



NORTH DAKOTA STATE FIRE MARSHAL
1720 Burlington Dr. Suite B
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March 17th, 2023

To the Honorable Representative David Monson, Chairman of the House Government Operations Division of the Appropriations Committee, and Committee members,

I appear before you today to testify to the budget request by the Insurance Department on behalf of the State Fire Marshal Division under the proposed move under Senate Bill 2211.

The State Fire Marshal Division is responsible for public education; fire prevention and safety inspections; reviews of new construction plans for fuel tanks, fire protection systems, and related items; and fire investigations. These tasks are related to community risk reduction, addressing State liability related to safety hazards of fire, and minimizing impacts from fire losses.

The State Fire Marshal Division currently consists of eight full-time employees and one part-time temporary administrative assistant. Our five Deputy Fire Marshal positions are spread throughout the State to cover large geographic regions from offices out of Bismarck, Dickinson, Minot, Grand Forks and Fargo.

Included in the budget request for the State Fire Marshal Division are four additional Full-Time Equivalent (FTE) positions. The greatest resource of any State Agency is personnel. It is here that our division is lacking the ability to review and inspect new buildings, conduct and report on all fire investigations as requested, and develop public education or community risk reduction initiatives. To further define why these FTE's are necessary please consider the following points:

- The State Fire Marshals Division has not increased in FTE's since prior to 1988.
- Requests have been made in the 2019, 2021 and 2023 budget planning processes to correct this issue, and have not been carried forward.
- Each Deputy Fire Marshal spends 6 weeks of time on travel each year.
- Deputy Fire Marshals have put 10,000 more miles on our State Fleet Vehicles compared to the prior year's total.
- Comp payouts for the State Fire Marshals Division have increased exponentially in the past three bienniums.
 - o 2017 - \$8,304.00
 - o 2019 - \$16,205.00
 - o 2021 - \$43,985.95
- The State Fire Marshals Division has gone from investigating approximately 60-70 fires annually to upwards of 120 in recent years. This is nearly double the workload.
- The quality of work on fire investigations is clear and demonstrable as well. Our reports have gone from bare details, opinion based, and rarely over three pages, to reports full of detail, fact and data based conclusions, and often over twenty pages in length. The point being that not only have our requests for investigations increased, but the time required to complete them to the level of quality necessary has also increased greatly.
 - o This is demonstrated by the fact that as I have traveled around the State visiting with Fire Chiefs, many have shared stories about the arson fire in their

communities. I often follow up these stories with what happened and too often they reply back that nothing happened after the State Fire Marshal had come out.

- We have worked hard to change this and with our increased focus on quality, and partnership with Local, State and Federal law enforcement, we have been able to see more fire cases closed through criminal prosecutions.
- On March 20, 2022 the State Fire Marshals Office was contacted to conduct a fire investigation in a local community. We were able to conclude that the fire was intentionally set for criminal purposes. Working with the Bureau of Criminal Investigation, we were able to effectively ensure that the States Attorney had enough evidence to prosecute the crime, ending in the subject pleading guilty to the charges.
- The State Fire Marshals Division records anywhere from 20-40 fire tips every year. Fire tips are our records of when a fire chief reports a fire to us, but does not request our assistance with the investigation. This can be due to many factors, but often it is related to not having a Deputy Fire Marshal close enough to the area of the State, and our response taking too long for the fire chief to wait. This is a failure to meet the needs of local fire departments that are often looking for further assistance that our division can't give them with our current personnel.
 - On February 13, 2022, the State Fire Marshals Office was contacted by a fire department on the east side of the State. Due to staffing levels, our closest available deputy fire marshal was located in Dickinson. The fire chief cancelled the request for the deputy's response when they learned that it would take over four hours to respond.
- The State Fire Marshals Division has begun enforcing code on new construction plan reviews of fire protection systems, above-ground fuel storage tanks, and other buildings or items as requested by local fire departments. This has caused our plan review numbers to go from approximately 20 projects annually to 120 projects in 2021. Each plan review includes time reviewing codes, communicating with contractors, and final inspections on-site when staffing allows.
 - Two years ago, the State Fire Marshals Office was contacted regarding questions about a proposed hazardous materials facility moving into a downtown building in Richardton, ND. Hazardous Materials buildings are a high-hazard for fire departments, and if not protected correctly for the communities they are in. After working with the fire chief, together we determined that the building would need a fire sprinkler system, fire alarm system and hazardous materials control areas. All of which helped to make this building and location safer for the community and reduce risk. Without the relationship we have established with the Richardton fire chief, his outreach, and partnered enforcement, this building may have gone into place with many high-hazard fire code violations. This is one example of many that show the value of our plan review program and the ability to reduce risk and liability exposure to local communities and fire chiefs.
- Fire Inspection levels have remained relatively stable, but our division has added the service of assistance to local fire departments through complaints, complex buildings, or other situations where they request our help with fire code inspection and code enforcement.
- Due to the level of staffing and workload that fire investigations, plans review, and fire inspections require, our division is unable to offer or sustain any public education programs at this time, even though it is outlined in century code as one of our duties.
- Deputy Fire Marshals cover districts of 10-11 counties. Currently, there are three markets/areas that Deputy Fire Marshals cannot get to quickly, or focus efforts on, which are holes in our service area. These are the cities and surrounding areas of Devils Lake,

Jamestown and Williston. Fire Chiefs in and around these areas have voiced support for Deputy Fire Marshals to be added.

Other items and risks that Deputy Fire Marshals lack time to address or institute include: assistance/information to lowering ISO ratings, fireworks assistance or inspections program, plan review of new childcare licenses, hazardous materials assistance or inspections program, accreditation as a fire investigation unit or fire prevention organization, and assistance with all fires we are contacted for. Adding four additional staff would allow us staffing to correct and address the issues stated.

If the additional four FTE's were appropriated for the State Fire Marshals Division, we do have a plan in place and work identified to ensure they are utilized effectively and efficiently. Three of the FTE's would be used to fill our service holes in Devils Lake, Jamestown and Williston. These areas already average approximately 17 fire investigations requested per year, 30 fire inspections a year, and 10 plan reviews a year. All of this work is already existing without a Deputy Fire Marshal within 1-2 hours of the areas.

The position of Deputy Fire Marshal is a very specialized position with a small pool of qualified individuals. Our current Deputy Fire Marshals are dedicated, qualified and certified to conduct their jobs professionally. However, this is accomplished with much investment into their career development and is not easily recovered if we have turnover. Supporting our hard-working Deputy Fire Marshals is necessary, and if not accomplished we could face continual turnover and training, which does not lead to a successful organization.

The fourth FTE being requested is a second Chief Deputy Fire Marshal to supervise, manage, train, and ensure quality control of work products. Typical effective span of control for the fire service is 3-7. With the addition of FTE's this would bring the number of Deputy Fire Marshals from 5, to 8. Supervision of eight personnel is difficult for one supervisor when all staff are in the same physical location. However, when those positions are spread throughout the State and located up to 4 hours away, this adds travel time and additional barriers to communication.

The Chief Deputy Fire Marshal position is responsible for quality control. Industry standard requires that every fire investigation receive a technical review to ensure it follows established scientific principles and guidelines. This is a time-consuming process, especially as new Deputy Fire Marshals are trained on the fire investigation and reporting process. The position is also responsible to oversee, coordinate and ensure that all plan reviews (and subsequent inspections) are conducted and correctly documented. This process often involves supervision to ensure that codes are being enforced uniformly across the State and at times requires multiple meetings between our office, contractors and building designers. This also is time consuming, especially as we train new Deputy Fire Marshals in the process.

Part of supervision is spending time with employees and actually over-seeing their work. Our current Chief Deputy Fire Marshal schedules ride-alongs twice a year with each Deputy Fire Marshal that she oversees. We also strive to make it to one to two fire investigations with each Deputy Fire Marshal annually. This is done to ensure we understand what is being encountered in the field, and to verify the level of quality of our investigations. These are commitments to ensuring the professional development of our staff and effective supervision, but are difficult to accomplish with the number of Deputy Fire Marshals supervised and the statewide locations they are in. Two Chief Deputy Fire Marshals (one additional) would allow them to focus on developing Deputy Fire Marshal careers. We often have to recruit and hire individuals with little experience or background, so ensuring quality supervision and training is in place is critical to our operations.

The State Fire Marshals Division, if appropriated this second Chief Deputy Fire Marshal, would be in a location that would split the State and ensure the most efficient supervision and division operations possible.

The State Fire Marshals Division does not hold a vision of endless additional Deputy Fire Marshals. Eight Deputy Fire Marshals is all that is planned for to cover our basic response requirements and would help meet the needs of the division and State. With the additional FTE's being requested, part of our focus would be to expand our public education and training (in partnership with the North Dakota Firefighters Association), so that more fire prevention could be done at the local level by trained fire chiefs and firefighters. This would help ensure that we do not have to continue adding Deputy Fire Marshals, and keep our focus of empowering local fire departments through fire prevention. Continuing our State's focus on local control and empowerment.

Also included in this budget request for the State Fire Marshal are additional operating funds. These funds are being requested to cover a myriad of items that include but are not limited to: specialized fire investigation equipment, vehicles to carry specialized equipment, training and certification of staff, educational support, bench/field testing of possible fire causes, fire reporting software, personal protective equipment, software for fire inspections and database, and office equipment.

One item that the division currently does not have either the staffing or operational budget to undertake is accreditation. In its April 2021 report, the Organization of Scientific Area Committees (OSAC) - Fire and Explosion Subcommittee noted that, "accreditation will become the norm in fire investigation units. In some jurisdictions now, public and private laboratories that are not accredited are prevented from participating in the criminal justice system". Current staffing levels would make this an insurmountable task to undertake. However, with the additional FTE's and operational budget, the North Dakota State Fire Marshals Division could pursue and achieve accreditation, remaining on the forefront of the forensic science of fire investigation.

Some of the additional operational budget costs are attributed to any additional FTE's appropriated, and would be initial investments in new Deputy Fire Marshal positions. There are start up costs associated with any FTE, but Deputy Fire Marshals have a physical, hazardous job that requires a number of specialized equipment items and safety gear. The approximate costs can currently approach \$20,000.00, and with supply backlogs and inflation, these numbers are only increasing.

- \$3,500.00 for initial set of personal protective equipment
- \$3,500.00 for back up set of personal protective equipment after completion of probation
 - o Deputy Fire Marshals regularly run to multiple fires in the same week or within days. Each set of gear must be cleaned and decontaminated before going to the next scene.
- \$3,500.00 for vehicle topper and tool tray to carry and protect equipment
- \$1,000.00 for uniforms
- \$1,500.00 for four gas monitor
- \$2,000.00 for small tools for fire investigation (shovels, evidence containers, tool box, containers for smaller tools, contractor bags, rakes, etc.)
- \$5,000.00 for fire gear extractor to decontaminate personal protective equipment

The State Fire Marshal Divisions operating budget was reduced from \$694,513.00 in 2019-2021 to \$365,094.00 in the 2023-2025 biennium, roughly a 45% decrease. This reduced budget made

it difficult or impossible to: outfit all fire investigation vehicles with equipment, invest in new technologies that aid in fire investigations, complete necessary trainings for new Deputy Fire Marshals, purchase all necessary personal protective equipment, purchase necessary uniform materials, provide fire safety materials to local fire departments, purchase hazardous materials identification software, and contribute to the Emergency Reporting Software Contract shared with the Department of Forestry. Currently the division is approximately 20% over our appropriated budget, even though we have been very cautious with our spending as noted.

The State Fire Marshals Division has not increased in FTE's for many years, workload has more than doubled in the last ten years, we don't have enough personnel to help local fire departments, and significant investment has not been maintained towards the division. Work already exists and is waiting for these positions to be appropriated. The State Fire Marshal does not have a vision of endless growth, but we do need a minimum staffing level to effectively help the State's local fire departments. Travel time, mileage, comp hours used, comp hours earned, comp payouts and workload are all increasing at a high-rate. Without great change, this is a recipe not for success, but for inevitable failure.

Under SB 2211, the State Fire Marshals Division would be transferred from the Attorney Generals Office, to the Insurance Department. Now is the time to bring the State Fire Marshals Division up to speed, invest in our State resources, so that we can further spread that influence to local fire departments, resulting in the fire service of North Dakota rising higher for the benefit of our State's great citizens.

I would like to thank you for the time to address the committee today.

Respectfully,

Douglas Nelson
ND State Fire Marshal