

**FIRST ENGROSSMENT
with House 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 and a new section to chapter 26.1-36
3 of the North Dakota Century Code, relating to North Dakota reserve fund use of producers and
4 health insurance; to amend and reenact subsection 2 of section 26.1-01-07, section 26.1-01-09,
5 subdivision c of subsection 8 of section 26.1-04-03, subsection 2 of section 26.1-04-06,
6 sections 26.1-21-03, 26.1-21-17, 26.1-22-03, and 26.1-23.1-01, and subsection 2 of section
7 26.1-25-16 of the North Dakota Century Code, relating to the state fire and tornado fund, the
8 state bonding fund, fees chargeable by the insurance commissioner, the salary of the insurance
9 commissioner, insurance rebates, and government self-insurance pools; to provide for a
10 legislative management study; to provide legislative intent; to provide a continuing
11 appropriation; 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>(613,102)</u> <u>1,566,675</u>
22	Total special funds	\$10,729,344	(\$1,012,671) \$9,716,673
23	Full-time equivalent positions	46.00	(5.00) 41.00

1 **SECTION 2. APPROPRIATION.** There is appropriated out of any moneys in the insurance
2 tax distribution fund in the state treasury, not otherwise appropriated, the sum of \$17,519,422,
3 or so much of the sum as may be necessary, to the insurance commissioner for the purpose of
4 providing payments, in accordance with provisions of section 18-04-05, to North Dakota fire
5 departments in the amount of \$16,773,750 and payments to the North Dakota firefighter's
6 association in the amount of \$745,672, for the biennium beginning July 1, 2019, and ending
7 June 30, 2021.

8 **SECTION 3. UNSATISFIED JUDGMENT FUND.** Section 1 of this Act includes \$29,703
9 from the state unsatisfied judgment fund to pay unsatisfied judgment fund administrative
10 expenses for the biennium beginning July 1, 2019, and ending June 30, 2021.

11 **SECTION 4. AMENDMENT.** Subsection 2 of section 26.1-01-07 of the North Dakota
12 Century Code is amended and reenacted as follows:

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

17 **SECTION 5. AMENDMENT.** Section 26.1-01-09 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **26.1-01-09. Salary of commissioner.**

20 The annual salary of the commissioner is ~~one hundred two thousand six hundred~~
21 ~~eighty-nine dollars through June 30, 2016~~one hundred seven thousand eight hundred
22 eighty-five dollars through June 30, 2020, and one hundred five thousand seven hundred
23 seventyone hundred ten thousand five hundred eighty-two dollars thereafter.

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

26 c. Notwithstanding any other provision in this subsection, if the cost does not
27 exceed an aggregate retail value of one hundred dollars per person per year, an
28 insurance producer may give a gift, prize, promotional article, logo merchandise,
29 meal, or entertainment activity directly or indirectly to a person in connection with
30 marketing, promoting, or advertising the business. As used in this subdivision,
31 "person" means the named insured, policy owner, or prospective client or the

1 spouse of any of these individuals, but the term does not include a certificate
2 holder, child, or employee of the named insured, policy owner, or prospective
3 client. Subject to the limits of this subdivision, an insurance producer may give a
4 gift card for specific merchandise or services such as a meal, gasoline, or car
5 wash but may not give cash, a cash card, any form of currency, or any refund or
6 discount in premium. An insurance producer may not condition the giving of a gift,
7 prize, promotion article, logo merchandise, meal, or entertainment activity on
8 obtaining a quote or a contract of insurance. Notwithstanding the limitation in this
9 subdivision, an insurance producer may make a donation to a nonprofit
10 organization that is exempt from federal taxation under Internal Revenue Code
11 section 501(c)(3) [26 U.S.C. 501(c)(3)] in any amount as long as the donation is
12 not given as an inducement to obtain a quote or a contract of insurance.

13 **SECTION 7. AMENDMENT.** Subsection 2 of section 26.1-04-06 of the North Dakota
14 Century Code is amended and reenacted as follows:

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

1 **SECTION 8. AMENDMENT.** Section 26.1-21-03 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **26.1-21-03. Commissioner may employ or contract for assistants - Continuing**
4 **appropriation.**

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

14 **SECTION 9. AMENDMENT.** Section 26.1-21-17 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **26.1-21-17. Allowed liability claims payable from fund - Administrative expenses -**
17 **Methods of payment.**

18 A claim allowed against the fund must be paid upon warrants drawn upon the state
19 treasurer against the fund. The warrant must be prepared by the office of management and
20 budget pursuant to the directions of the commissioner. Payments for administrative expenses of
21 the state bonding fund must be made from the reserve fund of the state bonding fund or must
22 be made within the limitations of legislative appropriations upon warrant-checks prepared by the
23 office of management and budget after the approval of vouchers by the commissioner.

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

26 **26.1-22-03. Employment of assistants - Expenditures from fund - Continuing**
27 **appropriation.**

28 To carry out this chapter, the commissioner may utilize any information on file in the state
29 fire marshal's department and any of the employees of the commissioner and the commissioner
30 may employ necessary assistants or contract for services of assistants from the North Dakota
31 insurance reserve fund and may incur necessary expenses. All expenditures made for these

1 purposes, other than services contracted and paid for by moneys from the fund and any
2 necessary expenses paid from moneys from the reserve balance within the fund, must remain
3 within the limits of legislative appropriations and must be paid out of the fund upon warrants
4 prepared by the office of management and budget drawn upon the state treasurer after the
5 approval of vouchers by the office of the budget. Moneys from the reserve balance within the
6 fund are appropriated to the commissioner on a continuing basis for the purposes of this
7 section.

8 **SECTION 11.** Section 26.1-22-03.1 of the North Dakota Century Code is created and
9 enacted as follows:

10 **26.1-22-03.1. North Dakota insurance reserve fund - Producers - Commission.**

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

15 **SECTION 12. AMENDMENT.** Section 26.1-23.1-01 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **26.1-23.1-01. Government self-insurance pools - Regulation - Reinsurance.**

18 1. Any two or more entities that have united to self-insure against their legal liability
19 under chapter 32-12.1 or any state agency that unites with another state agency or
20 political subdivision, or both, to self-insure against their legal liabilities are subject to
21 the provisions of this chapter with the exception of a city and its park district
22 established pursuant to chapter 40-49. Government self-insurance pools may only
23 provide coverage of the following types for pool members, their officers, employees,
24 and agents:

25 a. Casualty insurance, including general, public officials, and professional liability
26 coverages.

27 b. Automobile insurance, including motor vehicle liability insurance coverage,
28 security for motor vehicles owned or operated as required by chapter 26.1-41,
29 and protection against other liability and laws associated with the ownership of
30 motor vehicles and automobile physical damage coverages.

- 1 c. Property insurance, including inland marine coverage, money and securities
2 coverage, and extra expense coverage. However, this subdivision does not
3 authorize government self-insurance pools to write those types of insurance
4 coverages offered by the state fire and tornado fund under the provisions of
5 chapter 26.1-22 as they existed on December 31, 1988, unless a government
6 self-insurance pool enters a contract with the commissioner to provide services
7 for the state fire and tornado fund under section 26.1-22-03.
- 8 d. Other coverages authorized by the commissioner and necessary to a pool's
9 membership.
- 10 2. A government self-insurance pool may not expose itself to loss on any single risk or
11 hazard in an amount exceeding ten percent of the amount of its admitted assets
12 unless the pool obtains excess insurance or reinsurance with insurance companies
13 approved for such business by the insurance commissioner.

14 **SECTION 13. AMENDMENT.** Subsection 2 of section 26.1-25-16 of the North Dakota
15 Century Code is amended and reenacted as follows:

- 16 2. Notwithstanding any other provision in this section, if the cost does not exceed an
17 aggregate retail value of one hundred dollars per person per year, an insurance
18 producer may give a gift, prize, promotional article, logo merchandise, meal, or
19 entertainment activity directly or indirectly to a person in connection with marketing,
20 promoting, or advertising the business. As used in this subsection, "person" means the
21 named insured, policy owner, or prospective client or the spouse of any of these
22 individuals, but the term does not include a certificate holder, child, or employee of the
23 named insured, policy owner, or prospective client. Subject to the limits of this
24 subsection, an insurance producer may give a gift card for specific merchandise or
25 services such as a meal, gasoline, or car wash but may not give cash, a cash card,
26 any form of currency, or any refund or discount in premium. An insurance producer
27 may not condition the giving of a gift, prize, promotional article, logo merchandise,
28 meal, or entertainment activity on obtaining a quote or a contract of insurance.
29 Notwithstanding the limitation in this subsection, an insurance producer may make a
30 donation to a nonprofit organization that is exempt from federal taxation under Internal

1 Revenue Code section 501(c)(3) [26 U.S.C. 501(c)(3)] in any amount as long as the
2 donation is not given as an inducement to obtain a ~~quote~~ or a contract of insurance.

3 **SECTION 14.** A new section to chapter 26.1-36 of the North Dakota Century Code is
4 created and enacted as follows:

5 **Pre-existing conditions.**

6 Notwithstanding any law to the contrary, an accident and health insurance policy issued
7 under this chapter may not take into account any pre-existing condition of an insured or
8 applicant, including waiting periods, refusal of coverage, and ratesetting.

9 **SECTION 15. LEGISLATIVE INTENT - INSURANCE TAX DISTRIBUTION FUND**

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

13 **SECTION 16. LEGISLATIVE MANAGEMENT STUDY - VOLUNTEER FIREFIGHTER**

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

20 **SECTION 17. EMERGENCY.** Sections 8, 9, 10, 11, and 12 of this Act are declared to be an
21 emergency measure.