

2011 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2070

# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veteran's Affairs Committee  
Missouri River Room, State Capitol

SB 2070  
January 13, 2011  
12866

☐ Conference Committee

Committee Clerk Signature

*Katie Oliver*

## Explanation or reason for introduction of bill/resolution:

Relating to the fire and tornado fund; and to declare an emergency.

## Minutes:

Testimony Attached

**Kathy Roll:** Financial Administrator, Office of the Attorney General. See attached testimony #1

**Chairman Dever:** The changes in the amounts seem different from the bill I read last night.

**Kathy Roll:** They are in line 10 & 19

**Chairman Dever:** There was a problem with the bill as it relates to the amount of money that is being allocated

**Senator Cook:** Why is this in a separate bill and not in the governor's budget and do we not need a fiscal note for this?

**Kathy Roll:** It needs to be separate because there is an emergency clause attached to it and as soon as this passes we will be able to bill again.

**Kathy Roll:** We used to get a straight appropriation for the fire fund. We actually have to bill for our services.

There was no one else to speak in support, opposition or in a neutral position. Chairman Dever closed the public hearing.

# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veteran's Affairs Committee  
Missouri River Room, State Capitol

SB 2070  
January 13, 2011  
12878

☐ Conference Committee

Committee Clerk Signature

*Kate Ouel*

## Explanation or reason for introduction of bill/resolution:

Relating to the fire and tornado fund; and to declare an emergency

## Minutes:

No written testimony

A motion was made for a do pass with a re referral to the Appropriations committee by Senator Nelson with a second by Senator Marcellais. There was no further discussion, roll was taken and the motion passed 7-0

# FISCAL NOTE

Requested by Legislative Council  
12/22/2010

Bill/Resolution No.: SB 2070

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$200,000	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2A. Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill increases the limits set by 2009 House Bill No. 1003 for the amounts to bill the Fire & Tornado Fund and the Petroleum Release Compensation Fund for Fire Marshal services. 2011 Senate Bill No. 2003 removes the biennium fee limitation.

**B. Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

This bill increases the amount to be charged to the Fire & Tornado Fund for Fire Marshal services by \$140,000, which is the additional amount anticipated to be billed for the remainder of the 2009-11 biennium.

This bill also increases the amount to be charged to the Petroleum Release Compensation Fund for Fire Marshal services by \$60,000, which is the additional amount anticipated to be billed for the remainder of the 2009-11 biennium.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Other fund revenues will increase by \$200,000 for the 2009-11 biennium. These revenues fund the Fire Marshal Division operations.

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

N/A

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

N/A

<b>Name:</b>	Kathy Roll	<b>Agency:</b>	Office of Attorney General
<b>Phone Number:</b>	701-328-3622	<b>Date Prepared:</b>	01/11/2011

2070

Date: 1-13-11  
Roll Call Vote #: 72011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.Senate Government and Veteran's Affairs Committee☐ Check here for Conference Committee

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

Action Taken Do Pass w/ ReferMotion Made By Nelson Seconded By Marcellais

Senator	Yes	No	Senator	Yes	No
Chairman Dever	X		Senator Marcellais	X	
Vice Chairman Sorvaag	X		Senator Nelson	X	
Senator Barry	X				
Senator Cook	X				
Senator Schaible	X				

Total (Yes) 7 No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment Schaible

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

**REPORT OF STANDING COMMITTEE**

**SB 2070: Government and Veterans Affairs Committee (Sen. Dever, Chairman)**  
recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee**  
(7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2070 was rereferred to the  
**Appropriations Committee**.

2011 SENATE APPROPRIATIONS

SB 2070

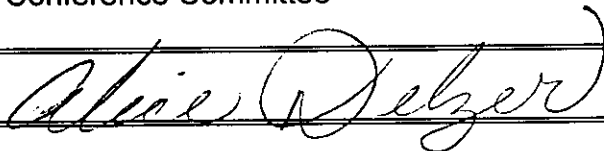
# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

SB 2070  
January 20, 2011  
Job Number 13175

☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

Relating to the fire and tornado fund and the petroleum release compensation fund

### Minutes:

See attached testimony.

**Chairman Holmberg** called the committee to order on SB 2070 at 1:30 pm on January 20, 2011. All committee members were present. Tad H. Torgerson, OMB and Becky J. Keller, Legislative Council were also present.

**Kathy Roll, Financial Administrator for Office of Attorney General** testified in favor of SB 2070 and provided Testimony attached # 1.

**Senator Christmann:** Have there ever been any school fires? He was told yes.

**Chairman Holmberg** closed the hearing on SB 2070.

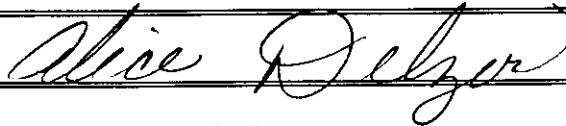
# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

SB 2070  
02-14-2011  
Job # 14533

☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A Roll Call Vote relating to the Fire and Tornado Fund.

### Minutes:

You may make reference to "attached testimony."

**Chairman Holmberg** called the committee to order on Monday, February 14, 2011 in reference to SB 2070. **Tad H. Torgerson, OMB and Brady Larson, Legislative Council** were present. **Becky J. Keller, Legislative Council** came in later to be in on the Bill.

**Chairman Holmberg** stated that is the fire and tornado petroleum release compensation fund for fire marshal services; it increases revenue by \$200,000 and was put in at request of the attorney general's office. If there is any reluctance to take the bill up right now; if you feel comfortable with it, take a look at it before someone makes a motion. It is special funds raised. We had testimony from Kathy Roll from the Attorney General's Office concerning this Bill.

**Senator O'Connell:** When the last time we increased it—does anybody know?

**Senator Wardner:** In the fiscal note it says this increases limits set from the 2009 House bill. I don't remember us doing anything the last time.

**Chairman Holmberg:** By raising it, they raised the amount coming in by \$60,000 per year, which is the additional amount which is anticipated to be billed so it appears it's in the pipeline. That isn't one of your bills--Brady?

**Brady Larson, Legislative Council:** There are two separate funds; looking at the petroleum release fund and the fire and tornado fund.

**Chairman Holmberg:** We had limited testimony; Kathy Roll testified and her information is here. **Senator Christmann** asked if there had ever been any school fires and he was told yes. There was a school fire at LaMoure this weekend. If you read the first paragraph of testimony, it talks about the both the fire and tornado fund, and the petroleum release compensation fund saying they need to be increased to reflect anticipated fire marshal billings for the current biennium; that is why they put the emergency clause on it.

**Senator Fischer:** What does it cost to have a school inspected?

**Chairman Holmberg:** It doesn't say here.

**Senator Fischer:** How much is it being increased—per school or just total funds it looks like in here? Do they do it as a service?

**Senator O'Connell:** I believe the local fire department has authority to inspect the schools. Don't know how many the state fire marshal inspects anymore, or maybe the local one doesn't want it then either.

**Senator Fischer:** Maybe they inspect it after the fire. I know they inspect other facilities. The increase is they are doing it every 24 months instead of 36 months.

**Chairman Holmberg:** Do you want to do something about this or just wait a little more?

**Senator Wardner:** I Move a Do Pass to SB 2070; seconded by Senator Fischer.

**Senator Kilzer:** I don't think we have to carry this Bill on the floor, do we?

**Chairman Holmberg:** No this is a GVA bill. Would you please call the Roll on a Do Pass on SB 2070.

**A Roll Call vote was taken. Yea: 12; Nay: 1; Absent: 0. Motion carried.**

**Chairman Holmberg:** This goes back to GVA. **Senator Cook will carry the bill.**

The hearing was closed on SB 2070. SB 2178 is also on this job and there was further discussion on timeline for other bills.

Date: 2-14-11  
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2070

Senate Appropriations Committee

☐ Check here for Conference Committee

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

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Wardner Seconded By Grindberg

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Warner	✓	
Senator Bowman	✓		Senator O'Connell		✓
Senator Grindberg	✓		Senator Robinson	✓	
Senator Christmann <i>a</i>	✓				
Senator Wardner	✓				
Senator Kilzer	✓				
Senator Fischer	✓				
Senator Krebsbach	✓				
Senator Erbele	✓				
Senator Wanzek	✓				

Total (Yes) 12 No 1

Absent 0

Floor Assignment GA V. GVA Sen. Schaible

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

**REPORT OF STANDING COMMITTEE**

**SB 2070: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS**  
(12 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2070 was placed on the  
Eleventh order on the calendar.

2011 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2070

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Industry, Business and Labor Committee  
Peace Garden Room, State Capitol

SB 2070  
March 7 2011  
14986

☐ Conference Committee

Committee Clerk Signature

*Ed Tang*

## Explanation or reason for introduction of bill/resolution:

Fire and tornado fund and the petroleum release compensation fund and to declare an emergency

## Minutes:

**Chairman Keiser:** Opens the hearing on SB 2070.

**Kathy Roll~Financial Administrator of the Office of the Attorney General:** (See attached testimony 1).

**Representative M Nelson:** It's a fee for a service but it's capped at a total amount?

**Kathy Roll:** We know we are going to surpass the cap amount. We have already exceeded the cap for the number of fuel sites we inspected for the past four months, so we haven't been able to bill for those. Projecting forward, we expect that we are going to exceed the amount that we can bill for the fire and tornado fund as well.

**Representative M Nelson:** Why do you build the insurance fund and not the school or fuel fund?

**Kathy Roll:** The schools are insured by the fire and tornado fund.

**Chairman Keiser:** How does this money flow?

**Kathy Roll:** For the fire and tornado fund, those monies come from insurance premiums assessed.

**Chairman Keiser:** From other people in the state?

**Kathy Roll:** Those who are insured.

**Chairman Keiser:** All plans, not just property and casualty, that would be all forms of plans?

**Kathy Roll:** I believe it's just property.

**Chairman Keiser:** Can you explain that better?

**Kathy Roll:** The insurance premiums that are paid are for property that is insured by the fire and tornado fund.

**Chairman Keiser:** Those would be the schools and etc.?

**Kathy Roll:** That correct.

**Chairman Keiser:** How do we determine the risk for each school or each public building? Do the schools pay differently based on their size?

**Kath Roll:** Jeff Bitz could answer that better. We don't actually collect the premiums.

**Chairman Keiser:** I would like to understand what we are voting on.

**Kathy Roll:** Basically, what happens is we bill them a per hour rate based on the number of hours on the level of inspection.

**Chairman Keiser:** What's the rate you bill at?

**Kathy Roll:** \$65.78 an hour and that includes all of our costs.

**Representative N Johnson:** You bill by the hour to the fire and tornado fund, why was there a cap put on the amount you can have in the fund?

**Kathy Roll:** I'm not sure why. There was a cap put on it because we also bill for legal services to state agencies and entities and there is no cap there?

**Representative Clark:** What are you inspecting for?

**Kathy Roll:** We have an inspection checklist for each type of entity.

**Representative Clark:** Why is the Attorney General's office doing this?

**Kathy Roll:** It's been assigned to us in statute.

**Representative Amerman:** If you go over the billing cap, who gets billed?

**Kathy Roll:** At this point we are not billing anyone for the fuel site inspections because we have maxed out at the cap.

**Representative Boe:** On the petroleum release compensation fund, are these tanks municipal or state owned?

**Kathy Roll:** Privately owned.

**Representative Boe:** Is this the super fund?

**Kathy Roll:** No it's not.

**Representative Boe:** Is this for fuel dealers?

**Kathy Roll:** Jeff Bitz could answer that question.

**Representative Boe:** Once you hit the cap, what happens to the money, does that go back into the general fund?

**Kathy Roll:** It stays with the insurance department.

**Chairman Keiser:** In the city of Bismarck the fire department does most of our safety inspections, does your office contract with them or do we have a separate group?

**Kathy Roll:** With cities that have fire departments we do not do inspections unless requested. We do them for those who do not have regular, full time fire department.

**Representative Clark:** Could you give me a list of the things you're inspecting?

**Representative Vigesaa:** Did you say \$65.78 an hour and that includes expenses.

**Kathy Roll:** That's correct.

**Representative Vigesaa:** How long has it been since that rate has been adjusted?

**Kathy Roll:** We have a rate consultant who looks at the prior biennium's costs.

**Representative Vigesaa:** That is by administrative rule as far as to what you charge?

**Kathy Roll:** It is not by any rule or code.

**Vice Chairman Kasper:** How many people are doing this work?

**Kathy Roll:** We have six deputy fire marshals.

**Vice Chairman Kasper:** Are they employees of the Attorney General's office?

**Kathy Roll:** That's correct.

**Vice Chairman Kasper:** Do you know how many procedures they average each year?

**Kathy Roll:** I do not.

**Chairman Keiser:** Did you say that appropriations took the cap off in another bill this session or in a previous session?

**Kathy Roll:** What our appropriation bill does is codifies the language, which allows us to bill and does not include a cap. Our legal services billing also does not include a cap.

**Chairman Keiser:** If this is true, this bill has a cap in it, correct?

**Kathy Roll:** That's correct, for this biennium.

**Chairman Keiser:** For the coming biennium?

**Kathy Roll:** For the current biennium.

**Chairman Keiser:** We are not striking it, we are increasing the caps.

**Kathy Roll:** That's correct. That is what we are asking for this biennium to be increased. Then SB 2003 actually included the codification of the billing without any limits.

**Chairman Keiser:** So the effective date of this bill is?

**Kathy Roll:** It's has an emergency clause.

**Chairman Keiser:** That's why you want the emergency clause.

**Kathy Roll:** That's correct.

**Chairman Keiser:** You are going to do that much more business between now and July?

**Kathy Roll:** Yes.

**Chairman Keiser:** Will you be able to go back?

**Kathy Roll:** Yes.

**Chairman Keiser:** Anyone else here to testify in support, in opposition, or in the neutral position of SB 2070?

**Jeff Bitz~Administrator for the State Fire and Tornado Fund and the North Dakota Petroleum Release Compensation Fund:** I'm here to answer any questions.

**Chairman Keiser:** For the fund, how do we assess a payment from each school or is there just one fee for every school?

**Jeff Bitz:** The state fire and tornado contracts with the insurance service office, which is the only regulatory body, or entity that does lost cost cause analysis for insurance companies. We use them every 5 years and then we adjust annually based upon market conditions in our loss history and frequency.

**Chairman Keiser:** What buildings are covered in the plan?

**Jeff Bitz:** We insure all state buildings, 90% of the public schools in ND, cities, townships and counties. We roughly have 9,000 buildings that we have insured with us. We also have probably close to 5,000 locations in terms of outdoor property that is insured by the entity. We insure close to 10 billion dollars in property, universities and colleges in the state.

**Chairman Keiser:** Could you provide us a list of those properties and what their insured value is?

**Jeff Bitz:** Yes, I surely can.

**Vice Chairman Kasper:** The 450,000 dollars in fees to be collected, is that to pay the salaries of these people and their expenses?

**Jeff Bitz:** That 450,000 is going for the inspection fees and salaries of the fire marshals that do the inspections.

**Vice Chairman Kasper:** Have you seen an accounting of how much the Attorney General pays for all the expenses and salaries of these inspectors compared to the amount of fees collected?

**Jeff Bitz:** We only see an itemization of the charges that they charge us based upon the amount of time spent at each policy holder for their inspections.

**Vice Chairman Kasper:** It seems illogical that we are taking money out of a tornado fund, paying salaries to the Attorney General's office and if there is any money left, it stays there opposed to going back into the tornado fund. What is the logic?

**Jeff Bitz:** They don't get this pot of money; they bill us on a monthly basis based upon the inspections that they perform. If there is money left over that isn't spent, that stays within the fund.

**Vice Chairman Kasper:** OK.

**Representative Amerman:** What is the health of these two funds?

**Jeff Bitz:** The fire and tornado fund has a surplus of about 25 million dollars. The petroleum release compensation fund, our balance is a little under 6 million dollars.

**Representative Boe:** Who do we inspect and what do we inspect for in the petroleum field?

**Jeff Bitz:** The petroleum release compensation fund is not a super fund like other state. It's a petroleum fund and it's a reimbursement mechanism for the market place in North Dakota. Whoever owns an above or underground storage facilities, primarily commercial and retail bulk facilities, it's mandatory for all petroleum dealers and retailers to participate in the fund in case there is a release of petroleum in the ground, affecting ground water,

they have the financial to clean up that contamination. We have about 5,666 tank locations in the state.

**Representative Boe:** Is this above and beyond what EPA does for inspections?

**Jeff Bitz:** Yes.

**Representative Boe:** I own a tank but I'm not required to be a part of this. Can I join this fund on a voluntary basis?

**Jeff Bitz:** If you own an above ground facility, you are required to participate. The only one exempts would be farmers. Farmers could participate if they comply with the FPCC rules.

**Representative Clark:** The EPA came to Fargo and fined most petroleum dealers. What they do, you have nothing to do with, is that right?

**Jeff Bitz:** I'm not sure if the state fire marshal really gets involved in the infrastructure in terms of their fire and safety inspection of the facilities. That's a different type of inspection than what I understand.

**Representative Clark:** EPA are now going to come after farmers, do you know anything about that?

**Jeff Bitz:** Yes, they are and the new clean air and energy act requires all farmers to have spill proof containment measures and if they don't comply, they will fine them.

**Representative M Nelson:** We are taking funds that cover spills and paying for fire inspections, does that fund cover fire hazards or does it only cover the results for cleanup for spills?

**Jeff Bitz:** If there was a fire at a facility and there was a release because of that fire, we would come in and help clean up the environmental damage that the petroleum caused from the fire.

**Representative M Nelson:** The rationale is that the fire will cause the spill, therefore preventing fires, you're preventing payouts, is that it?

**Jeff Bitz:** No, I'm saying clean up only the contamination.

**Chairman Keiser:** Was there a bill, not heard by this committee, in the last or previous session, where there was a major concern because a lot of our schools were not being inspected? As a result, we put pressure to get all the schools inspected by a certain date, is that true?

**Jeff Bitz:** I don't have any recollection to that.

**Chairman Keiser:** Anyone here to testify in support, in opposition, in the neutral position on SB 2070, closes the hearing. What are the wishes of the committee?

**Representative N Johnson:** Moved for a Do Pass with a rereferral to appropriations.

**Representative Kreun:** Second.

**Roll call was taken for a Do Pass with a rereferral to appropriations on SB 2070 and Representative Clark is the carrier.**

Date: March 7, 2011

Roll Call Vote # 1

**2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES**

**BILL/RESOLUTION NO. 2070**

House House Industry, Business and Labor Committee

☐ Check here for Conference Committee

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

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

Motion Made By Rep Johnson Seconded By Rep Kreun

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	✓		Representative Amerman	✓	
Vice Chairman Kasper	✓		Representative Boe	✓	
Representative Clark	✓		Representative Gruchalla	✓	
Representative Frantsvog	✓		Representative M Nelson	✓	
Representative N Johnson	✓				
Representative Kreun	✓				
Representative Nathe	✓				
Representative Ruby	Ab				
Representative Sukut	✓				
Representative Vigesaa	✓				

Total Yes 13 No 0

Absent 1

Floor Assignment Rep Clark

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

**REPORT OF STANDING COMMITTEE**

**SB 2070: Industry, Business and Labor Committee (Rep. Keiser, Chairman)**  
recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee**  
(13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2070 was rereferred to the  
**Appropriations Committee.**

**2011 HOUSE APPROPRIATIONS**

**SB 2070**

# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Appropriations Committee Roughrider Room, State Capitol

SB 2070  
3/17/11  
15557

☐ Conference Committee

Committee Clerk Signature

*Meredith Traubolt*

### Explanation or reason for introduction of bill/resolution:

A BILL for an Act relating to the fire and tornado fund and the petroleum release compensation fund; and to declare an emergency.

### Minutes:

You may make reference to "attached testimony."

**Chairman Delzer:** Called the committee to order. Roll was called and a quorum was declared. We'll start with SB 2070.

**Representative George Keiser, District 47:** We rereferred SB 2070 to you simply because it involved so many dollars. This bill changes the statutory limits that the fire and tornado fund can collect, and that the petroleum release fund can collect. It is retroactive to the current biennium. We have in statue a limitation of \$310,000 for the fire and tornado fund for inspections, and it is being increased to \$450,000 in this legislation; in the petroleum release fund, it has a statutory limitation of \$35,000, and this increases it to \$95,000. It is for this biennium only, not future bienniums. There is another bill which is removing these statutory limits. Two things have resulted in the request for the increases in these funds and fees that can be charged. We did a review in the interim committee and discovered that many of our schools were not being inspected on a timely basis, so we asked they be done on a more regular basis, leading to a dramatic increase in the number of inspections. On the petroleum release fund, obviously, with the activity occurring in the state, there is a dramatic increase in the requests for inspections. These inspections have been ongoing, they've been done, they've been billed or are preparing to be billed, but because of the statutory limitation they technically can't collect. The Industry, Business, and Labor Committee approved this unanimously, saying it was a necessary thing to do. We believe those funds should be relatively self-supporting from the fees collected as a result of their inspections, and it's simply a dramatic increase on both types of inspections that has resulted in this bill coming before you. We hope you will approve it and send it up to the floor. It has the emergency clause obviously so those funds can be collected immediately.

**Representative Skarphol:** They're supposed to collect up to \$450,000 in this biennium?

**Representative Keiser:** Correct.

**Representative Skarphol:** Can you tell me what the balance is in the attorney general's operating fund and in the petroleum release fund?

**Representative Keiser:** I cannot, but they are here and can answer that for you.

**Kathy Roll, Financial Administrator, Office of the Attorney General:** I am not able to answer what's in the petroleum release compensation fund, but the balance in our operating fund is about \$3 million.

**Chairman Delzer:** Do you have a continuing appropriation on the operating fund?

**Roll:** We do not. Those monies are appropriated by the legislature.

**Chairman Delzer:** Which bill removes these limits on the funds, your budget bill?

**Roll:** Correct, SB 2003.

**Chairman Delzer:** Why do you need to remove them entirely?

**Roll:** We have come before you, this isn't the first time that we've needed to do this, and asked for additional authority to collect the funds that we're billing for investigations and inspections. We thought there really is no reason for there to be a limit, because we bill based on our inspections and investigations, we have to come before you for appropriation authority; we don't have limits on the legal services that we bill, and we treat this basically the same way, billing based on hours worked.

**Chairman Delzer:** You have full authority to set the fees at whatever level you desire?

**Roll:** That's not quite right. We have a consultant that sets our billing rates, and gets approval from the federal Department of Health and Human Services.

**Representative Skarphol:** I would like to know that the fees you are collecting are not excessively in excess of what your costs are. What reassurance do we have of that?

**Roll:** The way the rates are determined is, the consultant comes in and looks at the prior biennium's expenditures. It's always based on the prior biennium, we're always a biennium behind, so to say we're collecting more than we're spending couldn't apply. The rates take into account billing time, equipment depreciation, etc., and looks at actual expenditures for the prior biennium.

**Representative Skarphol:** Are these going to be auditable after this?

**Roll:** Absolutely. We receive those monies into our office, into our operating fund. We have billings every month. Any of those could be looked at, and the auditor's office does in fact review those.

**Chairman Delzer:** How many FTEs are working in this department?

**Roll:** We have six deputy fire marshals who do the work for the whole state.

**Chairman Delzer:** Six? How many entities do you inspect?

**Roll:** On average we have 64 fire investigations, 161 school inspections, 236 state building inspections, 120 fuel site inspections, and 57 other inspections, for a total of 638.

**Chairman Delzer:** What's the average length of time for an inspection?

**Roll:** That really varies and depends on what they are going to inspect.

**Chairman Delzer:** Is that 638 per year?

**Roll:** Yes, for six people, so it's a little over 100 per person.

**Representative Skarphol:** Are the entire costs for these six inspectors paid for out of these fees?

**Roll:** They are not, there is some general fund money, too. The reason that the whole billing process happened was because we were getting a direct appropriation from the fire and tornado fund. The federal government didn't like that because their monies were going into that fund, as well as other monies. They required that we only bill that fund for the only inspections and investigations we were doing.

**Representative Skarphol:** What is the total cost of the six individuals and how much general fund are we investing in addition to the fees you are reflecting here?

**Roll:** The total budget for the 09-11 biennium is \$1.7 million. Of that amount, \$998,000 comes from the general fund, and about \$580,00 comes from other funds. There were some federal funds in there as well, \$185,000, which are no longer there.

**Representative Skarphol:** That is their total responsibilities, they do inspections.

**Roll:** That is correct. See also submitted written testimony, attachment 1.

**Chairman Delzer:** Further questions by the committee?

**Representative Keiser:** I think it's great that we're having a hearing on two bills here, but this bill is simply that is trying to generate the capacity for them to submit the bills for the work that has been done in this current biennium, which is additional over what they had projected, based on activity relative to the inspections in the petroleum fund, relative to the increases in inspections on public buildings, which we requested. A lot of the discussion that occurred was relative to the other budget bill, which is clearly a decision that your committee needs to make, but the IBL committee looked at this and thought this was an appropriate move. These numbers are based on the actual inspections that have been done or are projected in this current biennium, based on the rates that have been used.

**Chairman Delzer:** The only issue with that is that the current budget was also based on the numbers before this increase.

**Representative Keiser:** I understand that, however, it was us, the legislature, that said to start inspecting all the schools, start doing this. Whether or not that was missed in the projection or not, I can't say.

**Representative Skarphol:** So if we decided that the \$450,000 number wasn't appropriate, you're telling us we shouldn't change it?

**Representative Keiser:** Not at all. I'm saying, we made a projection, and then there was a dramatic change, in the oil fields and other areas that require additional inspections that were not anticipated two years ago. As a result, they're doing their job, they're doing the inspections, there is an increased cost, and based on their regular billing schedule they believe, because of the statute limitations, they can do the work, they just can't get reimbursed. The question is, do we want them reimbursed, or just to do the work and then absorb it in some other form?

**Chairman Delzer:** They've already budgeted for all this already, this is just reimbursement for stuff they've already got the money for the people to do. We'll have this discussion as we look at the bill. Anything further? Thank you, we'll go to the next bill.

# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Appropriations Committee Roughrider Room, State Capitol

SB 2070  
March 23, 2011  
15859

☐ Conference Committee

Committee Clerk Signature

*Meredith Traubolt*

### Explanation or reason for introduction of bill/resolution:

A BILL for an Act relating to the fire and tornado fund and the petroleum release compensation fund; and to declare an emergency.

### Minutes:

You may make reference to "attached testimony."

**Chairman Delzer:** Opened discussion on SB 2070. There was some discussion on the petroleum release fund. Recording error. This would allow the attorney general to collect more fees the remainder of this biennium. Apparently they're doing the work but they're running into a cap on how many fees they can collect. The money appears to go to the operating fund, which should carry forward to the next biennium. Representative Thoreson, any comments on the operating fund for the attorney general?

**Representative Thoreson:** No.

**Representative Skarphol:** This change would be effective only for this current biennium?

**Chairman Delzer:** This bill just deals with this biennium. The change for next biennium is in the budget bill.

**Representative Skarphol:** Did we get a good explanation for the rather dramatic amounts of change?

**Chairman Delzer:** It seemed to me it had to do with the increased oil activity; they said they had a lot more fire inspections. I think the schools are being inspected more, at the legislature's direction. I would guess they just missed their numbers. The notes I have here say it's 638 (inspections) a year, 64 per person, six FTEs doing this.

**Representative Skarphol:** The fire and tornado part of it really doesn't bother me that much, but the petroleum release, that's like checking out the gas stations and those types of situations. I wouldn't have thought the number of gas stations has changed that dramatically. Does anyone recall what the tripling was attributable to?

**Chairman Delzer:** I don't remember that we had exactly asked. I don't know if they have to inspect the rigs when they move, for example, because they have the diesel tanks on them. I think this covers anybody that wants to be under that. Petroleum release also covers above ground for farmers, I believe.

**Representative Glassheim:** The testimony was that they went from 31 fuel sites in 2008-2009, to 212 fuel sites from July 2009 to December 2010.

**Chairman Delzer:** Did it say why? If the committee so wishes, we can call the attorney general's office and ask them to come down and explain this.

**Kathy Roll, Financial Administrator, Office of the Attorney General:** Basically, we have been researching all the above ground fuel sites that are in the state. As a result of that, we have inspected many more fuel sites than we have in the past.

**Chairman Delzer:** Where is the increased number coming from?

**Roll:** It's been those that have not been inspected previously.

**Representative Pollert:** Can these be farmers who are over the gallonage limit? Are those fuel sites included in that number?

**Roll:** I don't believe so, but they are supposed to register and pay a fee into the petroleum release compensation fund.

**Chairman Delzer:** That's voluntary, if they want to be covered, is it not?

**Roll:** I'm not sure about that. At a prior hearing it was indicated that wasn't voluntary.

**Chairman Delzer:** The EPA ruled last fall that any farm that has over 1350 gallons total liquid needs to have the engineered liners and such. Are you guys going to do any of that inspecting?

**Roll:** I'm not sure I can answer that, but I can get that information.

**Representative Brandenburg:** I've attended a couple of meetings and I think what's happening is that farmers are being told by their bulk supplier that they cannot fill their tanks come November 1 if they don't meet the standards set out by EPA of having the contained sites. As they go forward, I think all these people with containment sites are being added to your list. I had heard that once you put up that containment site, you were registered. You might want to check that.

**Chairman Delzer:** This bill just deals with the rest of this biennium.

**Roll:** That's correct.

**Chairman Delzer:** What kind of cap did you put in for next biennium in your budget bill?

**Roll:** The way SB 2003 reads, there is no cap. It codifies the billing, just as we have for legal services.

**Representative Skarphol:** I'm still not satisfied with the answer as to why we need to triple the petroleum release fund. So you think there's new sites; they didn't magically appear. Have we been ignoring them in the past? I suggest we get the information before we do anything with the bill.

**Roll:** They are sites that we were previously unaware of, and we have been looking at that. I think there have been some questions about are we inspecting all of them, so that's why we did more research to find out where those were and do those inspections.

**Chairman Delzer:** Can you get us a list of what you've inspected that wasn't inspected before, where they come from and what part of the state they're in?

**Representative Skarphol:** I'm wondering if sites are being inspected that don't need to be, for some unknown reason. Or do we have an expansion in the number of facilities? Are you inspecting drilling rigs, because maybe industrial commission could cover that.

**Representative Klein:** Is there a requirement that if the compensation fund drops below a certain number you have to increase the fees?

**Roll:** I'm not aware of that, that's in the insurance department, but I can find that out.

**Representative Monson:** Dealing with the fire and tornado fund fees, why are they taking such a big hike? Does it have to do with schools?

**Roll:** I didn't testify on March 17<sup>th</sup>, but I did submit written testimony, which spells out in there what happened. You are correct, basically we were inspecting schools every 30-36 months, and now we inspect them every 24. In addition, we have a number of remodels, rehabilitations, that have occurred, that we come back in to inspect.

**Chairman Delzer:** Why did you need to go from 36 to 24, did we pass a law saying that?

**Roll:** I believe that came as a safety measure, that we not go more than two years without inspecting schools because there are so many kids there.

**Chairman Delzer:** That's just a policy that the fire marshal came up with?

**Roll:** I believe in the past we've not had enough staffing to cover everything that we're required to do. We don't have any additional staff, but I think they made a real concerted effort and got more caught up, so they were able to do them every 24.

**Representative Glassheim:** Back to petroleum release, my understanding of this is they have already done these inspections. They are billed for, but they don't have the authority to accept the money or spend it. So this is not a new thing that they're going to find in the future, they've already done these 212 instead of 31 inspections. This just gives them authority to collect for work already done and about to be billed.

**Representative Monson:** I'm still not sure about the inspections of the schools. We have fewer schools than we've had before, because we've had consolidation; our schools have had more money and they've been able to upgrade a lot of their facilities; now you're going to more frequent inspections. Who said you should do this?

**Chairman Delzer:** I think that's a question we have as a committee, and we'd appreciate if you would research that. We'll hold this until next week when we have more information.

# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Appropriations Committee Roughrider Room, State Capitol

SB 2070  
3/29/11  
16126

☐ Conference Committee

Committee Clerk Signature

*Meredith Trullott*

### Explanation or reason for introduction of bill/resolution:

A BILL for an Act relating to the fire and tornado fund and the petroleum release compensation fund; and to declare an emergency.

### Minutes:

You may make reference to "attached testimony."

**Chairman Delzer:** We're going to take up SB 2070. There is a handout that has the answers to some of the committee questions about the increase in inspections.

**Kathy Roll, Financial Administrator, Office of the Attorney General:** See attachment 1.

**Chairman Delzer:** Did you list how many fuel sites have gone away?

**Roll:** We did not.

**Chairman Delzer:** Are there some that have gone away?

**Raymond Lambert, State Fire Marshal:** We do not currently have a good tracking system on sites that have gone away. We did go back and review that, and the increase that's shown here was tanks where the sites were still there, they were updated, it put our office to additional work. Actual sites going away, there has been none that I can document.

**Representative Skarphol:** There have been a number of fuel stations I can think of that have closed, with underground tanks. I would assume at some point in time you quit the inspections.

**Lambert:** We do not do the underground sites. The only ones we're looking at are registered above ground facilities, and we do not show any decreases.

**Representative Wieland:** In regards to the school inspections, I know many cities have their own fire inspections on a regular basis. Is there any duplication by the state inspections?

**Lambert:** There is no duplication. Under the current law, when a community does its own inspections, we are mandated not to duplicate that, though we do document the work being done based on the reports they send in.

**Chairman Delzer:** And you accept their inspections?

**Lambert:** Correct, per ND law.

**Chairman Delzer:** Thank you. Committee we have the bill before us. The adjutant general's bill tries to remove the cap totally for the next biennium; this deals with just this biennium. What are your wishes?

**Representative Dahl:** I move Do Pass.

**Representative Klein:** Second.

**Chairman Delzer:** Discussion by the committee? Seeing none, we'll call the roll for a Do Pass on SB 2070. Motion carries 19-1-1. Representative Kroeber will be the carrier.

Date: 3/29  
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2070

House Appropriations Committee

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

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Dahl Seconded By Rep. Klein

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer	X		Representative Nelson	X	
Vice Chairman Kempenich			Representative Wieland	X	
Representative Pollert	X				
Representative Skarphol		X			
Representative Thoreson	X		Representative Glassheim	X	
Representative Bellew	X		Representative Kaldor	X	
Representative Brandenburg	X		Representative Kroeber	X	
Representative Dahl	X		Representative Metcalf	X	
Representative Dosch	X		Representative Williams	X	
Representative Hawken	X				
Representative Klein	X				
Representative Kreidt	X				
Representative Martinson	X				
Representative Monson	X				

Total (Yes) 19 No 1

Absent 1

Floor Assignment Rep. Kroeber

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

**REPORT OF STANDING COMMITTEE**

**SB 2070: Appropriations Committee (Rep. Delzer, Chairman)** recommends **DO PASS**  
(19 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). SB 2070 was placed on the  
Fourteenth order on the calendar.

2011 TESTIMONY

SB 2070

2011 SENATE BILL NO. 2070  
INCREASE 2009-11 FIRE MARSHAL BILLING LIMITS  
SENATE APPROPRIATIONS COMMITTEE  
KATHY ROLL, FINANCIAL ADMINISTRATOR  
OFFICE OF ATTORNEY GENERAL

2009 House Bill No. 1003, the Office of Attorney General appropriation bill, contains two sections which provide for billing the Fire and Tornado and Petroleum Release Compensation funds for Fire Marshal inspection and investigation services. The \$310,000 billing amount for Fire and Tornado Fund inspections needs to be increased by \$140,000 and the \$35,000 billing amount for Petroleum Release Compensation Fund inspections needs to be increased by \$60,000, both to reflect the anticipated Fire Marshal billings for the 2009-11 biennium.

The Fire and Tornado Fund billings have increased as a result of school inspections now being completed every 24 months rather than 30 – 36 months, school renovation inspections, follow-up inspections for schools and state buildings, and the biennial per hour billing rate increase. For example, during the 18 month period from January 2008 to June 2009, 182 schools were inspected. For the 18 month period from July 2009 to December 2010, 219 schools were inspected, a 20% increase.

The Petroleum Release Compensation Fund billings have increased as the Office has researched the location and number of fuel sites resulting in more fuel site inspections and due to the biennial per hour billing rate increase. During the 18 month period from January 2008 to June 2009, 31 fuel sites were inspected. For the 18 month period from July 2009 to December 2010, 212 fuel sites were inspected, resulting in more than a 680% increase.

2011 Senate Bill No. 2070 provides for the above noted billing increases for the Insurance Department's Fire and Tornado and Petroleum Release Compensation funds for Fire Marshal billings which are used to pay a portion of the Fire Marshal operations cost. This bill increases to \$450,000 the amount of fire inspections billed to the Fire and Tornado Fund and to \$95,000 the cost of fuel site inspections billed to the Petroleum Release Fund.

2011 Senate Bill No. 2003, the Office of Attorney General appropriation bill, includes Fire and Tornado and Petroleum Release Compensation funds billing language to be codified (without billing amount limits).

2011 SENATE BILL NO. 2070  
INCREASE 2009-11 FIRE MARSHAL BILLING LIMITS  
HOUSE INDUSTRY, BUSINESS & LABOR COMMITTEE  
KATHY ROLL, FINANCIAL ADMINISTRATOR  
OFFICE OF ATTORNEY GENERAL

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MEMORANDUM

To: Representatives Keiser, Kasper, Clark, Johnson, Ruby, Sukut, Vigesaa, Frantsvog, Kreun, Nathe, Amerman, Gruchalla, Nelson and Boe

From: Kathy Roll, <sup>Roll</sup>Office of Attorney General Financial Administrator

Re: Fire Marshal Inspections, Investigations, and Checklists for 2011 Senate Bill No. 2070

Date: March 10, 2011

As requested, attached is a spreadsheet showing the average number of Fire Marshal deputy inspections and investigations for 2010. In addition, the inspection checklists used by the deputy fire marshals performed for the Fire and Tornado fund and the Petroleum Release Compensation fund are attached. Please let me know if any other information regarding this issue is needed.

Office of Attorney General - 2010 Fire Marshal Inspections and Investigations

Number of Fire Investigations	Number of School Inspections	Number of State Building Inspections	Number of Fuel Site Inspections	Number of Other Inspections	Total all Inspections & Investigations
64	161	236	120	57	638

10.67	26.83	39.33	20.00	9.50	106.33	Average number by deputy fire marshal
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**Notes:**

Other inspections include day care businesses, assemblies and human services inspections.

Total fire investigations for 2010 were 68. Of these, 4 were investigated by multiple deputies.

Thirteen additional "Other Inspections" were completed by the local fire service for a total of 70 day care businesses, assemblies, etc.



**ND State Fire Marshal's Office**  
**Bulk Fuel Operation**  
**Fire Inspection Checklist**

City	County
Company Name	Owner Name
Street Address	Mailing Address
Contact Person	Phone

<b>Tanks</b>			
B1	Tank supports protected	Yes	No
B2	Tank(s) built for aboveground use	Yes	No

<b>Tank location from:</b>		<b>Separation</b>		
B3	Building(s)	5'	Yes	No
B4	Public way	5'	Yes	No
B5	Loading dock	25'	Yes	No
B6	Adjoining property line	Insert required separation (5'-20')	Yes	No
B7	Adjacent tanks	3'	Yes	No
B8	Nearest LP-Gas cylinder	20'	Yes	No

<b>Fuel Operations</b>			
B9	Tank(s) protected from physical damage	Yes	No
B10	Emergency vent provided	Yes	No
B11	Piping protected from physical damage and supported	Yes	No
B12	Spill control provided: <b>yes</b> Type: <b>Dike</b>	Yes	No
B13	Spill control area is kept clear of combustibles	Yes	No
B14	Fire extinguisher, 40B:C, provided and maintained	Yes	No
B15	Internal or external valves installed and maintained	Yes	No
B16	Bonding cables provided	Yes	No

Date of Inspection	Inspected by <b>Jerry Crane</b>
Inspector Comments	

## BUILDING INSPECTION WORKSHEET

DE	COMPARTMENTATION-CO
CO1	1. Corridor separation
CO1A	a) Louvers
CO1B	b) Glass
CO1C	c) Doors
CO2	2. Stairway enclosure (basements)
CO3	3. Fire and Smoke resistive assemblies
	<b>EMERGENCY LIGHTS-EL</b>
EL1	1. Installed and operational
EL2	2. Interior windowless portions
	<b>EXIT SIGNS-ES</b>
ES1	1. Installed and operational
	<b>FIRE ALARM-FA</b>
FA1	1. Installed as required
FA2	2. Fire/smoke alarm testing
FA2A	a) Fire alarm testing recommended
FA2B	b) Sensitivity testing of smoke detectors recommended
	<b>FIRE PROTECTION SYSTEMS-FP</b>
FP1	1. Kitchen exhaust hood protected
FP2	2. When installed, sprinkler system maintained
	<b>HAZARDOUS AREAS-HA</b>
HA1	1. Proper separation
HA1A	a) Hardware
HA1B	b) Doors
HA1C	c) Walls/ceilings
HA2	2. Rating beneath exit stairway
HA3	3. Janitor closets

CODE	MEANS OF EGRESS-ME
ME1	1. Exiting system
ME1A	a) Number of, arrangement
ME1B	b) Width of opening
ME1C	c) Swing
ME1D	d) Horizontal exits
ME1E	e) Operational
ME1F	f) Travel distance
ME2	2. Locking devices
ME2A	a) Unlocked doors
ME2B	b) Panic hardware
ME3	3. Corridor
ME3A	a) Width
ME3B	b) Obstruction
ME3C	c) Dead end
ME4	4. Classroom location
ME4A	a) Kindergarten, 1 <sup>st</sup> grade
ME4B	b) Second grade
ME4C	c) Basement
ME5	5. Means of egress illumination
ME6	6. Interior finishes
ME7	7. Rescue windows
	<b>OPERATING FEATURES-OF</b>
OF1	1. Fire drills conducted and documented
OF2	2. Open clothing racks in corridor
OF3	3. Classroom artwork and material on walls
OF4	4. Flammable liquids, combustibles, and gases
OF5	5. Housekeeping
	<b>SPECIAL PROVISIONS-SP</b>
SP1	1. Emergency gas shut-off in science labs
SP2	2. Fire Extinguishers are provided and maintained
SP3	3. Electrical wiring, panel accessibility, and extension cords
SP4	4. Gas-fired heating equipment



**ND State Fire Marshal's Office**  
**Motor Vehicle Aboveground Fuel Dispensing Site**  
**Fire Inspection Checklist**

93/P  
Last update: 10/22/2008  
G:\FM\inspections\fuel\deputy forms\fuel  
dispensing 93P\_salmon.doc

City	County
Company Name	Owner Name
Street Address	Mailing Address
Contact Person	Phone

Tanks		Yes	No	NA
C1	Tank supports protected	Yes	No	NA
C2	Tank(s) built for aboveground use	Yes	No	NA
C3	Individual tank capacity less than or equal to 19,000 gallons	Yes	No	NA
C4	Aggregate tank capacity less than or equal to 95,000 gallons	Yes	No	NA
C5	If tank(s) are vaulted, meets NFPA 30A (Vaults)	Yes	No	NA
C6	If tank(s) are fire resistant, meets NFPA 30A (Fire Resistant Tank)	Yes	No	NA
C7	Vent piping for tanks 12 feet above grade	Yes	No	NA

Tank location from:		Tank(s) are Vaulted or Fire Resistant	Tank(s) are Non- Vaulted or Non-Fire Resistant	Yes	No
C8	Building(s)	25'	50'	Yes	No
C9	Fuel Dispenser(s)	25'	50'	Yes	No
C10	Public way	25'	50'	Yes	No
C11	Adjoining property line	25'	50'	Yes	No
C12	Adjacent tanks	3'	3'	Yes	No
C13	Nearest LP-Gas cylinder	20'	20'	Yes	No

Fuel Operations		Yes	No
C14	Fire valve installed and maintained	Yes	No
C15	Tank(s) protected from physical damage	Yes	No
C16	Tank(s) provided with solenoid-type valve	Yes	No
C17	Emergency vent provided	Yes	No
C18	Overfill protection has means to sound audible alarm at 90% capacity	Yes	No
C19	Piping protected from physical damage and supported	Yes	No
C20	Spill control provided, and area is kept clear of combustibles	Yes	No

Type spill control:

Dispensing Area		Yes	No	NA
C21	Emergency shutoff provided	Yes	No	
C22	Fire extinguisher, 40B:C, provided and maintained	Yes	No	
C23	Proper emergency and warning signs provided	Yes	No	
C24	Signs unattended Self Service	Yes	No	NA

Date of Inspection	Inspected by
Inspector Comments	

2011 SENATE BILL NO. 2070  
INCREASE 2009-11 FIRE MARSHAL BILLING LIMITS  
HOUSE APPROPRIATIONS COMMITTEE  
KATHY ROLL, FINANCIAL ADMINISTRATOR  
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2011 Senate Bill No. 2003, the Office of Attorney General appropriation bill, includes Fire and Tornado and Petroleum Release Compensation funds billing language to be codified (without billing amount limits).

SB 2070  
March 29, 2011  
Attachment 1

MEMORANDUM

To: House Appropriations Committee Members  
From: Kathy Roll, Financial Administrator, Office of Attorney General  
Re: Fire Marshal Inspections  
Date: March 28, 2011

The following information is in response to questions from House Appropriations Committee members:

1. The Fire Marshal does not inspect any farm tanks for EPA compliance.
2. When NDCC Section 15.1-06-09 was acted on by the legislature, the Fire Marshal requested that school inspections be allowed to be completed at least once every 3 years, which was difficult to meet at that time. After the Fire Marshal completed its backlogged and new inspections, school inspections have been conducted every 24 – 30 months. The number of follow-up school inspections has been reduced since changing the inspection term from 30-36 months to 24-30 months. There have been some school consolidations over the years and a few small schools have been closed. School consolidations did not have much impact on the school inspection workload since those which closed were small. The estimated school consolidation impact per deputy fire marshal was 2 to 4 less small schools. There have also been some new schools built in the past 3 years. North Dakota cities with inspection programs inspect schools in those cities every 12 months.
3. The information regarding additional fuel sites now inspected became known to us through a variety of avenues. This office researched fuel site locations, fuel site personnel notified us about other sites to be inspected, and the Insurance Department notified this office as new fuel sites became registered.
4. According to NDCC Section 23-37-17 (1), regarding the Petroleum Release Compensation fund:  
"An owner or operator of a tank shall pay an annual registration fee of fifty dollars for each aboveground or underground tank owned or operated by that person. If on the first day of July in any year the amount of money in the petroleum release compensation fund is less than six million dollars, the annual registration fee of fifty dollars is increased to one hundred dollars. If on the first day of July in any year the amount of money in the petroleum release compensation fund is five million five hundred thousand dollars or more and the annual registration fee has been increased to one hundred dollars, the fee must be reduced to fifty dollars. Annual registration fees must be reduced to five dollars if on the first day of July in any year the amount of money in the fund exceeds nine million dollars. Annual registration fees must continue at the fee of five dollars until the money in the fund does not exceed nine million dollars."
5. The listing for the new fuel inspection sites during the 2009-11 biennium is attached.

**New Inspection Sites for Aboveground Storage Tanks - 2009-11 Biennium  
Fire Marshal Division of Office of Attorney General**

<b>County</b>	<b>Business</b>	<b>City</b>	<b>Tanks</b>
Burleigh	Farmers Union Oil Company	Wilton	2
Burleigh	Farmers Union Oil Company	Wing	1
Divide	New Century Ag	Crosby	1
Divide	Sorum Westland Service	Crosby	1
Dunn	Benz Oil Company Inc	Killdeer	9
Golden Valley	Golva Coop Elevator	Golva	2
Hettinger	Southwest Grain	New England	6
Kidder	Farmers & Merchants Oil Company	Steele	7
Kidder	Heinz Enterprises Inc	Steele	5
LaMoure	Plains Grain & Agronomy LLC	Marion	2
McIntosh	Northern Plain Cooperative	Ashley	8
Nelson	Farmers Union Oil of Devils Lake	Michigan	4
Ransom	City View Fuel LLC	Sheldon	8
Rolette	United Oil & Gas	Belcourt	9
Stark	Plains Marketing LP	Belfield	1
Walsh	State Developmental Center	Grafton	2
Williams	Simons Petroleum	Williston	3
Williams	Simons Petroleum	Williston	7