

**FIRST ENGROSSMENT
with Conference Committee Amendments
ENGROSSED SENATE BILL NO. 2010**

Introduced by

Appropriations Committee

1 A BILL for an Act to provide an appropriation for defraying the expenses of the insurance
2 commissioner; to create and enact section 26.1-22-03.1 of the North Dakota Century Code,
3 relating to North Dakota reserve fund use of producers; to amend and reenact subsection 2 of
4 section 26.1-01-07, section 26.1-01-09, subdivision c of subsection 8 of section 26.1-04-03,
5 subsection 2 of section 26.1-04-06, sections 26.1-21-03, 26.1-21-17, 26.1-22-03, and
6 26.1-23.1-01, and subsection 2 of section 26.1-25-16 of the North Dakota Century Code,
7 relating to the state fire and tornado fund, the state bonding fund, fees chargeable by the
8 insurance commissioner, the salary of the insurance commissioner, insurance rebates, and
9 government self-insurance pools; to provide for a legislative management study; to provide a
10 statement of legislative intent; to provide for a report; to provide a continuing appropriation; to
11 provide for a penalty; and to declare an emergency.

12 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

13 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds
14 as may be necessary, are appropriated from special funds derived from federal funds and other
15 income, to the insurance commissioner for the purpose of defraying the expenses of the
16 insurance commissioner, for the biennium beginning July 1, 2019, and ending June 30, 2021,
17 as follows:

| | | Adjustments or | |
|----|--------------------------------|---------------------|-----------------------------------|
| | <u>Base Level</u> | <u>Enhancements</u> | <u>Appropriation</u> |
| 18 | | | |
| 19 | | | |
| 20 | Salaries and wages | \$8,549,567 | (\$399,569) \$8,149,998 |
| 21 | Operating expenses | <u>2,179,777</u> | <u>(413,102)</u> <u>1,766,675</u> |
| 22 | Total special funds | \$10,729,344 | (\$812,671) \$9,916,673 |
| 23 | Full-time equivalent positions | 46.00 | (5.00) 41.00 |

1 **SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO THE**
2 **SIXTY-SEVENTH LEGISLATIVE ASSEMBLY.** The following amounts reflect one-time funding
3 items approved by the sixty-fifth legislative assembly for the 2017-19 biennium and the one-time
4 funding items included in the appropriation in section 1 of this Act:

| 5 <u>One-Time Funding Description</u> | <u>2017-19</u> | <u>2019-21</u> |
|---------------------------------------|----------------|----------------|
| 6 Health care analysis | \$0 | \$200,000 |
| 7 Total special funds | \$0 | \$200,000 |

8 The 2019-21 biennium one-time funding amounts are not a part of the entity's base budget
9 for the 2021-23 biennium. The insurance commissioner shall report to the appropriations
10 committees of the sixty-seventh legislative assembly on the use of this one-time funding for the
11 biennium beginning July 1, 2019, and ending June 30, 2021.

12 **SECTION 3. APPROPRIATION.** There is appropriated out of any moneys in the insurance
13 tax distribution fund in the state treasury, not otherwise appropriated, the sum of \$18,818,030,
14 or so much of the sum as may be necessary, to the insurance commissioner for the purpose of
15 providing payments, in accordance with provisions of section 18-04-05, to North Dakota fire
16 departments in the amount of \$17,989,505 and payments to the North Dakota firefighter's
17 association in the amount of \$828,525, for the biennium beginning July 1, 2019, and ending
18 June 30, 2021.

19 **SECTION 4. UNSATISFIED JUDGMENT FUND.** Section 1 of this Act includes \$29,703
20 from the state unsatisfied judgment fund to pay unsatisfied judgment fund administrative
21 expenses for the biennium beginning July 1, 2019, and ending June 30, 2021.

22 **SECTION 5. AMENDMENT.** Subsection 2 of section 26.1-01-07 of the North Dakota
23 Century Code is amended and reenacted as follows:

24 2. Nonprofit health service corporations and health maintenance organizations are
25 subject to the same fees as any other insurance company. County mutual insurance
26 companies and benevolent societies are liable only for the fees mentioned in
27 subdivisions b, f, g, and ~~k~~h of subsection 1.

28 **SECTION 6. AMENDMENT.** Section 26.1-01-09 of the North Dakota Century Code is
29 amended and reenacted as follows:

1 **26.1-01-09. Salary of commissioner.**

2 The annual salary of the commissioner is ~~one hundred two thousand six hundred~~
3 ~~eighty-nine dollars through June 30, 2016~~one hundred seven thousand eight hundred
4 eighty-five dollars through June 30, 2020, and ~~one hundred five thousand seven hundred~~
5 ~~seventyone hundred ten thousand five hundred eighty-two~~ dollars thereafter.

6 **SECTION 7. AMENDMENT.** Subdivision c of subsection 8 of section 26.1-04-03 of the
7 North Dakota Century Code is amended and reenacted as follows:

8 c. Notwithstanding any other provision in this subsection, if the cost does not
9 exceed an aggregate retail value of one hundred dollars per person per year, an
10 insurance producer may give a gift, prize, promotional article, logo merchandise,
11 meal, or entertainment activity directly or indirectly to a person in connection with
12 marketing, promoting, or advertising the business. As used in this subdivision,
13 "person" means the named insured, policy owner, or prospective client or the
14 spouse of any of these individuals, but the term does not include a certificate
15 holder, child, or employee of the named insured, policy owner, or prospective
16 client. Subject to the limits of this subdivision, an insurance producer may give a
17 gift card for specific merchandise or services such as a meal, gasoline, or car
18 wash but may not give cash, a cash card, any form of currency, or any refund or
19 discount in premium. An insurance producer may not condition the giving of a gift,
20 prize, promotion article, logo merchandise, meal, or entertainment activity on
21 obtaining a quote or a contract of insurance. Notwithstanding the limitation in this
22 subdivision, an insurance producer may make a donation to a nonprofit
23 organization that is exempt from federal taxation under Internal Revenue Code
24 section 501(c)(3) [26 U.S.C. 501(c)(3)] in any amount as long as the donation is
25 not given as an inducement to obtain ~~a quote or~~ a contract of insurance.

26 **SECTION 8. AMENDMENT.** Subsection 2 of section 26.1-04-06 of the North Dakota
27 Century Code is amended and reenacted as follows:

28 2. Notwithstanding any other provision in this section, if the cost does not exceed an
29 aggregate retail value of one hundred dollars per person per year, an insurance
30 producer may give a gift, prize, promotional article, logo merchandise, meal, or
31 entertainment activity directly or indirectly to a person in connection with marketing,

1 promoting, or advertising the business. As used in this subsection, "person" means the
2 named insured, policy owner, or prospective client or the spouse of any of these
3 individuals, but the term does not include a certificate holder, child, or employee of the
4 named insured, policy owner, or prospective client. Subject to the limits of this
5 subsection, an insurance producer may give a gift card for specific merchandise or
6 services such as a meal, gasoline, or car wash but may not give cash, a cash card,
7 any form of currency, or any refund or discount in premium. An insurance producer
8 may not condition the giving of a gift, prize, promotional article, logo merchandise,
9 meal, or entertainment activity on obtaining a quote or a contract of insurance.

10 Notwithstanding the limitation in this subsection, an insurance producer may make a
11 donation to a nonprofit organization that is exempt from federal taxation under Internal
12 Revenue Code section 501(c)(3) [26 U.S.C. 501(c)(3)] in any amount as long as the
13 donation is not given as an inducement to obtain a quote or a contract of insurance.

14 **SECTION 9. AMENDMENT.** Section 26.1-21-03 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **26.1-21-03. Commissioner may employ or contract for assistants - Continuing**
17 **appropriation.**

18 The commissioner may employ assistants or contract for the services of assistants from the
19 North Dakota insurance reserve fund as may be necessary to operate the state bonding fund.
20 ~~The salaries of all employees together with all other expenditures for the operation of the fund~~
21 ~~must remain within the appropriations made by the legislative assembly for these purposes and~~
22 ~~must be paid by warrant check drawn on the state treasury prepared by the office of~~
23 ~~management and budget after the approval of expense vouchers by the office of the~~
24 ~~budget~~Moneys in the reserve fund of the state bonding fund are appropriated to the
25 commissioner on a continuing basis for the purpose of employing or contracting for services as
26 provided under this section.

27 **SECTION 10. AMENDMENT.** Section 26.1-21-17 of the North Dakota Century Code is
28 amended and reenacted as follows:

1 **26.1-21-17. Allowed liability claims payable from fund - Administrative expenses -**
2 **Methods of payment.**

3 A claim allowed against the fund must be paid upon warrants drawn upon the state
4 treasurer against the fund. The warrant must be prepared by the office of management and
5 budget pursuant to the directions of the commissioner. Payments for administrative expenses of
6 the state bonding fund must be made from the reserve fund of the state bonding fund or must
7 be made within the limitations of legislative appropriations upon warrant-checks prepared by the
8 office of management and budget after the approval of vouchers by the commissioner.

9 **SECTION 11. AMENDMENT.** Section 26.1-22-03 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **26.1-22-03. Employment of assistants - Expenditures from fund - Continuing**
12 **appropriation.**

13 To carry out this chapter, the commissioner may utilize any information on file in the state
14 fire marshal's department and any of the employees of the commissioner and the commissioner
15 may employ necessary assistants or contract for services of assistants from the North Dakota
16 insurance reserve fund and may incur necessary expenses. All expenditures made for these
17 purposes, other than services contracted and paid for by moneys from the fund and any
18 necessary expenses paid from moneys from the reserve balance within the fund, must remain
19 within the limits of legislative appropriations and must be paid out of the fund upon warrants
20 prepared by the office of management and budget drawn upon the state treasurer after the
21 approval of vouchers by the office of the budget. Moneys from the reserve balance within the
22 fund are appropriated to the commissioner on a continuing basis for the purposes of this
23 section.

24 **SECTION 12.** Section 26.1-22-03.1 of the North Dakota Century Code is created and
25 enacted as follows:

26 **26.1-22-03.1. North Dakota insurance reserve fund - Producers - Commission.**

27 The North Dakota insurance reserve fund may use the services of producers licensed under
28 this title to assist policyholders. Any commission paid to a producer under this section must be
29 paid out of the premium income of the fund and must be assessed against the policyholders
30 that benefit from the producer.

1 **SECTION 13. AMENDMENT.** Section 26.1-23.1-01 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **26.1-23.1-01. Government self-insurance pools - Regulation - Reinsurance.**

- 4 1. Any two or more entities that have united to self-insure against their legal liability
5 under chapter 32-12.1 or any state agency that unites with another state agency or
6 political subdivision, or both, to self-insure against their legal liabilities are subject to
7 the provisions of this chapter with the exception of a city and its park district
8 established pursuant to chapter 40-49. Government self-insurance pools may only
9 provide coverage of the following types for pool members, their officers, employees,
10 and agents:
- 11 a. Casualty insurance, including general, public officials, and professional liability
12 coverages.
 - 13 b. Automobile insurance, including motor vehicle liability insurance coverage,
14 security for motor vehicles owned or operated as required by chapter 26.1-41,
15 and protection against other liability and laws associated with the ownership of
16 motor vehicles and automobile physical damage coverages.
 - 17 c. Property insurance, including inland marine coverage, money and securities
18 coverage, and extra expense coverage. However, this subdivision does not
19 authorize government self-insurance pools to write those types of insurance
20 coverages offered by the state fire and tornado fund under the provisions of
21 chapter 26.1-22 as they existed on December 31, 1988, unless a government
22 self-insurance pool enters a contract with the commissioner to provide services
23 for the state fire and tornado fund under section 26.1-22-03.
 - 24 d. Other coverages authorized by the commissioner and necessary to a pool's
25 membership.
- 26 2. A government self-insurance pool may not expose itself to loss on any single risk or
27 hazard in an amount exceeding ten percent of the amount of its admitted assets
28 unless the pool obtains excess insurance or reinsurance with insurance companies
29 approved for such business by the insurance commissioner.

30 **SECTION 14. AMENDMENT.** Subsection 2 of section 26.1-25-16 of the North Dakota
31 Century Code is amended and reenacted as follows:

1 2. Notwithstanding any other provision in this section, if the cost does not exceed an
2 aggregate retail value of one hundred dollars per person per year, an insurance
3 producer may give a gift, prize, promotional article, logo merchandise, meal, or
4 entertainment activity directly or indirectly to a person in connection with marketing,
5 promoting, or advertising the business. As used in this subsection, "person" means the
6 named insured, policy owner, or prospective client or the spouse of any of these
7 individuals, but the term does not include a certificate holder, child, or employee of the
8 named insured, policy owner, or prospective client. Subject to the limits of this
9 subsection, an insurance producer may give a gift card for specific merchandise or
10 services such as a meal, gasoline, or car wash but may not give cash, a cash card,
11 any form of currency, or any refund or discount in premium. An insurance producer
12 may not condition the giving of a gift, prize, promotional article, logo merchandise,
13 meal, or entertainment activity on obtaining a quote or a contract of insurance.
14 Notwithstanding the limitation in this subsection, an insurance producer may make a
15 donation to a nonprofit organization that is exempt from federal taxation under Internal
16 Revenue Code section 501(c)(3) [26 U.S.C. 501(c)(3)] in any amount as long as the
17 donation is not given as an inducement to obtain a ~~quote~~ or a contract of insurance.

18 **SECTION 15. REPORT TO THE LEGISLATIVE MANAGEMENT - INSURANCE**

19 **DEPARTMENT ANALYSIS OF HEALTH CARE - HOSPITAL REPORTING - PENALTY.** During
20 the 2019-20 interim, the insurance department shall assist the legislative management with the
21 interim study of health insurance premium trends as approved by the sixty-sixth legislative
22 assembly in House Bill No. 1106. During the interim, the insurance department shall conduct a
23 detailed analysis of health care in the state and submit the report to the legislative
24 management. During the interim, upon request of the insurance department, hospitals in cities
25 with a population exceeding ten thousand shall provide the insurance department requested
26 data regarding billing and payment information, financial information, management information,
27 and other information the insurance department deems necessary to complete a detailed
28 analysis of health care in the state. The department may not request data that include
29 personally identifiable information and the hospitals may provide data in the aggregate. If a
30 hospital fails, without just cause, to provide the insurance department with requested data as

1 required under this section, the insurance commissioner may charge the hospital a civil penalty
2 of up to one thousand dollars per day the hospital is in violation.

3 **SECTION 16. LEGISLATIVE INTENT - INSURANCE TAX DISTRIBUTION FUND**

4 **PAYMENTS TO FIRE DEPARTMENTS.** It is the intent of the sixty-sixth legislative assembly
5 that, when feasible, fire departments utilize increased payments from the insurance tax
6 distribution fund to improve their insurance service office rating.

7 **SECTION 17. LEGISLATIVE MANAGEMENT STUDY - HEALTH INSURANCE -**

8 **PRE-EXISTING CONDITIONS.** During the 2019-20 interim, the legislative management shall
9 consider studying the feasibility and desirability of state guaranteed issue provisions for health
10 insurance. The study must include consideration of protections for individuals with pre-existing
11 conditions and consideration of whether to restructure the comprehensive health association of
12 North Dakota. The legislative management shall report its findings and recommendations,
13 together with any legislation required to implement the recommendations, to the sixty-seventh
14 legislative assembly.

15 **SECTION 18. LEGISLATIVE MANAGEMENT STUDY - VOLUNTEER FIREFIGHTER**

16 **PENSION.** During the 2019-20 interim, the legislative management shall consider studying the
17 feasibility and desirability of establishing a pension for volunteer firefighters. The study must
18 include a review of firefighter needs in the state and benefits provided to volunteer firefighters in
19 other states. The legislative management shall report its findings and recommendations,
20 together with any legislation required to implement the recommendations, to the sixty-seventh
21 legislative assembly.

22 **SECTION 19. EMERGENCY.** Sections 9, 10, 11, 12, and 13 of this Act are declared to be
23 an emergency measure.