

SENATE BILL NO. 2211

Presented by: **Jon Godfread**
 Insurance Commissioner
 North Dakota Insurance Department

Before: **Senate Industry and Business Committee**
 Senator Doug Larsen, Chairman

Date: **January 24, 2023**

Good morning, Chairman Larsen and members of the Committee. For the record, my name is Jon Godfread, Insurance Commissioner. I stand before you today in support of Senate Bill 2211, which is a policy bill whose idea was brought forth by the fire chiefs and fire service.

Much of what Senate Bill 2211 does is realigns the State Fire Marshal's Office with the Insurance Department. The statutory requirements of the State Fire Marshal are already in line with what we do at the Insurance Department. This move to the Insurance Department would allow the State Fire Marshal to focus on what they are obligated to do under Century Code at an elevated level, which is to prevent fires, suppress arson, oversee combustibles, explosives, fire alarms, fire extinguishing equipment, and educate the citizens of North Dakota on the hazards of fire. These requirements align with risk mitigation and the prevention of loss, which are closely related to the insurance industry.

During the 1967 Legislative Session, State Fire Marshal Vance Arneson testified in support of HB 757 to move the State Fire Marshal's Office from the Insurance Department to the Attorney General's office due to the criminal nature of what they were doing for the state at that time and to gain access to legal counsel. From what we've gathered, this move back in the 60s was to focus on arson investigations and create collaboration with the Bureau of Criminal Investigations, which also resulted in a move away from the other duties involving prevention, safety, and education.

A lot has changed in the over 55 years since this change was made. Building codes have been enacted and the regulations on combustibles and explosives have strengthened, all in the name of

safety and preventing fatalities. While the need for arson investigations is still there, it is now a smaller fraction of what the State Fire Marshal does. Since being elected in 2016, I've worked to modernize and create greater efficiency in the institutions I'm involved in. This is a move that will do both, without compromising our commitment to serving and protecting North Dakotans.

This bill, while aligning the Fire Marshal and Fire Service with true safety, prevention, and mitigation, also further strengthens the collaboration between the Bureau of Criminal Investigation. As you will see on page 2, lines 1 through 3, it is clear these processes remain the same and any arson or incendiary crime will still be reported to BCI. Fire and law enforcement will continue to share a collaborative and cooperative arrangement, this bill further solidifies those efforts.

This move will allow us to focus on the many other equally important requirements that the State Fire Marshal is responsible for, including risk mitigation, fire prevention and education, all of which has an impact on our insurance marketplace. We would not be here if we did not believe this would be the best move for the Fire Marshal's office, the Fire Service, and the State of North Dakota. This bill would place the Fire Marshal's office back into an agency that provides support and resources for 90% of its duties. The law enforcement collaboration is only a tenth of the State Fire Marshal's operations.

Another major component of this bill is the need for the continuing appropriation for the fire districts. Funding for fire departments and fire districts comes from a couple of different sources (property taxes, benefits, etc.) but a significant portion of the funding has come from the insurance premium tax. The Department collects the premium tax and from that, the Legislature appropriates an amount up to 100% of the fire insurance premium tax revenue collected. This is essentially a pass-through fund, whereby we collect the tax and pass that collection on to the fire districts. This fund was a continuing appropriation from 1887 – 1985. Since 1985, funding to the fire districts has fluctuated between 101% of the funds to as low as 48% of the funds available. Senate Bill 2211 is asking that the continuing appropriation be restored; this ensures that the dollars that are intended to go to the fire districts are going to the fire districts. The average consumer likely knows that a portion of their homeowner's insurance premiums goes to

funding fire departments. What they do not know is that a portion of those dollars are being put back into the general fund, roughly 40 million dollars over the last 40 years.

Our consumers are being double or triple hit, once on their homeowner's premiums, again on their property tax, and then again by participating in various benefits put on by fire departments to cover their costs. I've come before the legislature for the last two sessions asking you to rectify this disparity and this is by far the most productive suggestion from the fire departments. The continuing appropriation is instrumental in providing the necessary gear and equipment to properly protect the public and the firefighters themselves.

I have said time and time again, we are one tragedy away from being forced into fixing this issue. I firmly believe if a volunteer firefighter were to lose his or her life while on a call, this body would act and restore the funding that should be going to the fire service. We do not need to wait for tragedy to strike, we need to give our local fire departments the resources they need and the tools they require to protect our property and our communities by utilizing the funds that are supposed to be designated for them. At the very least, the continuing appropriation in this bill ensures that money collected on behalf of the fire service, actually goes to the fire service, this is something we should support. To reiterate, over the past 40 years, money has been going into the general fund that was collected for fire service and should have been going to fire service. SB 2211 corrects this wrong and restores the funding that was always meant to go to the fire service.

On top of immediate threats inherent in the fire service, there is another looming problem within the fire service and that is an increased rate of cancer among fire service personnel, something that happens over the long-term. Cancer rates among fire service personnel are increasing, generally because of the carcinogens they are exposed to while performing their duties. Proper equipment, proper cleaning, and more protective equipment is shown to lower that risk. In North Dakota our fire districts are often volunteer led, and without enough of the necessary equipment, or without properly maintaining the equipment, we are not supporting the volunteers to the extent that they deserve. Let's get them the protective equipment they need to keep themselves safe while they're keeping us safe and mitigate this exposure to our state.

In addition to the State Fire Marshal move, and continuing appropriation for the fire districts, Senate Bill 2211 introduces language to pay a flat amount to the North Dakota Firefighter's Association (NDFA) from the Insurance Regulatory Trust Fund, or our special fund, instead of the Fire Insurance Tax Distribution Fund. When I have brought this before this body in the past, the reporting and oversight for the NDFA has often been the main reason as to why a continuing appropriation could not be passed. With SB 2211, the NDFA will be working in concert with the State Fire Marshal and will be giving the State Fire Marshal quarterly reports, this maintains the autonomy the NDFA has earned and deserves, while providing the State Fire Marshal with the responsibility of oversight and reporting.

This would allow all dollars that are collected on behalf of the fire districts to go only to the fire districts. The State Marshal is the glue to bring all these components together to be successful. The oversight of NDFA from the State Fire Marshal helps this state grow and develop the fire service while having peace of mind of the funds you all allocate to NDFA. NDFA President Rob Knuth is here today to talk more about NDFA so you all know and can understand the importance NDFA has for rural communities and what this flat appropriation helps them achieve.

Lastly, I wanted to address any potential sticker shock of the fiscal note. Much of what the fiscal note does is move general fund dollars to other funds, or our special fund, the Insurance Regulatory Trust Fund. There is a positive net calculation for this purpose. It's not just moving the budget from the Attorney General's Office to the Insurance Department. We are committed to investing into the State Fire Marshal and giving his office the resources, they need to effectively administer their duties. We will be requesting 4 additional FTEs for the Fire Marshal which results in an increase in salary, fringe, and operating costs. The Fire Marshal has not received an additional FTE for 40 years, despite significant growth in the state during that timeframe. Because of this, there are many areas of our state that are underserved by the core functions of the Fire Marshal's Office.

I want to remind this body that although the fiscal note may look hefty, any funds we don't use do get turned back to the general fund. Finally, the fiscal note does address the need to increase the Insurance Regulatory Trust Fund reserve from 1 million to 5 million due to the shift of the

Fire Marshal. Many of these fiscal topics will likely be debated in the appropriations committee if this bill gets re-referred to them. Today, you are being asked to review the policy decision of moving the State Fire Marshal back into the Insurance Department, supporting the policy behind the continuing appropriation and an independent appropriation to the NDFA. The specific dollar amounts will be determined by the appropriations committee.

I did want to make it clear this move is strongly supported by my office, many in the industry, and the fire service. I would also like to remind this committee, that this idea was brought to me by the Fire Service, we have worked closely over the past 7 years to develop an idea that would be supported by the fire service and ultimately successful with the legislative body. SB 2211 is the result of many conversations with all the stakeholders including the Attorney General, the Fire Chiefs, the Fire Fighter's Association, the cities, the counties, law enforcement, and just about anyone who would listen to me talk. All have met this idea with approval and support for our efforts. I can assure you; we have looked at this idea to try and find the negative impacts, it's our impression that this is truly positive for all involved.

We look forward to expanding our relationship with Fire Marshal Nelson and his team in the Fire Marshal's Office, and we will continue to advocate for the necessary resources they need to carry out their statutory duties. The relationship between the fire service and the insurance industry is one that goes all the way back to the beginning of our great state. The insurance industry understands, probably better than most, that we all benefit from a strong fire service. It is for these reasons we stand in support of SB 2211 and encourage you and all your colleagues to do the same.

Mr. Chairman and members of the committee, thank you for the time to present today, there are many more behind me to expand on these points, but I am happy to answer any questions you might have.



North Dakota Insurance Department

Safeguarding Promises. Fostering Fairness.
Jon Godfread, Commissioner



Background

When North Dakotans call 9-1-1 because of a fire, it's expected that a team from their local fire department will swiftly tend to the flames and secure the property as much as possible. Ensuring North Dakota's fire departments are prepared and equipped for when the call comes in, should be a priority.

The North Dakota Fire Marshal's office is tasked with reducing the risk of fires in a variety of buildings and environments. Additionally, the Fire Marshal and staff investigate cases of arson, which oftentimes is driven by insurance payouts. This work, similar to insurance, is to protect and support individuals when the unexpected happens.

The Department administers the Insurance Tax Distribution Fund which provides millions of dollars in funding to fire departments across the state. This money is used for more training, equipment and more, which can lower property insurance premiums and ISO ratings.

To create a more efficient state government and improved safety for North Dakotans, the Fire Marshal's office would be best served within the Insurance Department.

Primary shared roles of the Insurance Department & Fire Marshal are to mitigate risks and prepare for the unexpected. This move would provide greater efficiency to better serve and respond to North Dakota communities, large and small.

Joel Boespflug Bismarck Fire Chief

"The closer partnership of agencies involved in the coordination of fire training, fire investigations and fire prevention can create synergies to help communities improve their Insurance Services Office (ISO) Community Fire Protection Rating."

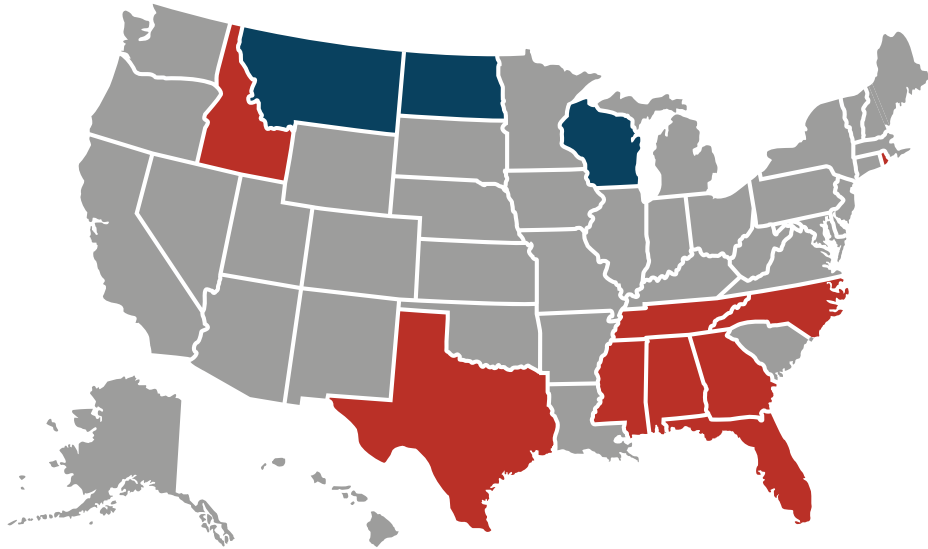
Rob Knuth NDFA Training Director

"The North Dakota Firefighter's Association supports the initiative to unite with the ND State Fire Marshal's office under the ND Insurance Department. The State Fire Marshal provides departments fire prevention, inspection, and investigative services while the ND Firefighter's Association provides training and certifications. Both entities' goal is to improve the capabilities and readiness of the fire departments in the state."

Ken Wangen NDFCA President & Carrington Fire Chief

"It makes too much sense. We've been looking for this in a long time. From a fire department's standpoint, fire departments are tasked with life and property, in that order. The way we achieve that is through education. From a volunteer standpoint, it costs money. Equipment costs have done nothing but go up. Getting ongoing appropriations of premium tax is extremely helpful. Funding the NDFA is a premier priority."

Where are Fire Marshals located?



- Within the state's insurance department
- Within the state's Attorney General's office
- Other or stand-alone agency

North Dakota Firefighter's Association

The NDFA is an organization comprised of hundreds of local firefighters from across the state. Its mission is to promote the safety and welfare of the NDFA members through uniform and established training standards.

Through restructuring, the NDFA will report to the North Dakota Fire Marshal. Further, the NDFA will receive a flat appropriated rate from the Insurance Regulatory Trust Fund, or be specially funded. Currently, funds are received from the Insurance Tax Distribution Fund. More funds will be distributed to fire districts more equitably.

Cities both big and small will be able to utilize funds to better enhance their services and protections for our local communities.

Budget & Finances

\$3.37 million

Fire Marshal's proposed budget for 2023-2025 biennium by the Insurance Department.

\$1.2 million

Appropriated to the North Dakota Firefighters' Association per fiscal year.

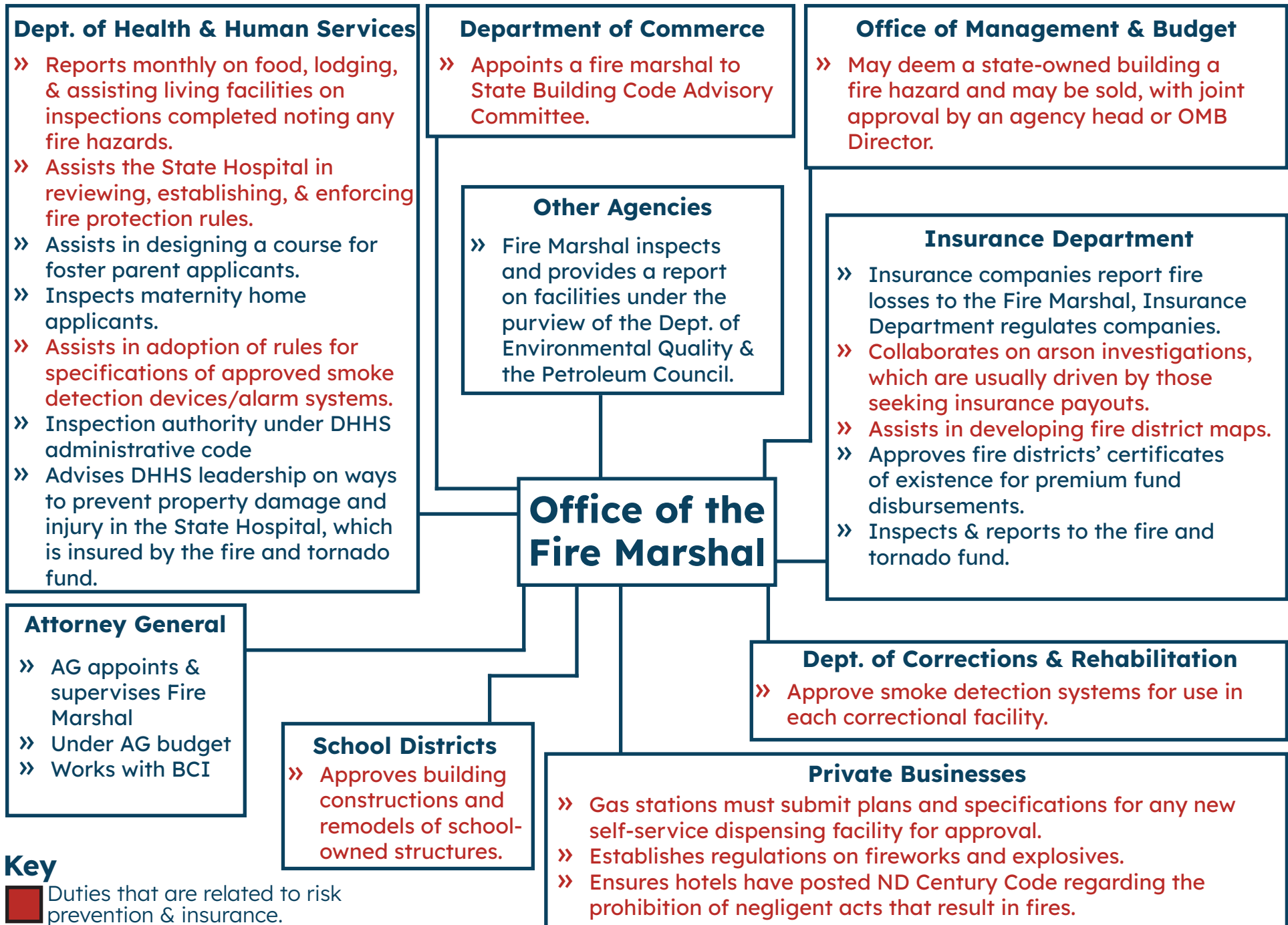
\$6.76 million

Projected turnback following the 2023-2025 biennium from the Insurance Regulatory Trust Fund*

**After proposed appropriations to NDFA & State Fire Marshal's office*

Fire Safety & Insurance

- » Greater communication and efficiency between the Fire Marshal and Fraud Investigation Division. Insurance fraud is a leading motivator for fire-related crimes.
- » The work of the Fire Marshal and NDFA impact the Public Performance Classification through the Insurance Services Office, which can lower premium rates across the state.
- » A role of the Fire Marshal is to educate communities, mitigate risks and prepare for the unexpected, very similar to the Insurance Department. The Fire Marshal and Insurance Department can compliment each other.



Responsibilities of the State Fire Marshal



Connections to the Insurance Department

- » Prevent fires which risk property damage, injury, and fatalities.
- » Regulate fire alarms and fire safety precautions in public facilities, which can lower NDIRF premiums for policyholders.
- » Regulate storage, sale, and use of combustibles and explosives.
- » Educate North Dakotans on fire hazards.



Connections to the Attorney General Office

- » Suppress arson and investigate causes and origin of fires.