

Introduced by

Legislative Management

(Government Finance Committee)

1 A BILL for an Act to amend and reenact sections 26.1-01-03, 26.1-22-01, 26.1-22-02,
2 26.1-22-02.1, 26.1-22-03.1, 26.1-22-09, 26.1-22-10, 26.1-22-11, 26.1-22-14, 26.1-22-16,
3 26.1-22-17, 26.1-22-21, and 26.1-22-22, subdivision c of subsection 1 of section 26.1-23.1-01,
4 and section 37-03-13 of the North Dakota Century Code, relating to changing the administration
5 of the state fire and tornado fund from the insurance commissioner to the office of management
6 and budget; to repeal sections 26.1-22-03, 26.1-22-05, 26.1-22-06, 26.1-22-06.1, 26.1-22-08,
7 26.1-22-10.1, 26.1-22-13, 26.1-22-15, 26.1-22-18, 26.1-22-19, and 26.1-22-21.1 of the North
8 Dakota Century Code, relating to the administration of the state fire and tornado fund; and to
9 provide a continuing appropriation.

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

11 **SECTION 1. AMENDMENT.** Section 26.1-01-03 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **26.1-01-03. Duties of commissioner.**

14 The commissioner shall:

- 15 1. See that all the laws of this state respecting insurance companies and benevolent
16 societies are executed faithfully.
- 17 2. Report in detail to the attorney general any violation of law relative to insurance
18 companies and their officers or agents.
- 19 3. File the articles of incorporation of all insurance companies organized or doing
20 business in this state, and on application furnish a certified copy thereof.
- 21 4. Furnish the insurance companies required to make reports to the commissioner and
22 the benevolent societies the necessary blank forms for required statements and
23 reports. The commissioner is not required to send blank forms to those insurance

- 1 companies which submit their reports on printed forms conforming to those furnished
2 by the commissioner.
- 3 5. Preserve in permanent form a full record of the commissioner's proceedings and a
4 concise statement of each company or agency visited or examined.
- 5 6. Furnish at the request of any person, upon the payment of the required fee, certified
6 copies of any record or paper in the commissioner's office, if the commissioner deems
7 it not prejudicial to the public interests to do so, and give such other certificates as
8 may be provided by law.
- 9 7. Submit a biennial report as prescribed by section 54-06-04 to the governor and the
10 secretary of state. In addition to the requirements of section 54-06-04, the report must
11 contain an abstract only of the reports of the various insurance companies doing
12 business in this state showing the condition of the companies.
- 13 8. Upon request, send a copy of the commissioner's annual report to the insurance
14 commissioner, or other similar officer, of every other state and to each company doing
15 business in this state.
- 16 9. Communicate, on request, to the insurance commissioner of any other state any facts
17 that by law it is the commissioner's duty to ascertain respecting companies of this
18 state doing business within that state.
- 19 10. Manage, control, and supervise the state bonding fund.
- 20 11. ~~Manage, control, and supervise the state fire and tornado fund and the insurance of~~
21 ~~public buildings in that fund.~~
- 22 12. Manage, control, and supervise the state fire marshal.

23 **SECTION 2. AMENDMENT.** Section 26.1-22-01 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **26.1-22-01. Definitions.**

26 ~~In~~As used in this chapter, unless the context otherwise requires:

- 27 1. "Fund" means the state fire and tornado fund.
- 28 2. "Indirect loss" means a loss in income or the additional expenses incurred because of
29 a property loss.
- 30 3. "International peace garden" means an entity located upon the international boundary
31 line between the United States and Canada used and maintained as a memorial to

1 commemorate the long-existing relationship of peace and good will between the
2 people and the governments of the United States and Canada and to further
3 international peace among the nations of the world.

4 4. "Office" means the office of management and budget.

5 5. "Permanent contents" refers only to such public property, either owned or leased,
6 usually kept or used in or about public buildings insured in the fund, and to all public
7 personal property usually kept or used in or about all buildings used for public
8 purposes, or within one hundred feet [30.48 meters] of all such buildings, or while on
9 sidewalks, streets, alleys, yards, detached platforms, and in or on railway cars. The
10 term includes similar property owned by an international peace garden or a winter
11 show. The term does not include automobiles, trucks, tractors, road machinery, or
12 similar property used principally outside such buildings.

13 5-6. "Political subdivision" means ~~all counties, townships, park districts, school districts,~~
14 ~~cities, and any other units~~ a county, township, park district, school district, city, or any
15 other unit of local government which are ~~is~~ created either by statute or by the
16 Constitution of North Dakota for local government or other public purposes.

17 6-7. "Replacement cost" is the cost to replace a building or its permanent contents with a
18 similar structure of like materials or a similar product at current prices.

19 7-8. "State agency" means a state board, bureau, commission, department, agency,
20 industry, or institution and the international peace garden.

21 9. "Winter show" means an agricultural exhibition sponsored each year in March by a
22 nonprofit corporation.

23 **SECTION 3. AMENDMENT.** Section 26.1-22-02 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **26.1-22-02. State fire and tornado fund ~~under management of commissioner -~~**
26 **~~Purpose of fund~~ Office of management and budget - Continuing appropriation.**

27 1. There is created in the state treasury the state fire and tornado fund to insure state
28 agencies, political subdivisions, and winter shows against direct and indirect losses
29 under this chapter. The fund consists of all assessments, interest, investment
30 earnings, and other income collected under this chapter.

1 2. ~~The commissioneroffice shall manage the fund. The fund must be maintained as a~~
2 ~~fund to insure the various state industries, the various political subdivisions, any~~
3 ~~international peace garden, and any winter show against loss to the public buildings,~~
4 ~~or buildings owned by an international peace garden or a winter show, and fixtures~~
5 ~~and permanent contents therein, and against indirect loss, through fire, lightning,~~
6 ~~inherent explosion, windstorm, cyclone, tornado and hail, explosion, riot attending a~~
7 ~~strike, aircraft, smoke, and vehicles. At the option of the insured, the fund may insure~~
8 ~~against other risks of direct physical loss and indirect loss from those risks. All moneys~~
9 ~~collected under this chapter must be paid into the fund for use only for the purposes~~
10 ~~provided for in this chapter.~~The office may use any information on file in the state fire
11 marshal program and may contract for administrative services from the North Dakota
12 insurance reserve fund or another entity to assist with the management of the fund. A
13 contract for administrative services must have a two-year term ending on June thirtieth
14 of odd-numbered years, and the contract may not be terminated except at the end of
15 the two-year term. If either party does not anticipate renewing the contract for another
16 two-year term, notice must be given by September thirtieth of the even-numbered year
17 during the two-year term.

18 3. Moneys in the fund are appropriated to the office on a continuing basis for paying
19 claims against the fund for losses, including loss adjustment expenses; contracting for
20 services under subsection 2; paying loss prevention inspection and rating inspection
21 expenses to determine the proper assessment rates for property insured by the fund;
22 and paying reinsurance expenses under section 26.1-22-21.

23 **SECTION 4. AMENDMENT.** Section 26.1-22-02.1 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **26.1-22-02.1. Insurance against indirect losses.**

26 The commissioneroffice shall provide, upon request of an entity insured ~~with~~under the fund,
27 ~~coverage by the fund for an indirect loss incurred because of a loss arising out of a peril insured~~
28 ~~against by the fund. The coverage provided by the fund shall~~must be an amount that is subject
29 to the underwriting guidelines ~~adopted~~developed by the commissioneroffice.

30 **SECTION 5. AMENDMENT.** Section 26.1-22-03.1 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **26.1-22-03.1. North Dakota insurance reserve fund - Producers - Commission.**

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

6 **SECTION 6. AMENDMENT.** Section 26.1-22-09 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **26.1-22-09. Buildings ~~to be reported to commissioner~~office - Replacement cost**
9 **appraisal.**

- 10 1. In each odd-numbered year, or upon application for insurance, ~~the state board of~~
11 ~~higher education, and each officer, department, or agent of the state and of any~~
12 ~~industry thereof having in charge any public building belonging to the state, each~~
13 ~~county auditor, city auditor, township clerk, and school district business manager, as~~
14 ~~the case may be, the agent for an international peace garden, and the agent for a~~
15 ~~winter show, if applicable, every state agency, political subdivision, and winter show~~
16 insured under the fund shall report to the ~~commissioner~~office the insurable value of
17 each public building, or of each building owned by an international peace garden or a
18 winter show with the exception of building, excluding buildings insured by private
19 insurance companies, and the value of the fixtures and permanent contents
20 therein insured under the fund, with the exception of excluding fixtures and permanent
21 contents insured by private insurance companies, ~~belonging to the state, political~~
22 ~~subdivision, an international peace garden, or a winter show, and shall supply such~~
23 ~~other information as may be required by the commissioner on forms provided by the~~
24 ~~commissioner. State agencies, political subdivisions, and winter shows shall report any~~
25 additional information required by the office to administer this chapter. The office shall
26 provide forms for reporting.
- 27 2. Once every six years, each state agency insured under the fund shall obtain a
28 replacement cost appraisal on all buildings, fixtures, and permanent contents under
29 the agency's custody which are insured under this chapter. The office shall determine
30 the manner of conducting the appraisal. Annually, except for any year an appraisal is

1 conducted, each state agency insured under the fund shall adjust the appraised value
2 as required by the office.

3 **SECTION 7. AMENDMENT.** Section 26.1-22-10 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **26.1-22-10. ~~Commissioner to provide insurance on~~Insurance for buildings and**
6 **personal property - Additional coverage - Township and school district property.**

7 1. Upon application, ~~the commissioner~~the office shall provide for insurance against loss by
8 fire, lightning, inherent explosion, windstorm, cyclone, tornado and hail, explosions,
9 riot attending a strike, aircraft, smoke, vehicles, or may insure any other risks of direct
10 physical loss, subject to the restrictions and exclusions ~~deemed necessary~~determined
11 ~~by the commissioner,~~on office.

12 a. Insurance under this section applies to all buildings owned by the state, state-
13 industries~~state agencies~~, political subdivisions, ~~international peace gardens,~~ and
14 winter shows, and the fixtures and permanent contents in ~~such~~the buildings, ~~to~~
15 ~~the extent of not to.~~

16 b. Insurance coverage under this section may not exceed the insurable value of
17 ~~such~~the property, as the value is agreed to ~~between the commissioner and the~~
18 ~~officer or board having control of such property, or, in case of disagreement, by~~
19 ~~approval through arbitration.~~

20 c. State-owned buildings constructed after 1939 and fixtures and permanent
21 contents insured under this chapter must be insured at replacement cost unless
22 the office approves an alternate value.

23 d. ~~The commissioner~~the office may allow property to be insured on a blanket basis.

24 2. ~~All buildings and the contents of the buildings owned by the state mill and elevator~~
25 ~~association, in lieu of coverage under this chapter, may, at the option of the industrial~~
26 ~~commission, be insured by private insurance companies licensed to do business in~~
27 ~~this state, against at least all the types of hazards insured against by the fund. If the~~
28 ~~industrial commission exercises the option provided in this section, the commission~~
29 ~~shall seek competitive sealed bids, shall invite the fund to submit a bid, and may reject~~
30 ~~any or all bids received.~~An insurance policy under this chapter must include the name

1 of the insured, the location and description of the insured property, the amount of
2 insurance coverage, and the amount of the assessment.

3 3. ~~All public buildings owned by a political subdivision, in lieu of coverage provided for in~~
4 ~~this section, may at the option of the governing body of the political subdivision be~~
5 ~~insured on the basis of competitive sealed bids, through the fund which must be~~
6 ~~invited to submit a sealed bid or private insurance companies licensed to do business~~
7 ~~in this state, against damage resulting from hazards, which include those types of~~
8 ~~hazards that may be insured against by the fund. The governing body may reject any~~
9 ~~or all such bids.~~ In lieu of or in addition to the coverage under this section, a state
10 agency, political subdivision, or winter show may purchase insurance from an
11 authorized insurance company for:

12 a. All buildings and the contents of the buildings owned by the state mill and
13 elevator association.

14 b. All public buildings owned by a political subdivision.

15 c. All public libraries owned by the state or a political subdivision for damage
16 through vandalism.

17 4. ~~All public libraries owned by the state or political subdivisions may, in addition to the~~
18 ~~coverage provided for in this section, be covered against damage through vandalism.~~
19 ~~If this coverage cannot be extended to the public libraries situated within this state, the~~
20 ~~libraries may contract for this coverage with private insurance companies; provided,~~
21 ~~that this coverage meets the recommendations of the insurance code of the American~~
22 ~~library association.~~ The office shall develop guidelines to be used by state agencies,
23 political subdivisions, and winter shows to determine insurable values of property for
24 insurance coverage and indirect loss coverage under this chapter.

25 5. This chapter does not apply to the property of any township or school district located
26 outside of the incorporated limits of a city unless the township or school district
27 requests and applies for insurance coverage under this chapter. The application must
28 be approved in writing by the office to be effective.

29 6. A state agency, political subdivision, or winter show may not make payments, enter
30 contracts, or incur debt for insurance on buildings, fixtures, or permanent contents
31 except as provided under this chapter.

1 7. If the insurance is canceled under section 26.1-22-16, the state agency, political
2 subdivision, or winter show may procure insurance from any authorized insurance
3 company.

4 8. If a disagreement or dispute arises under this section, the office and the state agency,
5 political subdivision, or winter show shall settle the disagreement or dispute under
6 section 26.1-22-11.

7 **SECTION 8. AMENDMENT.** Section 26.1-22-11 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **26.1-22-11. Arbitration of value or loss.**

10 ~~In case the commissioner and the board or officer having charge~~

11 1. If the office and the state agency, political subdivision, or winter show having custody
12 of any property are unable to agree upon disagree about the insurable value of the
13 property or the amount of loss insured, the value must be determined the office and the
14 state agency, political subdivision, or winter show may agree to have the value or loss
15 determined by a recognized competent, disinterested contractor, architect, experienced
16 appraiser, appraisal company, or a member of those respective professional boards at
17 the expense of the state industry agency, political subdivision, an international peace-
18 garden, or aor winter show owning the property, if the appraisal company arbitrator
19 meets with the approval of both the commissioner and the board or officer concerned.
20 ~~If they are unable to agree on an arbitrator, then the matter must be submitted to~~
21 ~~arbitration by a board of arbitration selected as provided by this section. The~~
22 ~~commissioner and the board or officer in charge.~~

23 2. If the office and the state agency, political subdivision, or winter show are unable to
24 resolve a disagreement under subsection 1, the determination must be arbitrated as
25 provided in this subsection.

26 a. The office and the state agency, political subdivision, or winter show having
27 custody of the property each shall select one competent, disinterested contractor,
28 architect, experienced appraiser, appraisal company, or one of the members of
29 such board, and the two so chosen a member of those respective professional
30 boards. The two selected arbitrators shall select a third person of arbitrator with
31 similar qualification qualifications.

1 **b.** ~~The three arbitrators shall proceed to determine the insurable value of the~~
2 ~~property, and the decision of the arbitrators, or a majority of them, must be given~~
3 ~~in writing to the commissioner and the board or officials concerned and or the~~
4 ~~amount of loss insured within thirty days after the selection of the first two~~
5 ~~arbitrators. Upon determination by a majority of the arbitrators, the arbitrators~~
6 ~~shall notify the parties of the determination in writing. The determination is~~
7 ~~binding upon both parties.~~

8 **c.** ~~Each party to the dispute shall pay the expense and charges~~~~expenses~~ of the
9 ~~arbitrator chosen by the party, and the expense and the charges. The expenses~~
10 ~~of the third arbitrator must be borne~~~~paid~~ equally by both parties to the dispute.
11 ~~The decision by the board of arbitration must be made within thirty days from the~~
12 ~~time the matter is submitted to it. Until the commissioner and board or officer in~~
13 ~~charge have agreed, or in case of dispute, until the decision of the appraisal~~
14 ~~company or arbitrators, the property~~

15 **d.** ~~While the value is being determined under this section, property must continue to~~
16 ~~be valued in the same amount as previously~~ determined, or in case of new
17 ~~buildings or property, in the amount~~ fixed~~determined~~ by the commissioner. ~~The~~
18 ~~same procedure must be followed in case of new construction or in any increase~~
19 ~~or decrease in values~~office.

20 **3.** This section applies to existing property, new construction, and property with a change
21 in value.

22 **SECTION 9. AMENDMENT.** Section 26.1-22-14 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **26.1-22-14. Assessments and reporting of premiums and losses- Collections -**
25 **Minimum fund balance - Bond and borrowing authorization.**

- 26 1. Upon providing insurance coverage under this chapter, the office shall certify to the
27 insured the amount of the assessment. The state agency, political subdivision, or
28 winter show shall submit to the office the payment of the assessment within sixty days
29 after the date of the certification. The office shall deposit the assessments in the fund.
30 2. If the assessment is not paid within sixty days after the date of the certification, the
31 attorney general and the state's attorney of the relevant county shall bring appropriate

1 actions to enforce the collection of the assessment upon request of the office. A
2 judgment obtained under this section must include an interest rate of six percent per
3 year.

4 3. ~~If the reservefund balance is less than twelve million dollars, the commissioner shall~~
5 ~~determine the amount of money necessary to bring the reserve balance up to twelve-~~
6 ~~million dollars. The commissioner thenoffice shall levy an assessment againston every~~
7 ~~policy in force with the fund-~~

8 2. ~~The assessment must be computed to increase the fund balance of the fund to twelve~~
9 ~~million dollars calculated as follows:~~

10 a. ~~The eighty percent or ninety percent coinsurance rate established for each~~
11 ~~eligible insured property for which that rate may be applicable, and, the full rate~~
12 ~~established for policies providing coverage against indirect losses, and the full~~
13 ~~rate for properties to which thethat are not eligible for the eighty percent or ninety~~
14 ~~percent coinsurance rate is not applicable, must be applied to the amount of~~
15 ~~insurance provided in each policy and the result of the application of the rate to~~
16 ~~the amount of insurance setsto determine the tentative assessment to be made-~~
17 ~~against theeach policy.~~

18 b. ~~The total of all tentative assessments must then be ascertainedis the sum of the~~
19 ~~amounts calculated under subdivision a.~~

20 c. ~~The percentage of the assessment necessary to restoreneeded to increase the~~
21 ~~reservefund balance to the sum of twelve million dollars must then be~~
22 ~~computedcalculated and collected on each policy; provided, that until the reserve-~~
23 ~~balance reaches twelve million dollars, the assessment must be in an amount-~~
24 ~~determined by the commissioner but. The assessments may not exceed sixty~~
25 ~~percent of the rates set by the insurance services office for insured property~~
26 ~~unless the reservefund balance is depleted belowless than three million dollars.~~

27 d. ~~In case of a fractional percentage the next higher whole percent must be used in-~~
28 ~~such computationA fractional percent must be rounded up to the next whole~~
29 ~~percent.~~

30 4. If the fund balance is less than two million dollars due to a catastrophe, disaster, or a
31 succession of catastrophes or disasters, the office may issue anticipation bonds or

1 borrow from the Bank of North Dakota to provide the amount needed to increase the
2 fund balance to two million dollars upon approval from the industrial commission.

3 a. The term of the anticipation bonds or loan may not exceed twenty years.

4 b. The office shall levy an assessment on all policies in force under the fund to
5 repay the anticipation bonds or loan.

6 **SECTION 10. AMENDMENT.** Section 26.1-22-16 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **26.1-22-16. Rejection of certain Unreasonably hazardous risks - Mitigation - Insurance**
9 **cancellation.**

10 If the ~~commissioner~~office finds that any risk is unreasonably hazardous, the
11 ~~commissioner~~office may require the ~~board or officer~~state agency, political subdivision, or winter
12 ~~show~~ having control of the risk to make ~~any improvements or changes necessary to~~mitigate or
13 ~~remove the extra hazard.~~ If the ~~board or agency~~state agency, political subdivision, or winter
14 ~~show~~ fails to make the ~~improvements or changes~~mitigate or remove the extra hazard within six
15 months after the ~~demand by the commissioner~~notification from the office, the
16 ~~commissioner~~office may cancel the insurance on the renewal upon thirty days' notice. ~~No~~A
17 cancellation may not be made by the ~~commissioner~~office for property under the industrial
18 commission's custody without the approval of the industrial commission. ~~If a dispute arises~~
19 ~~between the commissioner and the board or official having control of the risk, either as to the~~
20 ~~insurability thereof or as to the compliance by the board or officer with the requirements of the~~
21 ~~commissioner, the dispute must be submitted to a board of arbitration as provided in section~~
22 ~~26.1-22-11 and the decision of the board of arbitration is binding on both parties.~~ If the
23 insurance on any risk is canceled as provided in this section, the board or officer in charge of
24 the risk may procure insurance from any authorized insurance company, and the premium is a
25 proper charge against the state, state industry, or political subdivision owning the property. If a
26 disagreement or dispute arises under this section, the office and the state agency, political
27 subdivision, or winter show shall settle the disagreement or dispute under section 26.1-22-11.

28 **SECTION 11. AMENDMENT.** Section 26.1-22-17 of the North Dakota Century Code is
29 amended and reenacted as follows:

1 **26.1-22-17. ~~Loss~~ -- ~~How paid~~ Losses - Limitation.**

2 1. All losses occasioned by the perils insured against under this chapter must be paid out
3 of the fund in an amount not exceeding the amount of the insurance upon any
4 particular risk. The loss upon any building or property insured in the fund, whether
5 totally destroyed or partially damaged by ~~reason of~~ the perils, must be adjusted by the
6 ~~commissioner or a duly~~office, authorized adjuster, or adjusting company. All necessary
7 loss adjustment expenses must be included as ~~a component~~part of the loss and must
8 be paid ~~out of~~from the fund. ~~Immediately upon the happening or occasion of any such~~
9 ~~loss or damage, the insured shall notify the commissioner. The notification must be in~~
10 ~~the manner required by the commissioner and must provide~~

11 2. Immediately after an event causing loss or damage, the insured shall notify the office
12 in a manner prescribed by the office. The notification must include a description of the
13 property, the amount of insurance carried, the probable amount of loss or damage,
14 and the probable cause of loss or damage. The insured may not disturb the property
15 except as provided in the policy until the ~~commissioner~~office or the
16 ~~commissioner's~~office's agent has adjusted the loss or has given notice that the
17 information on which the adjustment is to be made has been secured.

18 3. Allowances for loss ~~and~~or damage must be paid ~~out of~~from the fund ~~upon warrants~~
19 ~~drawn by the office of management and budget upon the state treasurer against the~~
20 ~~fund after the submission of a voucher prepared by the commissioner to the office of~~
21 ~~management and budget specifying the amount to be paid and the payee to whom the~~
22 ~~warrants must be drawn. However, if at any time due to a catastrophe or disaster, or a~~
23 ~~succession of catastrophes or disasters, the reserve balance has been depleted below~~
24 ~~two million dollars, the commissioner may, with the approval of the industrial~~
25 ~~commission, issue premium anticipation certificates in an amount sufficient to bring the~~
26 ~~reserve balance up to two million dollars. The premium anticipation certificates must~~
27 ~~be issued for a period of from ten to twenty years, as determined by the commissioner~~
28 ~~with the approval of the industrial commission, and the interest and principal must be~~
29 ~~paid and retired by assessments levied on all policies in force with the fund. To retire~~
30 ~~these premium anticipation certificates, the commissioner shall levy a special~~
31 ~~assessment on every policy in force with the fund; however, the total of all~~

1 assessments and premiums provided for in section 26.1-22-14 may not exceed the full-
2 rate as developed by an advisory organization at the direction of the commissioner.
3 Any state department may invest its funds in the purchase of the premium anticipation-
4 certificates.

5 **SECTION 12. AMENDMENT.** Section 26.1-22-21 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **26.1-22-21. ~~Insurance required~~ - Excess loss reinsurance - Insurance broker of**
8 **record.**

9 1. The ~~commissioner~~office shall procure and shall keep in force excess loss reinsurance
10 naming the fund as the reinsured. The excess loss reinsurance must be in an amount
11 and for a period determined by the ~~commissioner~~office to be sufficient for the fund.
12 The reinsurance contract must reimburse the fund for losses incurred by the fund
13 under policies issued by the fund and arising out of each occurrence of a covered
14 cause of loss and include at least a sixty-day cancellation notice.

15 2. The cost of the excess loss reinsurance must be paid out of the ~~premium~~assessment
16 income of the fund and must be assessed against the policyholders that benefit from
17 the reinsurance. Excess loss reinsurance must be written only by a company or
18 companies authorized to do business within this state. The contract must be
19 countersigned by a licensed North Dakota resident insurance producer. ~~On the last~~
20 ~~Monday in June prior to the expiration of the contract, the commissioner, with the~~
21 ~~approval of the industrial commission, shall contract for the excess loss reinsurance~~
22 ~~with the company or group of companies submitting the lowest and best bid for the~~
23 ~~period commencing on the ensuing first day of August. The commissioner, with the~~
24 ~~approval of the industrial commission, may disregard this section after the~~
25 ~~commissioner and the commission have studied the available bids for the reinsurance~~
26 ~~required by this section.~~

27 3. The office may contract for insurance broker of record services to assist in procuring
28 excess loss reinsurance. The insurance broker must be licensed and authorized to do
29 business in the state.

30 **SECTION 13. AMENDMENT.** Section 26.1-22-22 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **26.1-22-22. Commissioner may waive**Waiver of subrogation rights during
2 **construction.**

3 The ~~commissioner may, in the commissioner's discretion,~~office may waive any right of the
4 fund to recover for damage sustained by any structure as a result of fire or explosion caused by
5 a contractor, its employees or agents, in the performance of a contract for the alteration of, or
6 the construction of an addition to, a building insured ~~in~~under the fund.

7 **SECTION 14. AMENDMENT.** Subdivision c of subsection 1 of section 26.1-23.1-01 of the
8 North Dakota Century Code is amended and reenacted as follows:

9 c. Property insurance, including inland marine coverage, money and securities
10 coverage, and extra expense coverage. However, this subdivision does not
11 authorize government self-insurance pools to write those types of insurance
12 coverages offered by the state fire and tornado fund under the provisions of
13 chapter 26.1-22 as they existed on December 31, 1988, unless a government
14 self-insurance pool enters a contract with the ~~commissioner~~office of management
15 and budget to provide services for the state fire and tornado fund under section
16 ~~26.1-22-03~~26.1-22-02.

17 **SECTION 15. AMENDMENT.** Section 37-03-13 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **37-03-13. Adjutant general to control military installations - Maintenance fund -**
20 **Insurance.**

21 1. The adjutant general of the state of North Dakota has full control of Camp Gilbert C.
22 Grafton, Ramsey County, Fraine Barracks, Burleigh County, national guard air base
23 facilities constituting a portion of Hector Airfield in Cass County, all in North Dakota
24 and such other real property, installations, and facilities that may be acquired or leased
25 by this state or the office of the adjutant general for military purposes. All moneys
26 received from the sale of timber, stone, agricultural products, or other material taken
27 from the properties and the proceeds of any leases or subleases thereof and other
28 proceeds from the sale of military property must be paid into the state treasury, and
29 kept as a separate fund and are hereby appropriated for the improvement of the
30 properties for military uses and must be paid out upon proper vouchers approved by
31 the adjutant general in accordance with the act of Congress granting the lands,

1 installations, or facilities to the state of North Dakota or as otherwise authorized by
2 law.

3 2. The adjutant general, after consultation with the ~~insurance commissioner~~office of
4 management and budget, shall insure in full or in part with the state fire and tornado
5 fund in accordance with chapter 26.1-22 ~~such~~the buildings, installations, and facilities
6 or their contents ~~or portions thereof~~ as the adjutant general determines to be in the
7 best interests of the state. The adjutant general may not insure buildings or property
8 that are subject to replacement by the United States.

9 **SECTION 16. REPEAL.** Sections 26.1-22-03, 26.1-22-05, 26.1-22-06, 26.1-22-06.1,
10 26.1-22-08, 26.1-22-10.1, 26.1-22-13, 26.1-22-15, 26.1-22-18, 26.1-22-19, and 26.1-22-21.1 of
11 the North Dakota Century Code are repealed.