

**Insurance Commissioner, including Insurance Tax Payments to Fire Departments  
Budget 401  
Senate Bill No. 2010; House Bill Nos. 1126, 1475**

	FTE Positions	General Fund	Other Funds	Total
2011-13 legislative appropriation	49.50	\$0	\$19,044,080	\$19,044,080
2009-11 legislative appropriation	<u>45.50</u>	<u>0</u>	<u>16,191,800</u>	<u>16,191,800</u>
2011-13 appropriation increase (decrease) to 2009-11 appropriation	4.00	\$0	\$2,852,280	\$2,852,280

**Item Description**

**Patient Protection and Affordable Care Act** - In 2011 House Bill No. 1125, the Legislative Assembly provided 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. The bill provided that the commissioner provide regular updates to the Legislative Management during the 2011-12 interim. The bill also provided that the commissioner submit proposed legislation to the Legislative Management for consideration at a special legislative session if the commissioner was required by federal law to implement any program or requirement before January 1, 2013.

In Section 9 of 2011 Senate Bill No. 2010, the Legislative Assembly provided that the Insurance Commissioner report at each Budget Section meeting during the 2011-12 interim regarding the status of provisions of the Patient Protection and Affordable Care Act.

**FTE positions** - In 2011 House Bill No. 1475, the Legislative Assembly authorized 4 new FTE positions and \$642,350 of special funds related to implementation of the federal Affordable Care Act.

**Status/Result**

The Insurance Commissioner is providing regular updates on provisions of the Patient Protection and Affordable Care Act and of the Health Care and Education Reconciliation Act of 2010 to the Legislative Management's interim Health Care Reform Review Committee. The commissioner assisted the committee in the preparation of three bills that were considered by the Legislative Assembly during the November 2011 special legislative session. House Bill No. 1475 (2011) relating to the implementation of the federal Affordable Care Act and 2011 House Bill No. 1476 relating to external review were approved by the Legislative Assembly during the November 2011 special legislative session. House Bill No. 1474 (2011) relating to the implementation of a state-operated health benefit exchange system was not approved during the November 2011 special legislative session.

Implementing the provisions of 2011 House Bill No. 1125 is consuming more staff time than estimated. Staff are heavily involved with National Association of Insurance Commissioners activities related to health care reform as well as frequent calls with federal officials on the status of various market reforms, exchange establishment, and grant requirements.

The deputy Insurance Commissioner has reported at each Budget Section meeting during the 2011-12 interim regarding the status of provisions of the Patient Protection and Affordable Care Act pursuant to Section 9 of 2011 Senate Bill No. 2010.

The Insurance Commissioner planned to hire an actuary, a financial analyst, a life and health analyst, and a financial examiner relating to implementation of the federal Affordable Care Act. The commissioner filled the financial analyst position in April 2012 and is in the process of interviewing applicants for the life and health analyst position and the financial examiner position. The commissioner is currently advertising for the actuary position. The commissioner plans to contract with an actuarial consultant until the position is filled.

**External review process** - The Legislative Assembly in 2011 House Bill No. 1127 updated statutory provisions to ensure that the state's external review process meets the requirements of 2010 federal legislation. The Legislative Assembly further revised the external review process in 2011 House Bill No. 1476.

**American health benefit exchange** - In 2011 House Bill No. 1126, the Legislative Assembly provided 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 provided an appropriation of \$1 million of federal funds available under the Patient Protection and Affordable Care Act of 2010 to the Insurance Commissioner for planning costs.

**Payments from the insurance tax distribution fund** - The Legislative Assembly appropriated \$8.12 million of special funds from the insurance tax distribution fund, of which \$6.2 million was for insurance tax payments to fire districts, \$620,000 was for two equal payments to the North Dakota Firefighters Association, \$50,000 to be distributed to the association for automobile extrication training, and \$1.25 million to the State Department of Health for grants to emergency medical services (EMS) providers.

**Anhydrous ammonia inspection program** - In 2011 House Bill No. 1321, the Legislative Assembly provided that the responsibility to inspect anhydrous ammonia storage facilities be transferred from the Insurance Commissioner to the Agriculture Commissioner.

The external review process established in House Bill No. 1127 was deemed ineffective in meeting Patient Protection and Affordable Care Act of 2010 standards by the United States Department of Health and Human Services (HHS). Therefore, the external review process was revised during the November 2011 special legislative session in House Bill No. 1476. In December 2011, HHS notified the Insurance Commissioner that the revised external review process did not meet all standards; however, the process qualified as a temporarily acceptable process through January 1, 2014. Beginning January 1, 2014, the state external review process will need to meet all Patient Protection and Affordable Care Act of 2010 standards or the insurers will become subject to a federally administered external review process.

Because 2011 House Bill No. 1474, relating to the implementation of a state-operated health benefit exchange system, was not approved during the November 2011 special legislative session, the Insurance Commissioner has requested that the Department of Human Services request a transfer of assignment of the remainder of federal funds for the health insurance exchange planning grant. As a result, the department would be authorized to use the federal funding to plan for the Medicaid eligibility component of the health benefit exchange. As of March 2012, the department has not submitted the request, and the commissioner continues to comply with federal reporting requirements of the grant.

Pursuant to North Dakota Century Code Section 18-04-05, the Insurance Commissioner distributed one-half of the biennial legislative appropriation (\$3.1 million) to fire districts in September 2011 and will distribute the remaining one-half in September 2012. The allocation to each eligible entity is based on the amount of gross premiums reported for each fire district compared to the total gross premiums reported statewide. In September 2011, the commissioner provided grants of \$310,000 to the North Dakota Firefighters Association, \$25,000 to the association for automobile extrication training, and \$625,000 to the State Department of Health for grants to EMS providers. The commissioner will provide the remaining portions of these grants in September 2012.

The Insurance Commissioner transferred responsibility and all historical data regarding the anhydrous ammonia inspection program to the Agriculture Commissioner at the beginning of the 2011-13 biennium. The Insurance Commissioner has provided ongoing training and assistance regarding the program as requested by Agriculture Commissioner's staff.