

**Sixty-sixth Legislative Assembly of North Dakota  
In Regular Session Commencing Thursday, January 3, 2019**

SENATE BILL NO. 2010  
(Appropriations Committee)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**SECTION 15. REPORT TO THE LEGISLATIVE MANAGEMENT - INSURANCE DEPARTMENT ANALYSIS OF HEALTH CARE - HOSPITAL REPORTING - PENALTY.** During the 2019-20 interim, the insurance department shall assist the legislative management with the interim study of health insurance premium trends as approved by the sixty-sixth legislative assembly in House Bill No. 1106. During the interim, the insurance department shall conduct a detailed analysis of health care in the state and submit the report to the legislative management. During the interim, upon request of the insurance

department, hospitals in cities with a population exceeding ten thousand shall provide the insurance department requested data regarding billing and payment information, financial information, management information, and other information the insurance department deems necessary to complete a detailed analysis of health care in the state. The department may not request data that include personally identifiable information and the hospitals may provide data in the aggregate. If a hospital fails, without just cause, to provide the insurance department with requested data as required under this section, the insurance commissioner may charge the hospital a civil penalty of up to one thousand dollars per day the hospital is in violation.

**SECTION 16. LEGISLATIVE INTENT - INSURANCE TAX DISTRIBUTION FUND PAYMENTS TO FIRE DEPARTMENTS.** It is the intent of the sixty-sixth legislative assembly that, when feasible, fire departments utilize increased payments from the insurance tax distribution fund to improve their insurance service office rating.

**SECTION 17. LEGISLATIVE MANAGEMENT STUDY - HEALTH INSURANCE - PRE-EXISTING CONDITIONS.** During the 2019-20 interim, the legislative management shall consider studying the feasibility and desirability of state guaranteed issue provisions for health insurance. The study must include consideration of protections for individuals with pre-existing conditions and consideration of whether to restructure the comprehensive health association of North Dakota. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-seventh legislative assembly.

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

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

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-sixth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2010 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote:        Yeas 47                      Nays 0                      Absent 0

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote:        Yeas 67                      Nays 25                      Absent 2

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2019.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2019.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2019,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State