

2011 SENATE APPROPRIATIONS

SB 2010

# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

SB 2010  
January 11, 2011  
Job #12771 and #12773

Conference Committee

Committee Clerk Signature *Alice DeBor*

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

The Budget Presentation for the Insurance Commissioner.

### Minutes:

See attached testimony.

**Chairman Holmberg** called the committee to order on Tuesday, January 11, 2011 at 1:30 pm in reference to SB 2010. All committee members were present. Joe Morrissette from OMB and Sara Chamberlin from Legislative Council were present.

**Adam Hamm, Insurance Commissioner** testified in favor of SB 2010 and provided Testimony attached # 1 North Dakota Insurance Department Budget Presentation, a twelve page document with two pages of attachments. He went through his written testimony. He stated they filled the one vacancy in the legal division. They hired a man from the East Coast and he started in July of 2010. He stated that they still have a vacancy in the legal position for an attorney following the passage of the Health Care Reform Law in March of 2010 to bring an attorney on board to help make sense of all the new rules and regulations and to make sure our code is up to speed as possible. Unfortunately, during the period of time that we put this position into the Legal Division, we haven't been able to find an attorney that has the right skill set in order to hire someone to fill that spot. He continued on with his testimony (Meter 12.55)

**Chairman Holmberg:** you have negative balance in the petroleum release comp fund what are the implications of that and where did that come from and what does the future hold?

**Adam Hamm:** it took a hit with the market downturn in 2008 that fund was very healthy and substantially over the 6 million dollar number but took a huge hit when the market took a dive in the fall of 2008 into 2009. In addition to that there were some claims, (RECORDER STOPPED IN TESTIMONY) It has started to come back.

**Senator Robinson:** You touched on implications if there is anything that has to be done, we have a minimum requirement and if we are not there because of the markets, can we wait for that to come back?

**Adam Hamm:** There is no legislative action required. What happens when it dips below that 6 million is the assessment that's in charge for the tank owners goes up, it goes up from \$50 to \$100.00 and once it goes to that point it stays at that point until it gets back then it goes back. But, we looked at this when we looked back to the early part of the 2000's if the market continues to recover as it has been this fund will continue to stay in a healthy position. If the market down turns again and there continues to be high dollar claims against the fund it may have to be explored further. Just to make sure the record's clear, what happened when it dipped below that is that assessment level then kicked in to the higher amount.

**Senator Robinson** Maybe that's the legislation, the policy we have in place to address this situation and that maybe is the action that addresses the concern we have. There is something already in place.

**Senator Warner:** Did we re-insure any portion of the Fire and Tornado Fund? What would happen for instance, if a tornado would hit UND?

**Adam Hamm:** That's exactly what happens and if it wasn't for that there's no way the Fire and Tornado Fund can continue to exist given the fact that there is that much worth of insured value. So what happens anytime there is a claim over one million dollars re-insurance kicks in so we are very cognizant about how the fund is managed, we are very cognizant about the re-insurance contract we have to make sure we have good terms and conditions there but that is how we make sure we can insure close to 10 billion dollars worth of insured property in ND and still have a fund balance of only about \$25 million. (Meter 16.16)

**Senator Wardner:** Didn't we put money in the state bonding fund last time to make sure the fund is healthy and if we had not put it in there would of it dropped too low?

**Adam Hamm:** We did, but my recollection we infused ½ million dollars back into the bonding fund in the last biennium and you can see this fund has stayed healthy ever since. and now that the market has recovered we shouldn't have a concern with the bonding fund. It would have gotten very close to dropping too low. Continuing on page 8 of testimony which is the Department appropriation the first asterisk which says the Department's original request did NOT include legislative salary increases or fringe benefit increase. The Governor's recommendation did include these increases. He was asked how that happened. He stated when they were preparing the budget we didn't have those numbers that OMB has access to and the formula for how that is determined. Now since we put this together and prepared this document, had further discussions with OMB we now know approximately what that number is going to be. We didn't include the raises at all.

**Joe Morrisette** The Department had asked for 9 FTE positions, the governor's budget provided for 5 of those. So there were 4 positions that weren't included, those 4 totaled about \$400,000.00 By coincidence the compensation package that was calculated after their budget was submitted, as it is for all agencies, totaled about \$400,000 so that's why it's such a small difference there, between their request and the governor's recommendation, when you add the compensation package in for only those positions that

were funded it got to very close to their original request for all the positions but without the compensation package figured.

**Chairman Holmberg** The difference of opinion is the 4 positions that were not funded and not approved by OMB. That's the difference between those 2 numbers, and actually it's the positions. He was told that is correct.

There was discussion regarding compensation, how other departments handle this, what the governor's recommended salary increase was and if it had to do with elected officials. Chairman Holmberg Or is it (Meter 21.10)

**Joe Morrissette:** It is always the case the compensation is figured after their budget is submitted so their original request

**Senator Wardner:** Will that be happening with other budgets too with the compensation that they didn't include it?

**Joe Morrissette:** That is true, for any agency that would be coming before you and asking for positions that they had asked for but not included in the governor's budget, there would be that issue of the difference in the compensation package. There would be that issue of the difference in the compensation package.

**Chairman Holmberg:** we had the same problem with tax department when they wanted two additional FTE's.

**V. Chair Grindberg:** what is the governor's recommended salary increase? He was told it is 3 and 3 across the board. The funding is based on what it would cost to do 3% across the board but the directive is not to give it across the board. Why am I carrying in my head that every budget would have 3 and 3. Is it uniqueness because he's an elected official?

**Joe Morrissette:** The compensation package is figured the same for all agencies whether they are elected officials or appointed cabinet members. The issue here is the fact there are 4 positions in their original budget request that aren't in the governor's recommendation so they are asking for those positions to be added and the amount of what the executive compensation package would have been on those four positions had they been included in the governor's recommendation.

**Senator Wanzek** What I am hearing is under the department request, it includes the 4 additional 4 FTE's but if you added the salary increases to that we would have an even higher number than what's right here.

**Adam Hammond:** That is correct. He stated he is asking for 9 additional FTE's and all nine of these positions are directly related to new duties and responsibilities that the Department must insure take place and are done in the state of ND as a result of the passage of health care reform. He continued on page 8 and 9 of testimony.

**Senator Fischer:** How anyone can know what is needed when we don't have any rules until late 2011, is this going to be a guessing game on what the needs are going to be and how do we address it by the time that we have to be done?

**Adam Hamm:** We are doing everything we can since passage of this law in March of 2010 to make sure that when I was standing here it wouldn't be a guessing game. So we've taken what we know about the law, and it's almost a 3,000 page law and what we know from the regulation so far that have come from HHS and we have been able to figure out to the best ability at this point what the new duties and responsibilities will be on the ND Insurance Department. So what you see here before you, when we talk about these 9 FTE's and attachment 1 details each of them and what their duties and responsibilities would be and this is based on what we know what these folks will be doing and how we need them as add-ons to the Insurance Department.

**Senator Fischer:** You are only able to predict what you know. What about what we don't know.

**Adam Hamm:** It is what it is. We have to deal with what we know about the law at this point. If things change we have to deal with the new set of facts. If the law is repealed, then we have to deal with that as it comes up.

**Senator Fischer:** My concern it will get worse before it gets better. How does this committee deal with health care reform in budgets, yours as well as other budgets when we don't know what the rules are?

**Adam Hamm:** I don't envy your position you are in because in some instances you will have to make decisions without knowing all the facts. What we are asking for now is the bare minimum.

**V. Chair Grindberg:** if you don't have the information, we say no, and two years go by, what are the consequences? If we do nothing what's our risk?

**Adam Hamm:** The consequences for the Insurance Department and the insurance market place in ND, if we stay at the staffing levels we're at now and see how it works out over the course of the next two years, may be dire. We've already reached the point in the Insurance Department, where we are at the tipping point. We need to make sure filings and rates are being dealt with for companies, and that the issues for producers, are being dealt with in the same way that they are being dealt with now. If those things don't happen, and they continue to happen in the same way that they have been happening over the course of the last 15 years, the consequences for the market may be dire. We live in a small state. We have a \$4 billion industry. We want to preserve that industry because it adds to the economy of our state. If companies come to the conclusion, that things can't be done by the ND Insurance Dept., things are falling through the cracks, deadlines are being missed, there is no telling what insurance companies may do because there are not enough premium dollars here for a lot of these companies to care. We want to do everything possible to make ND, business friendly. We want companies to come to ND. My concern is if we are not properly staffed, if we do not have the resources we need to carry out the regulatory functions we have to under the law, the consequences could be severe. The

analysis we have done, we know, we absolutely know, things are going to change in the insurance dept. They already have since the law has passed in March. The duties and responsibilities have gotten greater on the Insurance Dept. with the same staffing levels. This can't continue for another biennium. Some people out there are saying this is going to get repealed. I, as the Insurance Commissioner, can't rely on that. We have to be flexible. This is not a FTE grab. If we don't need FTE's, we won't hire them. If we hire them and it turns out we don't need them, due to changes in the law, I will RIF them. I need to have the flexibility I have, the resources, to get the job done.

**Senator Christmann** asks, "Do I understand correctly, that in the federal health care law of last spring, are there "hammers in there" that if we don't do these things, that they are telling us to do, then they come in and take it over?"

**Adam Hamm** states that there are a number of areas, where the federal government has indicated "states, you are going to do it, if you don't do it, we are going to do it for you". Among those, was the temporary high risk pool issue, from the summer of 2010. The next biggest issue will be the exchanges. If the state doesn't build and run its own health insurance exchange, that has to serve the individual market and the small group market, which is the entire market, in the state of ND, then the federal government will do it for us. They will build it and run it in ND. There are other market reforms, that if ND doesn't enforce them, it creates a serious potential problem for the state of ND. It also creates an opportunity for the federal government to say, because you are not doing it, we are going to step in and work on that issue ourselves or we are going to substantially change how the exchange can operate in ND. Yes, there are some "hammers" but at the end of the day, the way the law was built, was to preserve state regulation of insurance. That was one of the "gives" that Congress did when it drafted this law. The regulation of insurance has been done by the states for about 150 years. Congress gives us that authority. They allow us to do that. They can take this away for us at any point, including all the premium tax that gets generated, for the states and they can start regulating the business and insurance. When I look at this, and the duties that are put on the states, and what happens if the states just completely falls down, thumb their nose at the federal government, then the biggest "hammer" of all the federal government has, is to say we gave you the opportunity. We tried to let the states to continue to regulate insurance. You proved you couldn't implement and enforce, a validly passed federal law, so we are done letting you regulate insurance. The federal government is going to do it from now on. That would be the ultimate "hammer". I don't see any likelihood that it is going to pass.

This to me is a very close call on this law. But at the end of the day, ND, in my opinion, can do it better, than the federal government. I don't agree with this law, I never would have voted for this, but now that we have it, at least in its current form, I would much prefer in the state of ND, controlling its own destiny on these issues, than letting the federal government, controlling our destiny.

**Senator Wanzek** asks, "Have we ever done something like a "contingent appropriation?" Contingent upon certain conditions being presented and the appropriation kicks into action if that happens?"

**Senator Holmberg** states we have done this on numerous occasions.

**Senator Robinson** states that he has visited on two separate occasions, with a key individual and a major healthcare provider, in the state. Their analysis of the legislation, I can't quote, but this is very close, "there is a lot of it they like, there is a lot that they didn't like, the fact remains, that we as a nation, couldn't have gone on much longer, status quo. This individual says, 'When anyone tells you that, they are not informed'. It is going to require tough, tough decisions, not only on the part of the industry but providers and government at all levels. When you look at the growing number of uninsured, 38% in Texas, it's crippling the industry. We have our share in ND. We can't separate good from bad, we have to take some of both. It is the law of the land, whether we like it or not.

**Adam Hamm** states he would not have voted for this law and I would not have for a reason. The thing that is driving the health care system, off the cliff, is not access. You talk of uninsured, that is a problem. That is not what is making this system, unsustainable. What is making this system unsustainable is affordability. That is the problem. 85% of Americans have health insurance but the majority of them are having a difficult time keeping up with their premiums. I hear all the time; I can't keep up with the yearly double digit increases in my health insurance premiums. Unless, something gets done about it, I am going to be one of those uninsured. The true focus, for the health care reform law, should not have been about expanding access to 30 million more Americans. The focus of healthcare reform should have been about controlling costs. Contain the cost and then you will start to get premiums to go down, instead of up, and then more you work on that issue, then down the road, you can work at expanding access. To me this is a classic case of "putting the cart before the horse." We expanded access to 30 million more Americans but we did precious little about controlling costs. In fact, when you analyze what happened, the end result is that premiums may go **dramatically** higher than where they are now. We added 30 million more policy holders but how are those folks being added? They are being added through the expansion of Medicaid, which will catch another 16 million Americans, and they will be added through these subsidies, that are going to be offered through these health insurance exchanges. So anyone making between 133% and 400% of the federal poverty level is going to get a subsidy to buy their insurance. That will catch another 14 million people. Where do those dollars come from? We are expanding Medicaid and subsidies and those are going to be tax payer dollars that pay for that. Not just in the first 10 years of this new law but in "perpetuity." There are good things in the law too. Many folks would argue that we needed to have "guaranteed issue", we needed to ban the exclusion of "preexisting conditions, we needed to expand "dependent coverage" to the age of 26. Every one of those things are a mandate. Every one of those things is an "addition" to a health insurance policy and we all know what happens when we add things to a policy. It is going to increase the cost, bottom line. There is nothing in the law, that precludes the companies from passing that cost along to the policyholder, which we are already seeing in the dept. and that they are doing. Lastly, and maybe worst of all, the quid pro quo for adding all of those mandates to the policy, over the course of the next few years, was the individual mandate. Everyone has to have insurance starting in 2014. That was the quid pro quo. However, they fell into a hole about \$1trillion deep because what they forgot to do is make the penalty substantial enough for violating the individual mandate, that it will stop people from trying to gain the system and jumping in and out of the health insurance market when they are sick and when they are healthy. The penalty for violating the individual mandate, in the first year,

is \$100. In the second year, it is \$300 and the third year, it is \$700. That is the penalty for violation of the individual mandate. It is not going to take long before people put pencil to paper and figure out what is cheaper. Is it cheaper to keep paying the premium every month starting 2014, or is it cheaper to wait until you get sick, and then go down and get yourself a health insurance policy, get all the medical care you need, and as soon as you are well, drop your policy again? People are going to figure out that game. We are then going to be in one world of hurt. Our largest health insurance company in ND, BC/BS, and their actuaries did estimates. What are all these things going to result in terms of, premium increases that they are going to have to seek? Once the law is fully implemented, these are the numbers. On top of the normal rate increases that they are going to be seeking, which have fluctuated between 8-13%, in 2014, the group market they are talking about, add an additional 15-20%, and the individual market, an additional 75-100%. To summarize, they are good things in this law but "on balance" I am deeply concerned about what is going to happen in terms of the "premium shock" to the consumers in ND and across the country, once this law is fully implemented. It should have been about "cost containment" not "expanding access."

**Senator Christmann** states he does not disagree with much that you are talking about but it is much easier for those of us that "have it" to oppose what they are trying to do nationally, for a whole lot of people out there that don't have it. One other comment is, we can't forget about the cost for "not having it." That is something we have to think through as well.

**Adam Hamm** refers to the bottom of page 8. The insurance dept. has been tracking the development of health care reform legislation since we were first asked to update from the interim IBL committee back to August of 2009. We continued to do that from August 2009, all the way the passage of health care reform, and all the way through the end of 2010. On the top of page 9, we continued to participate, weekly, on the state and national level, in discussions, of the impacts of this law and how it will affect North Dakotans' after an analysis of the numerous functions, required as states because of this new federal law, the insurance dept. is now tasked with several new functions. These include different monitoring responsibilities and numerous additional reporting burdens. The dept. determined the type of employee skill sets and organizational structure that would be needed to ensure that the depts. regulatory structure remains "one, the envy" in the country and encourages competition while protecting consumers and yet still allows for future changes in these national laws that passed in March 2010. So the depts. only optional budget request of the governor, focused on the minimum amount of resources that would be necessary to carry out the federal requirements, which I refer to as PPACA. (Patient Protection Affordable Care Act). The requested nine positions, which are outlined in Attachment #1, reflect the need for more financial oversight and increased filing activities of companies, anticipated consumer assistant needs and added administrative work for the dept. The request for operating dollars reflects the cost of additional employees; the total optional request is about \$3 million dollars more than the 2009-2011 budget. The dept. anticipates the opportunity to offset some of these costs through federal grants, over the next number of years. Attachment #1, you will see the specific explanation. You can see we phase in, some of those FTE's, as it breaks down, by division on Attachment #1, 3 additional FTE's for company licensing and examinations, 2 for the life and health division, 2 for the consumer assistance division and 2 for the administrative division.

**Chairman Holmberg** asks, "What does the number mean, one at 24 and one at 12? Does that mean that the first company financial examiner is going to be working for you for 24 months?"

**Adam Hamm** states that is correct. That means we would hire them "right out of the shoot" and if you go down to the "company financial analyst" we would hire one at 12 months into it and the other would be hired "once again, right out of the shoot". My count is 6 FTE's would be for the full 2 years and 3 of them would not be. Going back to page 9, the middle, the insurance premium tax distribution fund payments for the next biennium, we would expect to collect about \$63 million in premium taxes in 2011-2013 biennium, \$6.2 million of those funds are distributed to fire districts, and a total of \$620,000 goes to the ND Fire Fighters Association, attachment #2, shows a sampling of the amount of those payments that would go to fire districts across ND. On the bottom of page 9, special funds allocation. The requested appropriation provides for allocation of expenses for the administration of each of the funds we have talked about previously, the state bonding fund, fire and tornado, petroleum release compensation fund and the unsatisfied judgment fund. Lastly, between pages 10, 11, 12, that is the summary of major achievements and goals, the major topics, health care reform monitoring, continuing to progress towards a paperless system in the insurance dept. and enhancing outreach programs and consumer education, responding to inquires and requests and then page 11, improving enforcement and solvency regulation, implement enhancements as a result of 2009 legislation, page 12 continued to develop the SHIC program.

**Senator Holmberg** states that there will be a subcommittee on this budget that will look further.

**Senator Holmberg** continues discussion on SB 2010 (Job # 12773).

**Discussion** continues with someone thanking the senators for allowing the firefighters of ND to come in. There are over 7,000 firefighters in the state of ND. They are the first responders that are there for our citizens. We want to thank you for your support that you have always given us, in past years. If you look at the ND Firefighter's Association, that actually was originated in 1884. In ND, it is very valuable for all of you to know that 96% of our firefighters are volunteers. They are on-call 24-7, if an incident occurs. With the increase in energy in ND, we know the risk to the firefighters has become much more dangerous and that training is very necessary. Your funds go to train our firefighters. We have an annual state fire school and at that fire school, we actually train over 1000 firefighters. We have regional schools in all four regions of the state. We have special training that we put on. One of the new classes that we are going to be offering, this year, is dealing with meth labs and oil field training and other current type classes, to keep them up to date.

**C.J. Craven, Fire Chief, Minot and President of ND Fire Chiefs Association** states he would like to reiterate my support and support of the ND Fire Chiefs Association, for SB 2010. The funding for our association and funding for the many depts. throughout the state of ND, is extremely important to maintain the fire services, especially in the more rural areas and in the western part of the state, where they are being severely impacted by the oil development. So thank you and that the Fire Chiefs of ND support SB 2010.

**Justin Adolph, President of Professional Firefighters** states he would support a DO PASS of SB 2010. We need to educate people and we need as much training as we can get due to the volatility and more fires that we deal with.

**Senator Warner** states that he lives in rural ND. I know how potentially large these fires can be. It can overwhelm the fire depts. in the region. Is there any effort to involve the National Guard in some level of training for emergency management?

It is stated that there is no specific effort to bring the National Guard in on a regular basis. It would be handled, if an emergency was declared, it would be possible to ask for help from the Guard. There are numerous oil field fire fighting companies that are available and there is mutual aid between the fire depts. within the region.

**Senator Warner** states that it seems like it would be a good idea.

**Senator Wanzek** states that this past year my parent's farm was burned completely to the ground. I was impressed with the job they did to protect the surrounding property.

**Chairman Holmberg** states thank-you for coming in. Your testimony will be part of the record on SB 2010.

**Senator Holmberg closes the hearing on SB 2010.**

# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

SB 2010  
January 26, 2011  
13440

Conference Committee

Committee Clerk Signature

*Rose Tanning*

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

This is a subcommittee hearing on the department of the Insurance Commissioner.

### Minutes:

You may make reference to "attached testimony."

**Chairman Wardner** called the subcommittee hearing to order on SB 2010.  
**Becky J. Keller** - Legislative Council: **Joe Morrissette** - OMB.

Those in attendance were: **Senator Wardner, Senator Wanzek, Senator Robinson, Rebecca Ternes**, Deputy Commissioner, Insurance Department  
**Larry Martin**, Accounting & Budgeting  
**Shelly Weisz**, Accounting & Budgeting, Human Resources & Personnel.

**Senator Wardner** said they are meeting to check the special funds and their balances as well as the five FTEs and the temporary FTE.

The committee went thru page 7 of Testimony #1 and wanted to double check the balances on the funds. **Rebecca Ternes** said the funds were doing well.

Discussion centered on the FTEs and the department's need for extra help because of the Health care timeline. There is concern for the strain on the staff. Consumers are asking for information and they're handling the work load already.

**Rebecca Ternes** said that waiting very long to do anything puts people in a panic mode and they need to start addressing the healthcare exchanges. In the last 3 days, she's had twenty different emails on governance in other states as they are already moving forward. They have been on the web researching how successful an exchange would be because they need to be building an infrastructure and be self sustainable by 2015. If they don't, they won't be the ones running it and it will then go to the federal government.

**Senator Wardner** asked **Becky Keller** to craft an appropriate amendment take out the 5 FTEs and the temporary employee and see how the bill does in the House. **Senator Wardner** said they'll be watching this, and may add 1 or 2 FTEs before the end of the session, but we'll keep an eye on this.

**Senator Wardner** closed the subcommittee hearing on SB 2010.

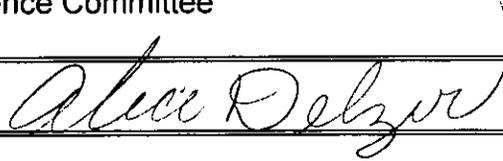
# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

SB 2010  
02-10-2011  
Job #14305

Conference Committee

Committee Clerk Signature



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

Insurance Commission Budget

### Minutes:

You may make reference to "attached testimony."

**Chairman Holmberg:** We have a motion on the amendment.

**Senator Wardner moved the amendment #11.8134.01001. Seconded by Senator Erbele.**

**Chairman Holmberg:** Looking at it you removed the funding in the FTE position relating to federal healthcare reform. We had extensive discussion the other day about the reasons for this. The FTE's remain the same. Would you call the roll on the amendment?

A Roll Call vote was taken. Yea: 10 Nay: 2 Absent 1. (Senator Wanzek came in later and voted yea on the amendment.)

**Chairman Holmberg** Motion carried. Do we have a motion for a Do Pass as Amended.  
**Senator Wardner moved Do Pass as Amended. Senator Erbele seconded.**

A Roll Call vote was taken. Yea: 12 Nay: 0 Absent: 1. (Senator Wanzek came in later and voted Yea on the Bill. Total vote was 13 yea.

**Senator Wardner will carry the Bill.**

**Chairman Holmberg** closed the hearing on SB 2010.



Date: 2-10-11  
 Roll Call Vote # 4

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2010

Senate \_\_\_\_\_ Committee

Check here for Conference Committee

Legislative Council Amendment Number on Amend H. 8134.01001

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

Motion Made By Wardner Seconded By Erbele

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

Total (Yes) 11 No 2

Absent 0

Floor Assignment \_\_\_\_\_

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

Date: 2-10-11  
 Roll Call Vote # 2

**2011 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 2010**

Senate \_\_\_\_\_ 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 Erbele

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

Total (Yes) 13 No 0

Absent 0

Floor Assignment Wardner

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

**REPORT OF STANDING COMMITTEE**

**SB 2010: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2010 was placed on the Sixth order on the calendar.

Page 1, replace line 12 with:

"Salaries and wages \$6,335,670 \$558,343 \$6,894,013"

Page 1, replace line 13 with:

"Operating expenses 2,063,264 1,368,636 3,431,900"

Page 1, replace line 16 with:

"Total special funds \$15,558,934 \$1,826,979 \$17,385,913"

Page 1, replace line 17 with:

"Full-time equivalent positions 45.50 0.00 45.50"

Re-number accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Senate Bill No. 2010 - Insurance Department - Senate Action**

	Executive Budget	Senate Changes	Senate Version
Salaries and wages	\$7,677,595	(\$783,582)	\$6,894,013
Operating expenses	3,699,553	(267,653)	3,431,900
Capital assets	70,000		70,000
Grants	6,990,000		6,990,000
<b>Total all funds</b>	<b>\$18,437,148</b>	<b>(\$1,051,235)</b>	<b>\$17,385,913</b>
Less estimated income	18,437,148	(1,051,235)	17,385,913
General fund	\$0	\$0	\$0
FTE	50.50	(5.00)	45.50

**Department No. 401 - Insurance Department - Detail of Senate Changes**

	Removes Funding for Federal Health Care Reform <sup>1</sup>	Total Senate Changes
Salaries and wages	(\$783,582)	(\$783,582)
Operating expenses	(267,653)	(267,653)
Capital assets		
Grants		
<b>Total all funds</b>	<b>(\$1,051,235)</b>	<b>(\$1,051,235)</b>
Less estimated income	(1,051,235)	(1,051,235)
General fund	\$0	\$0
FTE	(5.00)	(5.00)

<sup>1</sup> Funding and related FTE positions related to federal health care reform provided in the executive budget are removed.

**2011 HOUSE APPROPRIATIONS**

SB 2010

2011 HOUSE STANDING COMMITTEE MINUTES  
House Appropriations Government Operations Division  
Medora Room, State Capitol

SB 2010  
March 10, 2011  
15240

Conference Committee

Committee Clerk Signature

*Meredith Traubolt*

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

A Bill for an Act to provide an appropriation for defraying the expenses of the insurance commissioner; to provide for making payments of insurance premiums tax collections to fire departments; and to amend and reenact section 26.1-01-09 of the North Dakota Century Code relating to the commissioner's salary.

**Minutes:**

**Chairman Thoreson:** Called the committee to order. Opened the hearing on SB 2010 and the title was read.

**Adam Hamm, Insurance Commissioner, North Dakota Insurance Department:** See attached testimony 3.10.11.A.

**Chairman Thoreson:** What do you think the increase (in premiums written) is due to?

**Hamm:** That's not uncommon. I bet if we look back over the last 15-20 years, it has increased every biennium. Testimony resumed on page 3.

**Representative Klein:** I'm looking at enforcement fines from agents and companies, would you give me some examples of what those are?

**Hamm:** It could be anything with an agent violating any specific statute in ND that would have a fine related to it. It is any specific fineable offense, over that period of time, added together.

**Representative Klein:** These fines are outlined in code?

**Hamm:** Absolutely. What would be outlined would be the maximum dollar amount for the fine, and it is up to the insurance department and the insurance commission to determine, up to that level, what's going to be the fine imposed. It depends on the type of violation that occurred, whether or not the agent has had other violations in the past, so that is a judgment call by the commission. Testimony resumed on page 3.

**Representative Klein:** I'm looking at that last one on page 3, suspicious claims, why would companies not report all of those to you?

**Hamm:** There could be any number of reasons, not the least of which is the company might not want that to become reportable and have the public find out about it. Oftentimes companies simply don't report these things to the insurance department.

**Representative Brandenburg:** I see you've had 48 reported claims in 2009. What is happening in the insurance world that claims are showing up more, being reported more?

**Hamm:** I don't think it's any different than what's going on in the economy in general. Everyone knows the economy took a nosedive in 2008, people are struggling, once that happens some people might be willing to take more risks than they were before, and there are more violations of the law.

**Representative Dahl:** Can you describe a little further what the SHIC (State Health Insurance Counseling) program is?

**Hamm:** Referenced testimony, page 6. Our SHIC program is number one in the nation, as ranked by the federal government.

**Representative Klein:** I've had several comments about how good that program is. Do you have any figures as to how many calls you get and how many assistance things you do in that area?

**Hamm:** Referenced testimony, page 3. Testimony continued on page 5.

**Chairman Thoreson:** Looking at the legal division, can you give a brief explanation of what those kinds of orders entail?

**Hamm:** These could range from a suspension to revocation of an agent for a specific violation. Those numbers are up from where they were a couple of years ago. Testimony continued on page 5.

**Chairman Thoreson:** How many of those PAPs (prescription assistance programs) are available or in operation?

**Hamm:** I don't have that number.

**Chairman Thoreson:** Are those provided by the industry?

**Hamm:** Primarily. Testimony resumed on page 6.

**Chairman Thoreson:** Are you tracking the number of hits on that website?

**Hamm:** Absolutely. We can provide that to you. You'll be surprised how big the number is. We built that and linked it right off the insurance department homepage because we were getting so many calls and questions about the health care law that passed.

**Chairman Thoreson:** Do you have a way to get feedback, also, off of the page?

**Hamm:** Yes.

**Chairman Thoreson:** Do you have to update the page?

**Hamm:** We're updating it constantly. Testimony resumed.

**Representative Glassheim:** How much extra are you asking for just related to PPACA (Patient Protection and Affordable Care Act)?

**Hamm:** If you go back to page 8, all of the requests in the center chart are related to the nine FTEs for PPACA.

**Representative Glassheim:** The \$12 million?

**Hamm:** Correct. As in every budget and appropriation for the insurance department, there's also those dollars for fire districts, that's a completely separate issue.

**Representative Glassheim:** That \$12 million is just those nine?

**Hamm:** No, that's everything, the nine that builds on top of where we would have been otherwise. Page 9 shows that the total option request is \$3 million more than where we were for 2009-2011. But it's not just a one time, it will then roll forward. It's the minimum amount. Again, those nine FTEs that I'm talking about, and those additional costs for them, are just related to the new burdens and responsibilities from PPACA that are not related to the health insurance exchange. The health insurance exchange is a completely separate animal from what I'm talking about now, and that is in HB 1126, would allow the state of ND to build its own health insurance exchange which would serve the small group market and the individual market. If we're going to do that, that would take about four FTEs, just to build it, over the next biennium, so the federal government would certify it and allow ND to do its own and not have the federal government do it for us; once it was built, an additional four would be needed to run it on a daily basis, for a total of eight FTEs, at a minimum. So we're looking at eight FTEs for the exchange, and nine for everything else.

**Representative Glassheim:** Do you have any sense of how much the feds will be contributing?

**Hamm:** It's a little tough to answer that question. What I know is so far, we've applied for and received a rate review grant. It's possible some of those dollars could be used to offset some of what I'm talking about. The other grant we applied for was related to the health insurance exchange, and that was a planning grant. Going forward, most of the grant dollars that we're hearing about are related to the health insurance exchange. There's a possibility there will be other grant opportunities out there to try to offset some of these costs, or additional consumer assistance or ombudsman grants that become available from the federal government, but that's speculation at this point. I don't know right now if applying for a grant of that nature would make sense for us, we have to review each grant opportunity and figure out the cost-benefit analysis of applying for it. It's a herculean task every time we look at applying for a grant, when you consider the application process, and the ongoing reporting necessary to keep receiving the funds if the grant is awarded.

**Representative Glassheim:** To date you have or haven't received any federal money?

**Hamm:** We've received the rate review grant, which was \$1 million, and a lot of that will be spent on consultants. We also received \$1 million for the exchange planning grant, but we have not received legislative authority yet to spend those dollars.

**Chairman Thoreson:** I think we'll be having some discussion about those two grants. Are there any additional grants like that we are eligible for at this time?

**Hamm:** There will continue to be available grants. Right now there is an opportunity to apply for another exchange grant.

**Chairman Thoreson:** How much is that one for?

**Hamm:** It could be unlimited. That's one of the secrets in PPACA that a lot of people don't know, the Secretary of Health and Human Services (HHS) was given a literally blank check to give to the states to build these health insurance exchanges. There was no dollar amount given to HHS.

**Chairman Thoreson:** They haven't put anything forward saying, we expect ND to receive \$X, Texas to receive \$X.

**Hamm:** The first round of exchange planning grants was basically \$1 million, regardless of the size of the state. Going forward, HHS is now saying we need to see a little more work from you states, see which ones are serious about building the exchange and how far along they are. Those dollars will have many more strings attached to them.

**Chairman Thoreson:** My concern if we take those grant dollars down the road is whether that ties us into anything when it goes into court action.

**Hamm:** There's a black and white answer on that first grant: there are no strings attached.

**Chairman Thoreson:** But the ones that are the blank check?

**Hamm:** It's not really HHS giving a blank check to the states, it's that HHS has a blank check to dole out money.

**Chairman Thoreson:** They also may come back at some point and say, we'd like some of that money back.

**Hamm:** There's not as black and white an answer to that. Testimony resumed on page 9.

**Representative Kempenich:** I've heard talk about waivers, over a thousand, and three for states. What is that?

**Hamm:** Those are 2 separate issues. The first one, with the thousand plus, that's for individual entities, such as McDonald's. They provide mini-med plans for their employees;

under the new requirements of the law, annual and lifetime limits are done away with. They threatened to drop all employee coverage, and the Obama administration decided it was better to have limited coverage than none at all for those employees and granted them a waiver. The other waiver issue is from the medical loss ratio (MLR) requirements. Under the law, there is a new requirement for how much money out of each dollar has to be spent on health care costs, and how much can go towards administrative expenses. It's now up to 80-85 cents of every dollar, depending on the market. A number of states, including ND, which is at 55 and 70 cents, have analyzed that, talked to the insurance companies doing business in their state, and have come to the conclusion that if they have to move to those ratios immediately, some companies will have to pull out of the market. So some states are asking HHS for a waiver from that requirement to jump to 80-85% MLR immediately, they are asking for it to be phased in over two or three years. ND is in the final stages of reviewing those issues, and predictably will be asking for a MLR waiver as well. Two separate issues. There is a third issue, by the way, speaking of waivers. Under the law, it was crafted so that once you got to 2017, it was possible that states could ask for a waiver to get out of all the requirements of PPACA, all the big ones, the mandates, the subsidies, the health insurance exchange, all the things states are fretting about. But the only way you can get that waiver is if your state has come up with a different way to skin the cat that accomplishes the same thing as PPACA. You still have to cover as many people, you still have to make it as affordable as it would be under PPACA. It's basically the Obama administration saying you still have to do everything that PPACA is trying to accomplish, but if you figure out a different way to do it, be our guest. They originally said you have to wait until 2017 to do that; there is now some movement in Congress to move that up to 2014. That would require a change in the law to do that. So even if they do accomplish that change, then HHS will have to come up with a whole set of rules and regulations for how a state could apply for that waiver and what they would have to show to get it.

**Chairman Thoreson:** Let's say that's something we did in our state. Would there then be any federal money coming into us to be able to fund that, or would it be state dollars, since we'd be out of the federal system?

**Hamm:** You just answered the question. You'd have to pay for it yourself. What's also important to understand, even under PPACA, the money stops in 2015, it has to be self sustaining.

**Representative Kroeber:** So you're saying that right now in ND, only 50 cents of every dollar in the individual group is really going to pay for the costs, the rest is administration?

**Hamm:** Not accurate at all. Those are the minimum MLRs. Most health insurance companies doing business in ND exceed even the 80 and 85%, most of the loss ratios are right around 88-92%.

**Representative Kroeber:** Why would it take us time to get up to that if we're already above it?

**Hamm:** Most health insurance companies are there, but not all. There is one specific company that is not there, and if you're going to make them go to 80 and 85 immediately, it's predictably going to result in them leaving, not just ND, but all states that they're in. It is

my opinion, as the insurance commissioner, that the last thing we want to have happen under PPACA is for competition to decrease and for choices for consumers to go down, instead of up. This is one of those areas where if we are not careful how this thing is phased in, the end result might be worse for consumers.

**Representative Glassheim:** What you just said about the states having their own, that ties into what Obama recently said to the state governors, that if you can accomplish the goals in your own way, okay. Is there any thought being given to us actually doing that, or does it seem too difficult?

**Hamm:** I'm doing everything I can here not to get political with these issues, but here's the problem. This goes back to that third waiver issue I brought up, which was the states finding their own way. My reaction to that is, that is a distinction without a difference. Most governors that are opposed to PPACA are saying the same thing. You still have to accomplish all the same goals. I'm not sure it moves the ball down the field at all for states that have a problem with PPACA, that's number one. Number two, a much bigger problem is, we have no idea yet what that means. How do you apply for the waiver, what do you have to prove to get it, what do you have to come up with as a different way to skin the cat from these components of PPACA that states, and I, have grave concerns with? The devil's in the details. Until we know what actually has to go into getting the waiver, it's almost a fruitless conversation.

**Representative Glassheim:** It seems to me in general the goals are cover most people, control costs, and keep quality. If ND, which prides itself on sometimes doing things differently, and better, can think of some different ways from the feds to do that, I assume that would be good. Is there any thought being given to pursuing other ways besides what the Congress came up with to accomplish those goals?

**Hamm:** Assuming Congress changes the law and moves it up to 2014, and assuming HHS comes up with regulations that make it somewhat possible to actually get a waiver that would make sense for the state of ND to even apply for it, at that point we'd be happy to analyze it and figure out if there's another way. I don't disagree that that was the theory behind Congress and the Obama administration passing PPACA; the problem is in the execution of that. I don't think it's going to succeed, because it doesn't control costs, it doesn't even address it. The punch line of PPACA is expanding access to 30 million more Americans, who primarily are going to have their premiums paid for by us, either through the expansion of Medicaid or through these subsidies that are going to be offered within these health insurance exchanges. So they're not going to be bringing a lot more premium dollars into the system, but they're going to be using the system just like everyone else that already has health insurance is, and there will be 30 million more people in the mix. Expanding access before you've controlled costs is the equivalent of putting the cart before the horse. It's a laudable goal. You're not going to get me to say that expanding access is a bad idea. But you can't do it until you've figured out how to fix the affordability of health insurance in general, you have to get the costs down first, that's my fundamental concern with PPACA.

**Representative Glassheim:** That's why I wondered if the state would have its own thought on how to control costs.

**Chairman Thoreson:** Let me interject in that. As a believer in federalism, I think the states probably always have a great way of looking it. Some states have addressed this, like Massachusetts. We probably could come up with a better way and let the consumer guide it, while letting the state have some guidelines. The issue is, does that qualify to get us out of what's being proposed in Washington. We're the ones left holding the bag after we've put the dollars into it.

**Representative Kempenich:** Prevention is the least costly method of health care, but the problem you run into is utilization. The majority of health care costs are at the beginning and end of life. Choices that people make play a huge factor, and behavioral modification is the only solution. There are a lot of issues coming into play.

**Representative Dahl:** The executive recommendation reflects five new FTEs; the Senate took out those five FTEs, and you also indicated you need a bare minimum of nine to comply with the new standards in PPACA. Even with those five FTEs, would you be able to fully comply?

**Hamm:** The direct answer is no. When we put together our request, I pushed my folks hard. Only ask for the bare minimum that we need to deal with all the responsibilities that we have under the law. It wasn't five, it was nine. Would five be better than zero? Absolutely. But what we're asking for is exactly what we need, nine. I know there are some people thinking, why would we give you any FTEs to deal with PPACA, when this thing might get overturned in the courts or repealed in Congress? The punch line is, that's not going to happen for a while, if ever. I think the likelihood of this getting repealed is slim to none, at least until there's a new president. That leaves you with the Supreme Court overturning this, saying the individual mandate is unconstitutional and the whole law is unconstitutional. That comes down to one judge. I can tell you that Breyer, Ginsburg, Sotomayor, and Kagan will say the law is constitutional. That means the only way to have the law declared unconstitutional is if Anthony Kennedy agrees, and the whole thing would have to be unconstitutional, not just the mandate, for this to work. Are we going to bank ND's public policy decision on Kennedy, who won't be making that decision for at least a year? All the while that that is going on, these duties and responsibilities continue on a day to day basis. Since March 2010, we're just keeping our nose above the water line. If we don't get some more human resources here, we're going to be under the water soon, and here's what's going to happen, here's why it should matter to every person in the room: the longer this goes on without us getting human resources to deal with what we're having to deal with every day, consumers aren't going to get the level of assistance that they're used to; the backlog will continue. Worse than that, insurance companies won't get the level of assistance they're used to, they won't get their filings reviewed in a timely fashion, the backlog will pick up, and things will start falling through the cracks. As a state, in terms of premium volume, we are a blip on the radar screen, nationally. Insurance companies put up with backlog and not getting straight answers out of insurance departments in California or New York because of the population. They don't have to put up with it in a state of 670,000 people, and they don't. I hear it all the time from insurance companies, how much they appreciate dealing with the ND Insurance Department, because we work with them. We do that because it's the right thing to do, but also because we know we have to keep a competitive, business friendly environment just to keep the insurance companies we have in the state, let alone to recruit and encourage new companies to come in, to increase

competition, to lower costs for everyone. It's in all of our best interests to make sure the insurance department doesn't get under water. If we don't get some bodies, that's what's coming, it cannot continue this way.

**Representative Dahl:** You indicated that obviously there's the quality of service issue; are there other consequences if we are not in full compliance with the federal law?

**Hamm:** In terms with federal funding, other than the exchange, I can't think of anything off the top of my head that would be affected. To me it's less about complying with the federal government as it is about serving the people of ND and making sure we have a competitive, healthy insurance market in our state for every line of insurance, and part of the way we do that is with our quality of service. We're already losing some ground; it was bound to happen, with these circumstances, and it's only going to get worse. Things will start falling through the cracks, and that will have negative consequences for our citizens.

**Chairman Thoreson:** This is the big issue with this budget and we understand that. This is good information.

**Hamm:** If the legislature ultimately decides to give us some human resources, even though there are all of these concerns about things changing with PPACA, there's nothing that says down the road we couldn't have a reduction in force. I would comply with that. This is not an employee grab. 15 years ago, the insurance department had 45 FTEs. Today, we have 45.5 FTEs. We've been able to do that by being as efficient as possible. Once PPACA hit, it was like an anvil landed on us. Something's got to give.

**Representative Kempenich:** A lot of this is connected to what the feds do in a lot of ways. What if this is defunded? It's being talked about.

**Hamm:** This is funded through the insurance regulatory trust fund.

**Representative Kempenich:** If no money shows up for this but there's still a law in place, we still have to chase this, don't we? Is that what you're saying? Why would we have people there if there is no funding for it? If you pass a law and no money shows up, it's just words on a piece of paper at the end of the day if there's nothing to keep it moving forward.

**Hamm:** You hear about this defunding issue all the time, if Congress defunds it that will fix the problem. It won't. The only way the department doesn't need these human resources is if the thing is repealed or overturned as unconstitutional. Absent one of those two things happening, we still need these human resources. Defunding doesn't touch all the market reforms that are part of the law, and that health insurance companies have to comply with, and that insurance departments then have to deal with. What the defunding would really impact would be the health insurance exchanges, which again has nothing to do with the nine FTEs we're asking for, they are related to the market reform provisions.

**Representative Brandenburg:** In North Dakota, how many new people are going to go on new insurance that currently don't have insurance?

**Hamm:** Nobody knows. Thirty million more people will have insurance under the law. About half will get it from the expansion of Medicaid within the states; the other half will get coverage through the health insurance exchanges and the use of subsidies, folks that wanted to buy health insurance but couldn't afford it. There's no way to know how many people will qualify for a subsidy and don't already have insurance that will use that subsidy to buy insurance. That will be directly related to the premiums and coverage on the exchange.

**Representative Brandenburg:** A lot of people get health insurance through their job, and the reason they're working is for those benefits. How many people are going to look at their job and say, I got insurance through the new program, I'm going to stay home?

**Chairman Thoreson:** I know where you're going, but I'm not sure how you'd get an answer.

**Representative Glasheim:** The governor's budget has five of your nine people in it?

**Chairman Thoreson:** The governor's budget had five, the Senate removed five, so they are at zero right now.

**Representative Klein:** The petroleum tax reserve fund, action that's been going on, I see we're below the minimum. Are we doing anything to get that back to the required \$6 million? Has it slowed down over the years, or what's happening?

**Hamm:** Referenced testimony page 7. As soon as it drops below \$6 million, tank fees go from \$50 up to \$100, and they stay there until we get to \$5.5 million, then we do an analysis to determine if the fee can go back down to \$50. It goes back to the downturn in the economy. Once the economy started recovering, the fund started to rise again. It wasn't that there were substantially more claims that drove the fund down, but we had a few that were high dollar claims. When you look at the fund historically, it's doing okay.

**Representative Klein:** Is there a lot of activity still going on? Most of those cleanups should be getting done. I would think the amount of activity would slow down.

**Hamm:** It's actually theoretically the reverse. As the tanks get older, if they're not inspected and maintained properly, the possibility exists that you would have more claims. That hasn't been happening, the year to year amounts of claims have stayed pretty constant, we've just had some high dollar claims in the last few years, which coupled with the downturn in the stock market, took us below \$6 million.

**Representative Klein:** Many of the new tanks installed have the double lining and the sensing system on the outside, and above ground tanks, which precludes some of the leakage problems. The bottom line is the fund will come back?

**Hamm:** I wouldn't say we don't need to worry about it, but it's not the highest priority worry.

**Representative Kempenich:** We started a conversation with the ag commissioner about the anhydrous ammonia. Has he visited with you any on that? I don't think we want to run two duplicate programs.

**Hamm:** We've had a number of discussions with the ag department. The punch line for me is if the legislature wants to move that program to the ag department, that's fine, but it needs to be properly funded and staffed so it can continue to be successful. The last thing we want is dangerous tanks, and incidents occurring.

**Chairman Thoreson:** Let's take a short recess, and when we come back we'll ask Representative Guggisberg to explain his amendment. I think that many of us have strong feelings about some of these things we've been discussing, and I appreciate that we are trying to keep personal opinions out to see what we have to do policy-wise.

No sound on recording minute 78:50 to 90:45.

**Chairman Thoreson:** Representative Guggisberg, thank you for joining our committee to go over the amendment you had prepared for this budget. We won't take any action this morning, but I would like you to explain it, then we'll take other testimony.

**Representative Ron Guggisberg, District 11:** Explained 2010.3.10.11B, which is amendment .02001.

**Representative Klein:** Is this \$50,000 the same amount of money you had from the DOT and the health department earlier?

**Representative Guggisberg:** Approximately, yes.

**Representative Klein:** In other words, the health department turned it over to the firefighters to do the training? The track will be the same, it's just the money will come from a different source?

**Representative Guggisberg:** Yes. The way it worked was they controlled the funding and did the certifications, but for the most part they essentially hired firefighters to do the training.

**Representative Kroeber:** I see it's not general fund dollars, but rather from the insurance tax distribution fund, is that correct?

**Representative Guggisberg:** Yes.

**Representative Brandenburg:** Is this the program that's been in place for a number of years and dealing with both the volunteer and full-time firefighters?

**Representative Guggisberg:** Yes, it's been going along for several years. This is something that is definitely needed in the state. I look at this also a recruitment and retention tool, which is definitely needed in the rural parts of the state where there are volunteer firefighters.

**Chairman Thoreson:** Any additional questions by the committee? If not, thank you, we'll take further testimony.

**Robert Knuth, Training Director, North Dakota Firefighter's Association:** See attached testimony 2010.3.10.11C.

**Chairman Thoreson:** There's nothing in the department of health for this any longer, those dollars are gone because of the grant, is that correct?

**Knuth:** Yes. Tom Nehring can provide further funding detail.

**Tom Nehring, Director, Division of Emergency Medical Services and Trauma, Department of Health:** The funding is in the process of being gone. The division of emergency medical services has received department of transportation funding for approximately 20 years. The grant that covers this is 402 funding. We've been advised by the DOT that we will no longer be getting these funds. We did put it in an optional package which was approved, but has gone before the House Appropriations Committee, and is in trouble at this point. We anticipate that those 402 funds will be going away.

**Chairman Thoreson:** Are those funds used for anything else besides this?

**Nehring:** These funds are used for many operations within the division, extrication being one of them. We also have training, testing, certification, etc., and it will have a profound effect on all of division operations.

**Chairman Thoreson:** Although it's not particularly germane to this amendment, is the department going to be coming forward to try to replace those dollars?

**Nehring:** As far as I know, the efforts are continuing to try to get those fund restored. HB 1004, the department of health budget, is now before the Senate Appropriations.

**Representative Klein:** It's the same amount of money that was removed on the House side of the 1004 budget that you are asking for here?

**Nehring:** This is not our bill, so we're not asking for it, but I can tell you two issues when it comes down to extrication. Looking at the evolution of emergency medical services in the state, which is approximately 40 years old, in the beginning the powers that be thought an ambulance could be everything to everybody. Extrication has gotten to be a very specific field of knowledge. We only have two ambulance services in the state still doing extrication.

**Representative Glassheim:** Am I right in assuming that you lost more than \$50,000 in your budget from the transportation?

**Nehring:** What we have been informed by the department of transportation is that \$523,900 will be removed for the biennium, which is a significant portion of our operation funds. Extrication is one of many things we would have been doing with that money.

Inaudible section. In the past, EMS was considered part of safety within the state of ND by the DOT. In doing statistics, however, it's been established that only 17% of the ambulance workload in the state is motor vehicle related, so as a result of that, they are looking at putting their funds into other areas.

**Representative Klein:** I would like to ask the commissioner a question. Looking at your bill, where you say \$6,200,000 is for the purpose of making payments to the fire department, and \$620,000 is for the payments to the firefighters association. When I look at the amendment, the numbers don't add up.

**Hamm:** This amendment isn't included in our budget presentation.

**Representative Klein:** The fund that we're taking it out of in your department, where are we sitting with that? Are we robbing that down to the point of no return?

**Hamm:** This isn't our fund, it is passed through.

**Representative Klein:** The money would have gone to the general fund if we wouldn't appropriate it here.

**Hamm:** Right, all that money is coming out a pot of money called the insurance premium tax fund. That fund has an estimated \$63 million for the upcoming biennium, so that's where the dollars will come out of. Any of those dollars that come out of that fund reduces the flow of dollars into the general fund. It's not our money. It's not like these are monies that, if they go to this group, they're not going to the insurance department; that's not the way this works.

**Representative Brandenburg:** This is a school program we're talking about, isn't it, where you have people come from rural volunteer fire, as well as full time firefighters, and they learn and go back and share it with their people.

**Knuth:** Yes and no. The extrication program training is designed to where an instructor will actually go to an individual department, use the individual department's equipment, and teach that department's personnel how to properly perform extrication. We are in the process of designing and scheduling instructor trainer classes to increase the number of instructors, to make sure the information they are using is current technology on current vehicle designs, and those instructors can then go out to a specific area and set up their own classes as well, through NDFA.

**Chairman Thoreson:** Additional questions? Seeing none, thank you.

**CJ Craven, Fire Chief, City of Minot, and President, North Dakota Fire Chiefs Association:** The North Dakota Fire Chiefs Association represents fire chiefs from across the state and every type of department. The fire chiefs of ND are in support of the ND Firefighters Association becoming the agency to provide extrication training within ND. I think it is the proper agency to do that; they do most of the firefighting training already, and extrication falls under the duties of most fire departments. This is critical training, especially for small departments, where they don't have the funding or the ways to send somebody off

to school to do these things. It is one of the most used technical rescue trainings in the fire service. There is an enormous amount of vehicle accidents in the state over a year's time; traffic is getting extremely heavy, vehicles are getting bigger. They are the proper organization to provide this critical training, but they do need funding.

**Chairman Thoreson:** How many pieces of equipment do they have to learn to use?

**Craven:** A typical rescue truck has probably 15 fairly complicated pieces of equipment. Extrication is a science. This is very critical training. This isn't something that doesn't happen very often; there are vehicle accidents every day in the state of ND where people need to be extricated if they are going to survive.

**Chairman Thoreson:** Are there a number of new pieces of equipment that come on board, or does it remain pretty static?

**Craven:** The basic equipment remains sort of the same.

**Chairman Thoreson:** With automobile technology upgrading, what kinds of challenges does that present?

**Craven:** One of the greatest challenges in automobile extrication is the evolution of the automobile. We just had a training on the dangers of hybrid cars. Cars change constantly, plastic instead of steel, and the lightweight plastic cars actually make extrication more difficult than before. The technology is changing all the time, and for these people to be able to do this job correctly, they have to have up to date, current training in the tools, the vehicles, and the techniques. It is critical, and it should be under the ND Firefighters Association. Unfortunately, the grants are not going to fund it, and it does need to be funded.

**Chairman Thoreson:** Further questions by the committee? If not, thank you. Any additional testimony regarding the amendment, or in support of SB 2010? Is there anyone in opposition? Seeing none, let's finish our questions.

**Representative Klein:** Do you have any vacant FTEs right now?

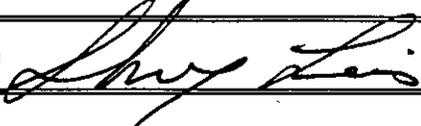
**Hamm:** Referenced testimony 2010.3.10.11A, page 4; there are three vacancies today.

**Chairman Thoreson:** Anything else the committee needs before the next time we get together to go over the budget in more detail? We'll wrap it up. We thank you for the information and discussion. We will stand adjourned.

2011 HOUSE STANDING COMMITTEE MINUTES  
House Appropriations Government Operations Division  
Medora Room, State Capitol

SB 2010  
March 10, 2011  
Recorder Job# 15240

Conference Committee

Committee Clerk Signature 

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

A Bill for an Act to provide an appropriation for defraying the expenses of the insurance commissioner; to provide for making payments of insurance premiums tax collections to fire departments; and to amend and reenact section 26.1-01-09 of the North Dakota Century Code relating to the commissioner's salary.

**Minutes:**

**Chairman Thoreson:** Called the committee to order. Opened the hearing on SB 2010 and the title was read.

**Adam Hamm, Insurance Commissioner, North Dakota Insurance Department:** See attached testimony 3.10.11.A.

**Chairman Thoreson:** What do you think the increase (in premiums written) is due to?

**Hamm:** That's not uncommon. I bet if we look back over the last 15-20 years, it has increased every biennium. Testimony resumed on page 3.

**Representative Klein:** I'm looking at enforcement fines from agents and companies, would you give me some examples of what those are?

**Hamm:** It could be anything with an agent violating any specific statute in ND that would have a fine related to it. It is any specific fineable offense, over that period of time, added together.

**Representative Klein:** These fines are outlined in code?

**Hamm:** Absolutely. What would be outlined would be the maximum dollar amount for the fine, and it is up to the insurance department and the insurance commission to determine, up to that level, what's going to be the fine imposed. It depends on the type of violation that occurred, whether or not the agent has had other violations in the past, so that is a judgment call by the commission. Testimony resumed on page 3.

**Representative Klein:** I'm looking at that last one on page 3, suspicious claims, why would companies not report all of those to you?

**Hamm:** There could be any number of reasons, not the least of which is the company might not want that to become reportable and have the public find out about it. Oftentimes companies simply don't report these things to the insurance department.

**Representative Brandenburg:** I see you've had 48 reported claims in 2009. What is happening in the insurance world that claims are showing up more, being reported more?

**Hamm:** I don't think it's any different than what's going on in the economy in general. Everyone knows the economy took a nosedive in 2008, people are struggling, once that happens some people might be willing to take more risks than they were before, and there are more violations of the law.

**Representative Dahl:** Can you describe a little further what the SHIC (State Health Insurance Counseling) program is?

**Hamm:** Referenced testimony, page 6. Our SHIC program is number one in the nation, as ranked by the federal government.

**Representative Klein:** I've had several comments about how good that program is. Do you have any figures as to how many calls you get and how many assistance things you do in that area?

**Hamm:** Referenced testimony, page 3. Testimony continued on page 5.

**Chairman Thoreson:** Looking at the legal division, can you give a brief explanation of what those kinds of orders entail?

**Hamm:** These could range from a suspension to revocation of an agent for a specific violation. Those numbers are up from where they were a couple of years ago. Testimony continued on page 5.

**Chairman Thoreson:** How many of those PAPs (prescription assistance programs) are available or in operation?

**Hamm:** I don't have that number.

**Chairman Thoreson:** Are those provided by the industry?

**Hamm:** Primarily. Testimony resumed on page 6.

**Chairman Thoreson:** Are you tracking the number of hits on that website?

**Hamm:** Absolutely. We can provide that to you. You'll be surprised how big the number is. We built that and linked it right off the insurance department homepage because we were getting so many calls and questions about the health care law that passed.

**Chairman Thoreson:** Do you have a way to get feedback, also, off of the page?

**Hamm:** Yes.

**Chairman Thoreson:** Do you have to update the page?

**Hamm:** We're updating it constantly. Testimony resumed.

**Representative Glassheim:** How much extra are you asking for just related to PPACA (Patient Protection and Affordable Care Act)?

**Hamm:** If you go back to page 8, all of the requests in the center chart are related to the nine FTEs for PPACA.

**Representative Glassheim:** The \$12 million?

**Hamm:** Correct. As in every budget and appropriation for the insurance department, there's also those dollars for fire districts, that's a completely separate issue.

**Representative Glassheim:** That \$12 million is just those nine?

**Hamm:** No, that's everything, the nine that builds on top of where we would have been otherwise. Page 9 shows that the total option request is \$3 million more than where we were for 2009-2011. But it's not just a one time, it will then roll forward. It's the minimum amount. Again, those nine FTEs that I'm talking about, and those additional costs for them, are just related to the new burdens and responsibilities from PPACA that are not related to the health insurance exchange. The health insurance exchange is a completely separate animal from what I'm talking about now, and that is in HB 1126, would allow the state of ND to build its own health insurance exchange which would serve the small group market and the individual market. If we're going to do that, that would take about four FTEs, just to build it, over the next biennium, so the federal government would certify it and allow ND to do its own and not have the federal government do it for us; once it was built, an additional four would be needed to run it on a daily basis, for a total of eight FTEs, at a minimum. So we're looking at eight FTEs for the exchange, and nine for everything else.

**Representative Glassheim:** Do you have any sense of how much the feds will be contributing?

**Hamm:** It's a little tough to answer that question. What I know is so far, we've applied for and received a rate review grant. It's possible some of those dollars could be used to offset some of what I'm talking about. The other grant we applied for was related to the health insurance exchange, and that was a planning grant. Going forward, most of the grant dollars that we're hearing about are related to the health insurance exchange. There's a possibility there will be other grant opportunities out there to try to offset some of these costs, or additional consumer assistance or ombudsman grants that become available from the federal government, but that's speculation at this point. I don't know right now if applying for a grant of that nature would make sense for us, we have to review each grant opportunity and figure out the cost-benefit analysis of applying for it. It's a herculean task every time we look at applying for a grant, when you consider the application process, and the ongoing reporting necessary to keep receiving the funds if the grant is awarded.

**Representative Glassheim:** To date you have or haven't received any federal money?

**Hamm:** We've received the rate review grant, which was \$1 million, and a lot of that will be spent on consultants. We also received \$1 million for the exchange planning grant, but we have not received legislative authority yet to spend those dollars.

**Chairman Thoreson:** I think we'll be having some discussion about those two grants. Are there any additional grants like that we are eligible for at this time?

**Hamm:** There will continue to be available grants. Right now there is an opportunity to apply for another exchange grant.

**Chairman Thoreson:** How much is that one for?

**Hamm:** It could be unlimited. That's one of the secrets in PPACA that a lot of people don't know, the Secretary of Health and Human Services (HHS) was given a literally blank check to give to the states to build these health insurance exchanges. There was no dollar amount given to HHS.

**Chairman Thoreson:** They haven't put anything forward saying, we expect ND to receive \$X, Texas to receive \$X.

**Hamm:** The first round of exchange planning grants was basically \$1 million, regardless of the size of the state. Going forward, HHS is now saying we need to see a little more work from you states, see which ones are serious about building the exchange and how far along they are. Those dollars will have many more strings attached to them.

**Chairman Thoreson:** My concern if we take those grant dollars down the road is whether that ties us into anything when it goes into court action.

**Hamm:** There's a black and white answer on that first grant: there are no strings attached.

**Chairman Thoreson:** But the ones that are the blank check?

**Hamm:** It's not really HHS giving a blank check to the states, it's that HHS has a blank check to dole out money.

**Chairman Thoreson:** They also may come back at some point and say, we'd like some of that money back.

**Hamm:** There's not as black and white an answer to that. Testimony resumed on page 9.

**Representative Kempenich:** I've heard talk about waivers, over a thousand, and three for states. What is that?

**Hamm:** Those are 2 separate issues. The first one, with the thousand plus, that's for individual entities, such as McDonald's. They provide mini-med plans for their employees;

under the new requirements of the law, annual and lifetime limits are done away with. They threatened to drop all employee coverage, and the Obama administration decided it was better to have limited coverage than none at all for those employees and granted them a waiver. The other waiver issue is from the medical loss ratio (MLR) requirements. Under the law, there is a new requirement for how much money out of each dollar has to be spent on health care costs, and how much can go towards administrative expenses. It's now up to 80-85 cents of every dollar, depending on the market. A number of states, including ND, which is at 55 and 70 cents, have analyzed that, talked to the insurance companies doing business in their state, and have come to the conclusion that if they have to move to those ratios immediately, some companies will have to pull out of the market. So some states are asking HHS for a waiver from that requirement to jump to 80-85% MLR immediately, they are asking for it to be phased in over two or three years. ND is in the final stages of reviewing those issues, and predictably will be asking for a MLR waiver as well. Two separate issues. There is a third issue, by the way, speaking of waivers. Under the law, it was crafted so that once you got to 2017, it was possible that states could ask for a waiver to get out of all the requirements of PPACA, all the big ones, the mandates, the subsidies, the health insurance exchange, all the things states are fretting about. But the only way you can get that waiver is if your state has come up with a different way to skin the cat that accomplishes the same thing as PPACA. You still have to cover as many people, you still have to make it as affordable as it would be under PPACA. It's basically the Obama administration saying you still have to do everything that PPACA is trying to accomplish, but if you figure out a different way to do it, be our guest. They originally said you have to wait until 2017 to do that; there is now some movement in Congress to move that up to 2014. That would require a change in the law to do that. So even if they do accomplish that change, then HHS will have to come up with a whole set of rules and regulations for how a state could apply for that waiver and what they would have to show to get it.

**Chairman Thoreson:** Let's say that's something we did in our state. Would there then be any federal money coming into us to be able to fund that, or would it be state dollars, since we'd be out of the federal system?

**Hamm:** You just answered the question. You'd have to pay for it yourself. What's also important to understand, even under PPACA, the money stops in 2015, it has to be self sustaining.

**Representative Kroeber:** So you're saying that right now in ND, only 50 cents of every dollar in the individual group is really going to pay for the costs, the rest is administration?

**Hamm:** Not accurate at all. Those are the minimum MLRs. Most health insurance companies doing business in ND exceed even the 80 and 85%, most of the loss ratios are right around 88-92%.

**Representative Kroeber:** Why would it take us time to get up to that if we're already above it?

**Hamm:** Most health insurance companies are there, but not all. There is one specific company that is not there, and if you're going to make them go to 80 and 85 immediately, it's predictably going to result in them leaving, not just ND, but all states that they're in. It is

my opinion, as the insurance commissioner, that the last thing we want to have happen under PPACA is for competition to decrease and for choices for consumers to go down, instead of up. This is one of those areas where if we are not careful how this thing is phased in, the end result might be worse for consumers.

**Representative Glassheim:** What you just said about the states having their own, that ties into what Obama recently said to the state governors, that if you can accomplish the goals in your own way, okay. Is there any thought being given to us actually doing that, or does it seem too difficult?

**Hamm:** I'm doing everything I can here not to get political with these issues, but here's the problem. This goes back to that third waiver issue I brought up, which was the states finding their own way. My reaction to that is, that is a distinction without a difference. Most governors that are opposed to PPACA are saying the same thing. You still have to accomplish all the same goals. I'm not sure it moves the ball down the field at all for states that have a problem with PPACA, that's number one. Number two, a much bigger problem is, we have no idea yet what that means. How do you apply for the waiver, what do you have to prove to get it, what do you have to come up with as a different way to skin the cat from these components of PPACA that states, and I, have grave concerns with? The devil's in the details. Until we know what actually has to go into getting the waiver, it's almost a fruitless conversation.

**Representative Glassheim:** It seems to me in general the goals are cover most people, control costs, and keep quality. If ND, which prides itself on sometimes doing things differently, and better, can think of some different ways from the feds to do that, I assume that would be good. Is there any thought being given to pursuing other ways besides what the Congress came up with to accomplish those goals?

**Hamm:** Assuming Congress changes the law and moves it up to 2014, and assuming HHS comes up with regulations that make it somewhat possible to actually get a waiver that would make sense for the state of ND to even apply for it, at that point we'd be happy to analyze it and figure out if there's another way. I don't disagree that that was the theory behind Congress and the Obama administration passing PPACA; the problem is in the execution of that. I don't think it's going to succeed, because it doesn't control costs, it doesn't even address it. The punch line of PPACA is expanding access to 30 million more Americans, who primarily are going to have their premiums paid for by us, either through the expansion of Medicaid or through these subsidies that are going to be offered within these health insurance exchanges. So they're not going to be bringing a lot more premium dollars into the system, but they're going to be using the system just like everyone else that already has health insurance is, and there will be 30 million more people in the mix. Expanding access before you've controlled costs is the equivalent of putting the cart before the horse. It's a laudable goal. You're not going to get me to say that expanding access is a bad idea. But you can't do it until you've figured out how to fix the affordability of health insurance in general, you have to get the costs down first, that's my fundamental concern with PPACA.

**Representative Glassheim:** That's why I wondered if the state would have its own thought on how to control costs.

**Chairman Thoreson:** Let me interject in that. As a believer in federalism, I think the states probably always have a great way of looking it. Some states have addressed this, like Massachusetts. We probably could come up with a better way and let the consumer guide it, while letting the state have some guidelines. The issue is, does that qualify to get us out of what's being proposed in Washington. We're the ones left holding the bag after we've put the dollars into it.

**Representative Kempenich:** Prevention is the least costly method of health care, but the problem you run into is utilization. The majority of health care costs are at the beginning and end of life. Choices that people make play a huge factor, and behavioral modification is the only solution. There are a lot of issues coming into play.

**Representative Dahl:** The executive recommendation reflects five new FTEs; the Senate took out those five FTEs, and you also indicated you need a bare minimum of nine to comply with the new standards in PPACA. Even with those five FTEs, would you be able to fully comply?

**Hamm:** The direct answer is no. When we put together our request, I pushed my folks hard. Only ask for the bare minimum that we need to deal with all the responsibilities that we have under the law. It wasn't five, it was nine. Would five be better than zero? Absolutely. But what we're asking for is exactly what we need, nine. I know there are some people thinking, why would we give you any FTEs to deal with PPACA, when this thing might get overturned in the courts or repealed in Congress? The punch line is, that's not going to happen for a while, if ever. I think the likelihood of this getting repealed is slim to none, at least until there's a new president. That leaves you with the Supreme Court overturning this, saying the individual mandate is unconstitutional and the whole law is unconstitutional. That comes down to one judge. I can tell you that Breyer, Ginsburg, Sotomayor, and Kagan will say the law is constitutional. That means the only way to have the law declared unconstitutional is if Anthony Kennedy agrees, and the whole thing would have to be unconstitutional, not just the mandate, for this to work. Are we going to bank ND's public policy decision on Kennedy, who won't be making that decision for at least a year? All the while that that is going on, these duties and responsibilities continue on a day to day basis. Since March 2010, we're just keeping our nose above the water line. If we don't get some more human resources here, we're going to be under the water soon, and here's what's going to happen, here's why it should matter to every person in the room: the longer this goes on without us getting human resources to deal with what we're having to deal with every day, consumers aren't going to get the level of assistance that they're used to; the backlog will continue. Worse than that, insurance companies won't get the level of assistance they're used to, they won't get their filings reviewed in a timely fashion, the backlog will pick up, and things will start falling through the cracks. As a state, in terms of premium volume, we are a blip on the radar screen, nationally. Insurance companies put up with backlog and not getting straight answers out of insurance departments in California or New York because of the population. They don't have to put up with it in a state of 670,000 people, and they don't. I hear it all the time from insurance companies, how much they appreciate dealing with the ND Insurance Department, because we work with them. We do that because it's the right thing to do, but also because we know we have to keep a competitive, business friendly environment just to keep the insurance companies we have in the state, let alone to recruit and encourage new companies to come in, to increase

competition, to lower costs for everyone. It's in all of our best interests to make sure the insurance department doesn't get under water. If we don't get some bodies, that's what's coming, it cannot continue this way.

**Representative Dahl:** You indicated that obviously there's the quality of service issue; are there other consequences if we are not in full compliance with the federal law?

**Hamm:** In terms with federal funding, other than the exchange, I can't think of anything off the top of my head that would be affected. To me it's less about complying with the federal government as it is about serving the people of ND and making sure we have a competitive, healthy insurance market in our state for every line of insurance, and part of the way we do that is with our quality of service. We're already losing some ground; it was bound to happen, with these circumstances, and it's only going to get worse. Things will start falling through the cracks, and that will have negative consequences for our citizens.

**Chairman Thoreson:** This is the big issue with this budget and we understand that. This is good information.

**Hamm:** If the legislature ultimately decides to give us some human resources, even though there are all of these concerns about things changing with PPACA, there's nothing that says down the road we couldn't have a reduction in force. I would comply with that. This is not an employee grab. 15 years ago, the insurance department had 45 FTEs. Today, we have 45.5 FTEs. We've been able to do that by being as efficient as possible. Once PPACA hit, it was like an anvil landed on us. Something's got to give.

**Representative Kempenich:** A lot of this is connected to what the feds do in a lot of ways. What if this is defunded? It's being talked about.

**Hamm:** This is funded through the insurance regulatory trust fund.

**Representative Kempenich:** If no money shows up for this but there's still a law in place, we still have to chase this, don't we? Is that what you're saying? Why would we have people there if there is no funding for it? If you pass a law and no money shows up, it's just words on a piece of paper at the end of the day if there's nothing to keep it moving forward.

**Hamm:** You hear about this defunding issue all the time, if Congress defunds it that will fix the problem. It won't. The only way the department doesn't need these human resources is if the thing is repealed or overturned as unconstitutional. Absent one of those two things happening, we still need these human resources. Defunding doesn't touch all the market reforms that are part of the law, and that health insurance companies have to comply with, and that insurance departments then have to deal with. What the defunding would really impact would be the health insurance exchanges, which again has nothing to do with the nine FTEs we're asking for, they are related to the market reform provisions.

**Representative Brandenburg:** In North Dakota, how many new people are going to go on new insurance that currently don't have insurance?

**Hamm:** Nobody knows. Thirty million more people will have insurance under the law. About half will get it from the expansion of Medicaid within the states; the other half will get coverage through the health insurance exchanges and the use of subsidies, folks that wanted to buy health insurance but couldn't afford it. There's no way to know how many people will qualify for a subsidy and don't already have insurance that will use that subsidy to buy insurance. That will be directly related to the premiums and coverage on the exchange.

**Representative Brandenburg:** A lot of people get health insurance through their job, and the reason they're working is for those benefits. How many people are going to look at their job and say, I got insurance through the new program, I'm going to stay home?

**Chairman Thoreson:** I know where you're going, but I'm not sure how you'd get an answer.

**Representative Glassheim:** The governor's budget has five of your nine people in it?

**Chairman Thoreson:** The governor's budget had five, the Senate removed five, so they are at zero right now.

**Representative Klein:** The petroleum tax reserve fund, action that's been going on, I see we're below the minimum. Are we doing anything to get that back to the required \$6 million? Has it slowed down over the years, or what's happening?

**Hamm:** Referenced testimony page 7. As soon as it drops below \$6 million, tank fees go from \$50 up to \$100, and they stay there until we get to \$5.5 million, then we do an analysis to determine if the fee can go back down to \$50. It goes back to the downturn in the economy. Once the economy started recovering, the fund started to rise again. It wasn't that there were substantially more claims that drove the fund down, but we had a few that were high dollar claims. When you look at the fund historically, it's doing okay.

**Representative Klein:** Is there a lot of activity still going on? Most of those cleanups should be getting done. I would think the amount of activity would slow down.

**Hamm:** It's actually theoretically the reverse. As the tanks get older, if they're not inspected and maintained properly, the possibility exists that you would have more claims. That hasn't been happening, the year to year amounts of claims have stayed pretty constant, we've just had some high dollar claims in the last few years, which coupled with the downturn in the stock market, took us below \$6 million.

**Representative Klein:** Many of the new tanks installed have the double lining and the sensing system on the outside, and above ground tanks, which precludes some of the leakage problems. The bottom line is the fund will come back?

**Hamm:** I wouldn't say we don't need to worry about it, but it's not the highest priority worry.

**Representative Kempenich:** We started a conversation with the ag commissioner about the anhydrous ammonia. Has he visited with you any on that? I don't think we want to run two duplicate programs.

**Hamm:** We've had a number of discussions with the ag department. The punch line for me is if the legislature wants to move that program to the ag department, that's fine, but it needs to be properly funded and staffed so it can continue to be successful. The last thing we want is dangerous tanks, and incidents occurring.

**Chairman Thoreson:** Let's take a short recess, and when we come back we'll ask Representative Guggisberg to explain his amendment. I think that many of us have strong feelings about some of these things we've been discussing, and I appreciate that we are trying to keep personal opinions out to see what we have to do policy-wise.

No sound on recording minute 78:50 to 90:45.

**Chairman Thoreson:** Representative Guggisberg, thank you for joining our committee to go over the amendment you had prepared for this budget. We won't take any action this morning, but I would like you to explain it, then we'll take other testimony.

**Representative Ron Guggisberg, District 11:** Explained 2010.3.10.11B, which is amendment .02001.

**Representative Klein:** Is this \$50,000 the same amount of money you had from the DOT and the health department earlier?

**Representative Guggisberg:** Approximately, yes.

**Representative Klein:** In other words, the health department turned it over to the firefighters to do the training? The track will be the same, it's just the money will come from a different source?

**Representative Guggisberg:** Yes. The way it worked was they controlled the funding and did the certifications, but for the most part they essentially hired firefighters to do the training.

**Representative Kroeber:** I see it's not general fund dollars, but rather from the insurance tax distribution fund, is that correct?

**Representative Guggisberg:** Yes.

**Representative Brandenburg:** Is this the program that's been in place for a number of years and dealing with both the volunteer and full-time firefighters?

**Representative Guggisberg:** Yes, it's been going along for several years. This is something that is definitely needed in the state. I look at this also a recruitment and retention tool, which is definitely needed in the rural parts of the state where there are volunteer firefighters.

**Chairman Thoreson:** Any additional questions by the committee? If not, thank you, we'll take further testimony.

**Robert Knuth, Training Director, North Dakota Firefighter's Association:** See attached testimony 2010.3.10.11C.

**Chairman Thoreson:** There's nothing in the department of health for this any longer, those dollars are gone because of the grant, is that correct?

**Knuth:** Yes. Tom Nehring can provide further funding detail.

**Tom Nehring, Director, Division of Emergency Medical Services and Trauma, Department of Health:** The funding is in the process of being gone. The division of emergency medical services has received department of transportation funding for approximately 20 years. The grant that covers this is 402 funding. We've been advised by the DOT that we will no longer be getting these funds. We did put it in an optional package which was approved, but has gone before the House Appropriations Committee, and is in trouble at this point. We anticipate that those 402 funds will be going away.

**Chairman Thoreson:** Are those funds used for anything else besides this?

**Nehring:** These funds are used for many operations within the division, extrication being one of them. We also have training, testing, certification, etc., and it will have a profound effect on all of division operations.

**Chairman Thoreson:** Although it's not particularly germane to this amendment, is the department going to be coming forward to try to replace those dollars?

**Nehring:** As far as I know, the efforts are continuing to try to get those fund restored. HB 1004, the department of health budget, is now before the Senate Appropriations.

**Representative Klein:** It's the same amount of money that was removed on the House side of the 1004 budget that you are asking for here?

**Nehring:** This is not our bill, so we're not asking for it, but I can tell you two issues when it comes down to extrication. Looking at the evolution of emergency medical services in the state, which is approximately 40 years old, in the beginning the powers that be thought an ambulance could be everything to everybody. Extrication has gotten to be a very specific field of knowledge. We only have two ambulance services in the state still doing extrication.

**Representative Glassheim:** Am I right in assuming that you lost more than \$50,000 in your budget from the transportation?

**Nehring:** What we have been informed by the department of transportation is that \$523,900 will be removed for the biennium, which is a significant portion of our operation funds. Extrication is one of many things we would have been doing with that money.

Inaudible section. In the past, EMS was considered part of safety within the state of ND by the DOT. In doing statistics, however, it's been established that only 17% of the ambulance workload in the state is motor vehicle related, so as a result of that, they are looking at putting their funds into other areas.

**Representative Klein:** I would like to ask the commissioner a question. Looking at your bill, where you say \$6,200,000 is for the purpose of making payments to the fire department, and \$620,000 is for the payments to the firefighters association. When I look at the amendment, the numbers don't add up.

**Hamm:** This amendment isn't included in our budget presentation.

**Representative Klein:** The fund that we're taking it out of in your department, where are we sitting with that? Are we robbing that down to the point of no return?

**Hamm:** This isn't our fund, it is passed through.

**Representative Klein:** The money would have gone to the general fund if we wouldn't appropriate it here.

**Hamm:** Right, all that money is coming out a pot of money called the insurance premium tax fund. That fund has an estimated \$63 million for the upcoming biennium, so that's where the dollars will come out of. Any of those dollars that come out of that fund reduces the flow of dollars into the general fund. It's not our money. It's not like these are monies that, if they go to this group, they're not going to the insurance department; that's not the way this works.

**Representative Brandenburg:** This is a school program we're talking about, isn't it, where you have people come from rural volunteer fire, as well as full time firefighters, and they learn and go back and share it with their people.

**Knuth:** Yes and no. The extrication program training is designed to where an instructor will actually go to an individual department, use the individual department's equipment, and teach that department's personnel how to properly perform extrication. We are in the process of designing and scheduling instructor trainer classes to increase the number of instructors, to make sure the information they are using is current technology on current vehicle designs, and those instructors can then go out to a specific area and set up their own classes as well, through NDFA.

**Chairman Thoreson:** Additional questions? Seeing none, thank you.

**CJ Craven, Fire Chief, City of Minot, and President, North Dakota Fire Chiefs Association:** The North Dakota Fire Chiefs Association represents fire chiefs from across the state and every type of department. The fire chiefs of ND are in support of the ND Firefighters Association becoming the agency to provide extrication training within ND. I think it is the proper agency to do that; they do most of the firefighting training already, and extrication falls under the duties of most fire departments. This is critical training, especially for small departments, where they don't have the funding or the ways to send somebody off

to school to do these things. It is one of the most used technical rescue trainings in the fire service. There is an enormous amount of vehicle accidents in the state over a year's time; traffic is getting extremely heavy, vehicles are getting bigger. They are the proper organization to provide this critical training, but they do need funding.

**Chairman Thoreson:** How many pieces of equipment do they have to learn to use?

**Craven:** A typical rescue truck has probably 15 fairly complicated pieces of equipment. Extrication is a science. This is very critical training. This isn't something that doesn't happen very often; there are vehicle accidents every day in the state of ND where people need to be extricated if they are going to survive.

**Chairman Thoreson:** Are there a number of new pieces of equipment that come on board, or does it remain pretty static?

**Craven:** The basic equipment remains sort of the same.

**Chairman Thoreson:** With automobile technology upgrading, what kinds of challenges does that present?

**Craven:** One of the greatest challenges in automobile extrication is the evolution of the automobile. We just had a training on the dangers of hybrid cars. Cars change constantly, plastic instead of steel, and the lightweight plastic cars actually make extrication more difficult than before. The technology is changing all the time, and for these people to be able to do this job correctly, they have to have up to date, current training in the tools, the vehicles, and the techniques. It is critical, and it should be under the ND Firefighters Association. Unfortunately, the grants are not going to fund it, and it does need to be funded.

**Chairman Thoreson:** Further questions by the committee? If not, thank you. Any additional testimony regarding the amendment, or in support of SB 2010? Is there anyone in opposition? Seeing none, let's finish our questions.

**Representative Klein:** Do you have any vacant FTEs right now?

**Hamm:** Referenced testimony 2010.3.10.11A, page 4; there are three vacancies today.

**Chairman Thoreson:** Anything else the committee needs before the next time we get together to go over the budget in more detail? We'll wrap it up. We thank you for the information and discussion. We will stand adjourned.

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Government Operations Division  
Medora Room, State Capitol

SB2010  
March 22, 2010  
Recorder Job# 15789

Conference Committee

Committee Clerk Signature



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

A Bill for an Act to provide an appropriation for defraying the expenses of the insurance commissioner; to provide for making payments of insurance premiums tax collections to fire departments; and to amend and reenact section 26.1-01-09 of the North Dakota Century Code relating to the commissioner's salary.

## Minutes:

**Chairman Thoreson:** Opened the hearing on SB2010. It was noted that all members were present except for Representative Dahl.

**Rebecca Ternes, Deputy Insurance Commissioner, North Dakota Insurance Department:** See attached testimony 2010.3.22.11A.

**Chairman Thoreson:** Could you explain a little more on those different types? There was grandfathered and those were pre March 23, 2010?

**Rebecca Ternes:** Correct.

**Chairman Thoreson:** Then a non grandfathered was what?

**Rebecca Ternes:** From March 23<sup>rd</sup> through September 2010 when there was another set of market reforms; which again caused increased costs to companies, there was another set of policies that Blue Cross Blue Shield requested a rate increase for; since then there was another set of policies. We reviewed 3 different rate increases for what used to be one type of policy. That's just for one company, every company is different.

**Chairman Thoreson:** So those are going to stay forever or will there be a time when they come together as one type of policy?

**Rebecca Ternes:** As long as they have policy holders, I expect them to remain.

**Representative Kempenich:** On these new policies that can carry over like to age 26 is that in a different category of policy? Are the premiums rated differently than other types?

**Rebecca Ternes:** No, that provision has to apply to all the policies.

**Representative Kempenich:** Does a lifetime provision occur on that policy; whoever's using it?

**Rebecca Ternes:** One of those is phased in over time; but, that is something that will apply to all policies.

**Representative Kempenich:** There's some instances that I hear they're using replacement of Medicaid on some of these policies. They're not 18 anymore; but, they're younger than 26.

**Rebecca Ternes:** As part of the packet, I gave you the time line of market reforms and on page 3 about 2/3 of the way down; that went into effect on September 23, 2010. The annual lifetime limits is up. That talks about annual and lifetime limits. Both of those are pretty expensive changes. PERS has had to look at what the cost to the state of just adding dependents on as well. Kids are typically healthy but it affected quite a few policies I think and the annual and lifetime limits became a very big change. It's probably a small percentage of policies that hit annual and lifetime limits, but, when it hits, it's pretty costly.

**Chairman Thoreson:** We do have PERS back again later today.

**Rebecca Ternes:** That would be a good specific example of the costs of those types of changes on a policy group.

**Representative Kroeber:** PERS is one of the grandfathered plans, is that correct?

**Rebecca Ternes:** That's correct

**Representative Kroeber:** When you have to look at a rate review for these add ons; how does your department determine what's proper for a rate increase in those cases?

**Rebecca Ternes:** We have quite a presentation on how we review rate increases. What we do is the company makes certain assumptions about what they need for a rate increase; having to do with the trend, how much people are using healthcare, how much healthcare costs have increased over time and how much they will increase in the future. We take their numbers and tear them apart; and instead of starting at the top and going down, we start at the bottom. Here's what the rate is now, here's what we think the trend is going to be, what medical inflation is going to be, what we think they're going to have to have to cover all their costs and then we build that rate back up and come back with an answer. We keep a chart of Blue Cross Blue Shield rate increases on our website; what they've requested and what we've approved. We're constantly in rate increase discussions with Blue Cross Blue Shield because it's frequent and there are so many right now. One of the things we're asking for right now is what part of this increase has to do with healthcare reform and what you think might be coming.

**Representative Kroeber:** I think Jamestown Hospital is approximately 20%-25% of services they provide they don't get paid for. A lot of young people are very healthy but a

lot of them don't carry insurance; so they go to the emergency room. So when they're figuring out that rate increase, do you take into that consideration also as to the 20%-25% that doesn't have any coverage for now, will have coverage?

**Rebecca Ternes:** Not really. That is between the provider and we call them an untouchable person who doesn't think they're ever going to get sick, so they don't carry health insurance. That would be a payment issue between the 2 of them; that really wouldn't be a payment issue with an insurance company since they don't have insurance.

**Representative Kroeber:** It certainly is as those costs are added to the policy costs of other people. So it has to be a factor.

**Rebecca Ternes:** I agree it's a factor in the health care costs and it certainly is a factor in running a clinic or hospital. It's not one that the insurance companies represent to us as a reason for a rate increase; so it's not part of our discussions for a rate increase.

**Representative Kroeber:** That something that Blue Cross Blue Shield should figure out and in my mind should be part of the equation.

**Rebecca Ternes:** I agree.

Testimony continued.

**Chairman Thoreson:** Who provides the information?

**Rebecca Ternes:** There's a variety of them. The NEIC has some bulletin board list serves and then there's a group of state and health policyholders that have set up some list serves. We're getting quite a bit of value out of them. We did apply for 2 grants. One was the rate review grant which was for \$1 million and the exchange planning grant which was for \$1 million. Those grants were given to the state of North Dakota and, as the commissioner told you, we were not given the authority to spend those grants. We didn't plan on spending the rate review grant until the next biennium; but, we did ask for the authority in the emergency commission this fall to start working on the exchange planning, so that we could do some budget planning for this session. We weren't given the authority to do that. However, since the grants were given to us, we are required to report that we aren't doing anything on the grants; that's at least quarterly, plus we have meetings with our grant officers to tell them what's going on. We've had to work with the web portal that HHS set up.

**Representative Kroeber:** PERS has let us know that our rate increase for our plan is going to be 7% over the biennium; which is the lowest it's been since the last time we talked about some reform. Is this same percent of rate increase being carried through with the other policy holders in the state with Blue Cross Blue Shield at approximately 3.5% or so per year or is it a lot higher?

**Rebecca Ternes:** This is an interesting year for rate increases for PERS. We don't have anything to do with the PERS increase. In the past, the group rate increases that we have approved have been significantly lower than PERS. This year our increases are slightly

higher than the PERS rate increases. This hasn't happened in a long time. We've been approving them on a quarterly basis so it depends on when the groups renew. On the groups that will be renewing, I think we're around 9% or 10% for an annual.

**Chairman Thoreson:** Could you check?

**Rebecca Ternes:** Yes.

**Representative Kroeber:** So those policy holders are going to be paying a 20% increase over the same period of time where we're scheduled for 7%?

**Rebecca Ternes:** I believe that's correct. We only do rate increases every year so it's not guaranteed that they get 10% the next year. We've switched the Blue Cross Blue Shield plan to a quarterly review, so there's smaller increases but cumulatively we keep track about that.

Testimony continued.

**Chairman Thoreson:** Have we done anything with consultants?

**Rebecca Ternes:** No, without the ability to use those grant funds, we don't have the resources to do anything.

**Chairman Thoreson:** If those were freed up would that be something you'd look to do with some of that money?

**Rebecca Ternes:** Absolutely. A lot of the grant money is to use consultants to help us get a handle on the exchange, what the cost would be, what kind of design. The problem we have with that is we don't do RFP's in our office. We have one small grant for our Schick Program; so even managing the grants, writing RFP's, working with contractors, we don't really have the resources to do that; which was part of our FTE request. With the money there, there would be an expectation that something would be done with it and that's challenging with no additional staff.

**Representative Glassheim:** Why did the emergency commission not allow you to use the money that was there?

**Rebecca Ternes:** It's probably a better question for the house and senate leadership. I think there was a thought that the session was coming around and I don't know that it was understood that part of what we wanted to do was get budget estimates for the session. I think the thought was the entire body needed to talk about health care reform before decisions were made.

**Representative Glassheim:** Would you like us to include authority? Would that be appropriate if we wanted to include authority?

**Rebecca Ternes:** I believe the \$1 million rate review grant is in SB2010 and the \$1 million grant for the exchange is in HB1126. One of the challenges is it came with money but nobody to do anything with it.

**Representative Glasheim:** You would mainly hire consultants with not having FTE's?

**Rebecca Ternes:** Yes, we wouldn't have any choice. It's not something the insurance department does a lot of; we don't put out a lot of RFP's, grants, we don't have people who do that work.

**Representative Kempenich:** I don't think truthfully we're going to do much of anything until this is all said and done. I think for the most part the majority didn't like the whole process of what went on in Washington; so, I don't think there's any real enthusiasm.

**Chairman Thoreson:** I don't disagree that that's the case; however, we do understand the law is the law as it is right now.

Testimony continued.

**Chairman Thoreson:** So would that be a possibility where they would send the money to you and you would have to dole it out to the different places? So we'd get in the business of selling insurance more or less?

**Rebecca Ternes:** Not selling it; but, making the payments.

**Chairman Thoreson:** If we're setting up a website and I understand the company's putting their product up there; but, if the state is the one facilitating that.

**Rebecca Ternes:** The people who are advocating for that in exchanges, it's a small business cost issue. Employees will be allowed to pick whatever they want; which means if you have 5 employees, they could get 5 different plans.

**Representative Kempenich:** This becomes an issue also. When you go to other states there may be some people that aren't recognized as being covered.

**Representative Glasheim:** I would think that what Representative Kempenich just said is all the more reason to give the department the capacity to do more work on it. Even if portions of it are found to be unconstitutional, there's going to be some sort of health care reform that even your folks would agree to.

**Chairman Thoreson:** Conversely there are other states that have rejected the money saying we don't want any part of this because if we take it we're....

**Rebecca Ternes:** Alaska came back in after the stay was granted.

Testimony continued.

**Chairman Thoreson:** Have other states done similar?

**Rebecca Ternes:** I believe we are fifth or sixth to request the adjustment.

**Representative Klein:** This is that number for how much has to be paid out and some states are getting waivers. That's supposed run out after a certain time isn't it?

**Rebecca Ternes:** It would run out in 2014. We would just ask a transition to that 80% for small group and individual until that time. The definition of medical loss ratio is on the next page. He had asked for a cheat sheet. Currently North Dakota's medical loss ratio formula is incurred claims over earned premium. Incurred claims are claims that have been made but not necessarily paid out and earned premium is premium that's been earned to that date; most of us pay ahead for 6 months or 3 months.

**Chairman Thoreson:** So it's all the claims on the books even if they have not been paid out?

**Rebecca Ternes:** Correct.

**Chairman Thoreson:** Once they've been paid out, does that change anything at that point?

**Rebecca Ternes:** That's used in some other calculations; but, not in medical loss ratio.

Testimony continued.

**Chairman Thoreson:** The quality improvement expenses, how do you calculate that?

**Rebecca Ternes:** That is going to be wellness programs, nurse lines, yet to be determined.

**Chairman Thoreson:** What about a quit smoking type line. Would that be considered to be a quality improvement?

**Rebecca Ternes:** Yes.

Testimony continued.

**Chairman Thoreson:** We have a quit line that the state supports could each company come in and say North Dakota has that, this is part of our quality improvement even though they're not the ones facilitating it?

**Rebecca Ternes:** They would have to be paying for it.

**Representative Kempenich:** That's one of the problems that's coming. This whole thing has some issues even though it's time dated. These companies when they get these waivers aren't going to move any farther forward either until somebody tells them they have to. That's where I get a little frustrated with this whole process.

**Rebecca Ternes:** There are 3 types of waivers that are being discussed right now. Companies can request a waiver for not offering insurance policies. That's the one where they've talked about there's been thousands of waivers granted; like McDonalds, because McDonalds has a mini med policy that doesn't meet the minimum requirements for large employers. They have a transition time where they either have to decide that they're not going to offer insurance and they're going to pay the penalties. We don't call this a waiver we call it an adjustment; but, you will hear the NRL request being called about waivers. There's also the waiver which is this waiver for the entire state to not have to necessarily do what's in health care reform.

**Representative Kempenich:** It comes down to such a small number of people who are making these decisions. It isn't a committee of any size that's making these decisions and that's why it's such a political issue.

Testimony continued.

**Representative Kempenich:** What is the majority of your travel?

**Rebecca Ternes:** The NEIC meetings and that type of travel is pretty consistent for us. They're already starting to have additional face to face meetings for different subgroups of health care reform, meeting with HHS. We don't know what's coming with that and how many people.

**Representative Kempenich:** You're IT software supplies was also increasing quite a bit from this biennium going forward.

**Rebecca Ternes:** We've had some decreases in past bienniums on this. It just depends on what we're doing. We need an upgrade to the fire and tornado system. Our boiler inspection program runs on a scheduling and a report and the inspectors submit reports; so, that's a maintenance program that we have to keep in there because that was built for us. Biennium to biennium we ask the divisions what's coming, what it's going to cost and we make decisions of what to include.

**Representative Kempenich:** What about computer replacement?

**Rebecca Ternes:** We have a variety of both laptops and desktops and is on a rotational basis; every 4 years everyone gets a new computer.

**Representative Kempenich:** Are you replacing some office equipment and supplies?

**Rebecca Ternes:** That had to do with FTE's as well. If we add people we need desks and chairs.

**Chairman Thoreson:** What about space?

**Rebecca Ternes:** Space is extremely challenging at both of our locations. We are full at both of our locations. We have looked for different space that we could still afford within

our budget line item and it is not available in this town. That's an area we would like some flexibility in because we're struggling with space issues right now.

**Representative Klein:** In regard to the shift of inspection of ammonia tanks. Is that all taken care of?

**Rebecca Ternes:** No. HB1321 is not done; there's been some amendments made. We met last week with the agriculture department a couple of times and with senator Larson. They are not looking to take positions from us; because, maybe up to only 1/3 of our position used to inspect anhydrous tanks. They're trying to add other duties as well; EPA audit type duties which nobody has authority to do right now. That's why they're asking for more resources than what we currently have.

**Representative Klein:** At this time you have how many people involved in boiler and tank inspection?

**Rebecca Ternes:** We have 3 boiler inspectors that spend the bulk of their time doing internal and external boiler inspections. They do the hobby boilers for the threshing shows, etc. It would be 1/3 of 1 FTE that would be spent on the anhydrous inspections.

**Representative Glassheim:** More than 1/2 of your budget has to deal with grants, benefits, and claims; and that's zeroed out. What are those and do you expect that to go in the hole or have you paid out what you need to pay out?

**Rebecca Ternes:** Those are grants to the fire districts and those are paid out. We pay those out in the fall of each year.

**Representative Glassheim:** So you won't be minus?

**Rebecca Ternes:** No. That amount for the grants for the fire districts remains the same in our upcoming request.

**Representative Kroeber:** I know you return millions of dollars to the general fund. How do you determine how much you turn in and how much you keep?

**Rebecca Ternes:** The 2 big funds that are sources of revenue for the state are the insurance regulatory trust fund. Each year we turn back anything over \$1 million. That fund is the fund that funds the operating for the department. Then there's the insurance premium tax fund and that is where all the companies that sell insurance in the state pay a tax based on the premiums that they collect. That fund gets turned over to the general fund. That's where the grants to the fire districts come out of, there's some money that goes through the health department for EMT, it's not out of our budget but reflected elsewhere, that fund is the source of funds for other programs and all of it is turned back to the state for general funds. Typically, in a year, \$40 million to \$50 million is usually projected; \$34 million is for next biennium. We give OMB what we think and the legislature finalizes the projections for premium tax.

**Representative Klein:** That money we transferred for extraction training, which fund did that come out of?

**Rebecca Ternes:** That was the amendment that was offered. I believe insurance premium tax that the request was from. Have you taken action?

**Chairman Thoreson:** We have not taken action the amendment was brought forward by Representative Guggisberg; but we've not taken action on that yet.

**Representative Kempenich:** Where are you at with your vacant positions?

**Rebecca Ternes:** We have currently 3 vacant positions. The program assistant was a very recent one. The attorney position is one that we tried to fill right before the session, hoping to get some help from someone who had legislative experience and the applicants didn't. We are being overrun with fraud investigations. The admin assistant is the commissioner's assistant and so we would like to fill that. We just recently had this consumer assistance program and one we would have to fill.

**Chairman Thoreson:** I'm looking at the employee classifications. Is it an attorney I or II?

**Rebecca Ternes:** The attorney positions aren't a specific grade; we have a broad range.

**Chairman Thoreson:** I'm looking at the flow chart of employees and I see one that has a 5/8 time designation. How do you determine 5/8 rather than 1/2 or 3/4?

**Rebecca Ternes:** Some of these part time positions were before me and it's something I watch pretty carefully. That one is one we didn't think was a full time job and so we filled it as such.

**Representative Brandenburg:** You mentioned the fraud cases; what's seems to be the reason for the increase in that?

**Rebecca Ternes:** I think there are several reasons. We have had a fraud unit in our department for quite some time; but, had only in the last year and a few months have filled it with a law enforcement individual. We've worked with the FBI, ICE (Immigration Customs Enforcement), the US Postal Service. We have a case right now that's international in scope. We are also seeing an up tick in agent activity where agents have taken money. Our administrative hearing expense has increased also; the administrative hearing process is expensive. It takes our resources and also we have to pay for it.

**Representative Kempenich:** Has it increased because of the economy?

**Rebecca Ternes:** I think nationally that's certainly the case. Some people would argue that here it shouldn't be the case because there are jobs available. I think we're still seeing people getting themselves too far in debt.

**Representative Kempenich:** Any of these bills that have been coming through outside the PPACA bills; are there any others that will impact your office as far as FTE's?

**Rebecca Ternes:** Outside of the exchange bill we didn't have an FTE impact on any bills.

**Representative Kempenich:** I was just reading HB1123. That reinsurance inform act is that a national organization that you refer to?

**Rebecca Ternes:** Yes. It's a national piece of legislation.

**Representative Kempenich:** Do you use it as a guideline?

**Rebecca Ternes:** This is another area where the federal government has said that states will make a decision or else. That's an industry driven piece of legislation at the national level. Our state, like all the others, has to make a decision whether or not we're going to be a part of a compact or not. We suggested that the commissioner needs more time to make that decision and that bill right now makes the decision for the state.

**Chairman Thoreson:** Closed the hearing.

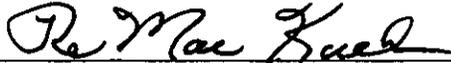
# 2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Government Operations Division  
Medora Room, State Capitol

SB2010  
April 1, 2011  
Job #16275

Conference Committee

Committee Clerk Signature



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

### Committee Work

A Bill for an Act to provide an appropriation for defraying the expenses of the insurance commissioner; to provide for making payments of insurance premiums tax collections to fire departments; and to amend and reenact section 26.1-01-09 of the North Dakota Century Code relating to the commissioner's salary.

## Minutes:

**Chairman Thoreson:** Opened the discussion on SB2010. It was noted that all members were present.

**Representative Kroeber:** I would like to move amendment 02001.

**Representative Glassheim:** Seconded the motion.

**Representative Kroeber:** See attached amendment 2010.4.1.11A

**Chairman Thoreson:** How often do these professionals have to have this training? Is it required on a regular basis or is it a continuing ed. as needed.

**Representative Kroeber:** The specialized units that do this, the certificate was good for three years. It has to be renewed. Your skill has to be kept up.

**Chairman Thoreson:** So it's something that you have to refresh?

**Representative Kroeber:** It always entails new equipment.

A voice vote was made and carried on amendment 11.8134.02001.

**Representative Kempenich:** There's that \$1 million that was in HB1126.

**Representative Kroeber:** I think that's a different \$1 million. This is a separate grant. This is for planning and rate review of the \$1 million that we are discussing in SB 2010.

**Rebecca Ternes, Deputy Insurance Commissioner, North Dakota Insurance Department:** That's correct. The \$1 million in the appropriation bill is for a rate review grant to enhance the department's health insurance rate reviews system. In HB1126 there's another \$1 million grant for planning for the health insurance exchange.

**Chairman Thoreson:** Was there an appropriation in it?

**Rebecca Ternes:** Originally in HB 1126 there was even more money for the other grants that are available and FTEs. All that is left is the \$1 million grant on HB 1126.

**Chairman Thoreson:** There's that \$1 million that the feds gave and then there's another \$1 million that the state accepted dealing with the health care changes. Is that correct?

**Rebecca Ternes:** The \$1 million for rate review had been granted and accepted; we didn't have a plan to spend that until after the session. We already do rate review. The million dollar grant on the exchange was applied for and awarded in September. We then went to the emergency commission because we did want to start to get some prices for IT initially for the session. The emergency commission tabled the request and did not allow us to expend the dollars.

**Chairman Thoreson:** Where's that sitting right now?

**Rebecca Ternes:** In Senate appropriations.

**Chairman Thoreson:** We have the \$1 million but you haven't been given the authority by the emergency commission to expend any of it.

**Rebecca Ternes:** Correct.

**Chairman Thoreson:** Do you plan to go back to the emergency commission?

**Rebecca Ternes:** If it stays on HB1126, then we would have the authority to expend it. My concern with both of these grants: what are the expectations from you and others without the FTEs that we ask for with those grants? It is still in HB 1126.

**Representative Kempenich:** What's in the budget is roughly \$1.4 million for operating and information technology software for the federal health care reform. The Senate removed the salaries and operating expenses from it but there is still the fund authority for operating. I think we should discuss it more. But if we want to tie it up and put it in the Bank of North Dakota until we are back in November.

**Rebecca Ternes:** I am not sure which grant you are talking about tying up.

**Representative Kempenich:** Federal funds related to health insurance premium rate review.

**Representative Glassheim:** That's on the green sheet that the Senate took out. So they took out 147 and 267. What are those positions for?

**Rebecca Ternes:** In HB 2010, the positions that the department had asked for had to do with all things related to health care reform except the exchange which is HB 1126. One of the documents that the chairman requested earlier was a list of all the additional duties that we have been taking on with health care regardless of what happens through November. It was to do those functions that exist today and will exist.

**Representative Glassheim:** Are those positions to do things that need to be done between now and November?

**Rebecca Ternes:** Yes. A lot of those have already started or will be starting.

**Representative Glassheim:** Will information that they develop be useful to us in November.

**Rebecca Ternes:** The work is occurring. Because of changes with health care reform there are multiple filings needed for every company. Those are the things that these positions are doing. We don't do grants in our office very often. We don't work with big consulting firms and do these kinds of projects very often. Some of the positions were to help us use those grant dollars to get ready for November and in the case of the rate review we were going to use some consultants to enhance the process that we already have. That was separate from most of these positions.

**Representative Glassheim:** If we don't put these back in, you're still going to have that amount of work to do and you'll have to make do with the people you have and everything will slow down.

**Rebecca Ternes:** Yes. Unless for some reason that law is repealed completely. It is already slowing down.

**Representative Kempenich:** You're mainly using that as professional fees?

**Rebecca Ternes:** Yes.

**Representative Kempenich:** You aren't going to be developing much of software in the interim.

**Rebecca Ternes:** On the rate review grant there is one piece of software that our actuary would like to purchase that we have never been able to purchase before that will enhance that.

**Representative Glassheim:** They left \$1.4 million in there of federal money; so, what will that be used for?

**Rebecca Ternes:** There was a purchase of some software. There was a small part in salaries. We also were going to work with consultants as part of the enhancement of the rate review to develop some new processes within our office that would bring rate review outside the life and health actuary. Also bring in our financial analysts and our examiners

from our examination division which currently we don't do. We were also going to review past rate increases and look at the projections from the companies and figure out what actually ended up happening. Often companies don't get what they ask for. We don't ever get a chance to go back and see what happened with the rate increases. We track the financials but we really aren't able to make the link between what we did and what occurred.

**Representative Glassheim:** So you are going to use some of the federal money. That really has nothing much to do with the health care reform. It is going to give you baseline information. Is that correct?

**Rebecca Ternes:** The rate review is part of health care reform and this grant is part of what was offered in the PPACA legislation. There are a lot of states that don't have prior approval in health insurance rates. So companies come in and they decide they want a 20% increase, they take it. I think we are lucky in ND that the legislature said a long time ago that rates have to be prior approved. This grant in SB 2010 is supposed to enhance that system for states that have prior approval. \$1,072,000 of it is in professional services. The bulk of it is for professional services consulting. The IT software is another \$50,000 of it.

**Representative Klein:** I'm confused. The Senate removed 5 positions and \$1.833 million which was a federal grant. Correct?

**Rebecca Ternes:** That was not the federal grant. That was the additional money from the Insurance Regulatory Trust Fund to fund those 5 positions. It was the salaries and the operating.

**Representative Klein:** No you still have \$1.4 million of federal grants sitting there. Part of that was going to be used by these people that were deleted.

**Rebecca Ternes:** A very small portion of that would be used by those people. Are we going to be able to use the grant without people? It is going to be more difficult. Some of the people would have been used to do some of these functions. There is another opportunity to do another rate review grant. We had originally planned for two \$1 million grants so that is why it is 1.4 instead of just 1.

**Representative Klein:** Of that 1.4 million, part of it is for operating expense and the other part is for information technology software. What part is for software?

**Rebecca Ternes:** \$50,000

**Representative Kempenich:** When you go to regulatory and administration, they had some special funds in there and that would have been the Insurance Reserve Fund. It looks like in their past budgets they've had about \$300,000 or \$317,000. That money is here now I am assuming. As you use it, it is drawing down. I heard the Senate reduced one of those bills down to two pages. Is that a fact?

**Rebecca Ternes:** I think you're talking about the appeals bill. It doesn't have any fiscal impact.

**Representative Kempenich:** The concern is that as we use this money, it is federal money that ties us. That is the dilemma for some of us on the committee. Do we want to use any of this until we are forced to use it and then find out what we are doing?

**Rebecca Ternes:** We completely understand the policy dilemma and what might be perceived if we spend money on these items. The impact on our agency already is tremendous. It is not positive for the industry or consumers if we can't do the job. The rate review grant would be a lesser importance to me than the money on the exchange because with the language added to HB 1125 and 1126 there will be some expectations that we have some magic answers in November. If we can't hire some people to help us get to those answers, we can't do it. We are more than a year behind when we could have been doing some of that work when the grants were originally awarded to us.

**Representative Glassheim:** There are two sections of money removed on the green sheet. The first four FTEs totaling about \$500,000--that is separate from other money, temporary salaries and operating expenses, of 147 and 267. It is an examiner, a research analyst, a financial analyst, and a rate analyst that were removed from the Senate bill. There is also a rate review temporary salary and operating that was removed. Is that right?

**Rebecca Ternes:** Yes. They correspond to the governor's recommendation of five positions one of which was a temp.

**Representative Glassheim:** The four, is that what we're talking about earlier? Reviewing the rates and catching up with the request for rates.

**Rebecca Ternes:** That's part of what they were going to do. The other part is all the other things health care reform has brought to our agency and will be bringing.

**Representative Glassheim:** I think if decisions were made somewhere above us, I don't know where to go with this.

**Representative Kempenich:** I think what we need to know, in order to expend this money out, do you need to go in front of the emergency commission and budget section?

**Rebecca Ternes:** No. If you give us the authority in our appropriation we can expend it.

**Representative Kempenich:** We could put some language in that as this money gets spent out, that there should be a budget section report.

**Representative Glassheim:** I think this is confusing to everyone and we should have quarterly reports. But you are either going to hire people or you are not. If they are going to hire people, they will start as soon as they get approval to do it. I don't know what happens if there are changes in the Supreme Court in the federal law. I presume they would come back to budget section. If it all goes away, I imagine the people would have to be laid off.

**Rebecca Ternes:** You may want to look at HB1252 as well which was, "During the 2011-12 interim, the chairman of the legislative management shall appoint a committee to monitor the impact of the federal Patient Protection and Affordable Care Act." That is still alive, I believe.

**Representative Klein:** Would it work if we put language in, "before this money can be spent, they go to the emergency commission and report to the budget section."

**Chairman Thoreson:** You already do go to the emergency commission? This gives you the authority to spend it.

**Representative Dahl:** We are just giving them the authority to spend it. I think we should just put a reporting requirement in it.

**Representative Kempenich:** What the Senate did with HB 1252, if a special session is held to adopt federal legislation, there will be a report. There isn't a requirement during the interim. It does set up an ad hoc committee of three members from the House and three from the Senate.

**Rebecca Ternes:** There is also the Concurrent Resolution 3003. We expect to be doing a lot of reporting during the interim.

**Representative Kempenich:** Each state will have a different way of making this work and what it's coming down to is how this is going to fit North Dakota. We don't have a lot of choices on it.

**Representative Klein:** So you're saying let's pass it out of here and move it to the next level.

**Representative Kempenich:** Moved to amend to put a reporting requirement on it to the budget section about all of PPACA's impact to the insurance department.

**Motion received second.**

A voice vote was made and the motion carried.

**Representative Kroeber:** The only thing we've done is say we have to report and we still haven't done anything about the FTEs that the Senate removed. If they don't get the FTEs, their reports are going to be a little short. We are expecting a lot of information when we get here in November.

**Chairman Thoreson:** Would you still be able to get consultants to do work on this?

**Rebecca Ternes:** My concern with no FTEs on any of the grants, is that the grants themselves are a lot of work. A bigger concern is the RFP process for these consultants is

pretty burdensome for us. Managing these consultants is going to be a big job to get the information back.

**Chairman Thoreson:** You would be able to use it for the consultants, is that correct?

**Rebecca Ternes:** Most of the grant dollars are dedicated to professional services.

**Representative Klein:** In response to Representative Kroeber's question, I think we will have to take that issue up in conference because right now we are in a position to get this out.

**Representative Kroeber:** Unless we do a little bit more to this, are we sure there is going to be a conference committee?

**Chairman Thoreson:** I don't know.

**Representative Glassheim:** If there's no issue of difference between the Senate and the House on the FTEs, then there is nothing to negotiate about.

**Representative Glassheim:** I move that we restore funding necessary for them to do their job.

**Representative Kroeber:** Seconded the motion.

**Representative Kempenich:** Managing consultants shouldn't take a lot of time. There is more time needed for compiling after they are done. If we wanted to look at a contingent line for one person we could, and base it on the outcome of the federal. I have trouble adding people.

**Representative Dahl:** Contingent on what?

**Representative Kempenich:** Contingent on what happens nationally.

**Representative Dahl:** I don't think that is a workable solution because that issue may not be resolved. The work needs to be done now.

A voice vote was made and the motion failed.

**Representative Glassheim:** I would like to request staff to prepare an amendment for me that would restore them and take it to full committee and discuss it.

**Sarah Chamberlain, North Dakota Legislative Council:** I have something to add for the committee's information. When these five positions were removed on the Senate side, the compensation package adjustment piece was missed. I have a handout. There is about \$34,000 for the compensation piece on the five FTEs that is still remaining salary authority within the budget.

**Chairman Thoreson:** That was not caught when the budget came across from the Senate side? So it is \$34,000 remaining in the budget. Those positions were moved but the dollars weren't taken with them.

**Representative Dahl:** Made a motion to take the salary down by \$34,183.38. (on attached 2010.4.1.11C.)

**Representative Klein:** Seconded the motion.

A voice vote was made and the motion **carried**.

**Representative Dahl:** Made a motion for a "Do Pass as Amended".

**Representative Brandenburg:** Seconded the motion.

**Representative Glassheim:** We need to be able to make sound decisions and to make it fit with North Dakota. It seems to be fool hardy to not give them the people to be able to protect ourselves in this giant national controversy.

A Roll Call vote was taken for a "Do Pass as Amended". **Yes: 5, No: 2, Absent: 0,**

**Chairman Thoreson:** Closed the discussion.

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Committee  
Roughrider Room, State Capitol

SB 2010

4/4/11

Recorder Job# 16326

Conference Committee

Committee Clerk Signature



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

A BILL for an Act to provide an appropriation for defraying the expenses of the department of human services; and relating to eligibility for the children's health insurance program.

## Minutes:

**Chairman Delzer:** Opened the discussion on SB2010.

**Representative Thoreson:** Everyone should have amendment .02004. I move adoption of the amendment.

**Vice Chairman Kempenich:** Seconded the motion.

**Representative Thoreson:** Explained the amendment.

**Chairman Delzer:** I see you added \$50,000 for firefighters. How much of their dues are we paying, and how much are we paying for the firefighting school this year? Did you get into that

**Representative Thoreson:** We did not have that discussion.

**Representative Kroeber:** This particular extrication course was done through DOT and they have lost their funding for that. This picks up the funding they have lost. It is very specialized training. This is the one that they use the jaws of life to cut cars apart.

**Vice Chairman Kempenich:** We're giving \$6.99 million grants to the fire districts.

**Chairman Delzer:** What about the fire fighter school; that was an issue in conference last time and we were taking money out of there. I believe it was \$1.08 million? That's still the same way?

**Vice Chairman Kempenich:** Yes.

**Representative Monson:** The bill we took to the floor today for Agriculture Department (SB 2009) had two FTEs for anhydrous ammonia; the tank inspection. I understood that

that had been done by the insurance commissioner. I was told though that those FTE's were not removed and I'm wondering why.

**Vice Chairman Kempenich:** They figured it was not quite 1/3 of an FTE they used for anhydrous, they're inspected once every five years. What's going to happen is that they're going to have to train these two FTE's that the Ag Dept is bringing on; that's what that emergency clause was for on that bill. They're going to get one in and get them trained; because how the EPA reads is that they have to be competent inspectors before EPA will sign off on it. They have to pass a test before they can start doing vessel inspections. Bob Reeves is the chief boiler inspector and then he has one in the east and one in the west; they inspect a lot more than anhydrous tanks.

**Representative Nelson:** We just gave the Ag Dept 2 FTE's to do what 1/3 of an FTE was doing and now we're over one.

**Vice Chairman Kempenich:** What the Ag Dept was talking about was they go around and inspect. The problem was that they needed an auditor for their paper work in the Ag Dept. The Insurance Department is still responsible for the boilers for the next two years; of every pressure vessel that's in the state. The way that HB1320 read was they wanted them up and running by this time next year.

**Chairman Delzer:** I think when ag goes to conference, as I expect it will, we need to look a little harder at the need for the two FTE's there.

**Representative Nelson:** I thought in committee discussion we talked about that offset of FTE's and that would balance out.

**Chairman Delzer:** There was discussion about it, I don't think we were as in depth as division was. The initial thought was you should transfer them, but you can't do away with the boiler inspector.

**Representative Nelson:** I understand that but this conversation should have taken place so we could make an intelligent decision on the floor. I think we made a huge mistake earlier today.

**Vice Chairman Kempenich:** Truthfully I wasn't getting anywhere talking to them about dropping the whole subject or trying to realign it. They wanted to get the program into the Ag Dept as far as anhydrous goes. Every five years they're being inspected and it's not like you need someone out there every to inspect.

**Chairman Delzer:** I just received a letter from one of our local anhydrous dealers that they would not sign off on them being valid; that they would inspect all of the hoses and if they're dated to change them out etc.

**Representative Pollert:** I have a boiler and an anhydrous plant. Our boiler is checked, inspected every year. But we do the thorough inspection every 5 years.

**Representative Brandenburg:** I think a lot of this is happening because of the regulations and changes coming down from the ag industry. It's not that people want to do this, but it is happening. We need to deal with it or this industry is going to go backwards.

**Chairman Delzer:** This is one of the hard things we deal with. HB1321 was the bill that did this anhydrous change and policy was very solid about wanting that bill; it's passed both houses. We have a do concur slip on the amendments for the senate that the policy committee signed off on; I would guess that maybe we need to have a little more discussion and see whether or not we have over FTE'd that.

**Representative Monson:** Hearing all the discussion here again is reminding me of some of our division discussion. Ag stated they're getting orders from the EPA that if we're going to run our own program, we're going to have to make more inspections. I'm second guessing myself as to whether we bought into that a little too quickly.

**Chairman Delzer:** That bill was passed, though, with sizable discussion.

**Representative Nelson:** The federal regulations are the same, whether it's the insurance department or the Ag Department. The insurance department didn't come in asking for more FTE's did they? I just think we made a huge blunder.

**Chairman Delzer:** The Ag Department is hoping to help with the paperwork and making sure everyone is trained right.

**Representative Pollert:** Federal government has their RMP, risk management practices. They want to know longitudinal and latitudinal coordinates where you're anhydrous plant is at and they also want to know what's within a 10 or 20 mile radius. Their standards are getting tougher.

**Chairman Delzer:** Further discussion on the motion to amend?

**Representative Skarphol:** How many dealers are there in ND?

**Chairman Delzer:** A couple hundred, I would guess.

**Representative Skarphol:** If they have to be inspected annually, and they take a day each, it'll take at least a year. I would submit these folks try to be accurate and obviously if we want to take something out in conference committee we can certainly do it.

**Vice Chairman Kempenich:** I think the Ag Department wants to broaden out. They have a whole line of things that they want these folks to do.

**Chairman Delzer:** I would guess people would look hard at this when it comes to conference committee. If people have some concerns, they should see who's on that conference committee and visit with them before they go into that.

**Representative Brandenburg:** The Ag Department vs. the Insurance Department, Ag is out there dealing with other issues, inspections; but because of the requirements coming

from EPA this is being taken to another level. If we want to protect the agriculture we have in the state so that it can use these projects, we have to comply with what EPA is putting out there. It's not just about doing inspections; it's also about educating them.

**Representative Skarphol:** As long as we want to talk about the Ag Department today, there was an implication on the Floor today that we added something into the bill. Nothing could be further from the truth. The two sections were in the bill, the amendments were in the bill and gave the Ag Commissioner the right to schedule events. We didn't think that was appropriate and changed it back to Tax Commissioner. The language said schedule days and we changed it to events.

**Representative Hawken:** I pulled up both of the policy bills. HB1019 dealt with Pride of Dakota would no longer count as one of the 20 events. It used to be days, now it's events. The other bill that they were dealing with we have passed and it had to deal with the three tier system; and we never touched that. Chuck Flemming put that in the Ag bill because of the Pride of Dakota events. Then when it was handled in HB1099, there was no reason for it to be there, the Tax Department deals with all the taxes on all alcohol, Ag Department put in an amendment saying please take this back to the Tax Department. The problem has been what is an event; what is the definition. So the attorney from the Tax Department and the head of the wine people came up with a clarification of what an event is. That's all that happened.

**Representative Skarphol:** In addition to that, the one event the Tax Commissioner turned down was a wedding; which doesn't qualify it as an event. Somebody wanted one of their friends that makes and sells wine to be able to present their product and sell it at their wedding and the Tax Commissioner's office turned them down. The compromise was to switch from events to off premises events; to where they could do a wedding.

**Representative Hawken:** It was a clarification. But we did not change the number or what it is.

**Chairman Delzer:** Further discussion on the motion to amend SB 2010 with .02004.

A voice vote was made and carried on amendment .2004.

**Chairman Delzer:** Representative Thoreson this is the only one you have from the whole committee?

**Representative Thoreson:** Yes. This is the amendment adopted by the committee.

**Representative Glassheim:** I would like the committee to take a look at amendment .02006. It deals with the verboten subject of the health care reform act. I know it has terrible political overtones; however, I'm bringing this forward because it seems to me that we have to let the Insurance Commissioner do his job. They have work to do, whether we like PPACA or not, they have work to do already in rate reviews. They are getting hundreds of rate reviews dealing with all of the things that have already gone into existence; the under 26, total amount of coverage and dropping people, etc. All of those things every insurance company has to do a rate filing with those in them already; having

nothing to do with the exchanges that are in 2013. The other thing is that in six months we're going to have a special session and we want the Insurance Department to come back and tell us where we're at. They have no extra staff to keep up on this; they're already stretched thin. There are new things coming out of Washington, rulings, and they have to keep up with that and they have no one to do it. They were flat for two years in staffing; and last biennium they lost one. They don't have staff to do this extra work and they don't have staff to get prepared to tell us what we might need to know in November. My proposal is to give them the five people they requested, but to make them temporary positions. They aren't FTEs. The temporary nature of the situation is captured by them to be temporary. Some of you are hoping that it will be unconstitutional, thrown out by Congress; both of those are unlikely in the next six months. The Supreme Court isn't going to rule on it in the next six months. The money is federal money, they have the money already; but the Emergency Commission wouldn't allow them to spend it for political reasons. We made them temporary staff, if something goes away by November, you can revisit this again. I drafted legislative intent, which I think captures your concern, that by taking the money and spending it that we will not be seen to be favoring PPACA. I said loud and clear in section 11 that we don't like, don't think it will work, don't think it will save money; we're on record of that. We're only doing it to comply with federal law; unless and until the federal law is either determined to be unconstitutional or repealed in whole or in part. I found the testimony of the Commissioner compelling, he's not a member of my party, he doesn't like PPACA; but I found him to be an honorable person who's trying to do his job. I move amendment .02006.

**Representative Kroeber:** Seconded the motion.

**Chairman Delzer:** I believe you explained this. Representative Thoreson, did these come before the committee?

**Representative Thoreson:** We were presented the amendment, but we did not take any action on them or have any discussion on these amendments in our section.

**Chairman Delzer:** The senate removed these five?

**Representative Thoreson:** Right. There was an initial request by the Commissioner for 9 FTE's, the Governor included five in his budget. The senate removed the five. In his testimony the Commissioner requested the nine.

**Chairman Delzer:** You're amendment that we adopted already .02004, took the salary.

**Representative Thoreson:** That was missed or was not removed.

**Chairman Delzer:** That dealt with these five?

**Representative Thoreson:** That's correct.

**Representative Skarphol:** Does the Insurance Commissioner have the \$1 million in federal money?

**Representative Thoreson:** Yes. There is \$1 million that has come for the study and there's also going to be money coming for the planning of the exchange; which is a separate amount if I recall correctly. There's two separate \$1 million; but they do have that. Some of it they went to the Emergency Commission and had not been given the authority yet to expend it however.

**Representative Skarphol:** Is there a plan on how they're going to expend it?

**Vice Chairman Kempenich:** The \$1 million that we're talking about in this bill was going to be to hire consultants to look at rates, basically information gathering.

**Representative Kroeber:** The exact terminology is that it's a \$1 million planning and rate review grant.

**Chairman Delzer:** That's one that he doesn't have yet.

**Representative Thoreson:** He does have it.

**Chairman Delzer:** In section 9 of Representative Glassheim's proposal; which one is that referencing?

**Representative Glassheim:** He has the \$1 million; it would be used to hire these people on a temporary basis to do rate reviews and also to keep up on the evolving word out of Washington over what's required and what isn't going forward. The second \$ million which he doesn't have but would be automatic if he wanted to apply for it. That would be for people for another bill to prepare for the exchanges. He really needs those too because the exchanges need to be place by January 1, 2013.

**Representative Thoreson:** That is correct. The \$1 million was dealt with in HB1126. That bill has an appropriation of federal funds to deal with the implementation of the health benefit exchange. That bill could pass the house; it's currently in the senate appropriations committee but has not been acted on by the senate.

**Chairman Delzer:** I'm not going to support this because I think we've dealt with this on a number of policy issues. I understand Representative Glassheim's and Representative Kroeber's desire to move forward with this, but I think we have the option of dealing with this at the special session. I think that's where the body has decided they wanted to go and I'm going to support that issue.

**Representative Kaldor:** The problem I see with the special session is that we'll have a couple of pretty wet bundles in front of us. We have redistricting. We have this. Representative Glassheim is absolutely right, this won't be resolved in time. You've got court challenges going on, many things that likely won't get completed. The insurance companies are already being asked to do the no pre-existing conditions for children, and I'm sure they're going to have to reset their rates. We need to give the Insurance Commissioner the ability to deal with that. They're going to have to do some kind of review regardless.

**Representative Thoreson:** They will be able to use consultants and go ahead and do that. I've had quite extensive discussions with Chairman Kaiser from the IBL committee about this. They feel that the Commissioner's office is equipped to write the grants. To go and find the people involved and to bring back the information which we will need to make an informed decision this fall when we come back into special session.

**Representative Kaldor:** Our intention appears to be not to appropriate these federal dollars. Will the Insurance Commissioner have the ability or the authority to go to the Emergency Commission once again after the session?

**Representative Thoreson:** He will be able to do that, though I'd have to double check. I'm fairly certain that he would be able go to the Emergency Commission once again if need be.

**Vice Chairman Kempenich:** There's \$1.4 million in their budget to do this and I don't think they need to go to the Emergency Commission or any place else to expend that money now. Their concern was the Insurance Commissioner was compiling the data once it got in there.

**Chairman Delzer:** Further discussion? If not, we'll do a voice vote.

Voice vote fails on amendment .02006.

**Vice Chairman Kempenich:** Section of 11 of Representative Glassheim's is an eye catching amendment and if the committee would indulge, I'd move that we amend section 11 into 2010.

**Representative Dahl:** Seconded the motion.

A voice vote was made on the motion to further amend and failed.

**Representative Thoreson:** I move Do Pass as Amended.

**Representative Skarphol:** Seconded the motion.

**Representative Thoreson:** I think we've discussed a lot of the same things that we've discussed in our section. This budget is normally not one of contention, it's all special funds. The changes made on the federal level have certainly impacted this agency. I would hope we would adopt this bill as amended.

**Chairman Delzer:** This is special funds, but it is set up that if it isn't used it goes to the general fund. How much did we increase the amount that's held in the agency as opposed to going to the general fund out of the premium tax?

**Representative Thoreson:** I'll have to look that up. I don't have that number in front of me at the moment.

**Chairman Delzer:** Did the costs of the CHAN Program increase again? I know that was an issue during the interim. Maybe Legislative Council or OMB could find that out. Further discussion?

A roll call vote was made for a "Do Pass as Amended". 14 Yea's 6 Nay's 1 Absent.

**Chairman Delzer:** Closed the discussion.



April 2, 2011

VR  
 4/5/11  
 1082

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2010

Page 1, line 3, remove the first "and"

Page 1, line 4, after "salary" insert "; and to provide for reports to the budget section"

Page 1, replace line 12 with:

"Salaries and wages \$6,335,670 \$524,160 \$6,859,830"

Page 1, replace lines 15 and 16 with:

"Grants 6,990,000 50,000 7,040,000"

Total special funds \$15,558,934 \$1,842,796 \$17,401,730"

Page 1, line 23, remove "PREMIUM"

Page 1, line 24, replace "\$6,820,000" with "\$6,870,000"

Page 1, line 24, remove "premium"

Page 2, line 1, replace "\$620,000" with "\$670,000"

Page 2, after line 23, insert:

**"SECTION 9. REPORTS TO BUDGET SECTION.** The insurance commissioner shall report at each budget section meeting during the 2011-12 interim on the status of provisions of the Patient Protection and Affordable Care Act."

Re-number accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Senate Bill No. 2010 - Insurance Department - House Action**

	Executive Budget	Senate Version	House Changes	House Version
Salaries and wages	\$7,677,595	\$6,894,013	(\$34,183)	\$6,859,830
Operating expenses	3,699,553	3,431,900		3,431,900
Capital assets	70,000	70,000		70,000
Grants	6,990,000	6,990,000	50,000	7,040,000
Total all funds	\$18,437,148	\$17,385,913	\$15,817	\$17,401,730
Less estimated income	18,437,148	17,385,913	15,817	17,401,730
General fund	\$0	\$0	\$0	\$0
FTE	50.50	45.50	0.00	45.50

**Department No. 401 - Insurance Department - Detail of House Changes**

Adds Funding for Auto Extrication Training <sup>1</sup>	Removes Remaining Salary Authority for FTE Positions Removed by the	Total House Changes

2012

		<b>Senate<sup>2</sup></b>	
Salaries and wages		(\$34,183)	(\$34,183)
Operating expenses			
Capital assets			
Grants	50,000		50,000
Total all funds	\$50,000	(\$34,183)	\$15,817
Less estimated income	50,000	(34,183)	15,817
General fund	\$0	\$0	\$0
FTE	0.00	0.00	0.00

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<sup>1</sup> Funding is provided from the insurance tax distribution fund to the North Dakota Firefighter's Association for auto extrication training.

<sup>2</sup> The Senate removed funding provided in the executive budget for 5 FTE positions and temporary employees related to federal health care reform. The compensation package adjustment for these positions was not removed. This amendment removes the remaining salary authority related to the compensation package adjustment for the 5 FTE positions removed by the Senate.

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A section is added to the bill to require reports to the Budget Section at each meeting during the 2011-12 interim by the Insurance Commissioner regarding the status of provisions of the Patient Protection and Affordable Care Act.

Date: 4/4  
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2010

House Appropriations Committee

Legislative Council Amendment Number 02004

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

Motion Made By Rep. Thoreson Seconded By Rep. Kempenich

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

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

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

*voice vote carries*

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2010

Page 1, line 3, remove the first "and"

Page 1, line 4, after "salary" insert "; to provide for a contingent appropriation; to provide for reports to the budget section; and to provide a statement of legislative intent"

Page 1, replace lines 15 and 16 with:

"Grants	<u>6,990,000</u>	<u>50,000</u>	<u>7,040,000</u>
Total special funds	\$15,558,934	\$1,876,979	\$17,435,913"

Page 1, line 24, replace "\$6,820,000" with "\$6,870,000"

Page 2, line 1, replace "\$620,000" with "\$670,000"

Page 2, after line 23, insert:

**"SECTION 9. CONTINGENT APPROPRIATION - FEDERAL HEALTH INSURANCE PREMIUM REVIEW GRANT.** Subject to the insurance commissioner being awarded a federal grant related to health insurance premium review requirements of the Patient Protection and Affordable Care Act, there is appropriated from federal funds the sum of \$1,000,000, or so much of the sum as may be necessary, to the insurance commissioner for the purpose of hiring temporary staff and for paying related operating expenses associated with federal health insurance premium review requirements, for the biennium beginning July 1, 2011, and ending June 30, 2013.

**SECTION 10. REPORTS TO THE BUDGET SECTION.** The insurance commissioner shall report to the budget section at each meeting during the 2011-13 interim on the status of the Patient Protection and Affordable Care Act.

**SECTION 11. LEGISLATIVE INTENT - PATIENT PROTECTION AND AFFORDABLE CARE ACT.** It is the intent of the sixty-second legislative assembly that the state's acceptance of federal grants related to the Patient Protection and Affordable Care Act, for the biennium beginning July 1, 2011, and ending June 30, 2013, does not indicate a position that individual mandates to buy health insurance are constitutional nor that the Patient Protection and Affordable Care Act will accomplish the goal of lessening the cost of health care. By accepting federal grants related to the Patient Protection and Affordable Care Act, the legislative assembly is only authorizing the use of federal funds to comply with federal law unless and until the federal law is either determined to be unconstitutional or repealed in whole or in part."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Senate Bill No. 2010 - Insurance Department - House Action**

	Executive Budget	Senate Version	House Changes	House Version
Salaries and wages	\$7,677,595	\$6,894,013		\$6,894,013
Operating expenses	3,699,553	3,431,900		3,431,900

Capital assets	70,000	70,000		70,000
Grants	6,990,000	6,990,000	50,000	7,040,000
Contingent federal grant			1,000,000	1,000,000
	<u>\$18,437,148</u>	<u>\$17,385,913</u>	<u>\$1,050,000</u>	<u>\$18,435,913</u>
Total all funds				
Less estimated income	<u>18,437,148</u>	<u>17,385,913</u>	<u>1,050,000</u>	<u>18,435,913</u>
	\$0	\$0	\$0	\$0
General fund	50.50	45.50	0.00	45.50
FTE				

**Department No. 401 - Insurance Department - Detail of House Changes**

	Adds Funding for Auto Extrication Training <sup>1</sup>	Adds Contingent Funding for PPACA Grant <sup>2</sup>	Total House Changes
Salaries and wages			
Operating expenses			
Capital assets			
Grants	50,000		50,000
Contingent federal grant		1,000,000	1,000,000
	<u>\$50,000</u>	<u>\$1,000,000</u>	<u>\$1,050,000</u>
Total all funds			
Less estimated income	<u>50,000</u>	<u>1,000,000</u>	<u>1,050,000</u>
	\$0	\$0	\$0
General fund			
FTE	0.00	0.00	0.00

<sup>1</sup> Funding is provided from the insurance tax distribution fund to the North Dakota Firefighter's Association for auto extrication training.

<sup>2</sup> Subject to the Insurance Commissioner being awarded a federal grant of \$1,000,000 related to health insurance premium review requirements of the Patient Protection and Affordable Care Act, there is appropriated out of such award the sum of \$725,000 for salaries of temporary employees and \$275,000 for associated operating expenses, for the Insurance Commissioner to hire temporary staff to assist with the increased workload associated with federal health insurance premium review requirements.

A section is added to the bill to require reports to the Budget Section at each meeting during the 2011-12 interim by the Insurance Commissioner regarding the status of provisions of the Patient Protection and Affordable Care Act.

A section of legislative intent is added relating to accepting federal grants associated with the Patient Protection and Affordable Care Act.

Date: 4/4  
Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2010

House Appropriations Committee

Legislative Council Amendment Number .02006

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

Motion Made By Rep. Glassheim Seconded By Rep. Kroeber

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

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

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

*voice vote fails*

Date: 4/4  
 Roll Call Vote #: 3

**2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 2010**

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. Kempenich Seconded By Rep. Dahl

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

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

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

*add section 11 from 02006*  
*voice vote fails*

Date: 4/4  
 Roll Call Vote #: 4

**2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 2010**

House Appropriations Committee

Legislative Council Amendment Number .02004

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

Motion Made By Rep Thoreson Seconded By Rep. Skarphol

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer	X		Representative Nelson	X	
Vice Chairman Kempenich	X		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					
Representative Kreidt	X				
Representative Martinson	X				
Representative Monson	X				

Total (Yes) 14 No 6

Absent 1

Floor Assignment Rep. Thoreson

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



Grants	50,000		50,000
Total all funds	\$50,000	(\$34,183)	\$15,817
Less estimated income	50,000	(34,183)	15,817
General fund	\$0	\$0	\$0
FTE	0.00	0.00	0.00

---

<sup>1</sup> Funding is provided from the insurance tax distribution fund to the North Dakota Firefighter's Association for auto extrication training.

<sup>2</sup> The Senate removed funding provided in the executive budget for 5 FTE positions and temporary employees related to federal health care reform. The compensation package adjustment for these positions was not removed. This amendment removes the remaining salary authority related to the compensation package adjustment for the 5 FTE positions removed by the Senate.

---

A section is added to the bill to require reports to the Budget Section at each meeting during the 2011-12 interim by the Insurance Commissioner regarding the status of provisions of the Patient Protection and Affordable Care Act.

2011 TESTIMONY

SB 2010



State of North Dakota  
Senate Appropriations Committee  
Sen. Ray Holmberg, Chairman

# North Dakota Insurance Department

## Budget presentation

### 2011-2013 biennium

### SB 2010

Presented by Adam Hamm,  
Insurance Commissioner  
January 11, 2011



# North Dakota Insurance Department

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# ND Insurance industry and regulation

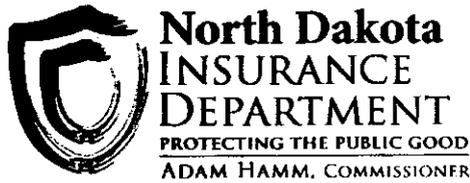
## At a glance

	2009	2010
<b>The insurance industry</b>		
Total premium written	\$4,044,836,633	n/a
Net premium tax collected (general fund dollars)	\$34,218,272	n/a
Claims, losses and benefits paid to consumers	\$2,865,404,311	n/a
<b>Regulation and consumer protection</b>		
Insurance Department FTEs	45.5	45.5
Consumer relief from complaints and hotline contacts	\$1,400,000	\$751,198
Enforcement fines from agents and companies	\$42,850	\$16,013
Enforcement relief from agents and companies	\$14,555.79	0
Collection of delinquent company licensing fees	\$429,000	\$1,282,000
<b>State Health Insurance Counseling (SHIC) program</b>		
Number of North Dakotans assisted	18,529	9,570
Savings for North Dakota citizens	\$4,500,000	\$1,900,000
Centers for Medicare and Medicaid grants	\$282,317	\$243,752
<b>Prescription Connection program</b>		
Number of North Dakotans assisted	2,499	2,122
Savings for North Dakota citizens	\$1,600,000	\$1,800,000
<b>Benefiting North Dakota taxpayers</b>		
Insurance regulatory trust fund; turnback to the general fund	\$2,384,455	\$3,915,348
<b>Fraud actions</b>		
Insurance fraud referrals received	48	94
Cases still under investigation	11	51
Amount of suspicious claims*	\$20,220,566.16**	\$1,061,114.69

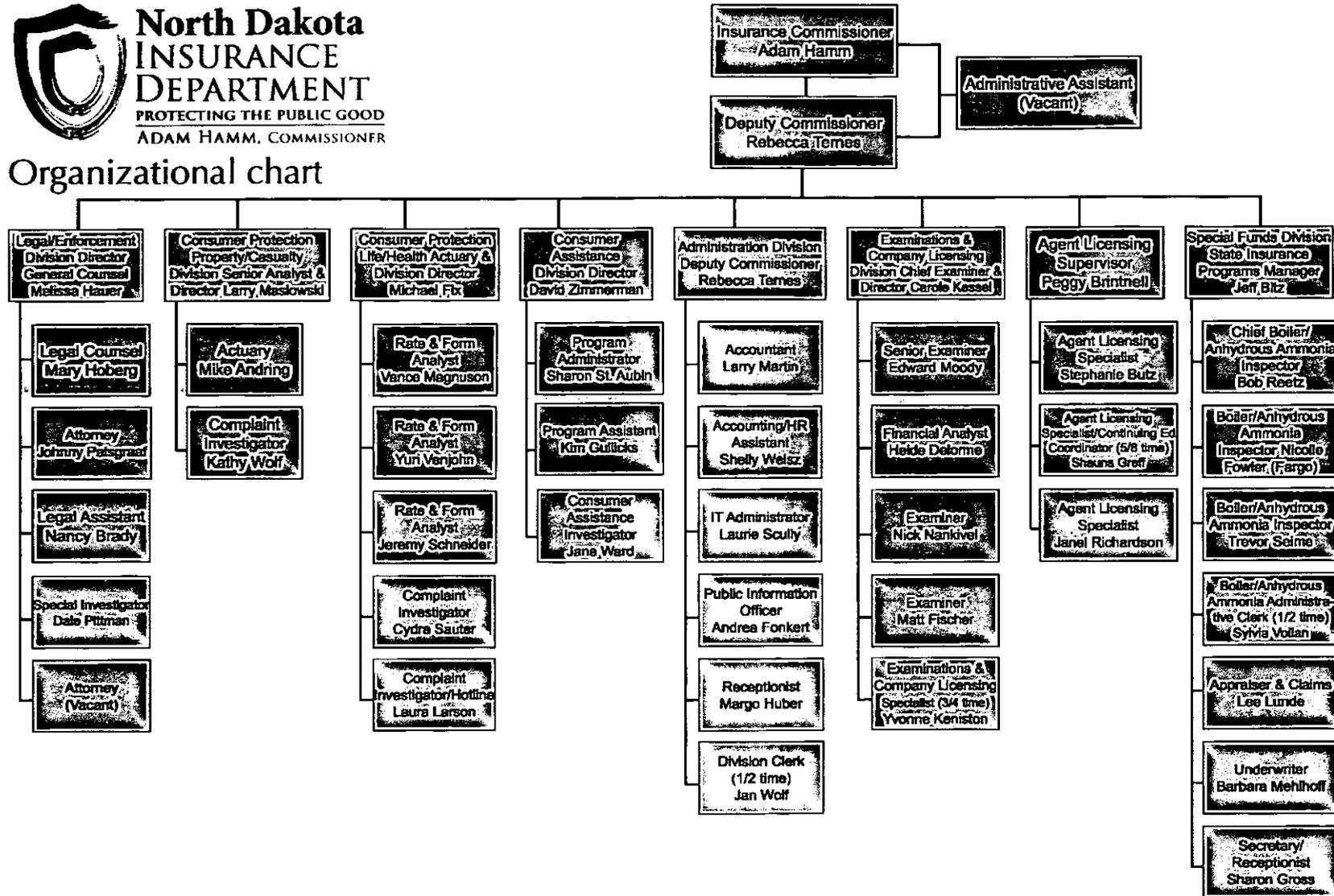
\*This number reflects only those amounts that were reported by insurance companies; not all companies report the claim amount with their referral.

\*\*\$20 million of this amount is from one case that is being investigated by a federal agency.





# Organizational chart



## Division overviews

### Administration Division

The Administration Division of the Insurance Department is responsible for oversight of the budget, accounting, IT needs and general office support through the Department. In addition, the division oversees day-to-day business operations, public relations, human resource management and the internal policies and procedures for the Department.

### Agent Licensing Division

The Agent Licensing Division is responsible for the licensing of nearly 49,000 individual insurance producers doing business in North Dakota. Insurance producers must comply with pre-licensing exams, background checks and continuing education requirements.

Agents licensed in ND	2005	2009	2010
Resident producers	6,204	6,706	5,998
Non-resident producers	29,690	42,281	42,930
<b>Total</b>	<b>35,894</b>	<b>48,987</b>	<b>48,928</b>

### Legal Division

The primary functions of the Legal Division are to provide legal counsel to the Department; investigate fraud, litigate administrative actions; and, research and prepare proposed bills and administrative rules.

The commissioner signed 14 orders involving agents in 2009 and eight orders involving agents in 2010.

### Examinations and Company Licensing Division

The primary function of the Examinations and Company Licensing Division is to monitor the financial strength of insurance companies licensed to do business in North Dakota.

As of Dec. 29, 2010, there were a total of 2,255 insurance entities licensed to do business in North Dakota and among them, 39 domiciled companies.

- Five financial exams were completed on domiciled companies July 1, 2009–June 30, 2010 (one targeted exam)
- Eight financial exams completed July 1–Dec. 29, 2010
- 11 in progress (one targeted exam)

### Property/Casualty Division

The Property/Casualty Division reviews policy forms and evaluates the premium rates companies propose to charge. The division also investigates consumer inquiries and complaints against insurance companies in order to ensure the fair treatment of policyholders.



### **Life/Health Division**

The Life/Health Division reviews policy forms and evaluates the premium rates companies propose to charge. The division also investigates consumer inquiries and complaints against insurance companies in order to ensure the fair treatment of policyholders.

### **Consumer Assistance Division**

The Consumer Assistance Division was created in 2010 and houses the Prescription Connection and State Health Insurance Counseling (SHIC) programs.

The SHIC program provides free, confidential health insurance counseling to Medicare beneficiaries, their families or other representatives.

The Prescription Connection program helps low income North Dakotans find low-cost and no-cost prescription drugs by connecting them with prescription assistance programs. Program staff assists consumers with every aspect of the application process and connect 99 percent of all applicants to a program.

### **Special Funds Division**

The Special Funds Division includes the following programs that are self-funded and do not require an appropriation from either the State General Fund or the Insurance Regulatory Trust Fund.

<b>Fund</b>	<b>2010</b>
State Bonding Fund	
Bondholders	2,971
Combined insured value	\$599,899,112
Fire and Tornado Fund	
Policyholders	9,180 buildings
Combined insured value	\$9.7 billion
Petroleum Release Compensation Fund	
Tank owners	1,609
Tanks	5,495
Boiler and Pressure Vessel Inspection Programs	
Boilers inspected by Department	4,697
Boilers inspected by private insurance carriers	4,685
Total boilers in ND	9,382

The State Bonding Fund provides fidelity bond coverage to the state of North Dakota and its political subdivisions including counties, townships, cities, park districts and school districts. To date this biennium, two judgments totaling \$50,923 have been paid.

Since 1919, the State Fire and Tornado Fund has provided affordable building and business personal property insurance coverage to state entities and political subdivisions of the state.



<b>Fire and Tornado Fund premiums and claims</b>					
<b>Fiscal year</b>	<b>Policyholders</b>	<b>Rate change</b>	<b>Premiums collected</b>	<b># claims</b>	<b>Claim payments</b>
2005	1,084	No change	\$4.89 million	222	\$1.39 million
2006	1,079	10% ▼	\$4.89 million	237	\$2.60 million
2007	1,084	50% premium credit	\$2.64 million	202	\$10.1 million
2008	1,085	35% premium credit	\$3.85 million	111 (12/7/08)	\$1,085,373 (12/7/08)
2009	1,088	No change	\$6.44 million	251	\$2.67 million
2010	1,087	50% premium credit	\$3.22 million	381 (12/23/10)	\$4.2 million

The North Dakota Petroleum Tank Release Compensation Fund financially assists tank owners for cleanup costs and third-party liability caused by petroleum contamination. All owners or operators of aboveground or underground petroleum storage tanks in North Dakota are required to register their tanks with the fund and pay an annual registration fee. The annual fee per tank is generally \$50.

The Unsatisfied Judgment Fund was created to protect residents of North Dakota against the financial hardships associated with bodily injury caused by irresponsible, uninsured, judgment-proof drivers. During 2008-2010, no payments were made from the fund.

The Boiler and Pressure Vessel Inspection Programs provide initial and periodic inspections of boilers. Nominal fees ranging from \$40-\$90 per boiler are collected to fund the inspection activity.

The Anhydrous Ammonia Inspection Program provides initial and periodic inspections of anhydrous ammonia storage facilities, including storage containers, system piping, safety equipment and nurse tanks.

<b>Special Funds balance report</b>				
<i>As of Oct. 31, 2010</i>				
<b>Fund</b>	<b>Reserve balance</b>	<b>Minimum requirement</b>	<b>Variance fav (unfav)</b>	<b>Loss claims payable</b>
State Bonding Fund	\$2,745,144	\$2,000,000	\$745,144	\$181,983
Fire and Tornado Fund	\$25,459,595	\$12,000,000	\$13,459,595	\$2,346,044
Petroleum Release Comp Fund	\$5,572,374	\$6,000,000	(\$427,626)	\$1,420,809
Unsatisfied Judgment	\$207,928	\$150,000	\$57,928	0

Note: Reserve balance = cash + money market deposit accounts + investments



# Department appropriation

Senate Bill No. 2010

## Appropriation

- Total executive budget recommendation—\$18,437,148
- The Department requested \$18,566,282

	Department request*	Governor's recommendation
Salaries and wages	\$7,681,828	\$7,677,595
Operating	\$3,824,454	\$3,699,553
IT/Sware over \$5,000	\$70,000	\$70,000
Grants to fire districts	\$170,000	\$170,000
<b>Total</b>	<b>\$11,746,282</b>	<b>\$11,671,148</b>
Grants to fire districts	\$6,820,000	\$6,820,000
<b>Total budget</b>	<b>\$18,566,282</b>	<b>\$18,437,148</b>
<b>FTEs</b>	Company Financial Analyst (2)	Company Financial Analyst
	Company Financial Examiner I	Company Financial Examiner
	Research Analyst	Research Analyst
	Form/Rate Filing Analyst II	Form/Rate Filing Analyst II
	Health Insurance Counselor/Investigator (2)	Health Insurance Counselor/Investigator
	Actuary	(Turned into temp—no benefits)
	Human Resource Director	
<b>Total FTEs</b>	<b>9</b>	<b>5</b>
		<b>+ 1 temp</b>

\*The Department's original request did not include legislative salary increases or fringe benefit increases. The Governor's recommendation did include these increases.

- Additional agency positions expected in 2013 session
- Additional positions expected in Exchange legislation

Please see Attachment 1 for descriptions of the FTE positions included in the Department's request.

The Insurance Department has been tracking the development of health care reform legislation since we were first asked to update the interim Industry, Business and Labor Committee at an August 6, 2009 meeting centered on HB 1577, a study of factors impacting the cost of health insurance. The Department continued to give regular updates to the Committee through the passage of the Patient Protection and Affordable Care Act also known as "federal health care reform," or "PPACA" and into late 2010.



We continue to participate on state and national levels in discussions of the impacts of this law and in providing North Dakota's viewpoint as to where the law may have harmful consequences.

After an analysis of the numerous functions required of states because of this national law, the Insurance Department is now tasked with several new functions, different monitoring responsibilities and additional reporting burdens. The Department has determined the type of employee skill sets and organizational structure needed to ensure that North Dakota's insurance regulatory structure remains one that encourages competition, protects consumers and yet allows for any future changes in the national laws.

The Department's only optional budget request to the Governor focused on the minimum amount of resources necessary to carry out the federal requirements of the law in our state. The request for nine positions (see detail in Attachment 1) reflects the need for more financial oversight and increased filing activity of companies, anticipated consumer assistance needs and the added administrative work for the Department. The request for operating dollars reflects the costs of additional employees. The total optional request is for \$2,995,022 more than the 2009-2011 budget. The Department anticipates the opportunity to offset these costs through federal grants.

The total appropriation of \$18,566,282.16 represents an 18 percent increase over the 2009-2011 budget.

- Salaries and wages: \$1,213,291.92 increase over last biennium
- Operating expenses: \$1,761,189.24 increase over last biennium
- Grants: a total of \$620,000 goes to the North Dakota's Firefighter's Association

**Insurance premium tax distribution fund payments**

- The Department is expected to collect \$63 million in premium taxes in 2011-2013.
- \$6.2 million of these funds is distributed to fire districts; a total of \$620,000 goes to the North Dakota's Firefighter's Association (see Attachment 2).

**Special Funds allocation**

The requested appropriation provides for allocation of expenses for administration of each of the following funds:

Section	Fund	Expected reserve balance	Appropriated admin expense
3	State Bonding Fund	\$2,745,144	\$45,113
4	Fire and Tornado Fund	\$25,459,595	\$1,386,202
5	Petroleum Release Comp Fund	\$5,572,374	\$96,021
6	Unsatisfied Judgment Fund	\$207,928	\$26,047



# Summary of major achievements and goals

## 1. Health care reform monitoring

### Achievements

- Created and maintained website section detailing health care reform
- Participated in numerous interim IBL committee meetings
- Held four stakeholder meetings to discuss reform's impact on North Dakota
- Created an internal team and developed a communication process; team participated in multiple meetings and teleconferences every week

### 2011-2013 focus

- Continue to participate in weekly conference calls and meetings

## 2. Continued progress toward fully electronic (paperless) systems in insurance regulation

### Achievements

- Launched Agent Licensing, Company Licensing, inquiries and complaints, fraud and revenue components of the National Association of Insurance Commissioners' State Based Systems (SBS)
  - SBS provided electronic delivery of licenses, greatly reducing paper, printer and postage costs in Agent Licensing Division
- Agent licensing implemented electronic renewal processes for two additional license types, as well as offering free online access to continuing education records
- Implemented electronic means to collect premium tax from surplus lines producers
- Company Licensing implemented electronic filing of Renewal Statements and payment of fees

### 2011-2013 focus

- Participate in electronic email address changes and address changes for business entities when implemented by National Insurance Producer Registry
- Continue to work with SBS to develop enhancements

## 3. Enhance outreach programs and consumer education

### Achievements

- In 2009 and 2010, the Prescription Connection program helped approximately 4,621 people across North Dakota obtain more affordable or free prescriptions. Savings to these low-income applicants amounted to \$3.37 million in prescription drug costs that would otherwise be unaffordable.
- Enhanced our review of property replacement values of schools by utilizing private sector appraisals.

- Conducted a miscellaneous vehicles (recreational/toys) survey to determine state requirements and required coverages
- Enhanced partnership with Agriculture Department on inspection of anhydrous ammonia facilities and nurse tanks

**2011-2013 focus**

- Increase Prescription Connection program awareness and participation
- Create a consumer brochure for high school students about credit and insurance

**4. Respond in a timely fashion to inquiries and requests**

**Achievements**

- During 2009 and 2010, staff processed 17,556 inquiries and complaints from North Dakotans needing help resolving insurance-related matters and obtained more than \$2.1 million in relief on behalf of consumers.

**2011-2013 focus**

- Process new company applications for licensure within 60 days
- Respond to inquiries within 24 hours
- Respond to complaints within time frame appropriate for each division

**5. Improve enforcement and solvency regulation**

**Achievements**

- Identified and collected \$1,711,000 of delinquent company renewal fees due on a retaliatory basis
- The Legal Division added a special investigator to its fraud unit in 2009, increasing its ability to follow up on reports of fraudulent activity
- Worked with legal in stepping up our restitution recovery of State Bonding Fund judgments and converted criminal judgments to civil judgments to protect its interest in an attempt to collect the moneys owed.

**2011-2013 focus**

- Strengthen company practices relating to auditor independence, corporate governance and internal control over financial reporting
- Increase insurance fraud referrals to appropriate prosecutors and continue developing working relationships with local, state and federal law enforcement agencies

**6. Implement enhancements as a result of 2009 legislation**

**Achievements**

- Implemented new law converting producer license expiration dates to birth month in compliance with NAIC uniformity standards
- Adopt changes to the Annual Audited Financial Reports Regulation



- Created procedure to implement and maintain long-term care insurance partnership program requirements

**2011-2013 focus**

- Monitor the adoption of new accreditation standards by the NAIC and implement necessary changes.
- Adopt administrative rules and issue bulletins necessary to implement statutory changes, if any, created during the 2011 Legislative Session

**7. Continue to develop SHIC program**

**Achievements**

- In 2009 and 2010, SHIC assisted 27,816 North Dakotans, saving more than \$6.44 million.
- Achieved number one national ranking for the second year in a row
- Held 10 Medicare Part D open enrollment events around the state in 2009, helping more than 1,000 consumers. In 2010, eight events were held helping more than 1,100 consumers.
  - Enhanced agreement with 211 during Medicare Part D annual enrollment period
  - Added several partner enrollment events around the state
- Added 10 new counselors
- Held several Turning 65 seminars (Medicare 101), attended by 237 consumers
- Participated in seven events/presentations reaching nearly 200 people and displayed a booth at five fairs reaching more than 1,050 people
- Conducted a statewide health insurance study called CHAT
  - 17 CHAT sessions were held July through October 2009
  - 222 North Dakotans participated in person and online
  - Results were distributed statewide and were also sent to the U.S. Department of Health and Human Services

**2011-2013 focus**

- Recruit additional counselors in areas of need
- Increase participation in Turning 65 seminars (Medicare 101)
- Develop communications plan to educate consumers about the new Part D enrollment dates beginning in 2011

# Attachment 1

## North Dakota Insurance Department

Health Care Reform Full Time Equivalent (FTE) Position Job Duties

2011-2013 Optional Budget Request

<b>Company Licensing and Examinations Division</b>		
Company Financial Examiner	Participate in team rate reviews; substantiate compliance with medical loss ratio requirements and levels of coverage thresholds; verify accounting of administrative costs for exchange plans; confirm that companies' meet requirements for claims, disclosures, enrollment/disenrollment, etc.; verify accuracy of plan risk factors and payment in risk adjustment programs; ensure accurate reporting as required; participate in additional financial exams and targeted exams.	24 months
Company Financial Analyst (2)	Monitor compliance with medical loss ratio requirements and levels of coverage thresholds; participate in team rate reviews; assist in certifying "qualified health plans;" document company compliance with the transitional reinsurance program; investigate risk corridor participation by companies; evaluate plan risk factors and payment in risk adjustment programs; analyze accuracy of exchange subsidies and resulting impact on premiums; additional review of annual statements and supplemental filings.	One at 12 months; one at 24 months
<b>Life and Health Division</b>		
Actuary	Participate in team rate reviews; review additional rate filings for grandfathered and non-grandfathered plans; prepare and submit actuarial rate data to HHS; calculate medical loss ratios and any applicable rebates; certify "qualified health plans."	18 months
Form/Rate Filing Analyst	Review additional form filings rate filings for grandfathered and non-grandfathered plans; maintain and monitor the definition of essential benefits used in the review of form filings; review exchange plan form filings; prepare and submit policy data to HHS; act as a resource to consumers and companies; monitor web portal data.	18 months
<b>Consumer Assistance Division</b>		
Health Insurance Counselor/Investigator (2)	Assist consumers with health insurance and reform questions; assist consumers with complaints; provide education and outreach; fulfill requirement for insurance consumer assistance offices/ombudsman; collect data as required; communicate with other agencies on behalf of consumers; refer consumers to appropriate state and federal agencies and other programs.	24 months
<b>Administrative Division</b>		
Human Resource Director	(New position) Develop position information questionnaires for new positions; manage HR functions; act as the payroll/PeopleSoft manager; direct hiring actions; assist with all other personnel functions.	24 months
Research Analyst	(New position) Write and submit grant applications; monitor and report results for grants; gather and analyze data; perform research and study; respond to requests for information.	24 months

## Attachment 2

### North Dakota Insurance Department Fire District Payments

- The insurance premium tax is collected quarterly and deposited into the State General Fund. The legislature appropriates a portion of the insurance premium tax revenue collected from all companies licensed to do business in North Dakota to be allocated to qualified fire districts in the state of North Dakota.
- Senate Bill 2010 appropriates \$6,820,000 from the insurance premium tax distribution fund for the 2011-2013 biennium. \$6,200,000 is distributed to qualifying fire districts within the state of North Dakota and the remaining \$620,000 goes to the North Dakota Firefighter's Association dues. Payments to districts are mailed in September of each year.
- The following chart provides a sampling of district payments for 2010.

Sampling of fire district annual premiums and payments	2009 premium	% of total premiums	2010 payment
Bismarck Fire Department	\$24,437,128	6.96%	\$215,771.51
Bismarck Fire Protection District	5,615,965	1.6%	49,587.06
Bowman Fire Department	933,227	0.27%	8,240.08
Bowman Rural Fire Department	528,098	0.15%	4,662.93
Dickinson Fire Department	6,870,776	1.96%	60,666.61
Dickinson Fire Protection District	2,314,019	0.66%	20,432.00
Fargo Fire Department	35,709,605	10.17%	315,303.64
Grand Forks Fire Department	16,082,118	4.58%	141,999.62
Hazen Fire Department	905,549	0.26%	7,995.69
Hazen Fire Protection District	632,494	0.18%	5,584.71
Jamestown Fire Protection District	3,950,950	1.13%	34,885.54
Jamestown Fire Department	5,052,765	1.44%	44,614.19
Lansford Fire Protection District	570,965	0.16%	5,041.43
Lehr Fire Department	41,532	0.01%	366.71
Lehr Rural Fire Department	157,042	0.04%	1,386.63
Minot Fire Department	13,146,632	3.74%	116,080.28
Minot Fire Protection District	3,014,497	0.86%	26,616.98
Ryder-Makoti Fire Protection District	669,862	0.19%	5,914.65
Valley City Fire Department	2,379,723	0.68%	21,012.14
Valley City Rural Fire	1,413,182	0.40%	12,477.92

<b>Total (all districts)</b>	<b>\$351,089,411</b>		<b>\$3,100,000</b>
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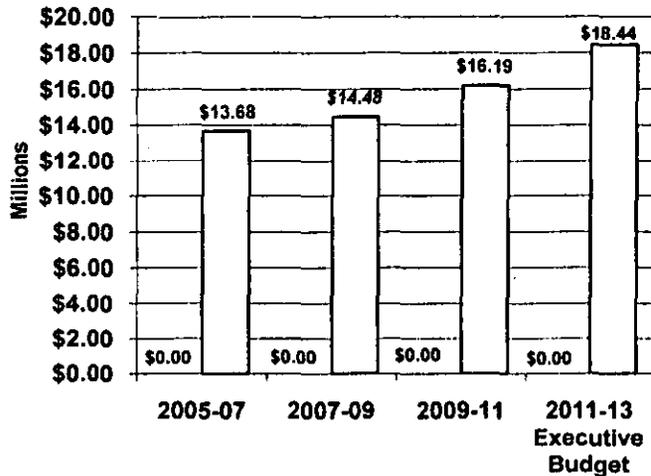
Formula: (Each fire district premiums/statewide premiums) x \$3,100,000

**Department 401 - Insurance Commissioner, Including Insurance Tax Payments to Fire Departments  
 Senate Bill No. 2010**

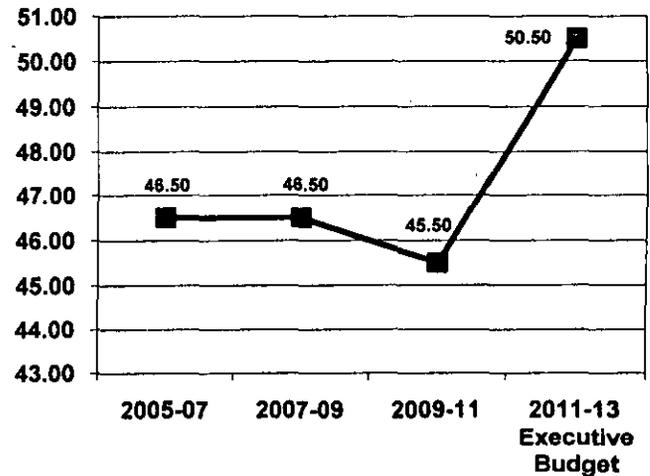
	FTE Positions	General Fund	Other Funds	Total
2011-13 Executive Budget	50.50	\$0	\$18,437,148	\$18,437,148
2009-11 Legislative Appropriations	45.50	0	16,191,800 <sup>1</sup>	16,191,800 <sup>1</sup>
Increase (Decrease)	5.00	\$0	\$2,245,348	\$2,245,348

<sup>1</sup>The 2009-11 legislative appropriation amounts include \$132,866 of special funds for the agency's share of the \$16 million funding pool appropriated to the Office of Management and Budget for special market equity adjustments for executive branch employees.

**Agency Funding**



**FTE Positions**



■ General Fund □ Other Funds

**First House Action**

Attached is a summary of first house changes.

**Executive Budget Highlights  
 (With First House Changes in Bold)**

	General Fund	Other Funds	Total
1. Removes one-time funding provided in the 2009-11 biennium relating to information technology equipment and software	\$0	(\$195,000)	(\$195,000)
2. Provides funding for health care reform (\$2,469,871), including:			
1 FTE insurance company examiner (federal funds). <b>The Senate removed this funding and FTE position.</b>		\$149,869	\$149,869
1 FTE research analyst (federal funds). <b>The Senate removed this funding and FTE position.</b>		\$144,938	\$144,938
1 FTE insurance company financial analyst (federal funds). <b>The Senate removed this funding and FTE position.</b>		\$145,012	\$145,012
1 FTE insurance form rate analyst (federal funds). <b>The Senate removed this funding and FTE position.</b>		\$62,287	\$62,287
1 FTE state health insurance counselor (insurance regulatory trust fund). <b>The Senate removed this funding and FTE position.</b>		\$133,845	\$133,845
Federal funds relating to health insurance premium rate review. <b>The Senate removed funding provided for temporary salaries (\$147,631) and operating expenses (\$267,653) related to federal health care reform. Federal fund authority of \$1,418,636 remains in the bill for operating expenses and information technology software.</b>		\$1,833,920	\$1,833,920

### Other Sections in Bill

**Section 3** provides that \$6,820,000 of special funds from the insurance tax distribution fund be distributed to fire departments (\$6.2 million) and in two equal payments to the North Dakota Firefighters Association (\$620,000).

**Administrative costs of special funds** - Sections 4, 5, 6, and 7 provide for administrative costs allocated to the bonding fund, state fire and tornado fund, unsatisfied judgment fund, and the petroleum tank release compensation fund. The following schedule provides information regarding the administrative costs allocated to each special fund. The increases from the 2009-11 biennium will result in a decrease of \$442,847 of Insurance Department administrative costs being provided from the insurance regulatory trust fund.

	2009-11 Biennium Legislative Appropriation	2011-13 Biennium Executive Recommendation	Increase (Decrease)
Bonding fund	\$41,518	\$46,769	(\$2,613)
State fire and tornado fund	\$1,454,159	\$1,611,575 <sup>1</sup>	\$450,355
Unsatisfied judgment fund	\$24,087	\$27,349	\$7,541
Petroleum tank release compensation fund	\$96,238	\$46,769	(\$12,436)

<sup>1</sup>Section 5 specifies \$170,000 from the state fire and tornado fund be provided for a grant to the North Dakota Firefighters Association.

**Section 8** provides the statutory changes necessary to increase the commissioner's salary as follows:

Annual salary authorized by the 2009 Legislative Assembly:

July 1, 2009	\$83,550
July 1, 2010	\$87,728

Proposed annual salary recommended in the 2011-13 executive budget:

July 1, 2011	\$90,360
July 1, 2012	\$93,071

### Continuing Appropriations

No continuing appropriations for this agency.

### Significant Audit Findings

None.

### Major Related Legislation

**House Bill No. 1123 - Surplus lines insurance** - Revises North Dakota law relating to surplus lines insurance to conform to the requirements of the United States Nonadmitted and Reinsurance Reform Act of 2010 (NRRRA). The bill provides that the state collect premium taxes on multistate policies where North Dakota is the insured's home state.

**House Bill No. 1125 - Compliance with federal law** - Provides the Insurance Commissioner authority to administer and enforce the provisions of the federal Patient Protection and Affordable Care Act and of the Health Care and Education Reconciliation Act of 2010 to the extent that the provisions apply to the commissioner's jurisdiction.

**House Bill No. 1126 - American health benefit exchange** - Provides the Insurance Commissioner authority to plan for the implementation of a health insurance exchange that meets the requirements of the federal health care reform law and any future regulations. The bill provides a federal funds appropriation of \$1 million from the federal funds available under the federal Patient Protection and Affordable Care Act of 2010 as amended by the Health Care and Education Reconciliation Act of 2010. The bill includes an emergency clause.

**House Bill No. 1127 - Health carrier external appeals and internal claims and appeals procedures** - Updates language in the North Dakota Century Code to ensure that the state's appeals process meets the requirements of 2010 federal legislation.

**House Bill No. 1418 - Standards for audits of pharmacy records** - Provides standards that insurers must abide by when auditing claims from pharmacies. The bill provides that the Insurance Commissioner is responsible for enforcing these standards.

**Senate Bill No. 2064 - Boiler and other inspections** - Increases the cap and fees collected by the department for boiler and other inspections, the annual fee for a reciprocal commission and welder-qualified card, and the fee hobby boiler operating examination and license.

**Senate Bill No. 2309 - Federal health care reform law** - States that the Legislative Assembly declares the federal laws known as the federal Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010 are not authorized by the United States Constitution and violate its true meaning and intent as given by the founders and ratifiers. The bill states that the Legislative Assembly shall consider enacting any measure necessary to prevent the enforcement of these acts within the state.

**Senate Bill No. 2347 - Petroleum release compensation fund** - Requires tank owners or operators participating in the petroleum release compensation fund to pay a \$25 per month late fee for each tank if the registration fee is not paid within 60 days of July 1.

ATTACH:1

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Senate Bill No. 2010 - Funding Summary**

	<b>Executive Budget</b>	<b>Senate Changes</b>	<b>Senate Version</b>
<b>Insurance Department</b>			
Salaries and wages	\$7,677,595	(\$783,582)	\$6,894,013
Operating expenses	3,699,553	(267,653)	3,431,900
Capital assets	70,000		70,000
Grants	6,990,000		6,990,000
<b>Total all funds</b>	<b>\$18,437,148</b>	<b>(\$1,051,235)</b>	<b>\$17,385,913</b>
Less estimated income	18,437,148	(1,051,235)	17,385,913
General fund	\$0	\$0	\$0
<b>FTE</b>	<b>50.50</b>	<b>(5.00)</b>	<b>45.50</b>
<b>Bill Total</b>			
Total all funds	\$18,437,148	(\$1,051,235)	\$17,385,913
Less estimated income	18,437,148	(1,051,235)	17,385,913
General fund	\$0	\$0	\$0
<b>FTE</b>	<b>50.50</b>	<b>(5.00)</b>	<b>45.50</b>

**Senate Bill No. 2010 - Insurance Department - Senate Action**

	<b>Executive Budget</b>	<b>Senate Changes</b>	<b>Senate Version</b>
Salaries and wages	\$7,677,595	(\$783,582)	\$6,894,013
Operating expenses	3,699,553	(267,653)	3,431,900
Capital assets	70,000		70,000
Grants	6,990,000		6,990,000
<b>Total all funds</b>	<b>\$18,437,148</b>	<b>(\$1,051,235)</b>	<b>\$17,385,913</b>
Less estimated income	18,437,148	(1,051,235)	17,385,913
General fund	\$0	\$0	\$0
<b>FTE</b>	<b>50.50</b>	<b>(5.00)</b>	<b>45.50</b>

**Department 401 - Insurance Department - Detail of Senate Changes**

	<b>Removes Funding for Federal Health Care Reform<sup>1</sup></b>	<b>Total Senate Changes</b>
Salaries and wages	(783,582)	(783,582)
Operating expenses	(267,653)	(267,653)
Capital assets		
Grants		
<b>Total all funds</b>	<b>(\$1,051,235)</b>	<b>(\$1,051,235)</b>
Less estimated income	(1,051,235)	(1,051,235)
General fund	\$0	\$0
<b>FTE</b>	<b>(5.00)</b>	<b>(5.00)</b>

<sup>1</sup> Funding and FTE positions related to federal health care reform provided in the executive budget are removed.

2010.3.10.11A



State of North Dakota  
House Appropriations Committee  
Rep. Jeff Delzer, Chairman

# North Dakota Insurance Department

## Budget presentation

### 2011-2013 biennium

### SB 2010

Presented by Adam Hamm,  
Insurance Commissioner  
March 10, 2011



# North Dakota Insurance Department

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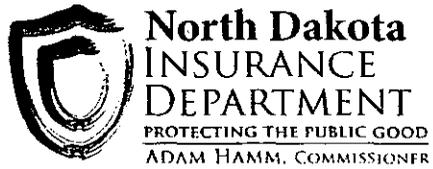
# ND Insurance industry and regulation

## At a glance

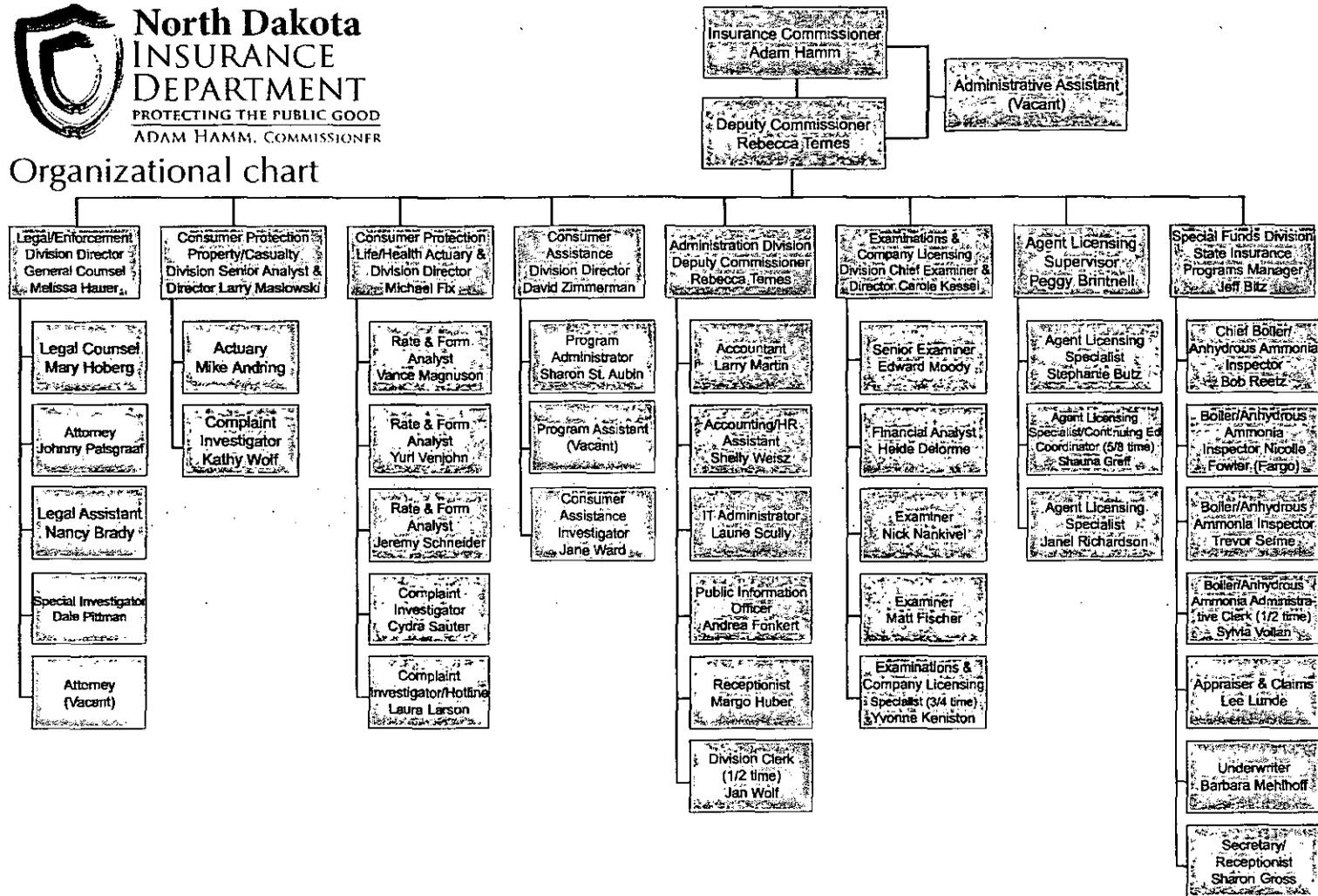
	2009	2010
<b>The insurance industry</b>		
Total premium written	\$4,044,836,633	n/a
Net premium tax collected (general fund dollars)	\$34,218,272	n/a
Claims, losses and benefits paid to consumers	\$2,865,404,311	n/a
<b>Regulation and consumer protection</b>		
Insurance Department FTEs	45.5	45.5
Consumer relief from complaints and hotline contacts	\$1,400,000	\$751,198
Enforcement fines from agents and companies	\$42,850	\$16,013
Enforcement relief from agents and companies	\$14,555.79	0
Collection of delinquent company licensing fees	\$429,000	\$1,282,000
<b>State Health Insurance Counseling (SHIC) program</b>		
Number of North Dakotans assisted	18,529	9,570
Savings for North Dakota citizens	\$4,500,000	\$1,900,000
Centers for Medicare and Medicaid grants	\$282,317	\$243,752
<b>Prescription Connection program</b>		
Number of North Dakotans assisted	2,499	2,122
Savings for North Dakota citizens	\$1,600,000	\$1,800,000
<b>Benefiting North Dakota taxpayers</b>		
Insurance regulatory trust fund; turnback to the general fund	\$2,384,455	\$3,915,348
<b>Fraud actions</b>		
Insurance fraud referrals received	48	94
Cases still under investigation	11	51
Amount of suspicious claims*	\$20,220,566.16**	\$1,061,114.69

\*This number reflects only those amounts that were reported by insurance companies; not all companies report the claim amount with their referral.

\*\*\$20 million of this amount is from one case that is being investigated by a federal agency.



### Organizational chart



## Division overviews

### Administration Division

The Administration Division of the Insurance Department is responsible for oversight of the budget, accounting, IT needs and general office support through the Department. In addition, the division oversees day-to-day business operations, public relations, human resource management and the internal policies and procedures for the Department.

### Agent Licensing Division

The Agent Licensing Division is responsible for the licensing of nearly 49,000 individual insurance producers doing business in North Dakota. Insurance producers must comply with pre-licensing exams, background checks and continuing education requirements.

Agents licensed in ND	2005	2009	2010
Resident producers	6,204	6,706	5,998
Non-resident producers	29,690	42,281	42,930
<b>Total</b>	<b>35,894</b>	<b>48,987</b>	<b>48,928</b>

### Legal Division

The primary functions of the Legal Division are to provide legal counsel to the Department; investigate fraud, litigate administrative actions; and, research and prepare proposed bills and administrative rules.

The commissioner signed 14 orders involving agents in 2009 and eight orders involving agents in 2010.

### Examinations and Company Licensing Division

The primary function of the Examinations and Company Licensing Division is to monitor the financial strength of insurance companies licensed to do business in North Dakota.

As of Dec. 29, 2010, there were a total of 2,255 insurance entities licensed to do business in North Dakota and among them, 39 domiciled companies.

- Five financial exams were completed on domiciled companies July 1, 2009–June 30, 2010 (one targeted exam)
- Eight financial exams completed July 1–Dec. 29, 2010
- 11 in progress (one targeted exam)

### Property/Casualty Division

The Property/Casualty Division reviews policy forms and evaluates the premium rates companies propose to charge. The division also investigates consumer inquiries and complaints against insurance companies in order to ensure the fair treatment of policyholders.

**Life/Health Division**

The Life/Health Division reviews policy forms and evaluates the premium rates companies propose to charge. The division also investigates consumer inquiries and complaints against insurance companies in order to ensure the fair treatment of policyholders.

**Consumer Assistance Division**

The Consumer Assistance Division was created in 2010 and houses the Prescription Connection and State Health Insurance Counseling (SHIC) programs.

The SHIC program provides free, confidential health insurance counseling to Medicare beneficiaries, their families or other representatives.

The Prescription Connection program helps low income North Dakotans find low-cost and no-cost prescription drugs by connecting them with prescription assistance programs. Program staff assists consumers with every aspect of the application process and connect 99 percent of all applicants to a program.

**Special Funds Division**

The Special Funds Division includes the following programs that are self-funded and do not require an appropriation from either the State General Fund or the Insurance Regulatory Trust Fund.

<b>Fund</b>	<b>2010</b>
State Bonding Fund	
Bondholders	2,971
Combined insured value	\$599,899,112
Fire and Tornado Fund	
Policyholders	9,180 buildings
Combined insured value	\$9.7 billion
Petroleum Release Compensation Fund	
Tank owners	1,609
Tanks	5,495
Boiler and Pressure Vessel Inspection Programs	
Boilers inspected by Department	4,697
Boilers inspected by private insurance carriers	4,685
Total boilers in ND	9,382

The State Bonding Fund provides fidelity bond coverage to the state of North Dakota and its political subdivisions including counties, townships, cities, park districts and school districts. To date this biennium, two judgments totaling \$50,923 have been paid.

Since 1919, the State Fire and Tornado Fund has provided affordable building and business personal property insurance coverage to state entities and political subdivisions of the state.



<b>Fire and Tornado Fund premiums and claims</b>					
<b>Fiscal year</b>	<b>Policyholders</b>	<b>Rate change</b>	<b>Premiums collected</b>	<b># claims</b>	<b>Claim payments</b>
2005	1,084	No change	\$4.89 million	222	\$1.39 million
2006	1,079	10% ▼	\$4.89 million	237	\$2.60 million
2007	1,084	50% premium credit	\$2.64 million	202	\$10.1 million
2008	1,085	35% premium credit	\$3.85 million	111 (12/7/08)	\$1,085,373 (12/7/08)
2009	1,088	No change	\$6.44 million	251	\$2.67 million
2010	1,087	50% premium credit	\$3.22 million	381 (12/23/10)	\$4.2 million

The North Dakota Petroleum Tank Release Compensation Fund financially assists tank owners for cleanup costs and third-party liability caused by petroleum contamination. All owners or operators of aboveground or underground petroleum storage tanks in North Dakota are required to register their tanks with the fund and pay an annual registration fee. The annual fee per tank is generally \$50.

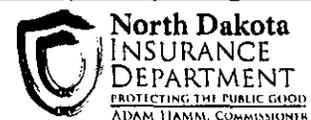
The Unsatisfied Judgment Fund was created to protect residents of North Dakota against the financial hardships associated with bodily injury caused by irresponsible, uninsured, judgment-proof drivers. During 2008-2010, no payments were made from the fund.

The Boiler and Pressure Vessel Inspection Programs provide initial and periodic inspections of boilers. Nominal fees ranging from \$40-\$90 per boiler are collected to fund the inspection activity.

The Anhydrous Ammonia Inspection Program provides initial and periodic inspections of anhydrous ammonia storage facilities, including storage containers, system piping, safety equipment and nurse tanks.

<b>Special Funds balance report</b>				
<i>As of Oct. 31, 2010</i>				
<b>Fund</b>	<b>Reserve balance</b>	<b>Minimum requirement</b>	<b>Variance fav (unfav)</b>	<b>Loss claims payable</b>
State Bonding Fund	\$2,745,144	\$2,000,000	\$745,144	\$181,983
Fire and Tornado Fund	\$25,459,595	\$12,000,000	\$13,459,595	\$2,346,044
Petroleum Release Comp Fund	\$5,572,374	\$6,000,000	(\$427,626)	\$1,420,809
Unsatisfied Judgment	\$207,928	\$150,000	\$57,928	0

Note: Reserve balance = cash + money market deposit accounts + investments



# Department appropriation

Senate Bill No. 2010

## Appropriation

- Total executive budget recommendation—\$18,437,148
- The Department requested \$18,987,369

	Department request	Governor's recommendation
Salaries and wages	\$8,102,915	\$7,677,595
Operating	\$3,824,454	\$3,699,553
IT/Sware over \$5,000	\$70,000	\$70,000
Grants to ND Firefighters Association	\$170,000	\$170,000
<b>Total</b>	<b>\$12,167,369</b>	<b>\$11,671,148</b>
Grants to fire districts	\$6,820,000	\$6,820,000
<b>Total budget</b>	<b>\$18,987,369</b>	<b>\$18,437,148</b>
<b>FTEs</b>	Company Financial Analyst (2)	Company Financial Analyst
	Company Financial Examiner I	Company Financial Examiner
	Research Analyst	Research Analyst
	Form/Rate Filing Analyst II	Form/Rate Filing Analyst II
	Health Insurance Counselor/Investigator (2)	Health Insurance Counselor/Investigator
	Actuary	(Turned into temp—no benefits)
	Human Resource Director	
<b>Total FTEs</b>	<b>9</b>	<b>5</b>
		<b>+ 1 temp</b>

The salaries and wage amounts listed above include legislative salary and fringe benefit increases.

- Additional agency positions expected in 2013 session
- Additional positions expected in Exchange legislation

Please see Attachment 1 for descriptions of the FTE positions included in the Department's request.

The Insurance Department has been tracking the development of health care reform legislation since we were first asked to update the interim Industry, Business and Labor Committee at an August 6, 2009 meeting centered on HB 1577, a study of factors impacting the cost of health insurance. The Department continued to give regular updates to the Committee through the passage of the Patient Protection and Affordable Care Act also known as "federal health care reform," or "PPACA" and into late 2010.



We continue to participate on state and national levels in discussions of the impacts of this law and in providing North Dakota's viewpoint as to where the law may have harmful consequences.

After an analysis of the numerous functions required of states because of this national law, the Insurance Department is now tasked with several new functions, different monitoring responsibilities and additional reporting burdens. The Department has determined the type of employee skill sets and organizational structure needed to ensure that North Dakota's insurance regulatory structure remains one that encourages competition, protects consumers and yet allows for any future changes in the national laws.

The Department's only optional budget request to the Governor focused on the minimum amount of resources necessary to carry out the federal requirements of the law in our state. The request for nine positions (see detail in Attachment 1) reflects the need for more financial oversight and increased filing activity of companies, anticipated consumer assistance needs and the added administrative work for the Department. The request for operating dollars reflects the costs of additional employees. The total optional request is for \$2,995,022 more than the 2009-2011 budget. The Department anticipates the opportunity to offset these costs through federal grants.

The total appropriation of \$18,987,369 represents a 21 percent increase over the 2009-2011 budget.

- Salaries and wages: \$1,634,379 increase over last biennium
- Operating expenses: \$1,761,189.24 increase over last biennium
- Grants: a total of \$620,000 goes to the North Dakota's Firefighter's Association

**Insurance premium tax distribution fund payments**

- The Department is expected to collect \$63 million in premium taxes in 2011-2013.
- \$6.2 million of these funds is distributed to fire districts; a total of \$620,000 goes to the North Dakota's Firefighter's Association (see Attachment 2).

**Special Funds allocation**

The requested appropriation provides for allocation of expenses for administration of each of the following funds:

Section	Fund	Expected reserve balance	Appropriated admin expense
3	State Bonding Fund	\$2,745,144	\$45,113
4	Fire and Tornado Fund	\$25,459,595	\$1,386,202
5	Petroleum Release Comp Fund	\$5,572,374	\$96,021
6	Unsatisfied Judgment Fund	\$207,928	\$26,047



# Summary of major achievements and goals

## 1. Health care reform monitoring

### Achievements

- Created and maintained website section detailing health care reform
- Participated in numerous interim IBL committee meetings
- Held four stakeholder meetings to discuss reform's impact on North Dakota
- Created an internal team and developed a communication process; team participated in multiple meetings and teleconferences every week

### 2011-2013 focus

- Continue to participate in weekly conference calls and meetings

## 2. Continued progress toward fully electronic (paperless) systems in insurance regulation

### Achievements

- Launched Agent Licensing, Company Licensing, inquiries and complaints, fraud and revenue components of the National Association of Insurance Commissioners' State Based Systems (SBS)
  - SBS provided electronic delivery of licenses, greatly reducing paper, printer and postage costs in Agent Licensing Division
- Agent licensing implemented electronic renewal processes for two additional license types, as well as offering free online access to continuing education records
- Implemented electronic means to collect premium tax from surplus lines producers
- Company Licensing implemented electronic filing of Renewal Statements and payment of fees

### 2011-2013 focus

- Participate in electronic email address changes and address changes for business entities when implemented by National Insurance Producer Registry
- Continue to work with SBS to develop enhancements

## 3. Enhance outreach programs and consumer education

### Achievements

- In 2009 and 2010, the Prescription Connection program helped approximately 4,621 people across North Dakota obtain more affordable or free prescriptions. Savings to these low-income applicants amounted to \$3.37 million in prescription drug costs that would otherwise be unaffordable.
- Enhanced our review of property replacement values of schools by utilizing private sector appraisals.

- Conducted a miscellaneous vehicles (recreational/toys) survey to determine state requirements and required coverages
- Enhanced partnership with Agriculture Department on inspection of anhydrous ammonia facilities and nurse tanks

**2011-2013 focus**

- Increase Prescription Connection program awareness and participation
- Create a consumer brochure for high school students about credit and insurance

**4. Respond in a timely fashion to inquiries and requests**

**Achievements**

- During 2009 and 2010, staff processed 17,556 inquiries and complaints from North Dakotans needing help resolving insurance-related matters and obtained more than \$2.1 million in relief on behalf of consumers.

**2011-2013 focus**

- Process new company applications for licensure within 60 days
- Respond to inquiries within 24 hours
- Respond to complaints within time frame appropriate for each division

**5. Improve enforcement and solvency regulation**

**Achievements**

- Identified and collected \$1,711,000 of delinquent company renewal fees due on a retaliatory basis
- The Legal Division added a special investigator to its fraud unit in 2009, increasing its ability to follow up on reports of fraudulent activity
- Worked with legal in stepping up our restitution recovery of State Bonding Fund judgments and converted criminal judgments to civil judgments to protect its interest in an attempt to collect the moneys owed.

**2011-2013 focus**

- Strengthen company practices relating to auditor independence, corporate governance and internal control over financial reporting
- Increase insurance fraud referrals to appropriate prosecutors and continue developing working relationships with local, state and federal law enforcement agencies

**6. Implement enhancements as a result of 2009 legislation**

**Achievements**

- Implemented new law converting producer license expiration dates to birth month in compliance with NAIC uniformity standards
- Adopt changes to the Annual Audited Financial Reports Regulation



- Created procedure to implement and maintain long-term care insurance partnership program requirements

**2011-2013 focus**

- Monitor the adoption of new accreditation standards by the NAIC and implement necessary changes.
- Adopt administrative rules and issue bulletins necessary to implement statutory changes, if any, created during the 2011 Legislative Session

**7. Continue to develop SHIC program**

**Achievements**

- In 2009 and 2010, SHIC assisted 27,816 North Dakotans, saving more than \$6.44 million.
- Achieved number one national ranking for the second year in a row
- Held 10 Medicare Part D open enrollment events around the state in 2009, helping more than 1,000 consumers. In 2010, eight events were held helping more than 1,100 consumers.
  - Enhanced agreement with 211 during Medicare Part D annual enrollment period
  - Added several partner enrollment events around the state
- Added 10 new counselors
- Held several Turning 65 seminars (Medicare 101), attended by 237 consumers
- Participated in seven events/presentations reaching nearly 200 people and displayed a booth at five fairs reaching more than 1,050 people
- Conducted a statewide health insurance study called CHAT
  - 17 CHAT sessions were held July through October 2009
  - 222 North Dakotans participated in person and online
  - Results were distributed statewide and were also sent to the U.S. Department of Health and Human Services

**2011-2013 focus**

- Recruit additional counselors in areas of need
- Increase participation in Turning 65 seminars (Medicare 101)
- Develop communications plan to educate consumers about the new Part D enrollment dates beginning in 2011

# Attachment 1

## North Dakota Insurance Department

Health Care Reform Full Time Equivalent (FTE) Position Job Duties

2011-2013 Optional Budget Request

<b>Company Licensing and Examinations Division</b>		
Company Financial Examiner	Participate in team rate reviews; substantiate compliance with medical loss ratio requirements and levels of coverage thresholds; verify accounting of administrative costs for exchange plans; confirm that companies' meet requirements for claims, disclosures, enrollment/disenrollment, etc.; verify accuracy of plan risk factors and payment in risk adjustment programs; ensure accurate reporting as required; participate in additional financial exams and targeted exams.	24 months
Company Financial Analyst (2)	Monitor compliance with medical loss ratio requirements and levels of coverage thresholds; participate in team rate reviews; assist in certifying "qualified health plans;" document company compliance with the transitional reinsurance program; investigate risk corridor participation by companies; evaluate plan risk factors and payment in risk adjustment programs; analyze accuracy of exchange subsidies and resulting impact on premiums; additional review of annual statements and supplemental filings.	One at 12 months; one at 24 months
<b>Life and Health Division</b>		
Actuary	Participate in team rate reviews; review additional rate filings for grandfathered and non-grandfathered plans; prepare and submit actuarial rate data to HHS; calculate medical loss ratios and any applicable rebates; certify "qualified health plans."	18 months
Form/Rate Filing Analyst	Review additional form filings rate filings for grandfathered and non-grandfathered plans; maintain and monitor the definition of essential benefits used in the review of form filings; review exchange plan form filings; prepare and submit policy data to HHS; act as a resource to consumers and companies; monitor web portal data.	18 months
<b>Consumer Assistance Division</b>		
Health Insurance Counselor/Investigator (2)	Assist consumers with health insurance and reform questions; assist consumers with complaints; provide education and outreach; fulfill requirement for insurance consumer assistance offices/ombudsman; collect data as required; communicate with other agencies on behalf of consumers; refer consumers to appropriate state and federal agencies and other programs.	24 months
<b>Administrative Division</b>		
Human Resource Director	(New position) Develop position information questionnaires for new positions; manage HR functions; act as the payroll/PeopleSoft manager; direct hiring actions; assist with all other personnel functions.	24 months
Research Analyst	(New position) Write and submit grant applications; monitor and report results for grants; gather and analyze data; perform research and study; respond to requests for information.	24 months

## Attachment 2

### North Dakota Insurance Department Fire District Payments

- The insurance premium tax is collected quarterly and deposited into the State General Fund. The legislature appropriates a portion of the insurance premium tax revenue collected from all companies licensed to do business in North Dakota to be allocated to qualified fire districts in the state of North Dakota.
- Senate Bill 2010 appropriates \$6,820,000 from the insurance premium tax distribution fund for the 2011-2013 biennium. \$6,200,000 is distributed to qualifying fire districts within the state of North Dakota and the remaining \$620,000 goes to the North Dakota Firefighter's Association dues. Payments to districts are mailed in September of each year.
- The following chart provides a sampling of district payments for 2010.

<b>Sampling of fire district annual premiums and payments</b>	<b>2009 premium</b>	<b>% of total premiums</b>	<b>2010 payment</b>
Bismarck Fire Department	\$24,437,128	6.96%	\$215,771.51
Bismarck Fire Protection District	5,615,965	1.6%	49,587.06
Bowman Fire Department	933,227	0.27%	8,240.08
Bowman Rural Fire Department	528,098	0.15%	4,662.93
Dickinson Fire Department	6,870,776	1.96%	60,666.61
Dickinson Fire Protection District	2,314,019	0.66%	20,432.00
Fargo Fire Department	35,709,605	10.17%	315,303.64
Grand Forks Fire Department	16,082,118	4.58%	141,999.62
Hazen Fire Department	905,549	0.26%	7,995.69
Hazen Fire Protection District	632,494	0.18%	5,584.71
Jamestown Fire Protection District	3,950,950	1.13%	34,885.54
Jamestown Fire Department	5,052,765	1.44%	44,614.19
Lansford Fire Protection District	570,965	0.16%	5,041.43
Lehr Fire Department	41,532	0.01%	366.71
Lehr Rural Fire Department	157,042	0.04%	1,386.63
Minot Fire Department	13,146,632	3.74%	116,080.28
Minot Fire Protection District	3,014,497	0.86%	26,616.98
Ryder-Makoti Fire Protection District	669,862	0.19%	5,914.65
Valley City Fire Department	2,379,723	0.68%	21,012.14
Valley City Rural Fire	1,413,182	0.40%	12,477.92
<b>Total (all districts)</b>	<b>\$351,089,411</b>		<b>\$3,100,000</b>

Formula: (Each fire district premiums/statewide premiums) x \$3,100,000

2010. 3. 10. / 1C

GOOD MORNING

MR CHAIRMAN, MEMBERS OF THE COMMITTEE MY NAME IS ROBERT KNUTH, THE TRAINING DIRECTOR FOR THE NORTH DAKOTA FIREFIGHTER'S ASSOCIATION. I ALSO PROUDLY SERVE AS THE ASSISTANT CHIEF OF THE MINOT RURAL FIRE DEPARTMENT. I WOULD LIKE TO THANK THE COMMITTEE FOR ALLOWING US TO DISCUSS THE AMENDMENT TO SENATE BILL 2010.

AS THE RECOGNIZED FIRE AND RESCUE TRAINING AUTHORITY IN THE STATE, THE NORTH DAKOTA FIREFIGHTER'S ASSOCIATION IS CONTINUALLY DEVELOPING UP TO DATE CRUCIAL TRAINING PROGRAMS NEEDED FOR THE FIRE FIGHTERS OF NORTH DAKOTA. RECENTLY, WE HAVE PARTNERED WITH THE NORTH DAKOTA INSURANCE RESERVE FUND TO CREATE THE FIRE DEPARTMENT EMERGENCY VEHICLE OPERATIONS COURSE WHICH PROVIDES BASIC DRIVING EXPERIENCE FOR OPERATORS OF LARGE FRAME FIRE APPARATUS. THROUGH WORKFORCE SAFETY, WE OFFER THE COURAGE TO BE SAFE, SO EVERYONE GOES HOME PROGRAM, WHICH ENCOURAGES FIREFIGHTERS OF ALL AGES AND EXPERIENCE LEVELS TO STAY SAFE IN POTENTIALLY DANGEROUS SITUATIONS, AVOIDING NEEDLESS RISKS AND TRAGIC CONSEQUENCES. THESE ARE JUST TWO OF OUR CURRENT PROGRAMS THAT WE HAVE AVAILABLE TO ALL FIRE DEPARTMENTS IN THE STATE.

DUE TO THE INCREASE MAGNITUDE IN THE OIL INDUSTRY'S ACTIVITY, WE HAVE BEGUN PROVIDING TRAINING IN RESPONDING TO OIL FIELD EMERGENCIES. THE TRAINING IS DESIGNED TO PROVIDE SAFETY AWARENESS TO FIREFIGHTERS WHO RESPOND TO INCIDENTS INVOLVING OIL FIELD EMERGENCIES AND PROVIDE BASIC KNOWLEDGE OF PROCEDURES AND PRACTICAL HANDS ON EXPERIENCE DEALING WITH NUMEROUS TYPES OF OIL FIELD INCIDENTS. CURRENTLY THERE IS ONLY ONE LOCATION THAT CAN PROVIDE THIS HAND ON TRAINING IN THE STATE. THE DICKINSON FIRE DEPARTMENT IN PARTNERSHIP WITH TRAIN ND, A BUSINESS COOPERATIVE THAT SPECIALIZES IN

COMPREHENSIVE, CUSTOMIZED ADULT LEARNING AND EMPLOYEE TRAINING, AND THE ND OIL AND GAS PRODUCING COUNTIES, IS HOME TO THE WILLISTON BASIN OILFIELD FIRE TRAINING FACILITY. NORTH DAKOTA FIREFIGHTER'S ASSOCIATION HAS A CADRE OF INSTRUCTORS THAT PROVIDE THE CLASSROOM PORTION OF THIS TRAINING AT THE REQUESTING DEPARTMENT. UNFORTUNATELY THE HANDS ON TRAINING FACILITY IS STATIC AND DUE TO THE RISING FUEL COSTS AND THE TIME AWAY FROM WORK AND FAMILY, A MAJORITY OF THE FIRE DEPARTMENTS AFFECTED BY THE OIL BOOM ARE UNABLE TO TRAVEL TO RECEIVE THE HANDS ON TRAINING. NORTH DAKOTA FIREFIGHTER'S ASSOCIATION IS RESEARCHING ALTERNATIVES TO INCLUDE A MOBILE TRAINING PROP THAT WE WOULD TRANSPORT THROUGHOUT THE STATE TO PROVIDE THIS NECESSARY TRAINING.

THE APPROPRIATIONS REQUEST FOR FY 2011-2013, WHICH IS COVERED UNDER SENATE BILL 2010, THANKFULLY PROVIDES NORTH DAKOTA FIREFIGHTER'S ASSOCIATION WITH ITS OPERATING BUDGET. THESE FUNDS ARE VITAL TO THE CONTINUED OPERATIONS OF OUR ASSOCIATION AS WELL AS DEVELOPMENT AND PRESENTATION OF OUR CURRENT TRAINING AND OUR CERTIFICATION PROGRAMS. THE AMENDMENT WE ARE ASKING YOU TO CONSIDER WILL ALLOW US TO PURSUE ANOTHER VITAL TRAINING AVENUE THAT THE STATE OF NORTH DAKOTA IS ON THE VERGE OF LOSING; THEREBY CAUSING CATASTROPHIC LOSSES FOR REQUIRED TRAINING FOR THE NORTH DAKOTA FIREFIGHTERS RESPONDING TO INCIDENTS.

IN THE PAST THREE YEARS THE NUMBER OF VEHICLE ACCIDENTS HAS RISEN DRAMATICALLY. ACCORDING TO THE DATA COLLECTED BY THE STATE FIRE MARSHAL'S OFFICE FROM 2009 – 2010 THE NUMBER OF VEHICLE ACCIDENTS REQUIRING EXTRICATION ACTIVITY INCREASED 23% AND THOSE NUMBERS ARE EXPECTED TO RISE. THESE STATE FIGURES ARE INCLUSIVE OF ONLY THE DEPARTMENTS THAT PROVIDED INFORMATION TO THE STATE FIRE MARSHAL'S OFFICE. I CAN SPEAK MORE SPECIFIC ABOUT MY OWN DEPARTMENT. IN 2009 MINOT RURAL FIRE DEPARTMENT RESPONDED TO 14 VEHICLE

ACCIDENTS. IN 2010 WE RESPONDED TO 33. SINCE JANUARY 1<sup>ST</sup> 2011, MINOT RURAL HAS RESPONDED TO 35. ANOTHER SPECIFIC SET OF STATISTICS I HAVE COMES FROM WATFORD CITY FIRE DEPARTMENT. IN 2008 WATFORD CITY FIRE RESPONDED TO A TOTAL OF 68 CALLS FOR THE YEAR. 26 OF THOSE WERE FOR MOTOR VEHICLE ACCIDENTS. IN 2009 73 TOTAL CALLS 55 OF WHICH WERE MOTOR VEHICLE ACCIDENTS. IN 2010 89 TOTAL CALLS, 65 MOTOR VEHICLE ACCIDENTS. THE INCREASING NEED FOR AUTOMOBILE EXTRICATION IS EVIDENT. EVEN MORE CRUCIAL IS THE NEED FOR CURRENT AND CONTINUING EXTRICATION TRAINING.

AUTOMOBILE EXTRICATION HAS BEEN UNDER THE PURVIEW OF THE DEPARTMENT OF HEALTH, DIVISION OF EMERGENCY MEDICAL SERVICES AND TRAUMA FOR THE PAST SEVERAL YEARS. IN 2010 THE NORTH DAKOTA FIREFIGHTER'S ASSOCIATION AND THE DIVISION OF EMERGENCY MEDICAL SERVICES AND TRAUMA BEGAN DISCUSSIONS TO MOVE THE AUTOMOBILE EXTRICATION TRAINING AND CERTIFICATION PROGRAMS FROM THEM TO NORTH DAKOTA FIREFIGHTER'S ASSOCIATION. THERE ARE NUMEROUS REASONS FOR THIS MOVE. THE TWO MAIN REASONS ARE 1) THE INITIAL PROGRAM WAS FUNDED THROUGH A DEPARTMENT OF TRANSPORTATION GRANT THAT THE STATE RECEIVED. AT THE TIME THE DEPARTMENT OF HEALTH WAS IN A POSITION TO MANAGE THOSE GRANT MONIES. THOSE FUNDS ARE NO LONGER AVAILABLE. 2) THE MAJORITY OF EXTRICATION ACTIVITIES ARE PERFORMED BY FIRE AND RESCUE PERSONNEL. THE TRAINING AND CERTIFICATION OF PERSONNEL WOULD BE BETTER ALIGNED WITH THE NORTH DAKOTA FIREFIGHTER'S ASSOCIATION RATHER THAN THE DIVISION OF EMERGENCY MEDICAL SERVICES AND TRAUMA. BOTH PARTIES ARE IN AGREEMENT WITH THIS.

THE DIVISION OF EMERGENCY MEDICAL SERVICES AND TRAUMA ARE IN THE PROCESS OF REMOVING THE LANGUAGE REFERRING TO AUTOMOBILE EXTRICATION FROM NORTH DAKOTA ADMINISTRATIVE CODE, ARTICLE 33-36, EMS PERSONNEL TRAINING, TESTING AND CERTIFICATION. THE NORTH DAKOTA FIREFIGHTER'S ASSOCIATION IS IN THE PROCESS OF CREATING A NEW ADMINISTRATIVE CODE TO

ENSURE THIS VITAL SPECIALIZED TRAINING AND CERTIFICATION CONTINUES TO BE OFFERED AND MANAGED WITHIN THE STATE. THE AMENDMENT BEFORE YOU TODAY WILL ALLOW THE NORTH DAKOTA FIREFIGHTER'S ASSOCIATION TO CONTINUE THIS PROGRAM AND ENSURE THE PROGRAM IS MANAGED EFFICIENTLY AND THAT THE STANDARD OF TRAINING MEETS THE STANDARDS OF THE NATIONAL FIRE PREVENTION ASSOCIATION WHICH ALL OTHER CERTIFICATIONS THAT THE NORTH DAKOTA FIREFIGHTER'S ASSOCIATION OFFERS ARE BASED ON. ONE OF THE FIRST PRIORITIES WILL BE TO UPDATE THE CURRENT PROGRAM TO PROVIDE THE INSTRUCTORS CURRENT AND RELEVANT UPDATES TO THESE STANDARDS AND VEHICLE DESIGNS. THIS WILL ALLOW RESPONDERS WHO PERFORM THESE OPERATIONS AT AN ACTUAL EMERGENCY THE ABILITY TO DO SO SAFELY, EXPEDIENTLY, AND PERFORM WITH A HIGH LEVEL OF CONFIDENCE. PLEASE KEEP IN MIND THAT THE FIREFIGHTER'S ARE RESPONDING TO INCIDENTS INVOLVING CITIZENS, FAMILIES, COWORKERS AND VISITORS TO OUR GREAT STATE OF NORTH DAKOTA. IT IS IMPERATIVE THAT WE KEEP EVERYONE SAFE UNDER THESE TRAGIC CIRCUMSTANCES.

AGAIN I WANT TO THANK THE COMMITTEE FOR GIVING ME THE OPPORTUNITY TO SPEAK BEFORE YOU.

I WOULD BE HAPPY TO ANSWER ANY QUESTIONS YOU HAVE.

2010.3.10.11A



State of North Dakota  
House Appropriations Committee  
Rep. Jeff Delzer, Chairman

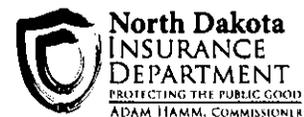
# North Dakota Insurance Department

## Budget presentation

### 2011-2013 biennium

### SB 2010

Presented by Adam Hamm,  
Insurance Commissioner  
March 10, 2011



# North Dakota Insurance Department

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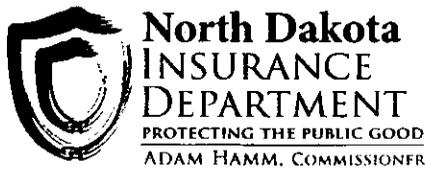
# ND Insurance industry and regulation

## At a glance

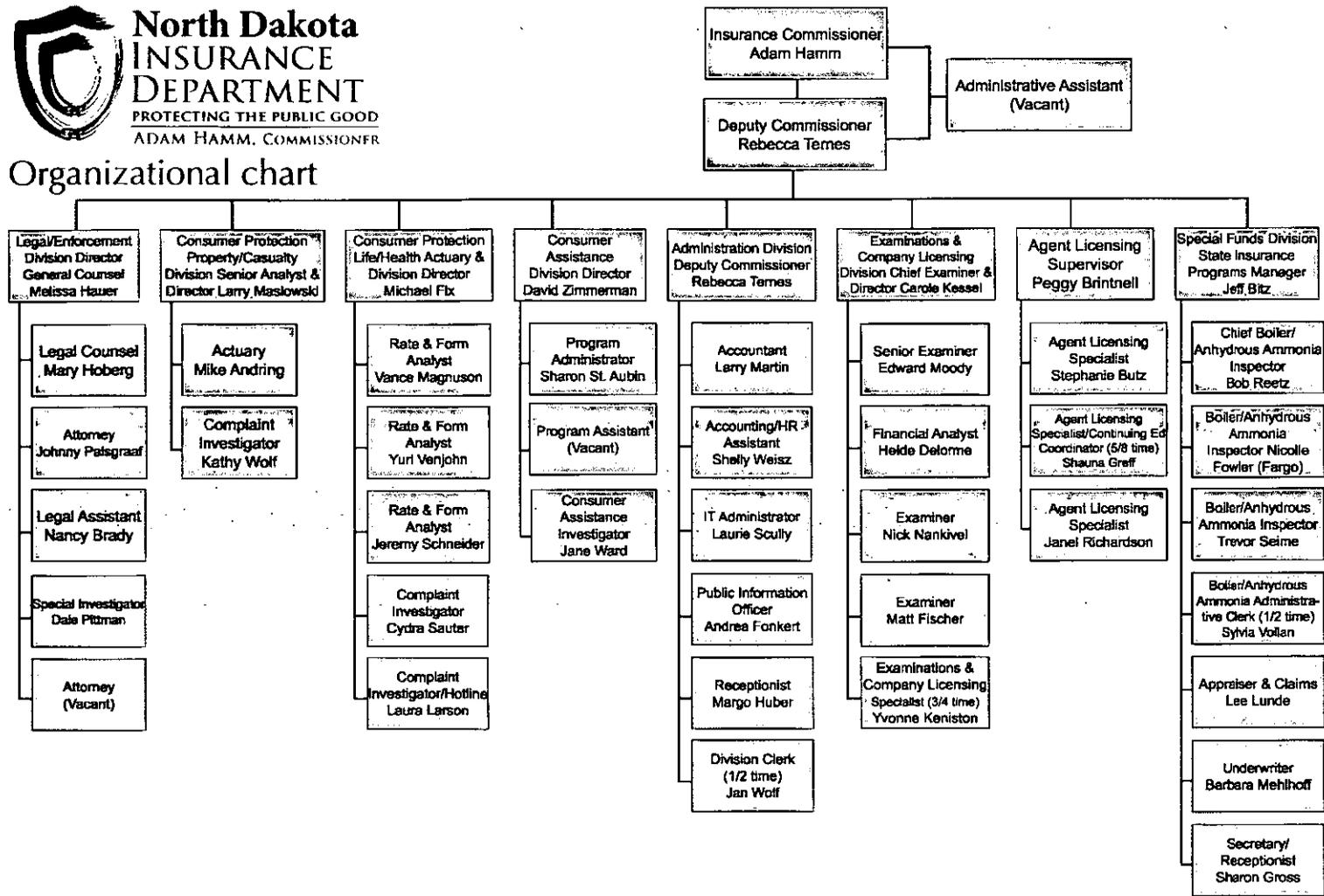
	2009	2010
<b>The insurance industry</b>		
Total premium written	\$4,044,836,633	n/a
Net premium tax collected (general fund dollars)	\$34,218,272	n/a
Claims, losses and benefits paid to consumers	\$2,865,404,311	n/a
<b>Regulation and consumer protection</b>		
Insurance Department FTEs	45.5	45.5
Consumer relief from complaints and hotline contacts	\$1,400,000	\$751,198
Enforcement fines from agents and companies	\$42,850	\$16,013
Enforcement relief from agents and companies	\$14,555.79	0
Collection of delinquent company licensing fees	\$429,000	\$1,282,000
<b>State Health Insurance Counseling (SHIC) program</b>		
Number of North Dakotans assisted	18,529	9,570
Savings for North Dakota citizens	\$4,500,000	\$1,900,000
Centers for Medicare and Medicaid grants	\$282,317	\$243,752
<b>Prescription Connection program</b>		
Number of North Dakotans assisted	2,499	2,122
Savings for North Dakota citizens	\$1,600,000	\$1,800,000
<b>Benefiting North Dakota taxpayers</b>		
Insurance regulatory trust fund; turnback to the general fund	\$2,384,455	\$3,915,348
<b>Fraud actions</b>		
Insurance fraud referrals received	48	94
Cases still under investigation	11	51
Amount of suspicious claims*	\$20,220,566.16**	\$1,061,114.69

\*This number reflects only those amounts that were reported by insurance companies; not all companies report the claim amount with their referral.

\*\*\$20 million of this amount is from one case that is being investigated by a federal agency.



Organizational chart



## Division overviews

### Administration Division

The Administration Division of the Insurance Department is responsible for oversight of the budget, accounting, IT needs and general office support through the Department. In addition, the division oversees day-to-day business operations, public relations, human resource management and the internal policies and procedures for the Department.

### Agent Licensing Division

The Agent Licensing Division is responsible for the licensing of nearly 49,000 individual insurance producers doing business in North Dakota. Insurance producers must comply with pre-licensing exams, background checks and continuing education requirements.

Agents licensed in ND	2005	2009	2010
Resident producers	6,204	6,706	5,998
Non-resident producers	29,690	42,281	42,930
<b>Total</b>	<b>35,894</b>	<b>48,987</b>	<b>48,928</b>

### Legal Division

The primary functions of the Legal Division are to provide legal counsel to the Department; investigate fraud, litigate administrative actions; and, research and prepare proposed bills and administrative rules.

The commissioner signed 14 orders involving agents in 2009 and eight orders involving agents in 2010.

### Examinations and Company Licensing Division

The primary function of the Examinations and Company Licensing Division is to monitor the financial strength of insurance companies licensed to do business in North Dakota.

As of Dec. 29, 2010, there were a total of 2,255 insurance entities licensed to do business in North Dakota and among them, 39 domiciled companies.

- Five financial exams were completed on domiciled companies July 1, 2009–June 30, 2010 (one targeted exam)
- Eight financial exams completed July 1–Dec. 29, 2010
- 11 in progress (one targeted exam)

### Property/Casualty Division

The Property/Casualty Division reviews policy forms and evaluates the premium rates companies propose to charge. The division also investigates consumer inquiries and complaints against insurance companies in order to ensure the fair treatment of policyholders.

### **Life/Health Division**

The Life/Health Division reviews policy forms and evaluates the premium rates companies propose to charge. The division also investigates consumer inquiries and complaints against insurance companies in order to ensure the fair treatment of policyholders.

### **Consumer Assistance Division**

The Consumer Assistance Division was created in 2010 and houses the Prescription Connection and State Health Insurance Counseling (SHIC) programs.

The SHIC program provides free, confidential health insurance counseling to Medicare beneficiaries, their families or other representatives.

The Prescription Connection program helps low income North Dakotans find low-cost and no-cost prescription drugs by connecting them with prescription assistance programs. Program staff assists consumers with every aspect of the application process and connect 99 percent of all applicants to a program.

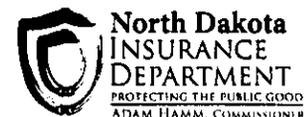
### **Special Funds Division**

The Special Funds Division includes the following programs that are self-funded and do not require an appropriation from either the State General Fund or the Insurance Regulatory Trust Fund.

<b>Fund</b>	<b>2010</b>
State Bonding Fund	
Bondholders	2,971
Combined insured value	\$599,899,112
Fire and Tornado Fund	
Policyholders	9,180 buildings
Combined insured value	\$9.7 billion
Petroleum Release Compensation Fund	
Tank owners	1,609
Tanks	5,495
Boiler and Pressure Vessel Inspection Programs	
Boilers inspected by Department	4,697
Boilers inspected by private insurance carriers	4,685
Total boilers in ND	9,382

The State Bonding Fund provides fidelity bond coverage to the state of North Dakota and its political subdivisions including counties, townships, cities, park districts and school districts. To date this biennium, two judgments totaling \$50,923 have been paid.

Since 1919, the State Fire and Tornado Fund has provided affordable building and business personal property insurance coverage to state entities and political subdivisions of the state.



<b>Fire and Tornado Fund premiums and claims</b>					
<b>Fiscal year</b>	<b>Policyholders</b>	<b>Rate change</b>	<b>Premiums collected</b>	<b># claims</b>	<b>Claim payments</b>
2005	1,084	No change	\$4.89 million	222	\$1.39 million
2006	1,079	10% ▼	\$4.89 million	237	\$2.60 million
2007	1,084	50% premium credit	\$2.64 million	202	\$10.1 million
2008	1,085	35% premium credit	\$3.85 million	111 (12/7/08)	\$1,085,373 (12/7/08)
2009	1,088	No change	\$6.44 million	251	\$2.67 million
2010	1,087	50% premium credit	\$3.22 million	381 (12/23/10)	\$4.2 million

The North Dakota Petroleum Tank Release Compensation Fund financially assists tank owners for cleanup costs and third-party liability caused by petroleum contamination. All owners or operators of aboveground or underground petroleum storage tanks in North Dakota are required to register their tanks with the fund and pay an annual registration fee. The annual fee per tank is generally \$50.

The Unsatisfied Judgment Fund was created to protect residents of North Dakota against the financial hardships associated with bodily injury caused by irresponsible, uninsured, judgment-proof drivers. During 2008-2010, no payments were made from the fund.

The Boiler and Pressure Vessel Inspection Programs provide initial and periodic inspections of boilers. Nominal fees ranging from \$40-\$90 per boiler are collected to fund the inspection activity.

The Anhydrous Ammonia Inspection Program provides initial and periodic inspections of anhydrous ammonia storage facilities, including storage containers, system piping, safety equipment and nurse tanks.

<b>Special Funds balance report</b>				
<i>As of Oct. 31, 2010</i>				
<b>Fund</b>	<b>Reserve balance</b>	<b>Minimum requirement</b>	<b>Variance fav (unfav)</b>	<b>Loss claims payable</b>
State Bonding Fund	\$2,745,144	\$2,000,000	\$745,144	\$181,983
Fire and Tornado Fund	\$25,459,595	\$12,000,000	\$13,459,595	\$2,346,044
Petroleum Release Comp Fund	\$5,572,374	\$6,000,000	(\$427,626)	\$1,420,809
Unsatisfied Judgment	\$207,928	\$150,000	\$57,928	0

Note: Reserve balance = cash + money market deposit accounts + investments



# Department appropriation

Senate Bill No. 2010

## Appropriation

- Total executive budget recommendation—\$18,437,148
- The Department requested \$18,987,369

	Department request	Governor's recommendation
Salaries and wages	\$8,102,915	\$7,677,595
Operating	\$3,824,454	\$3,699,553
IT/Sware over \$5,000	\$70,000	\$70,000
Grants to ND Firefighters Association	\$170,000	\$170,000
<b>Total</b>	<b>\$12,167,369</b>	<b>\$11,671,148</b>
Grants to fire districts	\$6,820,000	\$6,820,000
<b>Total budget</b>	<b>\$18,987,369</b>	<b>\$18,437,148</b>
<b>FTEs</b>	Company Financial Analyst (2)	Company Financial Analyst
	Company Financial Examiner I	Company Financial Examiner
	Research Analyst	Research Analyst
	Form/Rate Filing Analyst II	Form/Rate Filing Analyst II
	Health Insurance Counselor/Investigator (2)	Health Insurance Counselor/Investigator
	Actuary	(Turned into temp—no benefits)
	Human Resource Director	
<b>Total FTEs</b>	<b>9</b>	<b>5</b>
		<b>+ 1 temp</b>

The salaries and wage amounts listed above include legislative salary and fringe benefit increases.

- Additional agency positions expected in 2013 session
- Additional positions expected in Exchange legislation.

Please see Attachment 1 for descriptions of the FTE positions included in the Department's request.

The Insurance Department has been tracking the development of health care reform legislation since we were first asked to update the interim Industry, Business and Labor Committee at an August 6, 2009 meeting centered on HB 1577, a study of factors impacting the cost of health insurance. The Department continued to give regular updates to the Committee through the passage of the Patient Protection and Affordable Care Act also known as "federal health care reform," or "PPACA" and into late 2010.



We continue to participate on state and national levels in discussions of the impacts of this law and in providing North Dakota's viewpoint as to where the law may have harmful consequences.

After an analysis of the numerous functions required of states because of this national law, the Insurance Department is now tasked with several new functions, different monitoring responsibilities and additional reporting burdens. The Department has determined the type of employee skill sets and organizational structure needed to ensure that North Dakota's insurance regulatory structure remains one that encourages competition, protects consumers and yet allows for any future changes in the national laws.

The Department's only optional budget request to the Governor focused on the minimum amount of resources necessary to carry out the federal requirements of the law in our state. The request for nine positions (see detail in Attachment 1) reflects the need for more financial oversight and increased filing activity of companies, anticipated consumer assistance needs and the added administrative work for the Department. The request for operating dollars reflects the costs of additional employees. The total optional request is for \$2,995,022 more than the 2009-2011 budget. The Department anticipates the opportunity to offset these costs through federal grants.

The total appropriation of \$18,987,369 represents a 21 percent increase over the 2009-2011 budget.

- Salaries and wages: \$1,634,379 increase over last biennium
- Operating expenses: \$1,761,189.24 increase over last biennium
- Grants: a total of \$620,000 goes to the North Dakota's Firefighter's Association

**Insurance premium tax distribution fund payments**

- The Department is expected to collect \$63 million in premium taxes in 2011-2013.
- \$6.2 million of these funds is distributed to fire districts; a total of \$620,000 goes to the North Dakota's Firefighter's Association (see Attachment 2).

**Special Funds allocation**

The requested appropriation provides for allocation of expenses for administration of each of the following funds:

Section	Fund	Expected reserve balance	Appropriated admin expense
3	State Bonding Fund	\$2,745,144	\$45,113
4	Fire and Tornado Fund	\$25,459,595	\$1,386,202
5	Petroleum Release Comp Fund	\$5,572,374	\$96,021
6	Unsatisfied Judgment Fund	\$207,928	\$26,047



# Summary of major achievements and goals

## 1. Health care reform monitoring

### Achievements

- Created and maintained website section detailing health care reform
- Participated in numerous interim IBL committee meetings
- Held four stakeholder meetings to discuss reform's impact on North Dakota
- Created an internal team and developed a communication process; team participated in multiple meetings and teleconferences every week

### 2011-2013 focus

- Continue to participate in weekly conference calls and meetings

## 2. Continued progress toward fully electronic (paperless) systems in insurance regulation

### Achievements

- Launched Agent Licensing, Company Licensing, inquiries and complaints, fraud and revenue components of the National Association of Insurance Commissioners' State Based Systems (SBS)
  - SBS provided electronic delivery of licenses, greatly reducing paper, printer and postage costs in Agent Licensing Division
- Agent licensing implemented electronic renewal processes for two additional license types, as well as offering free online access to continuing education records
- Implemented electronic means to collect premium tax from surplus lines producers
- Company Licensing implemented electronic filing of Renewal Statements and payment of fees

### 2011-2013 focus

- Participate in electronic email address changes and address changes for business entities when implemented by National Insurance Producer Registry
- Continue to work with SBS to develop enhancements

## 3. Enhance outreach programs and consumer education

### Achievements

- In 2009 and 2010, the Prescription Connection program helped approximately 4,621 people across North Dakota obtain more affordable or free prescriptions. Savings to these low-income applicants amounted to \$3.37 million in prescription drug costs that would otherwise be unaffordable.
- Enhanced our review of property replacement values of schools by utilizing private sector appraisals.



- Conducted a miscellaneous vehicles (recreational/toys) survey to determine state requirements and required coverages
- Enhanced partnership with Agriculture Department on inspection of anhydrous ammonia facilities and nurse tanks

#### **2011-2013 focus**

- Increase Prescription Connection program awareness and participation
- Create a consumer brochure for high school students about credit and insurance

### **4. Respond in a timely fashion to inquiries and requests**

#### **Achievements**

- During 2009 and 2010, staff processed 17,556 inquiries and complaints from North Dakotans needing help resolving insurance-related matters and obtained more than \$2.1 million in relief on behalf of consumers.

#### **2011-2013 focus**

- Process new company applications for licensure within 60 days
- Respond to inquiries within 24 hours
- Respond to complaints within time frame appropriate for each division

### **5. Improve enforcement and solvency regulation**

#### **Achievements**

- Identified and collected \$1,711,000 of delinquent company renewal fees due on a retaliatory basis
- The Legal Division added a special investigator to its fraud unit in 2009, increasing its ability to follow up on reports of fraudulent activity
- Worked with legal in stepping up our restitution recovery of State Bonding Fund judgments and converted criminal judgments to civil judgments to protect its interest in an attempt to collect the moneys owed.

#### **2011-2013 focus**

- Strengthen company practices relating to auditor independence, corporate governance and internal control over financial reporting
- Increase insurance fraud referrals to appropriate prosecutors and continue developing working relationships with local, state and federal law enforcement agencies

### **6. Implement enhancements as a result of 2009 legislation**

#### **Achievements**

- Implemented new law converting producer license expiration dates to birth month in compliance with NAIC uniformity standards
- Adopt changes to the Annual Audited Financial Reports Regulation



- Created procedure to implement and maintain long-term care insurance partnership program requirements

**2011-2013 focus**

- Monitor the adoption of new accreditation standards by the NAIC and implement necessary changes.
- Adopt administrative rules and issue bulletins necessary to implement statutory changes, if any, created during the 2011 Legislative Session

**7. Continue to develop SHIC program**

**Achievements**

- In 2009 and 2010, SHIC assisted 27,816 North Dakotans, saving more than \$6.44 million.
- Achieved number one national ranking for the second year in a row
- Held 10 Medicare Part D open enrollment events around the state in 2009, helping more than 1,000 consumers. In 2010, eight events were held helping more than 1,100 consumers.
  - Enhanced agreement with 211 during Medicare Part D annual enrollment period
  - Added several partner enrollment events around the state
- Added 10 new counselors
- Held several Turning 65 seminars (Medicare 101), attended by 237 consumers
- Participated in seven events/presentations reaching nearly 200 people and displayed a booth at five fairs reaching more than 1,050 people
- Conducted a statewide health insurance study called CHAT
  - 17 CHAT sessions were held July through October 2009
  - 222 North Dakotans participated in person and online
  - Results were distributed statewide and were also sent to the U.S. Department of Health and Human Services

**2011-2013 focus**

- Recruit additional counselors in areas of need
- Increase participation in Turning 65 seminars (Medicare 101)
- Develop communications plan to educate consumers about the new Part D enrollment dates beginning in 2011

2010.3.22.11#



State of North Dakota  
House Appropriations Committee  
Government Operations Division  
Rep. Blair Thoreson, Chairman

# North Dakota Insurance Department

## Budget presentation follow-up

### SB 2010



**North Dakota**  
**INSURANCE**  
**DEPARTMENT**  
PROTECTING THE PUBLIC GOOD  
ADAM HAMM, COMMISSIONER

# Health Care Reform Impact on the North Dakota Insurance Department

## **What we are doing:**

- Tracking and analyzing market reforms that began 90 days after the March 23, 2010 signing of the Act and continue to be implemented:
  - Excessive waiting periods
  - Lifetime limits
  - Rescissions
  - Extension of dependent coverage
  - Temporary high-risk pool decision
  - Pre-existing condition exclusions for under age 19
  - Coverage of preventative health services
- Reviewing policy filings necessary to bring health plans into compliance with new policy provisions as of September 23
- Reviewing rate filings initiated by changes to policies and grandfathered/non-grandfathered benefit levels
- Identifying staffing and training needs, both short term and long term (technical, legal, administrative, information technology)
- Preparing for new regulatory and consumer assistance responsibilities
- Continuing oversight and regulation of existing grandfathered plans as well as all new plans issued under reform provisions
- Working with legislative committees and members to report on the progress of implementing federal health care reform; identify required state law changes; draft legislation
- Applying for grants – rate review and exchange planning
- Reporting quarterly on grants – financial and progress reports, grant officer updates bi-monthly
- Fulfilling grant activity requirements
- Satisfying the requirements for the web portal
- Establishing internal processes to monitor and provide input into development of federal regulations, NAIC standards
- Evaluating internal needs to ensure coordination of implementation activities across programs
- Reaching out to other state agencies to discuss exchange needs and status of interoperability amongst various information technology systems
- Holding public stakeholder meetings to discuss implementation, obtain input on legislation and regulatory changes and new filing requirements
- Communicating regularly with stakeholders about health care reform news and activities
- Maintaining web page for regular updates on health care reform activities, summary documents and Q&As.
- Continuing to monitor regulatory provisions and directives issued by Secretary of HHS and other federal agencies
- Responding to many requests for consumer and business outreach through public presentations
- Responding to requests for information and assistance through our consumer hotline

## **Implementation challenges ahead:**

- Substantial research and analysis yet to be completed for the Exchange.
- Additional HHS regulations and guidance are still coming and will need to be implemented.
- Implementation and long-term management of varying regulatory requirements for grandfathered plans, Exchange plans, non-Exchange plans, multi-state plans and plans within each market segment (individual, small group and large group)

Continued ...

- Several important decisions are still ahead
  - Who will run the exchange — state or federal government? And where will it be placed — state, quasi, non-profit?
  - One Exchange or two?
  - Does the existing non-Exchange market continue to exist?
  - What role do agents and brokers play in the exchange?
  - Will the state ask for a medical loss ratio (MLR) adjustment?
  - Will the state work on a different enrollment schedule for the under 19 individual market?
- Massive public education and information effort coordinated across state agencies will be required for the Exchange
- Coordinating efforts between state agencies
- Staff resources must be located and trained appropriately within timeframes
- Long-term fiscal planning will be required to make the Exchange self funding by 2015
- The biennial legislative calendar imposes difficulties in ensuring a pro-active regulatory and consumer protection environment.

North Dakota Insurance Department  
Medical loss ratio (MLR)

Medical loss ratio (MLR) is currently calculated in North Dakota as incurred claims/earned premium. It represents the fraction of revenue from a plan's premiums that goes to pay for medical services.

$$\text{MLR} = \frac{\text{Incurred claims}}{\text{Earned premium}}$$

Under the Patient Protection and Affordable Care Act, MLR is calculated differently. Companies are allowed to include quality improvement expenses and taxes in the calculation of the ratios, with a further credibility adjustment possible based on the size of the block of business.

$$\text{MLR} = \frac{\text{Incurred claims} + \text{Quality improvement expenses}}{\text{Earned premium} - \text{Taxes}}$$

Beginning with plan year 2011, health insurance companies must report an MLR of at least 80 percent in individual and small group markets and 85 percent in large group markets or they will have to pay a rebate to the individual or entity that paid the premium no later than August 1 of the following year.

**ND INSURANCE DEPARTMENT  
SPEND DOWN REPORT  
AS OF FEBRUARY 28, 2011**

	BIENNIUM TO DATE		BIENNIUM		BUDGET	
	ACTUAL	% SPENT	BUDGET	REMAINING	% REMAINING	
<b>SALARIES</b>						
SALARIES	\$ 3,582,370	74%	\$ 4,810,903	\$ 1,228,533	26%	
BENEFITS	\$ 1,253,304	76%	\$ 1,657,633	\$ 404,329	24%	
<b>TOTAL SALARIES/BENEFITS</b>	<b>\$ 4,835,674</b>	<b>75%</b>	<b>\$ 6,468,536</b>	<b>\$ 1,632,862</b>	<b>25%</b>	
<b>OPERATING EXPENSES</b>						
TRAVEL	\$ 163,118	47%	\$ 345,510	\$ 182,392	53%	
IT-SOFTWARE/SUPPLIES	\$ 47,122	67%	\$ 70,200	\$ 23,078	33%	
PROFESSIONAL SUPPLIES	\$ 14,587	79%	\$ 18,400	\$ 3,813	21%	
SAFETY	\$ 343	10%	\$ 3,600	\$ 3,257	90%	
MISC SUPPLIES	\$ 10,773	21%	\$ 51,302	\$ 40,529	79%	
OFFICE SUPPLIES	\$ 22,811	68%	\$ 33,399	\$ 10,588	32%	
POSTAGE	\$ 67,210	58%	\$ 115,436	\$ 48,226	42%	
PRINTING	\$ 41,436	34%	\$ 122,925	\$ 81,489	66%	
IT EQUIP-UNDER \$5000	\$ 31,111	76%	\$ 40,800	\$ 9,689	24%	
OFF EQUIP/FURN-UNDER \$5000	\$ 17,897	71%	\$ 25,300	\$ 7,403	29%	
INSURANCE	\$ 15,972	38%	\$ 41,550	\$ 25,578	62%	
RENTALS/LEASES-EQUIP/OTHER	\$ 13,094	51%	\$ 25,550	\$ 12,456	49%	
RENTALS/LEASES-BLDG & LAND	\$ 201,031	90%	\$ 222,600	\$ 21,569	10%	
REPAIRS	\$ 422	25%	\$ 1,700	\$ 1,278	75%	
IT-DATA PROCESSING	\$ 246,440	66%	\$ 375,000	\$ 128,560	34%	
IT-COMMUNICATIONS	\$ 55,531	65%	\$ 85,000	\$ 29,469	35%	
IT-CONTRACT SERV/REPAIR	\$ 22,966	151%	\$ 15,200	\$ (7,766)	-51%	
PROFESSIONAL DEVELOPMENT	\$ 32,342	42%	\$ 76,529	\$ 44,187	58%	
OPERATING FEES & SERVICES	\$ 64,566	29%	\$ 225,640	\$ 161,074	71%	
PROFESSIONAL SERVICES	\$ 89,389	53%	\$ 167,624	\$ 78,235	47%	
<b>TOTAL OPERATING EXPENSES</b>	<b>\$ 1,158,160</b>	<b>56%</b>	<b>\$ 2,063,264</b>	<b>\$ 905,104</b>	<b>44%</b>	
EQUIPMENT-\$5000 & OVER	\$ -	0%	\$ 170,000	\$ 170,000	100%	
TECHNOLOGY CARRYOVER	\$ 25,000	100%	\$ 25,000	\$ -	0%	
GRANTS, BENEFITS & CLAIMS	\$ 6,987,692	100%	\$ 6,990,000	\$ 2,308	0%	
<b>TOTAL EXPENDITURES</b>	<b>\$ 13,006,526</b>	<b>83%</b>	<b>\$ 15,716,800</b>	<b>\$ 2,710,274</b>	<b>17%</b>	

**20 MONTHS (83%) OF BIENNIUM EXPIRED  
4 MONTHS (17%) OF BIENNIUM REMAINING**

North Dakota Insurance Department  
 Health care reform web stats  
 www.nd.gov/ndins

March 2010–March 2011

<b>Web page</b>	<b>Pageviews</b>	<b>Unique views</b>
Reform section main page <i>Department news and timeline</i>	3,284	2,450
Legislation ( <b>added 10/20/10</b> ) <i>Links to health care reform-related ND legislation</i>	1,185	576
Consumers <i>Frequently-asked questions related to consumer issues</i>	648	506
Businesses <i>Frequently-asked questions related to business issues</i>	420	306
Glossary <i>Defines health care reform terminology</i>	367	293
Grants ( <b>added 1/26/11</b> ) <i>Links to project abstract and quarterly report</i>	32	17
<b>Total</b>	<b>5,936</b>	<b>4,148</b>

Pageviews are the total number of pages viewed on a website and is a general measure of how much a site is used.

A unique view represents the number of sessions during which that page was viewed one or more times.



State of North Dakota  
Interim IBL committee  
Rep. George Keiser, Chairman

# Health care reform timeline 2010–2018

Presented by Adam Hamm  
May 27, 2010



**North Dakota**  
**INSURANCE**  
**DEPARTMENT**  
PROTECTING THE PUBLIC GOOD  
ADAM HAMM, COMMISSIONER

# 2010

Issue	What law will do	Effective date
<b>Health insurance consumer assistance offices and ombudsmen</b>	<p>States may establish and operate offices of health insurance consumer assistance or health insurance ombudsman programs to:</p> <ul style="list-style-type: none"> <li>• Assist with the filing of complaints and appeals</li> <li>• Collect, track and quantify problems and inquiries</li> <li>• Educate consumers on their rights and responsibilities</li> <li>• Assist consumers with enrollment in plans</li> <li>• Resolve problems with obtaining subsidies</li> </ul> <p>States may be required to collect and report data of all the types of problems and inquiries encountered by consumers.<sup>1</sup></p>	Effective as of date of enactment (3/23/2010)
<b>Preservation of right to maintain existing coverage</b>	<p>The following provisions will apply to grandfathered plans:</p> <ul style="list-style-type: none"> <li>• Excessive waiting periods</li> <li>• Lifetime limits only</li> <li>• Rescissions</li> <li>• Extension of dependent coverage</li> <li>• Uniform summary of benefits and coverage and standardized definitions</li> <li>• Medical loss ratios<sup>1</sup></li> </ul>	Effective as of date of enactment (3/23/2010)
<b>\$250 Medicare Part D rebate</b>	A \$250 rebate will be available to seniors reaching the Medicare Part D donut hole. <sup>1</sup>	June 2010
<b>Temporary high-risk pool program</b>	<p>The Secretary of Health and Human Services (HHS) is required to establish a temporary high-risk health insurance pool program to provide coverage to individuals with preexisting conditions who have been without coverage for at least six months.</p> <p>Pools must:</p> <ul style="list-style-type: none"> <li>• Have no preexisting condition exclusions</li> <li>• Cover at least 65% of total allowed costs</li> <li>• Have an out-of-pocket limit no greater than the limit for high deductible health plans (\$5,950 for individuals and \$11,900 for families)</li> <li>• Utilize adjusted community rating with maximum variation for age of 4:1</li> <li>• Have premiums established at a standard rate for a standard population</li> </ul> <p>The state's current high risk pool, the Comprehensive Health Association of North Dakota (CHAND), does not meet the requirements.<sup>1</sup></p>	Effective 90 days after enactment (June 23, 2010)

Issue	What law will do	Effective date
<b>Temporary reinsurance program for early retirees</b>	The Secretary of HHS shall establish a temporary reinsurance program to reimburse employment-based plans for 80% of costs incurred by early retirees age 55 and over but not eligible for Medicare between \$15,000 and \$90,000 annually. <sup>1</sup>	Effective 90 days after enactment (June 23, 2010)
<b>Web portal to identify affordable coverage options</b>	The Secretary of HHS shall establish a mechanism, including a website through which individuals and small businesses may identify affordable health insurance coverage. <sup>1</sup>	07/01/ 2010
<b>Annual and lifetime limits</b>	Plans may not establish lifetime limits on the dollar value of essential benefits. Plans may only establish restricted limits prior to Jan. 1, 2014 on essential benefits. <sup>1</sup>	09/23/2010
<b>Preexisting condition exclusions</b>	A plan may not impose any preexisting condition exclusions-effective six months after enactment for under age 19. <sup>1</sup>	Effective Sept. 23, 2010 for individuals 19 and under. Effective Jan. 1, 2014 for all others.
<b>Rescissions</b>	Insurers cannot rescind coverage after a sickness. Coverage may be rescinded only for fraud or intentional misrepresentation of material fact. <sup>1</sup>	09/23/2010
<b>Coverage of preventative health services</b>	<p>Plans must provide coverage without cost-sharing for:</p> <ul style="list-style-type: none"> <li>• Services recommended by the U.S. Preventive Services Task Force</li> <li>• Immunizations recommended by the Advisory Committee on enactment Immunization Practices of the Centers for Disease Control</li> <li>• Preventive care and screenings for infants, children and adolescents supported by the Health Resources and Services Administration</li> <li>• Preventive care and screenings for women supported by the Health Resources and Services Administration</li> </ul> <p>Current recommendations from the US Preventive Services Task force for breast cancer screenings will not be considered.<sup>1</sup></p>	09/23/2010
<b>Extension of adult dependent coverage</b>	Plans that provide dependent coverage must extend coverage to adult children up to age 26. <sup>1</sup>	09/23/2010
<b>Provision of additional information</b>	<p>All plans must submit to the Secretary of Health and Human Services (HHS) and state insurance commissioners and make available to the public the following information in plain language:</p> <ul style="list-style-type: none"> <li>• Claims payment policies and practices</li> <li>• Periodic financial disclosures</li> <li>• Data on enrollment</li> <li>• Data on disenrollment</li> <li>• Data on the number of claims that are denied</li> <li>• Data on rating practices</li> <li>• Information on cost-sharing and payments with respect to out-of-network coverage<sup>1</sup></li> </ul>	09/23/2010

Issue	What law will do	Effective date
<b>Appeals process</b>	<p>Internal claims appeal process:</p> <ul style="list-style-type: none"> <li>• Group plans must incorporate the Department of Labor's claims and appeals procedures and update them to reflect standards established by the Secretary of Labor.</li> <li>• Individual plans must incorporate applicable law requirements and update them to reflect standards established by the Secretary of HHS.</li> </ul> <p>External review:</p> <ul style="list-style-type: none"> <li>• All plans must comply with applicable state external review processes that, at a minimum, include consumer protections in the NAIC Uniform External Review Model Act (Model 76) with minimum standards established by the Secretary of HHS that is similar to the NAIC model.<sup>1</sup></li> </ul>	09/23/2010
<b>Patient protections</b>	<p>A plan that provides for designation of a primary care provider must allow the choice of any participating primary care provider who is available to accept them, including pediatricians.</p> <p>If a plan provides coverage for emergency services, the plan must do so without prior authorization, regardless of whether the provider is a participating provider.</p> <p>A plan may not require authorization or referral for a female patient to receive obstetric or gynecological care from a participating provider.<sup>1</sup></p>	09/23/2010
<b>Ensuring that consumers get value for their dollars</b>	<p>The Secretary of HHS, in conjunction with the states, shall develop a process for the annual review of unreasonable premium increases for health insurance coverage. The process shall require insurers to submit to the State and the Secretary a justification for an unreasonable premium increase and post it online.</p> <p>The Secretary shall award \$250 million in grants to states over a 5-year period to assist rate review activities, including reviewing rates, providing information and recommendations to the Secretary, and establishing Medical Reimbursement Data Centers to develop database tools that fairly and accurately reflect market rates for medical services. Amounts of grants to states are to be determined by the Secretary.</p>	Effective 2010 plan year
<b>Small business tax credit</b>	Available to small businesses offering coverage to employees <sup>1</sup>	Tax credits of up to 35 percent of the cost of premiums will be available in 2010 and will reach 50 percent in 2014.

# 2011

Issue	What law will do	Effective date
<b>Loss ratio</b>	Medical loss ratios of 80 and 85 percent, respectively, are required for individual/small group and large group plans. Loss ratio is the fraction of revenue from a plan's premiums that goes to pay for medical services. <sup>2</sup>	01/01/2011
<b>Bringing down the cost of health care</b>	Carriers must report to the Secretary of HHS the ratio of incurred losses (incurred claims) plus loss adjustment expense (change in contract reserves) to earned premiums. Insurers must provide a rebate to consumers if the percentage of premiums expended for clinical services and activities that improve health care quality is less than 85% in the large group market and 80% in the small group and individual markets. All hospitals must establish and make public a list of its standard charges for items and services, including for diagnosis-related groups. <sup>1</sup>	01/01/2011
<b>Long-term care</b>	A voluntary long-term care program will begin, financed through payroll deductions. <sup>2</sup>	01/01/2011
<b>Study of large group market</b>	The Secretary of HHS shall conduct a study of self-insured and fully-insured plans to compare the characteristics of employers, plan benefits, plan reserves and solvency and determine the extent to which the bill's market reforms will cause adverse selection in the large group market and prompt small and mid-size employers to self insure. <sup>1</sup>	Due no later than one year after enactment (3/23/2011)
<b>GAO study regarding the rate of denial of coverage and enrollment by health insurance and group health plans</b>	The GAO shall conduct a study of the incidence of denials of coverage for medical services and denials of application to enroll in health insurance plans by group health plans and health insurance issuers. <sup>1</sup>	One year after enactment (3/23/2011)

# 2012

Issue	What law will do	Effective date
<b>Ensuring quality of care</b>	<p>Plans must submit annual reports to the Secretary of HHS on whether the benefits under the plan:</p> <ul style="list-style-type: none"> <li>• Improve health outcomes through activities such as quality reporting, case management, care coordination, chronic disease management</li> <li>• Implement activities to prevent hospital readmission</li> <li>• Implement activities to improve patient safety and reduce medical errors</li> </ul> <p>Implement wellness and health promotion activities<sup>1</sup></p>	2 years after enactment (3/23/2012)
<b>Uniform explanation of coverage documents and standardized definitions</b>	The Secretary must develop standards for a summary of benefits and coverage explanation to be provided to all potential policyholders and enrollees. <sup>1</sup>	Standards must be developed by March 2011; implementation by March 2012

# 2013

Issue	What law will do	Effective date
<b>Health benefit exchange</b>	The Secretary of HHS must determine by Jan. 1, 2013 whether states intend to operate qualified exchanges.	01/01/ 2013
<b>Administrative simplification requirements</b>	The Secretary of HHS will develop operating rules for the electronic exchange of health information, transaction standards for electronic funds transfers and requirements for financial and administrative transactions. <sup>1</sup>	Rules adopted by July 1, 2011 to become effective by January 1, 2013
<b>Employer requirement to inform employees of coverage option</b>	Employers must provide employees with written notice at the time of hiring informing them of the existence of the Exchange and the availability of subsidies through the Exchange if the plan covers less than 60% of the cost of covered benefits. <sup>1</sup>	03/01/2013

# 2014

Issue	What law will do	Effective date
<b>Health benefit exchange</b>	<p>The Secretary of HHS must determine by Jan. 1, 2013 whether states intend to operate qualified exchanges. If a state does not create a qualified exchange, the Secretary must create one. There must be two exchanges: a non-group market exchange and an exchange for small businesses. States may choose to operate only one exchange serving both groups.</p> <p>Some functions to be performed by an exchange include:</p> <ul style="list-style-type: none"> <li>• Certify qualified plans to be sold in the exchange</li> <li>• Maintain a website</li> <li>• Provide for initial, annual and special open enrollment periods</li> <li>• Maintain a toll-free number</li> <li>• Create a rating system for plans and perform satisfaction survey</li> <li>• Provide a calculator to determine enrollee premiums and subsidies</li> <li>• Identify those individuals exempt from the individual mandate and notify treasury</li> <li>• Require participating plans to provide justification for rate increases<sup>1</sup></li> </ul>	State exchanges must be operational by Jan. 1, 2014.
<b>Free choice vouchers</b>	Employers must provide a voucher in the amount of the employer's contribution towards the group health plan to each employee whose household income is below 400% FPL if the employees' cost of coverage under the group health plan is between 8% and 9.8% of household income and the employee does not enroll in the employer's group health plan. Employees may use these vouchers to purchase coverage through the Exchange. <sup>1</sup>	01/01/2014
<b>Preexisting condition exclusions</b>	A plan may not impose any preexisting condition exclusions on anyone. <sup>1</sup>	01/01/2014
<b>Requirement to maintain minimum essential coverage</b>	U.S. citizens and legal residents are required to have qualifying health coverage. Those without coverage pay a tax penalty of the greater of \$695 per year up to a maximum of three times that amount (\$2,085) per family or 2.5% of household income. The penalty will be phased-in according to the following schedule: \$95 in 2014, \$325 in 2015, and \$695 in 2016 for the flat fee or 1.0% of taxable income in 2014, 2.0% of taxable income in 2015, and 2.5% of taxable income in 2016.	01/01/2014

Issue	What law will do	Effective date
<b>Guaranteed issue and renewability in all markets</b>	Beginning after 2016, the penalty will be increased annually by the cost-of-living adjustment. Exemptions will be granted for financial hardship, religious objections, American Indians, those without coverage for less than three months, undocumented immigrants, incarcerated individuals, those for whom the lowest cost plan option exceeds 8% of an individual's income, and those with incomes below the tax filing threshold (in 2009 the threshold for taxpayers under age 65 was \$9,350 for singles and \$18,700 for couples). <sup>3</sup>	Plan years beginning 01/01/2014
<b>Employers must offer coverage</b>	The law requires guaranteed issue and renewability and allows rating variation based only on age (limited to 3 to 1 ratio), premium rating area, family composition and tobacco use (limited to 1.5 to 1 ratio) in the individual and the small group market and the exchanges. <sup>3</sup>	01/01/2014
<b>Guaranteed availability of coverage</b>	Imposes a mandate on employers with 50+ workers: offer coverage by 2014 or pay \$2,000/full time worker (excluding the first 30); if offer unaffordable coverage, pay \$3,000/employee receiving taxpayer assistance to buy it or a total of \$2,000/employee, whichever is more. Employers of 50 or fewer workers are exempt. <sup>2</sup>	01/01/2014
<b>Prohibiting discrimination against individual participants and beneficiaries based on health status</b>	Insurers must accept every employer and every individual that applies for coverage except that: an insurer may restrict enrollment based upon open or special enrollment periods. <sup>1</sup>	Plan years beginning 01/01/2014
<b>Non-discrimination in health care</b>	A plan may not establish rules for eligibility based on any of the following health status-related factors: health status, medical condition, claims experience, receipt of health care, medical history, generic information, evidence of insurability (including conditions arising out of domestic violence), disability, any other health-status related factor deemed appropriate by the Secretary. <sup>1</sup>	Plan years beginning 01/01/2014
<b>Comprehensive health insurance coverage</b>	Plans may not discriminate against any provider operating within their scope of practice. Does not require that a plan contract with any willing provider or prevent tiered networks. <sup>1</sup>	Plan years beginning 01/01/2014
<b>Prohibition on excessive waiting periods</b>	All plans must include the essential benefits package required of plans sold in the Exchanges and must comply with limitations on annual cost-sharing for plans sold in the Exchanges. <sup>1</sup>	Plan years beginning 01/01/2014
<b>Coverage for individuals participating in approved clinical trials</b>	Group health plans and group health insurance may not impose waiting periods that exceed 90 days. <sup>1</sup>	Plan years beginning 01/01/2014
<b>Rating reforms must apply uniformly to all health insurance issuers and group health plans</b>	A plan may not deny an individual participation in an approved clinical trial for cancer or a life-threatening disease or condition, may not deny or limit the coverage of routine patient costs for items and services provided in connection with the trial, and may not discriminate against participants in a clinical trial. <sup>1</sup>	Plan years beginning 01/01/2014

2014 (continued)

# 2016

Issue	What law will do	Effective date
<b>Provisions relating to offering of plans in more than one state</b>	Two or more states may enter into a “health care choice compact” under which individual market plans could be offered in all compacting states, subject to the laws and regulations of the state where it was written or issued. Plans must be licensed in each state in which they sell coverage or must submit to the jurisdiction of the states with regard to the above laws. <sup>1</sup>	01/01/2016

# 2017

Issue	What law will do	Effective date
<b>Waiver for State Innovation</b>	<p>A state may apply for waivers of the following requirements:</p> <ul style="list-style-type: none"> <li>• Requirements for Qualified Health Benefits Plans</li> <li>• Requirements for Health Insurance Exchanges</li> <li>• Requirements for reduced cost-sharing in qualified health benefits plans</li> <li>• Requirements for premium subsidies</li> <li>• Requirements for the employer mandate</li> <li>• Requirements for the individuals mandate</li> </ul> <p>The state will receive funds for implementing the waiver equal to any subsidies or tax credits for which residents would otherwise receive if the state had not received a waiver.<sup>1</sup></p>	Plan years beginning 01/01/ 2017

# 2018

Issue	What law will do	Effective date
<b>Tax on "Cadillac" plans</b>	Imposes new taxes on so-called "Cadillac" health insurance policies; <sup>2</sup> 40% tax on health insurance plans worth more than \$27,500 for a family plan, \$10,200 for an individual plan (family coverage now averages \$13,375) <sup>3</sup>	01/01/2018

**Sources:**

1 National Association of Insurance Commissioners

2 National Conference of Insurance Legislators

3 Kaiser Health News

2010.3.22.11B

**SB2010 - Remaining salary authority for FTE included in the Executive Budget relating to Federal Health Care Reform.**

<b>Position</b>	<b>Permanent Salaries</b>	<b>Temp Salaries</b>	<b>Benefits</b>	<b>Total</b>
Insurance company examiner	108,726.72		41,142.05	149,868.77
Research analyst	104,545.08		40,393.33	144,938.41
Insurance company financial analyst	104,545.08		40,467.38	145,012.46
Insurance form rate analyst	39,011.22		23,275.35	62,286.57
State health insurance counselor	95,136.00		38,708.67	133,844.67
Temporary salaries		165,285.90	16,528.60	181,814.50
<b>Total</b>	<b>451,964.10</b>	<b>165,285.90</b>	<b>200,515.38</b>	<b>817,765.38</b>
<i>Senate Funding Reduction Amendment</i>	<i>432,500.00</i>	<i>165,286.00</i>	<i>185,796.00</i>	<i>783,582.00</i>
<b>Remaining Salary Authority</b>	<b>19,464.10</b>	<b>(0.10)</b>	<b>14,719.38</b>	<b>34,183.38</b>

\*\* Remaining authority within the budget is comprised of the compensation package adjustment.

11.8134.02001  
 Title.  
 Fiscal No. 1

Prepared by the Legislative Council staff for  
 Representative Guggisberg  
 February 25, 2011

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2010

Page 1, replace lines 15 and 16 with:

"Grants	<u>6,990,000</u>	<u>50,000</u>	<u>7,040,000</u>
Total special funds	\$15,558,934	\$1,876,979	\$17,435,913"

Page 1, line 24, replace "\$6,820,000" with "\$6,870,000"

Page 2, line 1, replace "\$620,000" with "\$670,000"

ReNUMBER accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Senate Bill No. 2010 - Insurance Department - House Action**

	Executive Budget	Senate Version	House Changes	House Version
Salaries and wages	\$7,677,595	\$6,894,013		\$6,894,013
Operating expenses	3,699,553	3,431,900		3,431,900
Capital assets	70,000	70,000		70,000
Grants	<u>6,990,000</u>	<u>6,990,000</u>	50,000	<u>7,040,000</u>
Total all funds	\$18,437,148	\$17,385,913	\$50,000	\$17,435,913
Less estimated income	<u>18,437,148</u>	<u>17,385,913</u>	50,000	<u>17,435,913</u>
General fund	\$0	\$0	\$0	\$0
FTE	50.50	45.50	0.00	45.50

**Department No. 401 - Insurance Department - Detail of House Changes**

	Adds Funding for Auto Extrication Training <sup>1</sup>	Total House Changes
Salaries and wages		
Operating expenses		
Capital assets		
Grants	<u>50,000</u>	<u>50,000</u>
Total all funds	\$50,000	\$50,000
Less estimated income	<u>50,000</u>	<u>50,000</u>
General fund	\$0	\$0
FTE	0.00	0.00

<sup>1</sup> Funding is provided from the insurance tax distribution fund to the North Dakota Firefighter's Association for auto extrication training.

2010.4.1.11B

11.8134.02006  
Title.  
Fiscal No. 3

Prepared by the Legislative Council staff for  
Representative Glasheim  
April 2, 2011

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2010

Page 1, line 3, remove the first "and"

Page 1, line 4; after "salary" insert "; to provide for a contingent appropriation; to provide for reports to the budget section; and to provide a statement of legislative intent"

Page 1, replace lines 15 and 16 with:

"Grants	<u>6,990,000</u>	<u>50,000</u>	<u>7,040,000</u>
Total special funds	\$15,558,934	\$1,876,979	\$17,435,913"

Page 1, line 24, replace "\$6,820,000" with "\$6,870,000"

Page 2, line 1, replace "\$620,000" with "\$670,000"

Page 2, after line 23, insert:

**"SECTION 9. CONTINGENT APPROPRIATION - FEDERAL HEALTH INSURANCE PREMIUM REVIEW GRANT.** Subject to the insurance commissioner being awarded a federal grant related to health insurance premium review requirements of the Patient Protection and Affordable Care Act, there is appropriated from federal funds the sum of \$1,000,000, or so much of the sum as may be necessary, to the insurance commissioner for the purpose of hiring temporary staff and for paying related operating expenses associated with federal health insurance premium review requirements, for the biennium beginning July 1, 2011, and ending June 30, 2013.

**SECTION 10. REPORTS TO THE BUDGET SECTION.** The insurance commissioner shall report to the budget section at each meeting during the 2011-13 interim on the status of the Patient Protection and Affordable Care Act.

**SECTION 11. LEGISLATIVE INTENT - PATIENT PROTECTION AND AFFORDABLE CARE ACT.** It is the intent of the sixty-second legislative assembly that the state's acceptance of federal grants related to the Patient Protection and Affordable Care Act, for the biennium beginning July 1, 2011, and ending June 30, 2013, does not indicate a position that individual mandates to buy health insurance are constitutional nor that the Patient Protection and Affordable Care Act will accomplish the goal of lessening the cost of health care. By accepting federal grants related to the Patient Protection and Affordable Care Act, the legislative assembly is only authorizing the use of federal funds to comply with federal law unless and until the federal law is either determined to be unconstitutional or repealed in whole or in part."

Re-number accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2010 - Insurance Department - House Action

	Executive Budget	Senate Version	House Changes	House Version
Salaries and wages	\$7,677,595	\$6,894,013		\$6,894,013
Operating expenses	3,699,553	3,431,900		3,431,900

Capital assets	70,000	70,000		70,000
Grants	6,990,000	6,990,000	50,000	7,040,000
Contingent federal grant			1,000,000	1,000,000
	<u>\$18,437,148</u>	<u>\$17,385,913</u>	<u>\$1,050,000</u>	<u>\$18,435,913</u>
Total all funds				
Less estimated income	<u>18,437,148</u>	<u>17,385,913</u>	<u>1,050,000</u>	<u>18,435,913</u>
	\$0	\$0	\$0	\$0
General fund				
	50.50	45.50	0.00	45.50
FTE				

**Department No. 401 - Insurance Department - Detail of House Changes**

	Adds Funding for Auto Extrication Training <sup>1</sup>	Adds Contingent Funding for PPACA Grant <sup>2</sup>	Total House Changes
Salaries and wages			
Operating expenses			
Capital assets			
Grants	50,000		50,000
Contingent federal grant		1,000,000	1,000,000
	<u>\$50,000</u>	<u>\$1,000,000</u>	<u>\$1,050,000</u>
Total all funds			
Less estimated income	<u>50,000</u>	<u>1,000,000</u>	<u>1,050,000</u>
	\$0	\$0	\$0
General fund			
	0.00	0.00	0.00
FTE			

<sup>1</sup> Funding is provided from the insurance tax distribution fund to the North Dakota Firefighter's Association for auto extrication training.

<sup>2</sup> Subject to the Insurance Commissioner being awarded a federal grant of \$1,000,000 related to health insurance premium review requirements of the Patient Protection and Affordable Care Act, there is appropriated out of such award the sum of \$725,000 for salaries of temporary employees and \$275,000 for associated operating expenses, for the Insurance Commissioner to hire temporary staff to assist with the increased workload associated with federal health insurance premium review requirements.

A section is added to the bill to require reports to the Budget Section at each meeting during the 2011-12 interim by the Insurance Commissioner regarding the status of provisions of the Patient Protection and Affordable Care Act.

A section of legislative intent is added relating to accepting federal grants associated with the Patient Protection and Affordable Care Act.

2010.H.1.11C

11.8134.02004  
Title.  
Fiscal No. 2

Prepared by the Legislative Council staff for  
House Appropriations - Government  
Operations

April 2, 2011

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2010

Page 1, line 3, remove the first "and"

Page 1, line 4, after "salary" insert "; and to provide for reports to the budget section"

Page 1, replace line 12 with:

"Salaries and wages	\$6,335,670	\$524,160	\$6,859,830"
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Page 1, replace lines 15 and 16 with:

"Grants	<u>6,990,000</u>	<u>50,000</u>	<u>7,040,000</u>
Total special funds	\$15,558,934	\$1,842,796	\$17,401,730"

Page 1, line 23, remove "PREMIUM"

Page 1, line 24, replace "\$6,820,000" with "\$6,870,000"

Page 1, line 24, remove "premium"

Page 2, line 1, replace "\$620,000" with "\$670,000"

Page 2, after line 23, insert:

**"SECTION 9. REPORTS TO BUDGET SECTION.** The insurance commissioner shall report at each budget section meeting during the 2011-12 interim on the status of provisions of the Patient Protection and Affordable Care Act."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2010 - Insurance Department - House Action

	Executive Budget	Senate Version	House Changes	House Version
Salaries and wages	\$7,677,595	\$6,894,013	(\$34,183)	\$6,859,830
Operating expenses	3,699,553	3,431,900		3,431,900
Capital assets	70,000	70,000		70,000
Grants	<u>6,990,000</u>	<u>6,990,000</u>	50,000	<u>7,040,000</u>
Total all funds	\$18,437,148	\$17,385,913	\$15,817	\$17,401,730
Less estimated income	<u>18,437,148</u>	<u>17,385,913</u>	15,817	<u>17,401,730</u>
General fund	\$0	\$0	\$0	\$0
FTE	50.50	45.50	0.00	45.50

Department No. 401 - Insurance Department - Detail of House Changes

Adds Funding for Auto Extrication Training <sup>1</sup>	Removes Remaining Salary Authority for FTE Positions Removed by the	Total House Changes

		Senate <sup>2</sup>	
Salaries and wages		(\$34,183)	(\$34,183)
Operating expenses			
Capital assets			
Grants	50,000		50,000
Total all funds	\$50,000	(\$34,183)	\$15,817
Less estimated income	50,000	(34,183)	15,817
General fund	\$0	\$0	\$0
FTE	0.00	0.00	0.00

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<sup>1</sup> Funding is provided from the insurance tax distribution fund to the North Dakota Firefighter's Association for auto extrication training.

<sup>2</sup> The Senate removed funding provided in the executive budget for 5 FTE positions and temporary employees related to federal health care reform. The compensation package adjustment for these positions was not removed. This amendment removes the remaining salary authority related to the compensation package adjustment for the 5 FTE positions removed by the Senate.

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A section is added to the bill to require reports to the Budget Section at each meeting during the 2011-12 interim by the Insurance Commissioner regarding the status of provisions of the Patient Protection and Affordable Care Act.

2010.4.1.11B

11.8134.02006  
Title.  
Fiscal No. 3

Prepared by the Legislative Council staff for  
Representative Glassheim  
April 2, 2011

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2010

Page 1, line 3, remove the first "and"

Page 1, line 4; after "salary" insert "; to provide for a contingent appropriation; to provide for reports to the budget section; and to provide a statement of legislative intent"

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Page 2, after line 23, insert:

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Re-number accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Senate Bill No. 2010 - Insurance Department - House Action**

	Executive Budget	Senate Version	House Changes	House Version
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Operating expenses	3,699,553	3,431,900		3,431,900

Capital assets	70,000	70,000		70,000
Grants	6,990,000	6,990,000	50,000	7,040,000
Contingent federal grant			1,000,000	1,000,000
	<u>\$18,437,148</u>	<u>\$17,385,913</u>	<u>\$1,050,000</u>	<u>\$18,435,913</u>
Total all funds				
Less estimated income	<u>18,437,148</u>	<u>17,385,913</u>	<u>1,050,000</u>	<u>18,435,913</u>
	\$0	\$0	\$0	\$0
General fund				
	50.50	45.50	0.00	45.50
FTE				

**Department No. 401 - Insurance Department - Detail of House Changes**

	Adds Funding for Auto Extrication Training <sup>1</sup>	Adds Contingent Funding for PPACA Grant <sup>2</sup>	Total House Changes
Salaries and wages			
Operating expenses			
Capital assets			
Grants	50,000		50,000
Contingent federal grant		1,000,000	1,000,000
	<u>\$50,000</u>	<u>\$1,000,000</u>	<u>\$1,050,000</u>
Total all funds			
Less estimated income	<u>50,000</u>	<u>1,000,000</u>	<u>1,050,000</u>
	\$0	\$0	\$0
General fund			
	0.00	0.00	0.00
FTE			

<sup>1</sup> Funding is provided from the insurance tax distribution fund to the North Dakota Firefighter's Association for auto extrication training.

<sup>2</sup> Subject to the Insurance Commissioner being awarded a federal grant of \$1,000,000 related to health insurance premium review requirements of the Patient Protection and Affordable Care Act, there is appropriated out of such award the sum of \$725,000 for salaries of temporary employees and \$275,000 for associated operating expenses, for the Insurance Commissioner to hire temporary staff to assist with the increased workload associated with federal health insurance premium review requirements.

A section is added to the bill to require reports to the Budget Section at each meeting during the 2011-12 interim by the Insurance Commissioner regarding the status of provisions of the Patient Protection and Affordable Care Act.

A section of legislative intent is added relating to accepting federal grants associated with the Patient Protection and Affordable Care Act.