2025 SENATE STATE AND LOCAL GOVERNMENT

SB 2090

2025 SENATE STANDING COMMITTEE MINUTES

State and Local Government Committee
Room JW216, State Capitol

SB 2090
1/9/2025

Relating to updating language for the State Fire Marshal and to the Attorney General's authority to appoint the State Fire Marshal.

1:30 p.m. Chair Roers called the meeting to order.

Members Present: Chair Roers; Vice Chair Castaneda; Senators: Barta, Braunberger, Lee and Walen.

Discussion Topics:

- Language update
- Federal changes
- Fireworks application fee

1:34 p.m. Johnny Palsgraaf, ND Insurance Department, testified in favor with testimony #28269.

1:49 p.m. Chair Roers closed the hearing.

Susan Helbling, Committee Clerk

NORTH DAKOTA
Insurance Department

TESTIMONY

Doug Nelson, State Fire Marshal
Senate State and Local Government Committee
January 9, 2025

Good Afternoon Chairwoman Roers and members of the State and Local Government Committee. For the record, my name is Doug Nelson, State Fire Marshal. I stand before you today in support of Senate Bill 2090, which is an agency bill created to clean up some sections of Title 18 due to the transfer of the Fire Marshal's Office from the Attorney General's Office to the Insurance Department last session.

Section 1 updates and adds language to the duties of the state fire marshal and deputy state fire marshals. The language fireworks, and hazardous materials are included to reflect other sections of code where our office is already given authority to create and enforce rules. The term hazardous materials is inclusive of all combustibles, flammables, and other chemicals that are regulated under the Fire Code of North Dakota. Authority already currently exists for the enforcement in other areas of the century code related to this language such as section 18-09 liquid petroleum gas regulation and 23-13 safety regulations (for motor fuel dispensing).

This section also corrects language to better reflect current practices and scope of fire codes and fire investigations. Fire and life safety systems is the current phrase for any and replaces automatic or other fire alarms and extinguishing equipment. Origin and Cause of fires and explosions is the updated language to describe and replace cause and origin of fires.

Section 2 removes authority to charge a fee for the inspection of facilities licensed by the department of health and human services. The most common inspection conducted by our office at the request of health and human services are childcares for their licensing requirements. I am not aware, nor have I ever been made aware of our office charging this fee. The amount in code is not enough to off-set the costs of the inspection, and I do not foresee our office beginning to charge fees to inspect childcares at any time in the future. Therefore, we are suggesting to strike this language to remove this red tape.

Section 3 changes are in reference to a change at the federal level. The United States fire administration is changing the program that our office and fire departments report fires in. The suggestion is to recognize this new system of fire reporting, and in case of future changes, give deference to our office without having to change Century Code so quickly.

Section 4 updates language to bring this section of code closer in line with the requirements of the preceding section 18-01-06. The fire incident report is the often the initial fire investigation report. The changes reduce the need for blank reports to be issued by our office as they are already offered online, and set the same schedule for incident and investigation reporting. The federal fire reporting system is where fire records are kept. The removal of paper or physical records better reflects current practices on record keeping through online or cloud based programs.

Section 5 of this bill proposes a change in how the fireworks application fee, currently set at $250, is handled. Instead of being deposited into the General Fund, the fee will now be directed to the Insurance Regulatory Trust Fund. This adjustment is part of a broader cleanup effort following the transfer of the Fire Marshal's office from the Attorney General's Office to the Insurance Commissioner. We did provide a fiscal note on this change and you will notice it is moving an estimated $10,500 from the General Fund to the Insurance

Regulatory Trust Fund which is a Special Fund. By reallocating this fee, we ensure that resources are directed toward the proper oversight and regulation of fire safety and insurance, and are being consistent with other fees collected by the agency.

Section 6 of SB 2090 addresses an oversight that occurred as a result of SB 2211 from the previous session. Specifically, in Section 54-12-01, the code still reflects that the Attorney General has the authority to appoint the State Fire Marshal and oversee its operations. This language was unintentionally left unchanged after the transfer of responsibilities from the Attorney General's office. Section 6 of SB 2090 aims to correct this oversight and update the statute to reflect the current organizational structure. Additionally, in Section 8, we have requested retroactive application of this change, given the nature of this correction.

Section 7 of SB 2090 eliminates the requirement to bill the Department of Environmental Quality (DEQ) and the Fire and Tornado Fund (F&T Fund) for Fire Marshal services. Currently, the process for billing DEQ requires substantial administrative effort, including tracking time, verifying timecards, issuing an Interdepartmental Billing (IBD), notifying DEQ, ensuring they process the bill as accounts payable, and following up to ensure payment. All of these steps are required for a relatively small total of $3,779, making the process highly inefficient. The administrative burden on both the Fire Marshal's office and the DEQ is disproportionate to the small amount being billed. This unnecessary red tape takes up time and resources that could be better allocated elsewhere.

Eliminating this billing requirement would not only reduce administrative complexity but would also allow both agencies to focus on their core responsibilities and work more efficiently. Streamlining this process is an important step toward reducing unnecessary bureaucracy and red tape.

Additionally, the current billing process for Fire Marshal services to the Fire and Tornado Fund (F&T Fund) remains overly complex and redundant. For the 2021-2023 biennium, the Attorney General's Office billed the F&T Fund a total of $193,615 for Fire Marshal services, and for the 2023-2025 biennium, our office is on track to bill a similar amount, with $160,528 currently billed.

Similar to the DEQ billing, the process of tracking time, creating general ledger entries, and issuing bills within the same agency is unnecessarily cumbersome. This redundancy adds layers of administrative complexity that create inefficiencies without offering any added benefit. By removing these steps, we can significantly streamline the process, reduce overhead, and allow the Fire Marshal's office to focus more on its vital work in fire safety and prevention rather than administrative tasks. This change is a critical part of our effort to reduce red tape and create a more efficient, transparent system that better serves the people of our state.

Chairwoman Roers and members of the committee, I respectfully request a Do Pass recommendation, and am happy to answer any questions that you may have.

2025 SENATE STANDING COMMITTEE MINUTES

State and Local Government Committee
Room JW216, State Capitol

SB 2090
1/16/2025

Relating to updating language for the State Fire Marshal and to the Attorney General's authority to appoint the State Fire Marshal.

10:58 a.m. Chair Roers called the meeting to order.

Members Present: Chair Roers; Vice Chair Castaneda; Senators: Barta, Braunberger, Lee and Walen.

Discussion Topics:

- Time-frame for incident reports
- Committee Action

10:59 a.m. Senator Braunberger moved to Do Pass.

10:59 a.m. Senator Walen seconded the motion.

Senators	Vote
Senator Kristin Roers	Y
Senator Jose L. Castaneda	Y
Senator Jeff Barta	Y
Senator Ryan Braunberger	Y
Senator Judy Lee	Y
Senator Chuck Walen	Y

Motion Passed 6-0-0

Senator Castaneda will carry the bill.

11:00 a.m. Chair Roers closed the meeting.

Susan Helbling, Committee Clerk

REPORT OF STANDING COMMITTEE
SB 2090 (25.8127.01000)

State and Local Government Committee (Sen. Roers, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2090 was placed on the Eleventh order on the calendar. This bill does not affect workforce development.

2025 HOUSE POLITICAL SUBDIVISIONS

SB 2090

2025 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee
Room JW327B, State Capitol

SB 2090
3/6/2025

Relating to fund fees collected by the state fire marshal department; and to provide for a retroactive application.

11:18 a.m. Chairman Longmuir opened the hearing.

Members Present: Chairman Longmuir, Vice-Chairman Fegley, Vice-Chairman Jonas, Representatives Bolinske, Davis, Hager, Hatlestad, Heilman, Klemin, Motschenbacher, Ostlie, Warrey

Members Absent: Representative Toman

Discussion Topics:

- Fiscal impact of the bill
- North Dakota fire codes related to fireworks

11:19 a.m. Doug Nelson, State Fire Marshal at North Dakota Insurance Department - State Fire Marshal's Office, testified in favor and provided testimony #38673 and #38674.

11:29 a.m. John Arnold, Deputy Insurance Commissioner, testified in favor.

11:32 a.m. Representative Hager moved to Adopt Amendments proposed in testimony #38674.

11:32 a.m. Representative Motschenbacher seconded the motion.

Representatives	Vote
Representative Donald W. Longmuir	Y
Representative Clayton Fegley	Y
Representative Jim Jonas	Y
Representative Macy Bolinske	Y
Representative Jayme Davis	Y
Representative LaurieBeth Hager	Y
Representative Patrick R. Hatlestad	Y
Representative Matthew Heilman	Y
Representative Lawrence R. Klemin	Y
Representative Mike Motschenbacher	Y
Representative Mitch Ostlie	Y
Representative Nathan Toman	A
Representative Jonathan Warrey	Y

11:33 a.m. Motion passed 12-0-1

11:33 a.m. Representative Hager moved a Do Pass as Amended.

11:34 a.m. Vice-Chairman Jonas seconded the motion.

Representatives	Vote
Representative Donald W. Longmuir	Y
Representative Clayton Fegley	Y
Representative Jim Jonas	Y
Representative Macy Bolinske	Y
Representative Jayme Davis	Y
Representative LaurieBeth Hager	Y
Representative Patrick R. Hatlestad	Y
Representative Matthew Heilman	y
Representative Lawrence R. Klemin	Y
Representative Mike Motschenbacher	Y
Representative Mitch Ostlie	Y
Representative Nathan Toman	A
Representative Jonathan Warrey	Y

11:35 a.m. Motion passed 12-0-1

11:35 a.m. Unanimous decision to be placed on the Consent Calendar.

11:35 a.m. Vice-Chairman Jonas will carry the bill.

11:35 a.m. Chairman Longmuir closed the hearing.

Wyatt Armstrong, Committee Clerk

RS 3/6/25

25.8127.01001
Title.02000

Adopted by the House Political
Subdivisions Committee
March 6, 2025

1 of 6

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2090

Introduced by

State and Local Government Committee

(At the request of the Insurance Commissioner)

A BILL for an Act to amend and reenact section 18-01-02, subsection 1 of section 18-01-03.1, sections 18-01-06, 18-01-07, 23-15-04, and 54-12-01 of the North Dakota Century Code, relating to updating language for the state fire marshal department and to the attorney general's authority to appoint the state fire marshal; to repeal sections 18-01-35 and 18-01-36 of the North Dakota Century Code, relating to fund fees collected by the state fire marshal department; and to provide for a retroactive application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 18-01-02 of the North Dakota Century Code is amended and reenacted as follows:

18-01-02. Duties of state fire marshal and deputy state fire marshals.

The state fire marshal and deputy state fire marshals may enforce all the laws of the state providing for:

1. The prevention of fires.
2. The storage, sale, and use of combustibles ~~and~~, explosives, and fireworks~~, and~~.
3. The fire and life safety code compliance of hazardous materials.
~~3.~~4. The installation and maintenance of ~~automatic or other fire alarms and fire extinguishing equipment~~fire protection and life safety systems.
~~4.~~5. The ~~means and adequacy of exits in case of fires~~fire and life safety code compliance ~~from~~of all public and private elementary and secondary schools, from all public places,

and from all other places in which fifty or more persons congregate from time to time for any purpose.

~~5.~~6. The suppression of arson and the investigation of the ~~cause and~~ origin and cause of fires and explosions.

~~6.~~7. The education of the citizens of North Dakota through organized programs on the hazards of fire.

SECTION 2. AMENDMENT. Subsection 1 of section 18-01-03.1 of the North Dakota Century Code is amended and reenacted as follows:

1. The state fire marshal and the state fire marshal's deputies may perform fire safety inspections of those facilities required to be inspected under administrative rules of the department of health and human services. ~~The state fire marshal shall charge a fee not to exceed fifty dollars for conducting these fire safety inspections in an amount determined by administrative rules adopted by the state fire marshal. Inspection fees received by the state fire marshal must be deposited into the insurance regulatory trust fund operating fund.~~

SECTION 3. AMENDMENT. Section 18-01-06 of the North Dakota Century Code is amended and reenacted as follows:

18-01-06. Fire chiefs and auditors or secretaries of cities and rural fire protection districts must report fires.

Within thirty days after the occurrence of any fire in which property in a city or rural fire protection district has been destroyed or damaged, an organization that is contracted by a political subdivision for fire protection or the fire chief of such city or rural fire protection district, if a fire department is maintained therein, or the auditor of the city or the secretary of the rural fire protection district, if a fire department is not maintained therein, shall report the cause, if known, and the origin and circumstances of the fire and the name of the owner and occupant of such property, to the state fire marshal. Reports shall be submitted in a form compliant and compatible with the national ~~fire incident reporting requirements~~emergency response information system, or in a manner prescribed by the state fire marshal. Such report must show whether such fire was the result of carelessness, accident, or design. The provisions of this section must be complied with, insofar as the same are applicable, if the fire is of unknown origin, regardless of the amount of damage caused thereby.

SECTION 4. AMENDMENT. Section 18-01-07 of the North Dakota Century Code is amended and reenacted as follows:

18-01-07. State fire marshal may direct investigation - Report of investigation - Records in state fire marshal's office.

An investigation of each fire must be made by the officers required to report the occurrence of fires under section 18-01-06. ~~The state fire marshal shall furnish blanks upon which reports of investigations of fires must be submitted and, when~~When the state fire marshal deems it expedient or necessary, the state fire marshal may supervise and direct any of such investigations. Within ~~one week~~thirty days after the occurrence of a fire, the officer investigating it shall furnish to the state fire marshal a written report containing a statement of the facts relating to the ~~cause and~~ origin and cause of the fire and such other information as the state fire marshal may require. The state fire marshal shall ~~keep in the state fire marshal's office~~have access to a record of all fires ~~occurring~~reported in the state together with the facts, circumstances, and statistics in connection therewith and showing the origin of such fires as the same may be determined from the reports ~~filed in the state fire marshal's office~~.

SECTION 5. AMENDMENT. Section 23-15-04 of the North Dakota Century Code is amended and reenacted as follows:

23-15-04. Exceptions.

1. This chapter does not prohibit:
   a. A licensed wholesaler, dealer, or jobber from selling at wholesale fireworks that are not prohibited.
   b. The sale of any kind of fireworks for shipment directly out of the state.
   c. The use of fireworks by transportation agencies for signal purposes or illumination.
   d. The sale or use of blank cartridges for a show or theater, for signal or ceremonial purposes in athletics or sports, or for use by military organizations.
2. An application for a license as distributor must be made to the state fire marshal on forms prescribed by the state fire marshal. An application for a license as a retailer must be made to the county sheriff on forms prescribed by the state fire marshal. Each application must be accompanied by the required fee, which must be two hundred fifty dollars for a distributor's license and twenty dollars for a retailer's license. Fees for

distributors' licenses must be deposited in the ~~general fund~~insurance regulatory trust fund in the state treasury and fees for retailers' licenses must be deposited in the county general fund. The license is valid only for the calendar year in which issued and must at all times be displayed at the place of business of the licensee. The licenses are in addition to any other license required by law or municipal ordinance. The licensing provisions of this section do not apply to a retailer who is required to become licensed by any municipality. Any license fee levied by a municipality must be deposited in the municipality's general fund.

3. A person not licensed as a wholesaler or retailer may not bring any fireworks into this state, and a retailer may not sell any fireworks that have not been purchased from a wholesaler licensed under this chapter. A person licensed under this chapter shall keep available for inspection by the state fire marshal or any sheriff, police officer, or local fire marshal a copy of each invoice for fireworks purchased as long as any fireworks included on the invoice are held in the licensee's possession, which invoice must show the license number of the wholesaler from whom the purchase was made.

SECTION 6. AMENDMENT. Section 54-12-01 of the North Dakota Century Code is amended and reenacted as follows:

54-12-01. Attorney general - Duties.

The attorney general shall:

1. Appear for and represent the state before the supreme court in all cases in which the state is interested as a party.
2. Institute and prosecute all actions and proceedings in favor or for the use of the state which may be necessary in the execution of the duties of any state officer.
3. Appear and defend all actions and proceedings against any state officer in the attorney general's official capacity in any of the courts of this state or of the United States. If both parties to an action are state officers, the attorney general may determine which officer the attorney general will represent and the other officer may employ counsel to represent that other officer.
4. Consult with and advise the several state's attorneys in matters relating to the duties of their office.

5 of 6

5. Attend the trial of any party accused of crime and assist in the prosecution when in the attorney general's judgment the interests of the state require it.
6. Consult with and advise the governor and all other state officers and when requested give written opinions on all legal or constitutional questions relating to the duties of such officers respectively.
7. Prepare, when necessary, proper drafts for contracts and other writings relating to subjects in which the state is interested.
8. a. Give written opinions, when requested by a member of the legislative assembly, upon legal questions unless the request:
   (1) Requires the attorney general to make a factual determination;
   (2) Involves the constitutionality of a statute;
   (3) Concerns the internal operation or management of the judicial branch of government;
   (4) Is likely to be or presently is pending before a court or a court has ruled on the issue;
   (5) Provides private legal advice; or
   (6) Involves matters regarding whether a criminal offense has occurred.
   b. If the attorney general declines to issue an opinion for a reason in subdivision a, the attorney general shall inform the individual who requested the opinion in a written response within sixty days of the request.
9. Enforce the proper application of funds appropriated to the public institutions of the state and prosecute breaches of trust in the administration of such funds.
10. Prosecute corporations and limited liability companies, when necessary, for failure or refusal to make the reports required by law.
11. Keep in proper books a register of all cases prosecuted or defended by the attorney general or the attorney general's assistants, in behalf of this state or its officers, and of all proceedings had in relation thereto, including a record of all actions wherein the state is a party, or is interested, prosecuted by the state's attorneys of the several counties and reported to the attorney general as provided by law, and deliver the same to the attorney general's successor in office.

12. Keep in the attorney general's office a book in which the attorney general shall record all the official opinions given by the attorney general during the attorney general's term of office, such book to be delivered by the attorney general to the attorney general's successor in office.

13. Pay into the state treasury all moneys received by the attorney general for the use of the state.

14. Serve as superintendent of the bureau of criminal investigation and perform all duties incident to the proper and efficient conduct of that office.

15. Attend to and perform any other duties which from time to time may be required by law.

16. ~~Appoint the state fire marshal and supervise the operation of the state fire marshal department.~~

~~17.~~ Give written opinions, when requested by the governing body or city attorney of a city in the state of North Dakota.

~~18.~~17. Repealed by S.L. 1991, ch. 637, § 9.

~~19.~~18. Give written opinions to public entities as defined in subdivision a or b of subsection 13 of section 44-04-17.1, when requested by an interested person under section 44-04-21.1.

SECTION 7. REPEAL. Sections 18-01-35 and 18-01-36 of the North Dakota Century Code are repealed.

SECTION 8. RETROACTIVE APPLICATION. Section 6 of this Act applies retroactively to cases arising after July 31, 2023.

REPORT OF STANDING COMMITTEE
SB 2090

Political Subdivisions Committee (Rep. Longmuir, Chairman) recommends **AMENDMENTS (25.8127.01001)** and when so amended, recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (12 YEAS, 0 NAYS, 1 ABSENT OR EXCUSED AND NOT VOTING). SB 2090 was placed on the Sixth order on the calendar.

NORTH DAKOTA
Insurance Department

TESTIMONY

Doug Nelson, State Fire Marshal

House Political Subdivision Committee
March 6th, 2025

To the Honorable Representative David Longmuir, Chairman of the Political Subdivisions Committee, and Committee members,

I stand before you today in support of Senate Bill 2090, which is an agency bill created to clean up some sections of Title 18 due to the transfer of the Fire Marshal's Office from the Attorney General's Office to the Insurance Department last session.

Section 1 updates and adds language to the duties of the state fire marshal and deputy state fire marshals. The language fireworks, and hazardous materials are included to reflect other sections of code where our office is already given authority to create and enforce rules. The term hazardous materials is inclusive of all combustibles, flammables, and other chemicals that are regulated under the Fire Code of North Dakota. Authority already currently exists for the enforcement in other areas of the century code related to this language such as section 18-09 liquid petroleum gas regulation and 23-13 safety regulations (for motor fuel dispensing).

I did submit an amendment to this section to further clarify the scope of hazardous materials. It was brought to our attention that the Department of Emergency Services has a separate program under Century Code that requires reporting and notification of hazardous chemicals. The amendment is meant to clarify our office's scope within this area.

This section also corrects language to better reflect current practices and scope of fire codes and fire investigations. Fire and life safety systems is the current phrase for any and replaces automatic or other fire alarms and extinguishing equipment. Origin and Cause of fires and explosions is the updated language to describe and replace cause and origin of fires.

Section 2 removes authority to charge a fee for the inspection of facilities licensed by the department of health and human services. The most common inspection conducted by our office at the request of health and human services are childcares for their licensing requirements. I am not aware, nor have I ever been made aware of our office charging this fee. The amount in code is not enough to off-set the costs of the inspection, and I do not foresee our office beginning to charge fees to inspect childcares at any time in the future. Therefore, we are suggesting to strike this language to remove this red tape.

Section 3 changes are in reference to a change at the federal level. The United States fire administration is changing the program that our office and fire departments report fires in. The suggestion is to recognize this new system of fire reporting, and in case of future changes, give deference to our office without having to change Century Code so quickly.

Section 4 updates language to bring this section of code closer in line with the requirements of the preceding section 18-01-06. The fire incident report is the often the initial fire investigation report. The changes reduce the need for blank reports to be issued by our office as they are already offered online, and set the same schedule for incident and investigation reporting. The federal fire reporting system is where fire records are kept. The removal of paper or physical records better reflects current practices on record keeping through online or cloud based programs.

Section 5 of this bill proposes a change in how the fireworks application fee, currently set at $250, is handled. Instead of being deposited into the General Fund, the fee will now be directed to the Insurance Regulatory Trust Fund. This adjustment is part of a broader cleanup effort following the transfer of the Fire Marshal's office from the Attorney General's Office to the Insurance Commissioner. We did provide a fiscal note on this change and you will notice it is moving an estimated $10,500 from the General Fund to the Insurance Regulatory Trust Fund which is a Special Fund. By reallocating this fee, we ensure that resources are directed toward the proper oversight and regulation of fire safety and insurance, and are being consistent with other fees collected by the agency.

Section 6 of SB 2090 addresses an oversight that occurred as a result of SB 2211 from the previous session. Specifically, in Section 54-12-01, the code still reflects that the Attorney General has the authority to appoint the State Fire Marshal and oversee its operations. This language was unintentionally left unchanged after the transfer of responsibilities from the Attorney General's office. Section 6 of SB 2090 aims to correct this oversight and update the statute to reflect the current organizational structure. Additionally, in Section 8, we have requested retroactive application of this change, given the nature of this correction.

Section 7 of SB 2090 eliminates the requirement to bill the Department of Environmental Quality (DEQ) and the Fire and Tornado Fund (F&T Fund) for Fire Marshal services. Currently, the process for billing DEQ requires substantial administrative effort, including tracking time, verifying timecards, issuing an Interdepartmental Billing (IBD), notifying DEQ, ensuring they process the bill as accounts payable, and following up to ensure payment. All of these steps are required for a relatively small total of $3,779, making the process highly inefficient. The administrative burden on both the Fire Marshal's office and the DEQ is disproportionate to the small amount being billed. This unnecessary red tape takes up time and resources that could be better allocated elsewhere.

Eliminating this billing requirement would not only reduce administrative complexity but would also allow both agencies to focus on their core responsibilities and work more efficiently. Streamlining this process is an important step toward reducing unnecessary bureaucracy and red tape.

Additionally, the current billing process for Fire Marshal services to the Fire and Tornado Fund (F&T Fund) remains overly complex and redundant. For the 2021-2023 biennium, the Attorney General's Office billed the F&T Fund a total of $193,615 for Fire Marshal services, and for the

2023-2025 biennium, our office is on track to bill a similar amount, with $160,528 currently billed.

Similar to the DEQ billing, the process of tracking time, creating general ledger entries, and issuing bills within the same agency is unnecessarily cumbersome. This redundancy adds layers of administrative complexity that create inefficiencies without offering any added benefit. By removing these steps, we can significantly streamline the process, reduce overhead, and allow the Fire Marshal's office to focus more on its vital work in fire safety and prevention rather than administrative tasks. This change is a critical part of our effort to reduce red tape and create a more efficient, transparent system that better serves the people of our state.

Chairman Longmuir and members of the committee, I respectfully request a Do Pass recommendation, and am happy to answer any questions that you may have.

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENT TO

FIRST ENGROSSMENT

Introduced by

ENGROSSED SENATE BILL NO. 2090

State Fire Marshal Doug Nelson

A BILL for an Act to amend and reenact section 18-01-02, subsection 1 of section 18-01-03.1, sections 18-01-06, 18-01-07, 23-15-04, and 54-12-01 of the North Dakota Century Code, relating to updating language for the state fire marshal department and to the attorney general's authority to appoint the state fire marshal; to repeal sections 18-01-35 and 18-01-36 of the North Dakota Century Code, relating to fund fees collected by the state fire marshal department; and to provide for a retroactive application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION **1.** AMENDMENT**.** Section 18-01-02 of the North Dakota Century Code is amended and reenacted as follows:

18-01-02. Duties of state fire marshal and deputy state fire marshals.

The state fire marshal and deputy state fire marshals may enforce all the laws of the state providing for:

1. The prevention of fires.
2. The storage, sale, and use of combustibles ~~and~~, explosives, and fireworks, and the fire and life safety code compliance of hazardous materials.
3. The installation and maintenance of ~~automatic or other fire alarms and fire extinguishing equipment~~fire protection and life safety systems.
4. The ~~means and adequacy of exits in case of fires~~fire and life safety code compliance ~~from~~of all public and private elementary and secondary schools, from all public places, and from all other places in which fifty or more persons congregate from time to time for any purpose.
5. The suppression of arson and the investigation of the ~~cause and~~ origin and cause of fires and explosions.
6. The education of the citizens of North Dakota through organized programs on the hazards of fire.

SECTION 2. AMENDMENT. Subsection 1 of section 18-01-03.1 of the North Dakota Century Code is amended and reenacted as follows:

1. The state fire marshal and the state fire marshal's deputies may perform fire safety inspections of those facilities required to be inspected under administrative rules of the department of health and human services. ~~The state fire marshal shall charge a fee not to exceed fifty dollars for conducting these fire safety inspections in an amount determined by administrative rules adopted by the state fire marshal. Inspection fees received by the state fire marshal must be deposited into the insurance regulatory trust fund operating fund.~~

SECTION **3.** AMENDMENT**.** Section 18-01-06 of the North Dakota Century Code is amended and reenacted as follows:

18-01-06. Fire chiefs and auditors or secretaries of cities and rural fire protection districts must report fires.

Within thirty days after the occurrence of any fire in which property in a city or rural fire protection district has been destroyed or damaged, an organization that is contracted by a political subdivision for fire protection or the fire chief of such city or rural fire protection district, if a fire department is maintained therein, or the auditor of the city or the secretary of the rural fire protection district, if a fire department is not maintained therein, shall report the cause, if known, and the origin and circumstances of the fire and the name of the owner and occupant of such property, to the state fire marshal. Reports shall be submitted in a form compliant and compatible with the national ~~fire incident reporting requirements~~emergency response information system, or in a manner prescribed by the state fire marshal. Such report must show whether such fire was the result of carelessness, accident, or design. The provisions of this section must be complied with, insofar as the same are applicable, if the fire is of unknown origin, regardless of the amount of damage caused thereby.

SECTION **4.** AMENDMENT**.** Section 18-01-07 of the North Dakota Century Code is amended and reenacted as follows:

18-01-07. State fire marshal may direct investigation - Report of investigation - Records in state fire marshal's office.

An investigation of each fire must be made by the officers required to report the occurrence of fires under section 18-01-06. ~~The state fire marshal shall furnish blanks upon which reports of investigations of fires must be submitted and, when~~When the state fire marshal deems it

expedient or necessary, the state fire marshal may supervise and direct any of such investigations. Within ~~one week~~thirty days after the occurrence of a fire, the officer investigating it shall furnish to the state fire marshal a written report containing a statement of the facts relating to the ~~cause and~~ origin and cause of the fire and such other information as the state fire marshal may require. The state fire marshal shall ~~keep in the state fire marshal's office~~have access to a record of all fires ~~occurring~~reported in the state together with the facts, circumstances, and statistics in connection therewith and showing the origin of such fires as the same may be determined from the reports ~~filed in the state fire marshal's office~~.

SECTION **5.** AMENDMENT**.** Section 23-15-04 of the North Dakota Century Code is amended and reenacted as follows:

23-15-04. Exceptions.

1. This chapter does not prohibit:
   a. A licensed wholesaler, dealer, or jobber from selling at wholesale fireworks that are not prohibited.
   b. The sale of any kind of fireworks for shipment directly out of the state.
   c. The use of fireworks by transportation agencies for signal purposes or illumination.
   d. The sale or use of blank cartridges for a show or theater, for signal or ceremonial purposes in athletics or sports, or for use by military organizations.
2. An application for a license as distributor must be made to the state fire marshal on forms prescribed by the state fire marshal. An application for a license as a retailer must be made to the county sheriff on forms prescribed by the state fire marshal. Each application must be accompanied by the required fee, which must be two hundred fifty dollars for a distributor's license and twenty dollars for a retailer's license. Fees for distributors' licenses must be deposited in the ~~general fund~~insurance regulatory trust fund in the state treasury and fees for retailers' licenses must be deposited in the county general fund. The license is valid only for the calendar year in which issued and must at all times be displayed at the place of business of the licensee. The licenses are in addition to any other license required by law or municipal ordinance. The licensing provisions of this section do not apply to a retailer who is required to become licensed by any municipality. Any license fee levied by a municipality must be deposited in the municipality's general fund.

3. A person not licensed as a wholesaler or retailer may not bring any fireworks into this state, and a retailer may not sell any fireworks that have not been purchased from a wholesaler licensed under this chapter. A person licensed under this chapter shall keep available for inspection by the state fire marshal or any sheriff, police officer, or local fire marshal a copy of each invoice for fireworks purchased as long as any fireworks included on the invoice are held in the licensee's possession, which invoice must show the license number of the wholesaler from whom the purchase was made.

SECTION **6.** AMENDMENT**.** Section 54-12-01 of the North Dakota Century Code is amended and reenacted as follows:

54-12-01. Attorney general - Duties.

The attorney general shall:

1. Appear for and represent the state before the supreme court in all cases in which the state is interested as a party.
2. Institute and prosecute all actions and proceedings in favor or for the use of the state which may be necessary in the execution of the duties of any state officer.
3. Appear and defend all actions and proceedings against any state officer in the attorney general's official capacity in any of the courts of this state or of the United States. If both parties to an action are state officers, the attorney general may determine which officer the attorney general will represent and the other officer may employ counsel to represent that other officer.
4. Consult with and advise the several state's attorneys in matters relating to the duties of their office.
5. Attend the trial of any party accused of crime and assist in the prosecution when in the attorney general's judgment the interests of the state require it.
6. Consult with and advise the governor and all other state officers and when requested give written opinions on all legal or constitutional questions relating to the duties of such officers respectively.
7. Prepare, when necessary, proper drafts for contracts and other writings relating to subjects in which the state is interested.
8. a. Give written opinions, when requested by a member of the legislative assembly, upon legal questions unless the request:
   (1) Requires the attorney general to make a factual determination;

(2) Involves the constitutionality of a statute;

(3) Concerns the internal operation or management of the judicial branch of government;

(4) Is likely to be or presently is pending before a court or a court has ruled on the issue;

(5) Provides private legal advice; or

(6) Involves matters regarding whether a criminal offense has occurred.

b. If the attorney general declines to issue an opinion for a reason in subdivision a, the attorney general shall inform the individual who requested the opinion in a written response within sixty days of the request.

9. Enforce the proper application of funds appropriated to the public institutions of the state and prosecute breaches of trust in the administration of such funds.

10. Prosecute corporations and limited liability companies, when necessary, for failure or refusal to make the reports required by law.

11. Keep in proper books a register of all cases prosecuted or defended by the attorney general or the attorney general's assistants, in behalf of this state or its officers, and of all proceedings had in relation thereto, including a record of all actions wherein the state is a party, or is interested, prosecuted by the state's attorneys of the several counties and reported to the attorney general as provided by law, and deliver the same to the attorney general's successor in office.

12. Keep in the attorney general's office a book in which the attorney general shall record all the official opinions given by the attorney general during the attorney general's term of office, such book to be delivered by the attorney general to the attorney general's successor in office.

13. Pay into the state treasury all moneys received by the attorney general for the use of the state.

14. Serve as superintendent of the bureau of criminal investigation and perform all duties incident to the proper and efficient conduct of that office.

15. Attend to and perform any other duties which from time to time may be required by law.

16. ~~Appoint the state fire marshal and supervise the operation of the state fire marshal department.~~

~~17.~~ Give written opinions, when requested by the governing body or city attorney of a city in the state of North Dakota.

~~18.~~17. Repealed by S.L. 1991, ch. 637, § 9.

~~19.~~18. Give written opinions to public entities as defined in subdivision a or b of subsection 13 of section 44-04-17.1, when requested by an interested person under section 44-04-21.1.

SECTION 7. **REPEAL.** Sections 18-01-35 and 18-01-36 of the North Dakota Century Code are repealed.

SECTION 8. RETROACTIVE APPLICATION. Section 6 of this Act applies retroactively to cases arising after July 31, 2023.