

SENATE BILL NO. 2211

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

Before: **House Appropriations**
 Representative Don Vigesaa, Chairman

Date: **March 23, 2023**

Good morning, Chairman Vigesaa and members of the Committee. For the record, my name is Jon Godfread, Insurance Commissioner. I apologize for not being able to appear in-person this morning. I am writing to you today in support of Senate Bill 2211, which is an idea that was brought forth by the fire chiefs and fire service, and I look forward to continuing the conversation in the coming days and weeks.

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

There are three main appropriation items included in SB 2211:

1. Restoring the Continuing Appropriation for the Fire Districts
2. A flat appropriation from the Insurance Regulatory Trust Fund of \$2.4M for the North Dakota Firefighter Association
3. Restoring the State Fire Marshal in the Insurance Department, shifting the funding to the Insurance Regulatory Trust Fund, and providing the necessary resources so they can achieve accreditation.

Continuing Appropriation for Fire Districts (page 6, sections 13&14):

Another major component of this bill is the need for a continuing appropriation for the tax monies collected on behalf of the fire districts. Funding for fire departments and fire districts comes from a couple of different sources (property taxes, benefits, etc.) but a significant portion of the funding has come from the insurance premium tax. The Department collects the premium tax and from that, the Legislature appropriates an amount up to 100% of the fire insurance premium tax revenue collected. This is essentially a pass-through fund, whereby we collect the tax and pass that collection on to the fire districts. This fund had a continuing appropriation from 1887 – 1985. Since 1985, funding to the fire districts has fluctuated between 101% of the funds to as low as 48% of the funds available. Senate Bill 2211 is asking that the continuing appropriation be restored; ensuring that the dollars that are intended to go to the fire districts actually go to the fire districts. The average consumer likely knows that a portion of their homeowner’s insurance premiums goes to funding fire departments. What they do not know is that a portion of those dollars are being diverted into the General Fund, roughly \$40M over the last 40 years. This biennium, we projected that an additional 1.63 million was transferred to the General Fund instead of going to the Fire Districts.

This move simply restores this critical funding stream for our local fire districts. There are others in the fire service that we can arrange to meet with the committee to provide greater detail, but I can tell you that demand for service has continued to increase. Many of those in the fire service in North Dakota are volunteer based and this change does not request an increase of new dollars to the fire service, it is simply restoring the funding stream that is collected and paid in support of the fire service.

North Dakota Fire Fighters Association Appropriation (page 5, Section 11):

Senate Bill 2211 introduces language to pay a flat amount to the North Dakota Firefighter’s Association (NDFA) from the Insurance Regulatory Trust Fund, instead of from the Fire Insurance Tax Distribution Fund. Traditionally a portion of the Fire Insurance Tax Distribution was appropriated to the NDFA. This resulted in a reduction of funds going to the Fire Districts

and was especially harder on the more urban departments that do not utilize the NDFA for training services. Currently, 94.5% of the insurance premium tax collected for the fire service goes to the Fire Districts and 5.5% would go to the NDFA. For example, in the 2021-23 biennium, the total amount appropriated from the Insurance Fire Tax Distribution Fund was \$20,728,540, of that 94.5% (\$19,588,470) went to the fire districts and 5.5% (\$1,140,070) went to the NDFA.

When I have brought the idea of the continuing appropriation before this body in the past, the reporting and oversight for the NDFA has often been one of the reasons cited for maintaining the biennial appropriation. With SB 2211, the NDFA will be working in concert with the State Fire Marshal and will be required to give the State Fire Marshal quarterly reports. This both maintains the autonomy the NDFA has earned and deserves, while providing the State Fire Marshal with the responsibility of oversight and reporting.

Last biennium the NDFA received \$1.14M from the Fire Insurance Tax Distribution Fund, SB 2211 is requesting \$2.4M to come from the Insurance Regulatory Trust Fund.. The State Marshal is the glue to bring all these components together to be successful. The oversight of NDFA from the State Fire Marshal helps this state grow and develop the fire service while having peace of mind regarding the funds you all allocate to NDFA. NDFA President Rob Knuth can help the committee to understand the importance NDFA has for rural communities and what this flat appropriation helps them achieve.

Restoring the State Fire Marshal in the Insurance Department:

The initial Fire Marshal budget from the Attorney General’s Office totaled \$2.16M and was made up of a combination of both General Funds (\$887,685) and Special Funds (\$1,275,214). Fire Marshal Nelson is able to testify more to this point, but we are requesting 4 additional FTEs for the Fire Marshal which results in an increase in salary, fringe, and operating costs. The Fire Marshal has not received an additional FTE for 40 years, despite significant growth in the state during that timeframe. Because of this, there are many areas of our state that are underserved by the core functions of the Fire Marshal’s Office. The total requested appropriation for the Fire

Marshal is \$3,370,000. This number does not include any equity or compensation packages from the governor.

This is a necessary investment for our State Fire Marshal to earn national accreditation. Currently, our State Fire Marshal's Office does not hold any accreditations, Accreditation for state fire marshals' offices is typically provided by the American National Standards Institute (ANSI) and the Commission on Fire Accreditation International (CFAI). The accreditation programs help to ensure that the state fire marshal's offices have the necessary resources, personnel, training, and equipment to meet the needs of their jurisdiction. The standards for accreditation are in part created by the Organization of Scientific Area Committees for Forensic Science (OSAC). The OSAC was established by the National Institute of Standards and Technology (NIST) in 2013, to develop and promote the use of national standards and guidelines in the forensic science community. A critical duty of the state fire marshal is fire investigations and cause and origin of all fires in our state, accreditation of our state Fire Marshals Office is important.

The accreditation process ensures that the State Fire Marshall's Office has implemented and maintains the highest standards for fire investigations. This accreditation is critically important for several reasons.

1. **Quality Assurance:** OSAC standards provide a framework for ensuring that fire investigations units have implemented and maintained proper management and technical procedures. This helps ensure that the results of fire investigations are accurate, reliable and scientifically sound, all of which are critical in the courtroom.
2. **Professionalism:** OSAC accreditation demonstrates that a fire investigation unit is committed to providing professional and competent services to criminal justice agencies, such as our Bureau of Criminal Investigation.
3. **Consistency:** OSAC Standards help to ensure that fire investigation units across the country are using consistent and appropriate methods for conducting fire investigations. This helps ensure that investigations are conducted in a fair, unbiased manner, regardless of location.

4. **Credibility:** OSAC accreditation provides a level of credibility and recognition that a fire investigation has met or exceeded national standards.
5. **Competitive Advantage:** Accreditation is more and more becoming a requirement for grants or other funding opportunities, and it can also help the fire investigation unit attract the necessary talent to join the Fire Marshals Office.

Additional performance measures will likely require additional funding for training, case reviews, and other needs. These necessary investments accomplish the goal of being accredited and having a common set of performance measures to be utilized by all Fire Investigation Units, and supported by the court system, enabling the State Fire Marshal to minimize the risk exposure of inadequate fire investigations.

We understand that we are asking for additional investment into our State Fire Marshal, and we believe with 4 additional FTEs and additional operating dollars our state Fire Marshal will be well on the way to receiving accreditation.

Our ask for the Fire Marshal is a total appropriation of \$3.37M. This is an increase of funds by \$1,207,101 from the budget submitted by the Attorney General for the State Fire Marshal.

Lastly, I wanted to walk through the fiscal note attached to this bill. For 2023, you will see an increase in expenditures from other funds (Insurance Regulatory Trust Fund) of \$1,207,101. This is the portion of the budget from the State Fire Marshals Office from the Attorney General, which is their special fund portion of their submitted budget.

You will also see a reduction in appropriations from the General Fund, which accounts for the \$887,685 previously funded from the Attorney Generals General Fund Budget.

Finally, you will see a negative appropriation from the other funds line. This is largely due to restoring the continuing appropriation for the fire districts. Moving to a continuing appropriation removes this line item from our budget. We arrived at this number by adding in the \$2.4M for the NDFA, the additional \$1.2M for investing into our State Fire Marshal and subtracting out the

\$19.5M continuing appropriation for the fire districts. This results in showing a reduced appropriation of \$15,981,369. But, again most of that is purely a budgetary shift of moving the fire district funding to a continuing appropriation.

To recap, much of what the fiscal note does is move General Fund dollars to other funds, or our special fund, the Insurance Regulatory Trust Fund. There is a positive net expenditure calculation for this purpose. It's not just moving the budget from the Attorney General's Office to the Insurance Department. We are committed to investing in the State Fire Marshal and giving the office the resources, they need to effectively administer their duties.

SB 2211 is the result of many conversations with all the stakeholders including the Attorney General, the Fire Chiefs, the Fire Fighter's Association, the cities, the counties, law enforcement, and just about anyone who would listen to me talk. All have met this idea with approval and support for our efforts. I can assure you; we have looked at this idea to try and find the negative impacts and it's our impression that this is truly positive for all involved.

I am very supportive of SB 2211. I think over the past 40 years the fire service has made a significant contribution to the finances of the state to the tune of approximately \$40M directly to General Fund. We are not asking for those dollars back, but I think it has come time to allow all monies collected for fire service to be allocated to fire service. I know this body will be tasked with balancing the budget, dealing with several critically important asks and ultimately will need to tell some groups no or not this year. The Fire Service has waited for over 40 years for the continuing appropriation to be restored, the Fire Marshal has not received a significant change in staffing or resources in over 30 years, the Fire Service has waited in line, have been responsible, patient, and have responded to the call as our state has changed dramatically in size and complexity. I would argue that the fire service has paid their dues, has contributed to the General Fund directly for the past 40 years, and now has brought forward an idea that will provide some investment into the fire service at a time when it is getting more challenging to recruit and retain volunteer firefighters and at a time when calls for service have continued to increase.

Our state has changed significantly over the past 40 years, as have many areas of government and even the fire service. SB 2211 recognizes those changes and brings the state investment into our fire service to a level we should all be proud of. I urge you, when balancing the needs of the state and determining where to appropriate the money that you approve SB 2211 as presented. Our fire service has done its part and I hope this body recognizes the opportunity you have to help the state do our part.

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

Mr. Chairman and members of the committee, thank you for your time in reading this letter. I am happy to meet with the committee in-person and look forward to this important discussion about the future of the fire service in North Dakota.