,  
28 or municipal joint action agency's compliance with its approved wildfire mitigation plan.  
29 The rural electric cooperative, municipal electric utility, or municipal joint action agency  
30 shall publish the report on its website.

**REPORT OF STANDING COMMITTEE  
SB 2339**

**Energy and Natural Resources Committee (Sen. Patten, Chairman)** recommends **AMENDMENTS** ([25.1247.01002](#)) and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2339 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

**Testimony in Support of  
Senate Bill 2339  
Senate Energy and Natural Resources Committee**

Good morning, Chairman Patten and Members of the Senate Energy and Natural Resources Committee, my name is Deb Birgen. I represent Missouri River Energy Services, a municipal joint action agency serving municipal electric utilities in four states: North Dakota, Iowa, Minnesota, and South Dakota. Our six North Dakota municipal electric members include Cavalier, Hillsboro, Lakota, Northwood, Riverdale, and Valley City.

MRES supports the passage of SB 2339 as common sense legislation. It limits courts from applying a standard of strict liability to a qualified utility in a cause of action, if and only if a utility has met and documented that it has actively engaged in wildfire prevention and mitigation measures. It is important to note that this only puts some guardrails on potential liability and damages. Utilities would still be responsible for property damage and lost production.

Therefore, I respectfully ask for a “Do Pass” vote on SB 2339 as a balanced approach.

January 31, 2025

Chair Patten and members of the Senate Energy and Natural Resources Committee,

On behalf of ALLETE / MN Power, we write in strong support of Senate Bill 2339 which provides an option for qualified utilities to submit wildfire mitigation plans to the Public Service Commission and improve the financial certainty for these critical electric services. We thank Senator Kessel and all other sponsors for their leadership on this issue and encourage the committee to approve today's bill.

MN Power owns and operates transmission lines throughout the state, including a high-voltage direct current transmission line which connects energy generation near Center, ND with Duluth, MN. These lines improve grid resilience and provide essential gateways for North Dakota energy production to reach valuable markets.

Public safety is a paramount priority for our company. Submitting a wildfire mitigation plan in accordance with this bill's provisions is an important tool for planning for the future and creating opportunities for further collaboration. The bill outlines several aspects that must be included in these plans, including procedures for vegetation management, preventative programs to reduce the risk of electric facilities, procedures for restoring an electrical system in the event of a wildfire, and more.

In exchange, qualified utilities which provide electric or transmission services will avoid facing insolvency in the case of a wildfire, ultimately benefiting energy customers like businesses and families. Our focus on prevention, protection, and recovery from potential wildfires is enhanced through this bill, a benefit to all North Dakotans.

Wildfires present a national risk, so North Dakota's forward-looking approach through this legislation is appreciated. Again, we thank the sponsors of SB 2339 and urge the committee to approve the bill for possible floor consideration.

Sincerely,

/s/

Zach Martin

Government Affairs Manager

ALLETE / MN Power



Good morning, Chairman Patten and members of the Senate Energy and Natural Resources Committee,

My name is Dennis Pathroff. I'm a lobbyist with the GA Group and here today representing the Power Companies of North Dakota ("PCND"). PCND is a coalition of the state's leading shareholder-owned gas and electric utilities. Our members include MDU Resources Group, Xcel Energy, Otter Tail Power Company, and ALLETE. Together, PCND members serve over 427,000 North Dakota customers, employ over 1,200 North Dakotans, and manage significant power generation and transmission infrastructure across our state.

Today, I express PCND's strong support for SB 2339 – the "Prevent the Event" wildfire mitigation bill. This important legislation empowers utilities to develop and implement wildfire mitigation plans or ("WMPs") designed to enhance public safety and reduce wildfire risks. Adherence to these plans is part and parcel to public safety and effective wildfire prevention.

Utilities forced into insolvency due to financial and litigation exposure from wildfires are not in the public interest. Moreover, electric consumers will benefit in the long term from utilities' lower borrowing costs and reduced insurance premiums, as utilities adopt and comply with WMPs, and rating agencies and insurance companies adjust the utilities' risk profiles accordingly.

I'd now like to walk you through the key components of the bill:

The **Definitions** (page 1, lines 7-16) define WMP, identify the types of utilities that may prepare a WMP, and outline what constitutes hazardous plant vegetation.

The **Limitation on strict liability standard for a qualified utility** (page 1, lines 17-19) is a very important section of this bill. It provides that a court may not apply strict liability to a qualified utility in a cause of action alleging the utility caused wildfire related damages.

This means that in a lawsuit involving wildfire damages, a plaintiff would have to prove a utility was negligent. The key difference between negligence and strict liability is that negligence requires proving fault (or failure to exercise a reasonable standard of care). Strict liability, on the other hand, focuses on the activity itself, making the defendant liable regardless of fault. Here's a comparison of the elements of the two types of torts:

<ul style="list-style-type: none"> <li>• Elements of negligence <ul style="list-style-type: none"> <li>○ <b>Duty of Care:</b> The defendant owed a duty to act reasonably to plaintiff</li> <li>○ <b>Breach of Duty:</b> The defendant failed to meet that standard of care</li> <li>○ Causation: <ul style="list-style-type: none"> <li>▪ Actual: The defendant's actions directly caused the harm</li> <li>▪ Proximate: The harm was foreseeable</li> </ul> </li> <li>○ Damages: The plaintiff suffered actual harm or injury</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Elements of Strict liability <ul style="list-style-type: none"> <li>○ Activity: The defendant engaged in a dangerous activity</li> <li>○ Causation: The activity directly caused the harm</li> <li>○ Damages: The plaintiff suffered actual harm or injury</li> </ul> </li> </ul>
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The existing common law (or case law) in North Dakota is that strict liability does not apply to damages stemming from electric infrastructure. See the Eighth Circuit case, *Meyer v. McKenzie Elec. Coop., Inc.*, 947 F.3d 506 (8th Cir. 2020).

Accordingly, the bill codifies the existing North Dakota common law. Codifying this common law doctrine will prevent future North Dakota courts from applying strict liability. This statutory change will provide meaningful regulatory certainty for creditors and rating agencies, underwriters, and insurers in the utility sector. Contrast this with California, where application of strict liability has led to bankruptcy and insolvency among utilities.

The **Wildfire mitigation plan** section (page 1, line 20 through page 2, line 28) provides that a qualified utility may file a WMP and then specifies, in detail, what these plans must include.

The **Wildfire mitigation plan submission** section (page 2, line 29 through page 3, line 12) provides that the IOUs may submit their WMPs to the PSC, while the cooperatives may submit their plans to their boards of directors.

Importantly, this section provides (on page 3 lines 10-12) that compliance with a WMP constitutes evidence, subject to rebuttal, that the utility exercised a reasonable standard of care, addressing two critical elements of negligence: duty of care and breach of duty.

The last section, **Annual report** (page 3, lines 13-21) provides that IOUs may submit their WMP to the PSC and must publish their WMPs on their websites. Likewise, the cooperatives may submit their WMPs to their boards of directors and must publish their WMPs on their websites.

In summary, SB 2339, the “Prevent the Event” wildfire mitigation bill, helps ensure that utilities will continue to provide North Dakotans with safe, affordable, and reliable electric services. By codifying existing legal principles, creating sensible liability protections, and incentivizing the development and implementation of wildfire mitigation plans, this bill enhances public safety and reduces costs and financial risks for utilities and ultimately the customers they serve.

PCND strongly urges a “Do Pass” recommendation on SB 2339.

Thank you, Chairman Patten and members of the committee, for your time and consideration.



North Dakota Association of Rural Electric Cooperatives  
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ND  
Living

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January 31, 2025

To: North Dakota Senate – Energy and Natural Resources Committee  
From: Josh Kramer, executive vice president and general manager, NDAREC  
RE: **Support for SB 2339 – Strict Liability and Wildfire Mitigation Plan**

Chairman Patten and members of the Senate Energy and Natural Resources Committee,

I'm Josh Kramer, the general manager North Dakota Association of Rural Electric Cooperatives (NDAREC), and I'm here on behalf of our members to express our support for Senate Bill 2339. Our organization represents 17 electric distribution cooperatives and five generation and transmission cooperatives that generate, transmit and distribute electricity across the state of North Dakota. Collectively, North Dakota's electric cooperatives own and maintain 67,000 miles of power lines.

We support this legislation and believe a process that encourages and reinforces proactive measures on the frontend to mitigate the risk of wildfires and creates a guide to uniformity for wildfire prevention. We also recognize that, for mitigation plans to be most effective, coordination and collaboration is important as each independent electric cooperative further develops and modifies their own wildfire mitigation plan that is specially tailored to involve the appropriate officials and organizations within a cooperative's local service area.

Electric cooperatives are private, independent electric utilities owned by the consumer members they serve. Electric cooperatives have demonstrated an ability to be effectively self-regulated and governed by locally elected boards of directors. Safety, reliability and affordability are of utmost importance for our cooperatives. They care greatly about the safety of the people and communities they serve, because their employees and members live, work and volunteer in those same local communities.

Investor-owned and electric cooperative utilities are working together as proponents of this legislation, and we, voluntarily support further development, implementation and conversation on wildfire mitigation plans.

Chairman Patten and members of the Senate Energy and Natural Resources Committee, thank you for your time, and I'd be happy to take questions.

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A Division of MDU Resources Group, Inc.

400 North Fourth Street  
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TESTIMONY IN SUPPORT OF SENATE BILL 2339  
SENATE ENERGY AND NATURAL RESOURCES COMMITTEE  
JANUARY 31, 2025

**REBECCA NASLUND - DIRECTOR OF SAFETY & TECHNICAL TRAINING, MONTANA-DAKOTA UTILITIES CO.**

Good morning, Chairman Patten and members of the Committee.

My name is Rebecca Naslund, and I am here today to testify in support of Senate Bill 2339 on behalf of Montana-Dakota Utilities Co. MDU proudly serves 158 communities in North Dakota with electricity and natural gas.

Senate Bill 2339 is a bill designed to aid in the prevention of wildfires. It primarily does three things:

- It directs utilities to develop and implement comprehensive wildfire mitigation plans, establishing standards for these plans and requiring annual reporting on compliance.
- It codifies the common law understanding that strict liability does not apply to qualified utilities.
- It provides that the preparation, publication, and compliance with a qualified utility's wildfire mitigation plan constitutes prima facie evidence that the utility exercised a reasonable standard of care.

MDU has consistently provided safe, reliable, and affordable service to its customers over its 100-year history through its long-standing Operations and Maintenance programs. These ongoing improvements and maintenance efforts strengthen the electric system and help reduce the likelihood of system faults and enhance wildfire prevention.

Recognizing the heightened risk of catastrophic wildfires in the current environment, MDU has begun directing policies and programs to address this threat with targeted prioritization to lower safety risks. The Company is developing a Wildfire Mitigation Plan to reduce the risk of wildfires sparked by its electric system and employee work practices. We are also focusing our efforts on making changes to our operations procedures to aid in system restoration and safety during catastrophic wildfires.

The plan focuses on three main elements:

- **Daily Operational Fire Prevention Procedures:** Implementing daily operational changes based on real-time environmental situational awareness monitoring.

- **System Fire Risk Mitigation and Hardening:** Developing a fire risk model to prioritize capital and maintenance projects, reducing fire risk of electric equipment operations, and hardening the system against wildfires.
- **Customer and Community Outreach:** Enhancing communications and outreach to customers, community leaders, and first responders to raise awareness of wildfire dangers, explain the Company's risk reduction efforts, and develop procedures and communications for wildfire dangers, wildfire weather risks, operational changes, and active wildfire events.

MDU has initiated several projects and processes to reduce wildfire risk:

- Implementing Daily Operational Fire Prevention Procedures and monitoring environmental situational awareness during fire season, with operational changes for certain fire danger indices and red flag warnings.
- Deploying a Distribution SCADA system over the past several years to monitor and control the Electric Distribution System for real-time situational awareness and operational control changes based on weather events.
- Establishing a Distribution System Operation Center in January 2024, in addition to the Electric System Operation Center for transmission/generation, to control and monitor the Distribution system.
- Deploying an Outage Management System in January 2024, enhancing the Company's understanding of power outage causes and system failures, which will play a crucial role in wildfire risk reduction.
- Actively developing the specifics of the Wildfire Mitigation Plan, including a wildfire risk model to guide construction and maintenance projects and inform daily operational situational awareness decisions.

I respectfully urge the committee to recommend a "Do Pass" on SB 2339.

Thank you, Mr. Chairman and members of the committee, for allowing me to speak with you today.

Testimony In Support of 2025 Senate Bill No. 2339

Capital Electric Cooperative

Paul Fitterer General Manager

Good morning. My name is Paul Fitterer, and I am the General Manager of Capital Electric Cooperative (Capital Electric) based out of Bismarck, ND and Wing, ND. Capital Electric provides retail electrical distribution to nearly 22,000 services for member-consumers in Burleigh, Sheridan, Emmons, Kidder, and McLean counties and owns and operates approximately 2,800 miles of medium and low voltage distribution lines, including stepdown transformers and associated service entry equipment. To date, approximately 1,500 miles of line, or 54% of our total line is overhead, and 1,300 miles, or 46% is underground. The vast majority of new conductor we place is underground. Wildfires are a risk for many areas of the country, and Capital Electric is not immune to the potential for wildfires within our service territory. We have and maintain a wildfire mitigation plan. This plan captures the steps Capital Electric takes to minimize the probability of starting a wildfire due to actions of employees and/or equipment.

Today, I'd like to share with you some of the on-going mitigation efforts that Capital Electric is proactively taking to mitigate fire risk.

**a. Routine line patrol**

Capital Electric performs visual patrol of distribution assets daily, whenever driving to/from jobsites as well as while working at a given location.

Maintenance items that are noted by personnel are converted to electronic service orders, which tracks the scope of work, date the work is completed, and

any notes specific to the resolution. Notifications of potential concerns are also communicated from our member consumers, upon which a line crew is dispatched to assess and evaluate any necessary actions.

**b. Annual line inspection**

We perform a focused visual inspection for half of the overhead distribution system annually. Electronic inspection records dictate the areas to be inspected, requiring line crews to note deficiencies and maintenance items, which then follow the same service order process as previously noted for tracking and completion.

**c. Vegetation management**

Annual vegetation management is performed by line crews and contractors to address the potential for tree contacts and any danger trees that are at risk of falling into distribution lines. Routine and annual line patrol notes are sources of data to develop a given year's tree trimming plan, ensuring that identified potential contacts are addressed when needed, not solely on a periodic X-year cycle.

**d. Pole testing**

We hire a third-party inspection company to annually test 1/10th of our system's poles, or approximately 2,000 poles, and thereafter continuing tests with the intent of a documented test result within 10-years of today's date for every pole and then starting again in year 11. These tests include visual, sound, partial

excavation, and/or bore testing. Poles that fail inspection are marked as reject, and after receiving the report Capital Electric or its contractors begins to change out rejected poles with new ones.

**e. Rural rebuilding**

We have been committed for many years to rebuild approximately 25 miles of overhead distribution line each year. This includes new poles, hardware, and conductor, mostly applied to single-phase rural lines. The rebuilt line is improved to current construction standards, utilizing Aluminum Conductor Steel Reinforced (ACSR), shortening spans between poles, and using neutral offset brackets. Having committed to rebuilding rural overhead line for almost 20 years, Capital Electric has rebuilt 1/3 of what was our oldest and most rural overhead line.

**f. Sectionalizing equipment**

We also use many types of protective devices to isolate and clear system faults. Substations with electronic controls have remote control capabilities, including non-reclose and hot line tag modes. Underground circuits have interrupters to clear what are typically permanent fault conditions. Overhead lines use electronic reclosers with the ability to try one or more operations to open and close, typically clearing temporary faults; these can also be locally set to non-reclose mode. Fuses are also used on underground and overhead taps, although more commonly applied to overhead lines. Capital Electric no longer

has oil-filled reclosers on distribution lines. In all cases, Capital Electric analyzes the need for, and the appropriate type of sectionalizing device to apply, to balance the needs for reliability and security.

**g. Conversion to URD**

Capital Electric also converts existing overhead line to underground as part of standard construction activities; a portion of the annual work plan projects are typically dedicated to these conversions. Often these projects are selected to avoid future maintenance costs such as right of way clearing. Conversion of overhead lines eliminates the potential for tree contact or the impacts of high winds and ice.

**h. Coordination with emergency response**

Capital Electric coordinates emergency response activities in multiple ways. Internally, mobile radios are used between line crews to ensure communication of activities and locations; automatic vehicle locating GPS tools also monitor locations of crew vehicles and refresh positions on electronic system maps, including on tablets using cellular data. After normal business hours, we use dispatch services to receive outage messages and relay details to on-call crews. For large outage events after hours, operations staff returns to headquarters to provide additional management of the restoration activities. Capital Electric communicates with local transmission system operators (ex. WAPA, Otter Tail, and MDU) for larger system events. In the event of accidents and natural

disasters, we coordinate with local county officials via Burleigh County Central Communications, responding to requests to disconnect power.

**g. Power Restoration Procedure**

In times of elevated fire risk, line crews visually inspect all lines downstream of an open protective device (breaker or fuse) before re-energizing a line. This may require crews to use ATV's, walking or other means to be able to visually inspect line before energizing.

**h. Additional efforts during high-risk conditions**

- Carry large spray water cans on trucks
- Patrol every span before attempting reclose
- Fire watch during and after work
- Trim grass before driving or parking vehicle
- Only leave roadway by vehicle for outage response
- Avoid work on Red Flag days unless lack of action poses more risk than completing work.
- Require contractors to abide by the same standards as Capital electric employees.
- Revised recloser settings

Capital Electric feels this is an important bill that will strongly encourage ND utilities to annually evaluate the evolving risks of wildfires as it relates to the potential impacts from

utility operations. Likewise, the qualified utilities in turn, would reduce some risk by avoiding the standard of strict liability.

Capital Electric supports this bill.

Thank You.

**Good morning, Chairman Patten and members of the Energy and Natural Resources Committee,**

For the record, I'm Greg Kessel, State Senator from District 39.

Thank you for the opportunity to present **Senate Bill 2339**, a bill that prioritizes public safety by addressing wildfire risks and ensuring utilities develop and implement effective Wildfire Mitigation Plans, or WMPs.

This past fall, North Dakota experienced firsthand the devastating impact of wildfires. Over 100,000 acres were burned. A stark reminder that wildfire risk is not limited to other states or distant regions. It is a very real and pressing issue, right here in North Dakota.

**Safety is job number one.** SB 2339 ensures that utilities can take proactive steps to mitigate wildfire risks through comprehensive Wildfire Mitigation Plans. These plans focus on situational awareness, infrastructure resilience, and public outreach to ensure both prepared utilities and public safety. By codifying these measures, this bill not only enhances public safety, but also **preserves the financial stability of our utilities**, helping to protect ratepayers, the citizen's of North Dakota, from the long-term costs of wildfire-related liabilities.

This legislation offers a proactive and balanced approach to protecting our communities, ensuring safe, reliable, and affordable energy services. It reflects our shared commitment to public safety and economic resilience.

I urge the committee to support SB 2339 **(with the amendment I've passed out)** and I look forward to hearing from the supporters that will follow my testimony on how SB 2339 will help prevent and mitigate future wildfires.

**Thank you, Mr. Chairman.**



P.O. Box 2747  
Fargo, ND 58108

**SB 2339 Testimony in Support  
Senate Energy & Natural Resources Committee January 31, 2025**

Chairman Patten and members of the Senate Energy & Natural Resources committee, thank you for the opportunity to speak today. I'm Anne Sherwood, Area Vice President, Wildfire Mitigation, Regulatory and Policy, with Xcel Energy. Xcel Energy has had the privilege of serving roughly 158,000 electric and gas customers in North Dakota since 1908.

We are here today to talk about wildfire risk in North Dakota. Unfortunately, we know that wildfire risk is not limited to one state or one area of the country but is affecting more areas of the country than ever before. Last year in North Dakota, we experienced 17 red flag warning days with a total of 291 red flag warning events; and last October was a particularly devastating month with over 100,000 acres burned across the state. We know some of you on the committee were personally affected by these fires.

Xcel Energy supports the passage of SB 2339, and this committee's leadership in proactively addressing the risk posed by catastrophic wildfires. SB 2339 incentivizes prevention and protection for communities and customers from wildfire risks, and the associated cost of wildfire events, and ensures that electric companies can continue to invest in a more resilient and reliable energy system.

Xcel Energy's commitment has always been and will remain providing safe, reliable and affordable energy to the communities and customers we are privileged to serve. Xcel Energy recognizes the increase in extreme weather events, including catastrophic wildfires, and is proactively engaged in investing in our system to mitigate wildfire risk.

Last year, Xcel Energy published a Wildfire Mitigation Plan and a Public Safety Power Shutoff Plan for North Dakota. Xcel Energy's goal with these plans is clear: prevent catastrophic wildfires before they happen. To achieve this goal, Xcel Energy uses a comprehensive approach and suite of mitigation actions, which can be broadly bucketed into four general categories:

- 1) Situational Awareness
- 2) System Resiliency
- 3) Operational Mitigations
- 4) Customer Support

Situational awareness tools enhance the ability to identify, assess, and respond to a physical or environmental hazard, including wildfires. These include enhanced meteorology capabilities, expanded weather station networks and deployment of AI cameras, and the use of fire spread modeling.

System resiliency involves physical infrastructure investments to directly reduce the risk of wildfire ignitions associated with utility facilities. This includes inspection of system assets, and when appropriate remediation or replacement of identified defects. It also includes vegetation management around facilities to prevent vegetation coming into contact with our system.

Operational mitigations involve adjusting how we operate our electric system in order to reduce the risk of wildfire ignitions associated with our facilities. This includes enabling Enhanced Powerlines Safety Settings (or

EPSS), and as a measure of last resort implementing a Public Safety Power Shutoff (or PSPS). When EPSS is activated, power lines are more sensitive and can instantly stop the flow of energy if an object touches the line. PSPS is a risk reduction strategy in which power is shut off to a targeted area for a limited time when wildfire risks are extremely high. Both EPSS and PSPS are preventative measures only used when the temperature, wind speed, relative humidity and available fuel sources indicate a high risk for wildfires.

Customer support includes directly informing customers regarding wildfire risk and mitigation activities. Xcel Energy knows that outreach to our customers and key stakeholders is critical to implementing the mitigation actions noted above. SB 2339 supports this collective approach to proactively address wildfire risk by encouraging coordination between utility, state, and local wildfire mitigation efforts.

SB 2339 compliments and encourages the approach Xcel Energy is implementing to prevent wildfires, which focuses on ensuring the safety of our customers and communities, and providing safe, reliable and affordable energy. SB 2339 promotes and supports proactively addressing wildfire risks to prevent them before they start, and provides regulatory and financial stability for customers, communities, and utilities operating in North Dakota.

I thank the committee for its time today and I'm happy to answer any questions.

25.1247.01002  
Title.02000

Prepared by the Legislative Council  
staff for Senator Kessel  
January 29, 2025

Sixty-ninth  
Legislative Assembly  
of North Dakota

## PROPOSED AMENDMENTS TO

### SENATE BILL NO. 2339

Introduced by

Senators Kessel, Bekkedahl, Patten

Representatives Novak, J. Olson, Porter

1 A BILL for an Act to create and enact a new chapter to title 49 of the North Dakota Century  
2 Code, relating to strict liability and a wildfire mitigation plan of a qualified utility; and to provide  
3 for a report.

#### 4 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

5 **SECTION 1.** A new chapter to title 49 of the North Dakota Century Code is created and  
6 enacted as follows:

#### 7 **Definitions.**

8 As used in this chapter:

- 9 1. "Qualified utility" means an electric public utility, rural electric cooperative, **municipal**  
10 **electric utility, municipal joint action agency,** or electric transmission provider as  
11 defined in section 49-03-01.5.
- 12 2. "Wildfire mitigation plan" means a plan submitted to the commission **or the qualified**  
13 **utility's board of directors** in accordance with this chapter.
- 14 3. "Hazardous vegetation" means plants, such as trees, shrubs, and grass which are dry,  
15 diseased, dead, or in close proximity to power lines and could come into contact with  
16 power lines, especially in dry and windy conditions, and lead to electrical faults or  
17 wildfires.

#### 18 **Limitation on strict liability standard for a qualified utility.**

19 A court may not apply a standard of strict liability to a qualified utility in any cause of action  
20 alleging the qualified utility caused wildfire related damages.

1       **Wildfire mitigation plan.**

2       1.   A qualified utility may prepare a wildfire mitigation plan in accordance with this  
3       chapter.

4       2.   A wildfire mitigation plan under this section must include:

5       a.   A description of areas within the service territory of the qualified utility which may  
6       be subject to a heightened risk of wildfire;

7       b.   A description of the procedures, standards, and time frames the qualified utility  
8       will use to safely and reliably operate and inspect its infrastructure affected by  
9       hazardous vegetation;

10      c.   A description of the procedures and standards the qualified utility will use to  
11      perform vegetation management. The procedures and standards under this  
12      section must be compliant with the American national standards institute  
13      standard A300, part 7;

14      d.   A description of the modifications or upgrades to facilities and preventative  
15      programs the qualified utility will implement to reduce the risk of its electric  
16      facilities initiating a wildfire;

17      e.   A description of procedures for ~~de-energizing power lines and~~ disabling reclosers  
18      to mitigate potential wildfires taking into consideration:

19      (1)   The ability of the qualified utility to reasonably disable reclosers and access  
20      the proposed power line ~~to be~~ if it becomes de-energized;

21      (2)   The balance of the risk of wildfire with the need for continued supply of  
22      electricity to a community; and

23      (3)   Any potential impact to public safety, first responders, and health and  
24      communication infrastructure.

25      f.   A description of procedures the qualified utility intends to use to restore its  
26      electrical system in the event of a wildfire;

27      g.   A description of the costs for implementation of the plan, including system  
28      improvements and upgrades;

29      h.   A description of community outreach and public awareness efforts before and  
30      during a wildfire season; and

- i. A description of potential participation with state or local wildfire protection or mitigation plans.

**Wildfire mitigation plan submission.**

1. An electric public utility or electric transmission provider may submit for filing a wildfire mitigation plan to the commission. An electric public utility or electric transmission provider shall publish on its website all wildfire mitigation plans within thirty days of filing. If an electric public utility or electric transmission provider submits a wildfire mitigation plan the plan must be updated and resubmitted to the commission every three years.
2. A rural electric cooperative, **municipal electric utility, or municipal joint action agency** may submit a wildfire mitigation plan to its board of directors. The electric cooperative, **municipal electric utility, or municipal joint action agency** shall publish on its website all wildfire mitigation plans within thirty days of approval from its board of directors. If a rural electric cooperative, **municipal electric utility, or municipal joint action agency** submits a wildfire mitigation plan, the plan must be updated and reapproved by the board of directors every three years.
3. The preparation and publishing of, and compliance with, the qualified utility's wildfire mitigation plan constitutes prima facie evidence that the qualified utility exercised a reasonable standard of care.

**Annual report.**

1. An electric public utility or electric transmission provider with a wildfire mitigation plan on file may submit an annual report detailing the utility's compliance with the plan to the commission, no later than December thirty-first of each year the plan is effective. If the utility submits an annual report, the utility shall publish the report on its website.
2. A rural electric cooperative, **municipal electric utility, or municipal joint action agency** with a wildfire mitigation plan shall submit an annual report to its board of directors or **governing body** summarizing the rural electric cooperative's, **municipal electric utility's,** or **municipal joint action agency's** compliance with its approved wildfire mitigation plan. The rural electric cooperative, **municipal electric utility, or municipal joint action agency** shall publish the report on its website.

**2025 HOUSE ENERGY AND NATURAL RESOURCES**

**SB 2339**

# 2025 HOUSE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee

Coteau AB Room, State Capitol

SB 2339

3/20/2025

Relating to strict liability and a wildfire mitigation plan of a qualified utility; and to provide for a report.

9:30 a.m. Chairman Porter called the hearing to order.

Members Present: Chairman Porter, Vice Chairman Anderson, Vice Chair Novak,  
Representatives: Dockter, Hagert, Headland, Heinert, Johnson, Marschall, Olson, M. Ruby,  
Conmy, Foss

### Discussion Topics:

- Fire Risk Model
- Electric Companies wildfire mitigation plan
- Daily Fire Prevention Procedures
- Safe and Reliable Electric Services

9:30 a.m. Senator Greg Kessel, North Dakota Senator for District 39, introduced the bill.

9:37 a.m. Beth Feldner, Community Relations and Government Affairs at Xcel Energy, testified in favor.

9:38 a.m. Riaz Mohammed, Wildlife Regulatory Policy Specialist at Xcel Energy, testified in favor and provided testimony #43210.

9:45 a.m. Daryl Anderson, Montana-Dakota Utilities Company, testified in favor and provided testimony #43186.

9:52 a.m. Dennis Pathroff, Lobbyist for Power Companies of North Dakota, testified in favor and provided testimony #43007.

10:00 a.m. Josh Kramer, General Manager and Executive Vice President of North Dakota Association of Rural Electrical Cooperatives, testified in favor and provided testimony #43053.

10:06 a.m. Paul Fitterer, General Manager at Capital Electric Cooperative, testified in favor and provided testimony #43083.

10:16 a.m. Doug Nelson, State Fire Marshal, testified in favor and provided testimony #43000.

10:18 a.m. Philip Arnzen, Regional Vice President at the National Association of Mutual Insurance Companies, testified in opposition and provided testimony #43138, #43260.

10:31 a.m. John Ward, Lobbyist for State Farm Insurance, testified in opposition.

10:51 a.m. Chairman Porter assigned a subcommittee including Representatives Dockter, J. Olson, and Conmy.

**Additional written testimony:**

Deborah Birgen, Missouri River Energy Services, submitted testimony in favor #42979.

Zach Martin, Manager of Government Affairs at ALLETE/MN Power, submitted testimony in favor #43094

10:51 a.m. Chairman Porter closed the hearing.

*Wyatt Armstrong for Leah Kuball, Committee Clerk*

**Testimony in Support of  
Senate Bill 2339  
House Energy and Natural Resources Committee**

Good morning, Chairman Porter and Members of the House Energy and Natural Resources Committee, my name is Deb Birgen. I represent Missouri River Energy Services (MRES), a municipal joint action agency serving municipal electric utilities in four states: North Dakota, Iowa, Minnesota, and South Dakota. Our six North Dakota municipal electric members include Cavalier, Hillsboro, Lakota, Northwood, Riverdale, and Valley City. I am presenting this testimony through Todd D. Kranda, the MRES lobbyist. Thank you for allowing MRES to submit testimony in writing.

MRES supports the passage of SB 2339 as common-sense legislation. It limits courts from applying a standard of strict liability to a qualified utility in a cause of action, **if and only if** a utility has met and documented that it has actively engaged in wildfire prevention and mitigation measures. It is important to note that this only puts some guardrails on potential liability and damages. Utilities would still be responsible for property damage and lost production.

SB 2339 has found a commonsense solution that protects ratepayers, while at the same time encouraging investment in mitigation measures.

Therefore, I respectfully ask for a “**Do Pass**” recommendation on **SB 2339** as a balanced approach.



## TESTIMONY

*Douglas Nelson, State Fire Marshal*  
House Energy and Natural Resources  
March 20<sup>th</sup>, 2025

Representative Porter, Chairman of the House Energy and Natural Resources Committee, and Committee members,

I am here in support of Senate Bill 2339, which proposes to codify liability thresholds for qualified utilities in North Dakota. It is my understanding that under common law in North Dakota, strict liability is already not in practice. This bill clarifies and codifies the liability exposure, and establishes a minimum standard of care that should be applied by utilities as a wildfire mitigation plan.

This clarification of liability laws and establishment of a minimum standard of care will help insulate utilities from litigation that could affect services and pricing throughout, but especially in rural areas of, the state.

Wildland-Urban Interface Fires have increased from 285 in 2014 to 569 in 2023. These fires occur in areas where wildland such as grass or crop fires, and buildings such as homesteads and towns interact. These fires are becoming more common and depending upon the conditions are becoming more dangerous. Our wildfires have resulted in fatalities and have been close to burning into towns.

The State Fire Marshal's Office supports the fair and clarified language in Senate Bill 2339. I respectfully ask for your support and thank you for your time.



Good morning, Chairman Porter and members of the House Energy and Natural Resources Committee,

My name is Dennis Pathroff. I'm a lobbyist with the GA Group and here today representing the Power Companies of North Dakota ("PCND"). PCND is a coalition of the state's leading shareholder-owned gas and electric utilities. Our members include MDU Resources Group, Xcel Energy, Otter Tail Power Company, and ALLETE. Together, PCND members serve over 427,000 North Dakota customers, employ over 1,200 North Dakotans, and manage significant power generation and transmission infrastructure across our state.

Today, I express PCND's strong support for SB 2339 – the "Prevent the Event" wildfire mitigation bill. This important legislation empowers utilities to develop and implement wildfire mitigation plans or ("WMPs") designed to enhance public safety and reduce wildfire risks. Adherence to these plans is part and parcel to public safety and effective wildfire prevention.

Utilities forced into insolvency due to financial and litigation exposure from wildfires are not in the public interest. Moreover, electric consumers will benefit in the long term from utilities' lower borrowing costs and reduced insurance premiums, as utilities adopt and comply with WMPs, and rating agencies and insurance companies adjust the utilities' risk profiles accordingly.

I'd now like to walk you through the key components of the engrossed bill (25.1247.02000):

The **Definitions** (page 1, lines 7-17) define WMP, identify the types of utilities that may prepare a WMP, and outline what constitutes hazardous plant vegetation.

The **Limitation on strict liability standard for a qualified utility** (page 1, lines 18-20) is a very important section of this bill. It provides that a court may not apply strict liability to a qualified utility in a cause of action alleging the utility caused wildfire related damages.

This means that in a lawsuit involving wildfire damages, a plaintiff would have to prove a utility was negligent. The key difference between negligence and strict liability is that negligence requires proving fault (or failure to exercise a reasonable standard of care). Strict liability, on the other hand, focuses on the activity itself, making the defendant liable regardless of fault. Here's a comparison of the elements of the two types of torts:

<ul style="list-style-type: none"> <li>• Elements of negligence <ul style="list-style-type: none"> <li>○ <b>Duty of Care:</b> The defendant owed a duty to act reasonably to plaintiff</li> <li>○ <b>Breach of Duty:</b> The defendant failed to meet that standard of care</li> <li>○ Causation: <ul style="list-style-type: none"> <li>▪ Actual: The defendant's actions directly caused the harm</li> <li>▪ Proximate: The harm was foreseeable</li> </ul> </li> <li>○ Damages: The plaintiff suffered actual harm or injury</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Elements of Strict liability <ul style="list-style-type: none"> <li>○ Activity: The defendant engaged in a dangerous activity</li> <li>○ Causation: The activity directly caused the harm</li> <li>○ Damages: The plaintiff suffered actual harm or injury</li> </ul> </li> </ul>
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The existing common law (or case law) in North Dakota is that strict liability does not apply to damages stemming from electric infrastructure. See the Eighth Circuit case, *Meyer v. McKenzie Elec. Coop., Inc.*, 947 F.3d 506 (8th Cir. 2020).

Accordingly, the bill codifies the existing North Dakota common law. Codifying this common law doctrine will prevent future North Dakota courts from applying strict liability. This statutory change will provide meaningful regulatory certainty for creditors and rating agencies, underwriters, and insurers in the utility sector. Contrast this with California, where application of strict liability has led to bankruptcy and insolvency among utilities.

The **Wildfire mitigation plan** section (page 2, line 1 through page 3, line 2) provides that a qualified utility may file a WMP and then specifies, in detail, what these plans must include.

The **Wildfire mitigation plan submission** section (page 3, line 3 through page 3, line 19) provides that the IOUs may submit their WMPs to the PSC, while the cooperatives may submit their plans to their boards of directors.

Importantly, this section provides (on page 3 lines 17-19) that compliance with a WMP constitutes evidence, subject to rebuttal, that the utility exercised a reasonable standard of care, addressing two critical elements of negligence: duty of care and breach of duty.

The last section, **Annual report** (page 3, lines 20-30) provides that IOUs may submit their WMP to the PSC and must publish their WMPs on their websites. Likewise, the cooperatives may submit their WMPs to their boards of directors and must publish their WMPs on their websites.

In summary, SB 2339, the “Prevent the Event” wildfire mitigation bill, helps ensure that utilities will continue to provide North Dakotans with safe, affordable, and reliable electric services. By codifying existing legal principles, creating sensible liability protections, and incentivizing the development and implementation of wildfire mitigation plans, this bill enhances public safety and reduces costs and financial risks for utilities and ultimately the customers they serve.

PCND strongly urges a “Do Pass” recommendation on SB 2339.

Thank you, Chairman Porter and members of the committee, for your time and consideration.



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March 20, 2025

To: North Dakota House – Energy and Natural Resources Committee  
From: Josh Kramer, executive vice president and general manager, NDAREC  
RE: **Support for SB 2339 – Strict Liability and Wildfire Mitigation Plan**

Chairman Porter and members of the House Energy and Natural Resources Committee,

I'm Josh Kramer the General Manager of the North Dakota Association of Rural Electric Cooperatives (NDAREC) and I'm here on behalf of our members to express our support for SB 2339. Our organization represents 17 electric distribution cooperatives and five generation and transmission cooperatives that generate, transmit and distribute electricity across the state of North Dakota. Collectively, North Dakota's electric cooperatives own and maintain more than 67,000 miles of power lines.

We support this legislation and believe a process that encourages and reinforces proactive measures on the frontend to mitigate the risk of wildfires and creates a guide to uniformity for wildfire prevention is a step in the right direction. We also recognize that, for mitigation plans to be most effective, coordination and collaboration is important as each independent electric cooperative further develops and modifies their own wildfire mitigation plan that is specially tailored to involve the appropriate officials and organizations within a cooperative's local service area.

Electric cooperatives are private, independent electric utilities owned by the consumer members they serve. Electric cooperatives have demonstrated an ability to be effectively self-regulated and governed by locally elected boards of directors. Safety, reliability and

affordability are of utmost importance for our cooperatives. They care greatly about the safety of the people and communities they serve, because their employees and members live, work and volunteer in those same local communities.

Investor-owned and electric cooperative utilities are working together as proponents of this legislation, and we, voluntarily support further development, implementation and conversation on wildfire mitigation plans.

Chairman Porter and members of the House Energy and Natural Resources Committee, thank you for your time and I'd be happy to stand for questions.

Testimony In Support of 2025 Senate Bill No. 2339

Capital Electric Cooperative

Paul Fitterer General Manager

Good morning. My name is Paul Fitterer, and I am the General Manager of Capital Electric Cooperative (Capital Electric) based out of Bismarck, ND and Wing, ND. Capital Electric provides retail electrical distribution to nearly 22,000 services for member-consumers in Burleigh, Sheridan, Emmons, Kidder, and McLean counties and owns and operates approximately 2,800 miles of medium and low voltage distribution lines, including stepdown transformers and associated service entry equipment. To date, approximately 1,500 miles of line, or 54% of our total line is overhead, and 1,300 miles, or 46% is underground. The vast majority of new conductor we place is underground. Wildfires are a risk for many areas of the country, and Capital Electric is not immune to the potential for wildfires within our service territory. We have and maintain a wildfire mitigation plan. This plan captures the steps Capital Electric takes to minimize the probability of starting a wildfire due to actions of employees and/or equipment.

Today, I'd like to share with you some of the on-going mitigation efforts that Capital Electric is proactively taking to mitigate fire risk.

**a. Routine line patrol**

Capital Electric performs visual patrol of distribution assets daily, whenever driving to/from jobsites as well as while working at a given location.

Maintenance items that are noted by personnel are converted to electronic service orders, which tracks the scope of work, date the work is completed, and

any notes specific to the resolution. Notifications of potential concerns are also communicated from our member consumers, upon which a line crew is dispatched to assess and evaluate any necessary actions.

**b. Annual line inspection**

We perform a focused visual inspection for half of the overhead distribution system annually. Electronic inspection records dictate the areas to be inspected, requiring line crews to note deficiencies and maintenance items, which then follow the same service order process as previously noted for tracking and completion.

**c. Vegetation management**

Annual vegetation management is performed by line crews and contractors to address the potential for tree contacts and any danger trees that are at risk of falling into distribution lines. Routine and annual line patrol notes are sources of data to develop a given year's tree trimming plan, ensuring that identified potential contacts are addressed when needed, not solely on a periodic X-year cycle.

**d. Pole testing**

We hire a third-party inspection company to annually test 1/10th of our system's poles, or approximately 2,000 poles, and thereafter continuing tests with the intent of a documented test result within 10-years of today's date for every pole and then starting again in year 11. These tests include visual, sound, partial

excavation, and/or bore testing. Poles that fail inspection are marked as reject, and after receiving the report Capital Electric or its contractors begins to change out rejected poles with new ones.

**e. Rural rebuilding**

We have been committed for many years to rebuild approximately 25 miles of overhead distribution line each year. This includes new poles, hardware, and conductor, mostly applied to single-phase rural lines. The rebuilt line is improved to current construction standards, utilizing Aluminum Conductor Steel Reinforced (ACSR), shortening spans between poles, and using neutral offset brackets. Having committed to rebuilding rural overhead line for almost 20 years, Capital Electric has rebuilt 1/3 of what was our oldest and most rural overhead line.

**f. Sectionalizing equipment**

We also use many types of protective devices to isolate and clear system faults. Substations with electronic controls have remote control capabilities, including non-reclose and hot line tag modes. Underground circuits have interrupters to clear what are typically permanent fault conditions. Overhead lines use electronic reclosers with the ability to try one or more operations to open and close, typically clearing temporary faults; these can also be locally set to non-reclose mode. Fuses are also used on underground and overhead taps, although more commonly applied to overhead lines. Capital Electric no longer

has oil-filled reclosers on distribution lines. In all cases, Capital Electric analyzes the need for, and the appropriate type of sectionalizing device to apply, to balance the needs for reliability and security.

**g. Conversion to URD**

Capital Electric also converts existing overhead line to underground as part of standard construction activities; a portion of the annual work plan projects are typically dedicated to these conversions. Often these projects are selected to avoid future maintenance costs such as right of way clearing. Conversion of overhead lines eliminates the potential for tree contact or the impacts of high winds and ice.

**h. Coordination with emergency response**

Capital Electric coordinates emergency response activities in multiple ways. Internally, mobile radios are used between line crews to ensure communication of activities and locations; automatic vehicle locating GPS tools also monitor locations of crew vehicles and refresh positions on electronic system maps, including on tablets using cellular data. After normal business hours, we use dispatch services to receive outage messages and relay details to on-call crews. For large outage events after hours, operations staff returns to headquarters to provide additional management of the restoration activities. Capital Electric communicates with local transmission system operators (ex. WAPA, Otter Tail, and MDU) for larger system events. In the event of accidents and natural

disasters, we coordinate with local county officials via Burleigh County Central Communications, responding to requests to disconnect power.

**g. Power Restoration Procedure**

In times of elevated fire risk, line crews visually inspect all lines downstream of an open protective device (breaker or fuse) before re-energizing a line. This may require crews to use ATV's, walking or other means to be able to visually inspect line before energizing.

**h. Additional efforts during high-risk conditions**

- Carry large spray water cans on trucks
- Patrol every span before attempting reclose
- Fire watch during and after work
- Trim grass before driving or parking vehicle
- Only leave roadway by vehicle for outage response
- Avoid work on Red Flag days unless lack of action poses more risk than completing work.
- Require contractors to abide by the same standards as Capital electric employees.
- Revised recloser settings

Capital Electric feels this is an important bill that will strongly encourage ND utilities to annually evaluate the evolving risks of wildfires as it relates to the potential impacts from

utility operations. Likewise, the qualified utilities in turn, would reduce some risk by avoiding the standard of strict liability.

Capital Electric supports this bill.

Thank You.

March 20, 2025

Chair Todd Porter and members of the House Energy and Natural Resources Committee,

On behalf of ALLETE / MN Power, we write in strong support for Senate Bill 2339 which provides the option for qualified utilities to submit wildfire mitigation plans to the Public Service Commission and improve the financial certainty of these critical electric services. We thank Senator Kessel and all other sponsors for their leadership on this issue and encourage the committee to approve today's bill.

MN Power owns and operates transmission lines throughout the state, including a high-voltage direct current transmission line which connects energy generation near Center, ND with Duluth, MN. These lines improve grid resilience and provide essential gateways for North Dakota energy production to access valuable markets.

Public safety is a paramount priority for our company and submitting wildfire mitigation plans is an important tool in planning ahead. The bill outlines several aspects that must be included in these plans, including procedures for vegetation management, preventative programs to reduce the risk of electric facilities, procedures for restoring an electrical system in the event of a wildfire, and more.

In exchange, qualified utilities which provide electric or transmission services will avoid facing insolvency in the case of a wildfire, ultimately benefiting energy customers like businesses and families. Our focus on prevention, protection, and recovery from potential wildfires is enhanced through this bill, a benefit to all North Dakotans.

Lastly, we oppose amendments which seek to make changes at this time to an underlying bill which has already been drafted and worked through by a robust coalition of interested stakeholders. The underlying bill received a strong 45-1-1 Senate floor vote in February and look forward to the bill advancing to the House floor.

Wildfires present a national risk, so North Dakota's forward-looking approach through this legislation is appreciated. Again, we thank the sponsors of SB 2339 and urge the committee to approve the bill for possible floor consideration.

Sincerely,

/s/

Zach Martin  
Government Affairs Manager  
ALLETE / MN Power



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March 19, 2025  
North Dakota Legislature  
House Energy and Natural Resources Committee

Representative Porter, Chairman, and members of the House Energy and Natural Resources Committee,

Thank you for giving the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to your committee for the hearing on SB 2339.

The National Association of Mutual Insurance Companies (NAMIC) is the largest property/casualty (P&C) insurance trade association in the country, with more than 1,400 member companies. NAMIC supports local mutual insurance companies up to many of the country's largest national insurers. NAMIC members represent 40 percent of the total P&C insurance market, serve more than 170 million policyholders, and write nearly \$225 billion in annual premiums. NAMIC's members who write P&C insurance in the State of North Dakota represent roughly 40% of the marketplace

NAMIC opposes this legislation as it shifts financial responsibility from utility companies to North Dakota residents and insurers in the case of a utility caused wildfire. This legislation would result in North Dakota residents losing their only real recourse to be made whole, should a utility caused wildfire occur. While we are concerned with the insurance provisions in this bill, unfortunately there are many North Dakota residents who are uninsured or under insured on their properties. Passage of this bill as is will take away their opportunity to recoup financial losses through civil proceedings.

We are absolutely in favor of wildfire mitigation plans. Risk mitigation is a cornerstone of our industry. We believe that all utilities should have such plans and we know that many of them do today. Working to reduce the risk of wildfire is a responsibility we all take seriously.

However, NAMIC and our members are not clear on why there should be special liability immunity or protection for utilities related to wildfires, when other entities and industries don't have such protections. We favor a system in which businesses and individuals are held responsible for the damages they may cause, regardless of whether it is a result of malice. Even the best laid plans can still result in a complete and total loss to North Dakota citizens. In the unfortunate event that something like a wildfire occurs, someone ultimately has to pay the costs.

Limiting the exposure of an electric utility does not decrease the overall cost of a wildfire. If limited liability is granted to electric utilities, this bill does not clarify who will pick up the tab. As a result, the average citizen will be tasked with picking up the pieces, either through



direct costs or increased insurance premiums, with limited access to traditional legal avenues.

When it comes to insurance, the ability to subrogate (or collect on the behalf of the insured) is currently considered in insurance rates, and insurers need to be able to recoup their costs through this process if there is a guilty party. Adding the costs associated with utility caused wildfires to insurers will simply shift that burden to the home or property owners through higher premiums or reduced coverage.

We hope and believe that utilities are doing everything that they can to clear vegetation and properly maintain their equipment. We don't believe there is a utility in North Dakota that is going to intentionally start a fire, but in the unfortunate circumstance that a wildfire is started by a utility, costs need to be recovered in a timely manner, without excessive legal hurdles.

Passing this bill as written will undoubtedly shift costs from utilities to North Dakota citizens and insurers. The question remains as to how much? We don't have that amount, but as costs increase, rate increases and insurance availability will be impacted. In the unfortunate event of a wildfire, the costs will have to be picked up by someone.

Again, we appreciate the opportunity to express our concerns before this committee and we request you **vote NO on SB 2339 in its current form.**

Thank you again for your time,

Phillip Arnzen  
Regional Vice President, Midwest  
National Association of Mutual Insurance Companies (NAMIC)



A Division of MDU Resources Group, Inc.

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TESTIMONY IN SUPPORT OF SENATE BILL 2339  
HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE  
MARCH 20, 2025

**DARYL ANDERSON - DIRECTOR OF ELECTRIC DISTRIBUTION SERVICES, MONTANA-DAKOTA UTILITIES CO.**

Good morning, Chairman Porter and members of the Committee.

My name is Daryl Anderson, and I am here today to testify in support of Senate Bill 2339 on behalf of Montana-Dakota Utilities Co. MDU proudly serves 158 communities in North Dakota with electricity and natural gas.

Senate Bill 2339 is a bill designed to aid in the prevention of wildfires. It primarily does three things:

- It directs utilities to develop and implement comprehensive wildfire mitigation plans, establishing standards for these plans and requiring annual reporting on compliance.
- It codifies the common law understanding that strict liability does not apply to qualified utilities.
- It provides that the preparation, publication, and compliance with a qualified utility's wildfire mitigation plan constitutes prima facie evidence that the utility exercised a reasonable standard of care.

MDU has consistently provided safe, reliable, and affordable service to its customers over its 100-year history through its long-standing Operations and Maintenance programs. These ongoing improvements and maintenance efforts strengthen the electric system and help reduce the likelihood of system faults and enhance wildfire prevention.

Recognizing the heightened risk of catastrophic wildfires in the current environment, MDU has begun directing policies and programs to address this threat with targeted prioritization to lower safety risks. The Company is developing a Wildfire Mitigation Plan to reduce the risk of wildfires sparked by its electric system and employee work practices. We are also focusing our efforts on making changes to our operations procedures to aid in system restoration and safety during catastrophic wildfires.

The plan focuses on three main elements:

- **Daily Operational Fire Prevention Procedures:** Implementing daily operational changes based on real-time environmental situational awareness monitoring.

- **System Fire Risk Mitigation and Hardening:** Developing a fire risk model to prioritize capital and maintenance projects, reducing fire risk of electric equipment operations, and hardening the system against wildfires.
- **Customer and Community Outreach:** Enhancing communications and outreach to customers, community leaders, and first responders to raise awareness of wildfire dangers, explain the Company's risk reduction efforts, and develop procedures and communications for wildfire dangers, wildfire weather risks, operational changes, and active wildfire events.

MDU has initiated several projects and processes to reduce wildfire risk:

- Implementing Daily Operational Fire Prevention Procedures and monitoring environmental situational awareness during fire season, with operational changes for certain fire danger indices and red flag warnings.
- Deploying a Distribution SCADA system over the past several years to monitor and control the Electric Distribution System for real-time situational awareness and operational control changes based on weather events.
- Establishing a Distribution System Operation Center in January 2024, in addition to the Electric System Operation Center for transmission/generation, to control and monitor the Distribution system.
- Deploying an Outage Management System in January 2024, enhancing the Company's understanding of power outage causes and system failures, which will play a crucial role in wildfire risk reduction.
- Actively developing the specifics of the Wildfire Mitigation Plan, including a wildfire risk model to guide construction and maintenance projects and inform daily operational situational awareness decisions.

I respectfully urge the committee to recommend a "Do Pass" on SB 2339.

Thank you, Mr. Chairman and members of the committee, for allowing me to speak with you today.



P.O. Box 2747  
Fargo, ND 58108

**SB 2339 Testimony in Support  
House Energy & Natural Resources Committee March 20, 2025**

Chairman Porter and members of the House Energy & Natural Resources committee, thank you for the opportunity to speak today. I'm Riaz Mohammed, Wildfire Regulatory Policy Specialist, with Xcel Energy. Xcel Energy has had the privilege of serving roughly 158,000 electric and gas customers in North Dakota since 1908.

We are here today to talk about wildfire risk in North Dakota. Unfortunately, we know that wildfire risk is not limited to one state or one area of the country but is affecting more areas of the country than ever before. Last year in North Dakota, we experienced 17 red flag warning days with a total of 291 red flag warning events; and last October was a particularly devastating month with over 100,000 acres burned across the state. We know some of you on the committee were personally affected by these fires.

Xcel Energy supports the passage of SB 2339, and this committee's leadership in proactively addressing the risk posed by catastrophic wildfires. SB 2339 incentivizes prevention and protection for communities and customers from wildfire risks and the associated cost of wildfire events and ensures that electric companies can continue to invest in a more resilient and reliable energy system.

Xcel Energy's commitment has always been and will remain providing safe, reliable, and affordable energy to the communities and customers we are privileged to serve. Xcel Energy recognizes the increase in extreme weather events, including catastrophic wildfires, and is proactively engaged in investing in our system to mitigate wildfire risk.

Last year, Xcel Energy published a Wildfire Mitigation Plan and a Public Safety Power Shutoff Plan for North Dakota. Xcel Energy's goal with these plans is clear: prevent catastrophic wildfires before they happen. To achieve this goal, Xcel Energy uses a comprehensive approach and suite of mitigation actions, which can be broadly bucketed into four general categories:

- 1) Situational Awareness
- 2) System Resiliency
- 3) Operational Mitigations
- 4) Customer Support

Situational awareness tools enhance the ability to identify, assess, and respond to a physical or environmental hazard, including wildfires. These include enhanced meteorology capabilities, expanded weather station networks and deployment of AI cameras, and the use of fire spread modeling.

System resiliency involves physical infrastructure investments to directly reduce the risk of wildfire ignitions associated with utility facilities. This includes inspection of system assets, and when appropriate remediation or replacement of identified defects. It also includes vegetation management around facilities to prevent vegetation coming into contact with our system.

Operational mitigations involve adjusting how we operate our electric system in order to reduce the risk of wildfire ignitions associated with our facilities. This includes enabling Enhanced Powerlines Safety Settings (or EPSS) and, as a measure of last resort, implementing a Public Safety Power Shutoff (or PSPS). When EPSS is

activated, power lines are more sensitive and can instantly stop the flow of energy if an object touches the line. PSPS is a risk reduction strategy in which power is shut off to a targeted area for a limited time when wildfire risks are extremely high. Both EPSS and PSPS are preventative measures only used when the temperature, wind speed, relative humidity, and available fuel sources indicate a high risk for wildfires.

Customer support includes directly informing customers regarding wildfire risk and mitigation activities. Xcel Energy knows that outreach to our customers and key stakeholders is critical to implementing the mitigation actions noted above. SB 2339 supports this collective approach to proactively address wildfire risk by encouraging coordination between utility, state, and local wildfire mitigation efforts.

SB 2339 compliments and encourages the approach Xcel Energy is implementing to prevent wildfires, which focuses on ensuring the safety of our customers and communities and providing safe, reliable, and affordable energy. SB 2339 promotes and supports proactively addressing wildfire risks to prevent them before they start and provides regulatory and financial stability for customers, communities, and utilities operating in North Dakota.

I thank the committee for its time today, and I'm happy to answer any questions.

25.1247.02000

**ENGROSSED SENATE BILL NO. 2339**

Sixty-ninth  
Legislative Assembly  
of North Dakota

*Amendment***FIRST ENGROSSMENT**

Introduced by

Senators Kessel, Bekkedahl, Patten

Representatives Novak, J. Olson, Porter

- 1 A BILL for an Act to create and enact a new chapter to title 49 of the North Dakota Century  
2 Code, relating to strict liability and a wildfire mitigation plan of a qualified utility; and to provide  
3 for a report.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

- 5 **SECTION 1.** A new chapter to title 49 of the North Dakota Century Code is created and  
6 enacted as follows:

7 **Definitions.**

8 As used in this chapter:

- 9 1. "Qualified utility" means an electric public utility, rural electric cooperative, municipal  
10 electric utility, municipal joint action agency, or electric transmission provider as  
11 defined in section 49-03-01.5.  
12 2. "Wildfire mitigation plan" means a plan submitted to the commission or the qualified  
13 utility's board of directors in accordance with this chapter.  
14 3. "Hazardous vegetation" means plants, such as trees, shrubs, and grass which are dry,  
15 diseased, dead, or in close proximity to power lines and could come into contact with  
16 power lines, especially in dry and windy conditions, and lead to electrical faults or  
17 wildfires.

18 **Limitation on strict liability standard for a qualified utility.**

- 19 A court may not apply a standard of strict liability to a qualified utility in any cause of action  
20 alleging the qualified utility caused wildfire related damages.

**Wildfire mitigation plan.**

1. A qualified utility ~~may~~shall prepare a wildfire mitigation plan in accordance with this chapter.
2. A wildfire mitigation plan under this section must include:
  - a. A description of areas within the service territory of the qualified utility which may be subject to a heightened risk of wildfire;
  - b. A description of the procedures, standards, and time frames the qualified utility will use to safely and reliably operate and inspect its infrastructure affected by hazardous vegetation;
  - c. A description of the procedures and standards the qualified utility will use to perform vegetation management. The procedures and standards under this section must be compliant with the American national standards institute standard A300, part 7;
  - d. A description of the modifications or upgrades to facilities and preventative programs the qualified utility will implement to reduce the risk of its electric facilities initiating a wildfire;
  - e. A description of procedures for disabling reclosers to mitigate potential wildfires taking into consideration:
    - (1) The ability of the qualified utility to reasonably disable reclosers and access the proposed power line if it becomes de-energized;
    - (2) The balance of the risk of wildfire with the need for continued supply of electricity to a community; and
    - (3) Any potential impact to public safety, first responders, and health and communication infrastructure.
  - f. A description of procedures the qualified utility intends to use to restore its electrical system in the event of a wildfire;
  - g. A description of the costs for implementation of the plan, including system improvements and upgrades;
  - h. A description of community outreach and public awareness efforts before and during a wildfire season; and
  - i. A description of potential participation with state or local wildfire protection or mitigation plans; and

- j. The procedures and standards under this section must be compliant with the current version of the National Electric Safety Code as of the date of plan submission.

**Wildfire mitigation plan submission.**

1. An electric public utility or electric transmission provider ~~may~~shall submit for filing a wildfire mitigation plan to the commission. An electric public utility or electric transmission provider shall publish on its website all wildfire mitigation plans within thirty days of filing. If an electric public utility or electric transmission provider submits a wildfire mitigation plan the plan must be updated and resubmitted to the commission every ~~three years~~year.
2. A rural electric cooperative, municipal electric utility, or municipal joint action agency ~~may~~shall submit a wildfire mitigation plan to its board of directors. The electric cooperative, municipal electric utility, or municipal joint action agency shall publish on its website all wildfire mitigation plans within thirty days of approval from its board of directors. If a rural electric cooperative, municipal electric utility, or municipal joint action agency submits a wildfire mitigation plan, the plan must be updated and reapproved by the board of directors every ~~three years~~year.
3. The preparation and publishing of, and compliance with, the qualified utility's wildfire mitigation plan constitutes ~~prima facie evidence~~ a rebuttable presumption that the qualified utility exercised a reasonable standard of care.

**Annual report.**

1. An electric public utility or electric transmission provider with a wildfire mitigation plan on file ~~may~~shall submit an annual report detailing the utility's compliance with the plan to the commission, no later than December thirty-first of each year the plan is effective. ~~If the utility submits an annual report, the~~The utility shall publish the report on its website.
2. A rural electric cooperative, municipal electric utility, or municipal joint action agency with a wildfire mitigation plan shall submit an annual report to its board of directors or governing body summarizing the rural electric cooperative's, municipal electric utility's, or municipal joint action agency's compliance with its approved wildfire mitigation plan. The rural electric cooperative, municipal electric utility, or municipal joint action agency shall publish the report on its website.

# 2025 HOUSE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee

Coteau AB Room, State Capitol

SB 2339

3/27/2025

Subcommittee

Relating to strict liability and a wildfire mitigation plan of a qualified utility; and to provide for a report.

8:30 a.m. Chairman Dockter called the meeting to order.

Members Present: Chairman Dockter, Representatives: Johnson, Olson, Conmy

### Discussion Topics:

- Rebuttable presumption
- Power company strict liability laws
- Wildfire mitigation plan requirements

8:31 a.m. Dennis Pathroff, Power Companies of North Dakota, proposed Amendment LC:25.1247.02001, testimony #44283.

8:35 a.m. John Ward, State Farm Insurance, answered committee questions.

8:48 a.m. Carlee McCloud, Minnkota Power Cooperative, answered committee questions.

8:55 a.m. Chairman Dockter adjourned the meeting.

*Wyatt Armstrong for Leah Kuball, Committee Clerk*

25.1247.02001  
Title.

Prepared by the Legislative Council  
staff for Representative J. Olson  
March 26, 2025

Sixty-ninth  
Legislative Assembly  
of North Dakota

## PROPOSED AMENDMENTS TO FIRST ENGROSSMENT

### ENGROSSED SENATE BILL NO. 2339

Introduced by

Senators Kessel, Bekkedahl, Patten

Representatives Novak, J. Olson, Porter

1 A BILL for an Act to create and enact a new chapter to title 49 of the North Dakota Century  
2 Code, relating to strict liability and a wildfire mitigation plan of a qualified utility; and to provide  
3 for a report.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** A new chapter to title 49 of the North Dakota Century Code is created and  
6 enacted as follows:

7 **Definitions.**

8 As used in this chapter:

- 9 1. "Hazardous vegetation" means plants, such as trees, shrubs, and grass, which are  
10 dry, diseased, dead, or in close proximity to power lines and could come into contact  
11 with power lines, especially in dry and windy conditions, and lead to electrical faults or  
12 wildfires.
- 13 2. "Qualified utility" means an electric public utility, rural electric cooperative, municipal  
14 electric utility, municipal joint action agency, or electric transmission provider as  
15 defined in section 49-03-01.5.
- 16 ~~2.3.~~ "Wildfire mitigation plan" means a plan submitted to the commission or the qualified  
17 utility's board of directors in accordance with this chapter.
- 18 ~~3.~~ "Hazardous vegetation" means plants, such as trees, shrubs, and grass which are dry,  
19 diseased, dead, or in close proximity to power lines and could come into contact with

~~power lines, especially in dry and windy conditions, and lead to electrical faults or  
wildfires.~~

Limitation on strict liability standard for a qualified utility.

A court may not apply a standard of strict liability to a qualified utility in any cause of action  
alleging the qualified utility caused wildfire related damages.

**Wildfire mitigation plan.**

1. A qualified utility may prepare a wildfire mitigation plan in accordance with this chapter.

2. A wildfire mitigation plan under this section must include:

a. A description of areas within the service territory of the qualified utility which may  
be subject to a heightened risk of wildfire;

b. A description of the procedures, standards, and time frames the qualified utility  
will use to safely and reliably operate and inspect its infrastructure affected by  
hazardous vegetation;

c. A description of the procedures and standards the qualified utility will use to  
perform vegetation management. ~~The procedures and standards under this  
section must be compliant with the American national standards institute  
standard A300, part 7;~~

d. A description of the modifications or upgrades to facilities and preventative  
programs the qualified utility will implement to reduce the risk of its electric  
facilities initiating a wildfire;

e. A description of procedures for disabling reclosers to mitigate potential wildfires  
taking into consideration:

(1) The ability of the qualified utility to reasonably disable reclosers and access  
the proposed power line if it becomes de-energized;

(2) The balance of the risk of wildfire with the need for continued supply of  
electricity to a community; and

(3) Any potential impact to public safety, first responders, and health and  
communication infrastructure;

f. A description of procedures the qualified utility intends to use to restore its  
electrical system in the event of a wildfire;

- g. A description of the costs for implementation of the plan, including system improvements and upgrades;
- h. A description of community outreach and public awareness efforts before and during a wildfire season; and
- i. A description of potential participation with state or local wildfire protection or mitigation plans.

3. The procedures and standards under this section must be compliant with the American national standards institute standard A300, part 7, and the 2023 national electrical safety code.

**Wildfire mitigation plan submission.**

1. An electric public utility or electric transmission provider may submit for filing a wildfire mitigation plan to the commission. An electric public utility or electric transmission provider shall publish on its website all wildfire mitigation plans within thirty days of filing. If an electric public utility or electric transmission provider submits a wildfire mitigation plan, the plan must be updated and resubmitted to the commission every ~~three~~two years.
2. A rural electric cooperative, municipal electric utility, or municipal joint action agency may submit a wildfire mitigation plan to its board of directors. The electric cooperative, municipal electric utility, or municipal joint action agency shall publish on its website all wildfire mitigation plans within thirty days of approval from its board of directors. If a rural electric cooperative, municipal electric utility, or municipal joint action agency submits a wildfire mitigation plan, the plan must be updated and reapproved by the board of directors every ~~three~~two years.
3. The preparation and publishing of, and compliance with, the qualified utility's wildfire mitigation plan constitutes ~~prima facie evidence~~a rebuttable presumption that the qualified utility exercised a reasonable standard of care.

**Annual report.**

1. An electric public utility or electric transmission provider with a wildfire mitigation plan on file may submit an annual report detailing the utility's compliance with the plan to the commission, no later than December thirty-first of each year the plan is effective. If the utility submits an annual report, the utility shall publish the report on its website.

- 1        2. A rural electric cooperative, municipal electric utility, or municipal joint action agency  
2        with a wildfire mitigation plan shall submit an annual report to its board of directors or  
3        governing body summarizing the rural electric cooperative's, municipal electric utility's,  
4        or municipal joint action agency's compliance with its approved wildfire mitigation plan.  
5        The rural electric cooperative, municipal electric utility, or municipal joint action agency  
6        shall publish the report on its website.

# 2025 HOUSE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee

Coteau AB Room, State Capitol

SB 2339

3/28/2025

Subcommittee

Relating to strict liability and a wildfire mitigation plan of a qualified utility; and to provide for a report.
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9:30 a.m. Chairman Dockter called the meeting to order.

Members Present: Chairman Dockter, Representatives: Johnson, Olson, Conmy

### Discussion Topics:

- Wildfire mitigation plans best practices
- Insurance company potential loss

9:31 a.m. Chairman Dockter proposed an Amendment to strike "and" from page 3 line 8 and insert "electric reliability standard fac-003" after "code" on page 3 line 9.

9:33 a.m. Carlee Mcleod, Minnkota Power Cooperative, answered committee questions.

9:36 a.m. John Ward, State Farm Insurance, answered committee questions.

9:43 a.m. Chairman Dockter adjourned the meeting.

*Wyatt Armstrong for Leah Kuball, Committee Clerk*

# 2025 HOUSE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee

Coteau AB Room, State Capitol

SB 2339

4/3/2025

Subcommittee

Relating to strict liability and a wildfire mitigation plan of a qualified utility; and to provide for a report.

8:30 a.m. Chairman Dockter called the meeting to order.

Members Present: Chairman Dockter, Representatives: Johnson, Olson, Conmy

### Discussion Topics:

- Prema facia Evidence
- Mitigation plans

8:31 a.m. Representative J. Olson moved to recommend amendment 25.1247.02001 amendment to the full committee.

8:31 a.m. Representative Johnson seconded the motion.

8:33 a.m. Levi Anderson, GA Group, Power Companies of North Dakota, answered questions for the committee.

<b>Representatives</b>	yea	nay
Chairman Dockter	x	
Representative Johnson	x	
Representative Olson	x	
Representative Conmy	x	

Motion carried 4-0-0

8:42 a.m. Chairman Dockter adjourned the meeting.

*Leah Kuball, Committee Clerk*

# 2025 HOUSE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee

Coteau AB Room, State Capitol

SB 2339

4/10/2025

Relating to strict liability and a wildfire mitigation plan of a qualified utility; and to provide for a report.

10:32 a.m. Chairman Porter called the hearing to order.

Members Present: Chairman Porter, Vice Chairman Anderson, Vice Chair Novak,  
Representatives: Dockter, Hagert, Headland, Johnson, Marschall, Olson, Ruby, Conmy,  
Foss

Members absent: Representative Heinert

### Discussion Topics:

- Committee action

10:36 a.m. Representative Dockter moved to adopt amendment 25.1247.02001 and page 2 for changing the word 'shall' to 'may'. #44283 (Submitted on 3-27-25)

10:36 a.m. Representative Olson seconded the motion.

Voice Vote: Motion carried

10:37 a.m. Representative Dockter moved a Do Pass as amended.

10:37 a.m. Representative Olson Seconded the motion.

Representatives	Vote
Representative Todd Porter	Y
Representative Dick Anderson	Y
Representative Anna Novak	Y
Representative Liz Conmy	N
Representative Jason Dockter	Y
Representative Austin Foss	Y
Representative Jared c. Hagert	Y
Representative Craig Headland	Y
Representative Pat D. Heinert	AB
Representative Jorin Johnson	N
Representative Andrew Marschall	Y
Representative Jeremy L. Olson	Y
Representative Matthew Ruby	N

Motion carried: 9-3-1

House Energy and Natural Resources Committee  
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Page 2

Bill Carrier: Representative Dockter

10:43 a.m. Chairman Porter closed the hearing.

*Leah Kuball, Committee Clerk*

Sixty-ninth  
Legislative Assembly  
of North Dakota

**PROPOSED AMENDMENTS TO  
FIRST ENGROSSMENT**

4/10/25 VC  
1 of 4

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Representatives Novak, J. Olson, Porter

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  - c. ~~A description of the~~ The procedures and standards the qualified utility will use to perform vegetation management. ~~The procedures and standards under this section must be compliant with the American national standards institute standard A300, part 7;~~
  - d. ~~A description of the~~ The modifications or upgrades to facilities and preventative programs the qualified utility will implement to reduce the risk of its electric facilities initiating a wildfire;
  - e. ~~A description of procedures~~ Procedures for disabling reclosers to mitigate potential wildfires taking into consideration:
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    - (3) Any potential impact to public safety, first responders, and health and communication infrastructure-;
  - f. ~~A description of procedures~~ Procedures the qualified utility intends to use to restore its electrical system in the event of a wildfire;

- g. ~~A description of the~~ **The** costs for implementation of the plan, including system improvements and upgrades;
- h. ~~A description of community~~ **Community** outreach and public awareness efforts before and during a wildfire season; and
- i. ~~A description of potential~~ **Potential** participation with state or local wildfire protection or mitigation plans.

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**Annual report.**

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3        or governing body summarizing the rural electric cooperative's, municipal electric  
4        utility's, or municipal joint action agency's compliance with its approved wildfire  
5        mitigation plan. The rural electric cooperative, municipal electric utility, or municipal  
6        joint action agency shall publish the report on its website.

**REPORT OF STANDING COMMITTEE  
ENGROSSED SB 2339**

**Energy and Natural Resources Committee (Rep. Porter, Chairman)** recommends **AMENDMENTS** ([25.1247.02002](#)) and when so amended, recommends **DO PASS** (9 YEAS, 3 NAYS, 1 ABSENT OR EXCUSED AND NOT VOTING). Engrossed SB 2339 was placed on the Sixth order on the calendar.