

Sixty-ninth
Legislative Assembly
of North Dakota

**FIRST ENGROSSMENT
with Senate Amendments**

ENGROSSED HOUSE BILL NO. 1027

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, subdivisions a and c of subsection 1 of section
4 26.1-23.1-01, and section 37-03-13 of the North Dakota Century Code, relating to changing the
5 administration of the state fire and tornado fund from the insurance commissioner to the office
6 of management and budget; to repeal sections 26.1-22-03, 26.1-22-05, 26.1-22-06,
7 26.1-22-06.1, 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
8 26.1-22-21.1 of the North Dakota Century Code, relating to the administration of the state fire
9 and tornado fund; to provide for a legislative management study; and to provide a continuing
10 appropriation.

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

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

14 **26.1-01-03. Duties of commissioner.**

15 The commissioner shall:

- 16 1. See that all the laws of this state respecting insurance companies and benevolent
17 societies are executed faithfully.
- 18 2. Report in detail to the attorney general any violation of law relative to insurance
19 companies and their officers or agents.
- 20 3. File the articles of incorporation of all insurance companies organized or doing
21 business in this state, and on application furnish a certified copy thereof.

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

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

26.1-22-01. Definitions.

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

1. "Fund" means the state fire and tornado fund.

- 1 2. "Indirect loss" means a loss in income or the additional expenses incurred because of
2 a property loss.
- 3 3. "International peace garden" means an entity located upon the international boundary
4 line between the United States and Canada used and maintained as a memorial to
5 commemorate the long-existing relationship of peace and good will between the
6 people and the governments of the United States and Canada and to further
7 international peace among the nations of the world.
- 8 4. "North Dakota insurance reserve fund" means the public risk pool established under
9 section 26.1-23.1-01 regardless of any name change or dissolution and
10 reincorporation if the risk pool continues to provide coverage to a majority of eligible
11 political subdivisions in the state.
- 12 5. "Office" means the office of management and budget.
- 13 6. "Permanent contents" refers only to such public property, either owned or leased,
14 usually kept or used in or about public buildings insured in the fund, and to all public
15 personal property usually kept or used in or about all buildings used for public
16 purposes, or within one hundred feet [30.48 meters] of all such buildings, or while on
17 sidewalks, streets, alleys, yards, detached platforms, and in or on railway cars. The
18 term includes similar property owned by an international peace garden or a winter
19 show. The term does not include automobiles, trucks, tractors, road machinery, or
20 similar property used principally outside such buildings.
- 21 ~~5.7.~~ "Political subdivision" means ~~all counties, townships, park districts, school districts,~~
22 ~~cities, and any other units~~ a county, township, park district, school district, city, or any
23 other unit of local government which ~~are~~ is created either by statute or by the
24 Constitution of North Dakota for local government or other public purposes.
- 25 ~~6.8.~~ "Replacement cost" is the cost to replace a building or its permanent contents with a
26 similar structure of like materials or a similar product at current prices.
- 27 ~~7.9.~~ "State agency" means a state board, bureau, commission, department, agency,
28 industry, or institution and the international peace garden.
- 29 10. "Winter show" means an agricultural exhibition sponsored each year in March by a
30 nonprofit corporation.

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

3 **26.1-22-02. State fire and tornado fund under management of commissioner -**
4 **Purpose of fund****Office of management and budget - Continuing appropriation.**

- 5 1. There is created in the state treasury the state fire and tornado fund to insure state
6 agencies, political subdivisions, and winter shows against direct and indirect losses
7 under this chapter. The fund consists of all assessments, interest, investment
8 earnings, and other income collected under this chapter.
- 9 2. The commissioneroffice shall manage the fund. ~~The fund must be maintained as a~~
10 ~~fund to insure the various state industries, the various political subdivisions, any~~
11 ~~international peace garden, and any winter show against loss to the public buildings,~~
12 ~~or buildings owned by an international peace garden or a winter show, and fixtures~~
13 ~~and permanent contents therein, and against indirect loss, through fire, lightning,~~
14 ~~inherent explosion, windstorm, cyclone, tornado and hail, explosion, riot attending a~~
15 ~~strike, aircraft, smoke, and vehicles. At the option of the insured, the fund may insure~~
16 ~~against other risks of direct physical loss and indirect loss from those risks. All moneys~~
17 ~~collected under this chapter must be paid into the fund for use only for the purposes~~
18 ~~provided for in this chapter.~~The office may use any information on file in the state fire
19 marshal program and may delegate responsibilities according to a contract for
20 administrative services from the North Dakota insurance reserve fund or another entity
21 to assist with the management of the fund. A contract for administrative services must
22 have a two-year term ending on June thirtieth of odd-numbered years, and the
23 contract may not be terminated except at the end of the two-year term. If either party
24 does not anticipate renewing the contract for another two-year term, notice must be
25 given by September thirtieth of the even-numbered year during the two-year term.
- 26 3. Moneys in the fund are appropriated to the office on a continuing basis for paying
27 claims against the fund for losses, including loss adjustment expenses; contracting for
28 services under subsection 2; paying loss prevention inspection and rating inspection
29 expenses to determine the proper assessment rates for property insured by the fund;
30 and paying reinsurance expenses under section 26.1-22-21.

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

3 **26.1-22-02.1. Insurance against indirect losses.**

4 The ~~commissioner~~office shall provide, upon request of an entity insured ~~with~~under the fund,
5 coverage ~~by the fund~~ for an indirect loss ~~incurred because of a loss~~ arising out of a peril insured
6 against by the fund. The coverage provided by the fund ~~shall~~must be an amount that is subject
7 to the underwriting guidelines ~~adopted~~developed by the ~~commissioner~~office.

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

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

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

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

17 **26.1-22-09. Buildings ~~to be reported to commissioner~~office - Replacement cost**
18 **appraisal.**

19 1. In each odd-numbered year, or upon application for insurance, ~~the state board of~~
20 ~~higher education, and each officer, department, or agent of the state and of any~~
21 ~~industry thereof having in charge any public building belonging to the state, each~~
22 ~~county auditor, city auditor, township clerk, and school district business manager, as~~
23 ~~the case may be, the agent for an international peace garden, and the agent for a~~
24 ~~winter show, if applicable, every state agency, political subdivision, and winter show~~
25 insured under the fund shall report to the ~~commissioner~~office the insurable value of
26 each public building, ~~or of each building owned by an international peace garden or a~~
27 ~~winter show with the exception of~~building, excluding buildings insured by private
28 insurance companies, and the value of the fixtures and permanent contents
29 ~~therein~~insured under the fund, with the exception of~~excluding~~ fixtures and permanent
30 contents insured by private insurance companies, ~~belonging to the state, political~~
31 ~~subdivision, an international peace garden, or a winter show, and shall supply such~~

other information as may be required by the commissioner on forms provided by the commissioner. State agencies, political subdivisions, and winter shows shall report any additional information required by the office to administer this chapter. The office shall provide forms for reporting.

2. Once every six years, each state agency insured under the fund shall obtain a replacement cost appraisal on all buildings, fixtures, and permanent contents under the agency's custody which are insured under this chapter. The office shall determine the manner of conducting the appraisal. Annually, except for any year an appraisal is conducted, each state agency insured under the fund shall adjust the appraised value as required by the office and the amount must be considered the replacement value. If an appraisal results in a substantial premium increase the office determines may not be paid through existing agency appropriations, the amount must be considered an earned receivable of the fund, and the agency shall seek a deficiency or general appropriation sufficient for payment during the next legislative session.

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

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

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

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

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

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

d. The commissioneroffice may allow property to be insured on a blanket basis.

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

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

a. Buildings and the contents of the buildings owned by the state mill and elevator association.

b. Public buildings owned by a political subdivision.

c. Public libraries owned by the state or a political subdivision for damage through vandalism.

4. ~~All public libraries owned by the state or political subdivisions may, in addition to the coverage provided for in this section, be covered against damage through vandalism. If this coverage cannot be extended to the public libraries situated within this state, the libraries may contract for this coverage with private insurance companies; provided,~~

that this coverage meets the recommendations of the insurance code of the American library association. The office shall develop guidelines to be used by state agencies, political subdivisions, and winter shows to determine insurable values of property for insurance coverage and indirect loss coverage under this chapter.

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

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

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

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

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

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

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

1. If the office and the state agency, political subdivision, or winter show having custody of any property are unable to agree upon disagree about the insurable value of the property or the amount of loss insured, the value must be determined the office and the state agency, political subdivision, or winter show may agree to have the value or loss determined by a recognized competent, disinterested contractor, architect, experienced appraiser, appraisal company, or a member of those respective professional boards at the expense of the state industry agency, political subdivision, an international peace garden, or aor winter show owning the property, if the appraisal company arbitrator meets with the approval of both the commissioner and the board or officer concerned. If they are unable to agree on an arbitrator, then the matter must be submitted to

arbitration by a board of arbitration selected as provided by this section. The
commissioner and the board or officer in charge.

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

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

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

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

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

- 1 3. This section applies to existing property, new construction, and property with a change
2 in value.

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

5 **26.1-22-14. Assessments and reporting of premiums and losses- Collections -**
6 **Minimum fund balance - Bond and borrowing authorization.**

- 7 1. Upon providing insurance coverage under this chapter, the office shall certify to the
8 insured the amount of the assessment. The state agency, political subdivision, or
9 winter show shall submit to the office the payment of the assessment within sixty days
10 after the date of the certification. The office shall deposit the assessments in the fund.
11 2. If the assessment is not paid within sixty days after the date of the certification, the
12 attorney general and the state's attorney of the relevant county shall bring appropriate
13 actions to enforce the collection of the assessment upon request of the office. A
14 judgment obtained under this section must include an interest rate of six percent per
15 year.
16 3. If the reserve fund balance is less than twelve million dollars, the commissioner shall
17 determine the amount of money necessary to bring the reserve balance up to twelve
18 million dollars. The commissioner then the office shall levy an assessment against on every
19 policy in force with the fund.
20 2. The assessment must be computed to increase the fund balance of the fund to twelve
21 million dollars calculated as follows:
22 a. The eighty percent or ninety percent coinsurance rate established for each
23 eligible insured property for which that rate may be applicable, and, the full rate
24 established for policies providing coverage against indirect losses, and the full
25 rate for properties to which that are not eligible for the eighty percent or ninety
26 percent coinsurance rate is not applicable, must be applied to the amount of
27 insurance provided in each policy and the result of the application of the rate to
28 the amount of insurance sets to determine the tentative assessment to be made
29 against the each policy.
30 b. The total of all tentative assessments must then be ascertained is the sum of the
31 amounts calculated under subdivision a.

c. The percentage of the assessment necessary ~~to restore~~needed to increase the ~~reserve~~fund balance to the sum of twelve million dollars must then be ~~computed~~calculated and collected on each policy; ~~provided, that until the reserve balance reaches twelve million dollars, the assessment must be in an amount determined by the commissioner but.~~ The assessments may not exceed sixty percent of the rates set by the insurance services office for insured property unless the ~~reserve~~fund balance is depleted ~~below~~less than three million dollars.

d. ~~In case of a fractional percentage the next higher whole percent must be used in such computation.~~ A fractional percent must be rounded up to the next whole percent.

4. If the fund balance is less than two million dollars due to a catastrophe, disaster, or a succession of catastrophes or disasters, the office may issue anticipation bonds or borrow from the Bank of North Dakota to provide the amount needed to increase the fund balance to two million dollars upon approval from the industrial commission.

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

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

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

26.1-22-16. ~~Rejection of certain~~Unreasonably hazardous risks - Mitigation - Insurance cancellation.

If the ~~commissioner~~office finds that any risk is unreasonably hazardous, the ~~commissioner~~office may require the ~~board or officer~~state agency, political subdivision, or winter show having control of the risk to ~~make any improvements or changes necessary to mitigate or~~ remove the extra hazard. If the ~~board or agency~~state agency, political subdivision, or winter show fails to ~~make the improvements or changes~~mitigate or remove the extra hazard within six months after the ~~demand by the commissioner~~notification from the office, the ~~commissioner~~office may cancel the insurance on the renewal upon thirty days' notice. ~~No~~A cancellation may not be made by the ~~commissioner~~office for property under the industrial commission's custody without the approval of the industrial commission. ~~If a dispute arises between the commissioner and the board or official having control of the risk, either as to the~~

1 insurability thereof or as to the compliance by the board or officer with the requirements of the
2 commissioner, the dispute must be submitted to a board of arbitration as provided in section
3 26.1-22-11 and the decision of the board of arbitration is binding on both parties. If the
4 insurance on any risk is canceled as provided in this section, the board or officer in charge of
5 the risk may procure insurance from any authorized insurance company, and the premium is a
6 proper charge against the state, state industry, or political subdivision owning the property. If a
7 disagreement or dispute arises under this section, the office and the state agency, political
8 subdivision, or winter show shall settle the disagreement or dispute under section 26.1-22-11.

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

11 **26.1-22-17. ~~Loss -- How paid~~ Losses - Limitation.**

- 12 1. All losses occasioned by the perils insured against under this chapter must be paid out
13 of the fund in an amount not exceeding the amount of the insurance upon any
14 particular risk. The loss upon any building or property insured in the fund, whether
15 totally destroyed or partially damaged by reason of the perils, must be adjusted by the
16 ~~commissioner or a duly~~office, authorized adjuster, or adjusting company. All necessary
17 loss adjustment expenses must be included as a component part of the loss and must
18 be paid out offrom the fund. ~~Immediately upon the happening or occasion of any such~~
19 ~~loss or damage, the insured shall notify the commissioner. The notification must be in~~
20 ~~the manner required by the commissioner and must provide~~
21 2. Immediately after an event causing loss or damage, the insured shall notify the office
22 in a manner prescribed by the office. The notification must include a description of the
23 property, the amount of insurance carried, the probable amount of loss or damage,
24 and the probable cause of loss or damage. The insured may not disturb the property
25 except as provided in the policy until the ~~commissioner~~office or the
26 ~~commissioner's~~office's agent has adjusted the loss or has given notice that the
27 information on which the adjustment is to be made has been secured.
28 3. Allowances for loss ~~and or~~ damage must be paid ~~out offrom~~ the fund ~~upon warrants~~
29 ~~drawn by the office of management and budget upon the state treasurer against the~~
30 ~~fund after the submission of a voucher prepared by the commissioner to the office of~~
31 ~~management and budget specifying the amount to be paid and the payee to whom the~~

1 warrants must be drawn. However, if at any time due to a catastrophe or disaster, or a
2 succession of catastrophes or disasters, the reserve balance has been depleted below
3 two million dollars, the commissioner may, with the approval of the industrial
4 commission, issue premium anticipation certificates in an amount sufficient to bring the
5 reserve balance up to two million dollars. The premium anticipation certificates must
6 be issued for a period of from ten to twenty years, as determined by the commissioner
7 with the approval of the industrial commission, and the interest and principal must be
8 paid and retired by assessments levied on all policies in force with the fund. To retire
9 these premium anticipation certificates, the commissioner shall levy a special
10 assessment on every policy in force with the fund; however, the total of all
11 assessments and premiums provided for in section 26.1-22-14 may not exceed the full
12 rate as developed by an advisory organization at the direction of the commissioner.
13 Any state department may invest its funds in the purchase of the premium anticipation
14 certificates.

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

17 **26.1-22-21. ~~Insurance required~~ - Excess loss reinsurance - Insurance broker of**
18 **record.**

- 19 1. The ~~commissioner~~office shall procure and shall keep in force excess loss reinsurance
20 naming the fund as the reinsured. The excess loss reinsurance must be in an amount
21 and for a period determined by the ~~commissioner~~office to be sufficient for the fund.
22 The reinsurance contract must reimburse the fund for losses incurred by the fund
23 under policies issued by the fund and arising out of each occurrence of a covered
24 cause of loss and include at least a sixty-day cancellation notice.
- 25 2. The cost of the excess loss reinsurance must be paid out of the ~~premium~~assessment
26 income of the fund and must be assessed against the policyholders that benefit from
27 the reinsurance. Excess loss reinsurance must be written only by a company or
28 companies authorized to do business within this state. The contract must be
29 countersigned by a licensed North Dakota resident insurance producer. ~~On the last~~
30 Monday in June prior to the expiration of the contract, the commissioner, with the
31 approval of the industrial commission, shall contract for the excess loss reinsurance

1 with the company or group of companies submitting the lowest and best bid for the
2 period commencing on the ensuing first day of August. The commissioner, with the
3 approval of the industrial commission, may disregard this section after the
4 commissioner and the commission have studied the available bids for the reinsurance
5 required by this section.

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

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

11 **26.1-22-22. ~~Commissioner may waive~~Waiver of subrogation rights during**
12 **construction.**

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

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

19 a. Casualty insurance, including general, public officials, and professional liability
20 coverages. However, if a court determines by clear and convincing evidence a
21 governing body of a political subdivision took intentional action through an
22 ordinance, administrative rule, or any other official action in violation of any state
23 law, the political subdivision is liable to the self-insurance pool for all attorney
24 fees, expenses, and costs incurred defending the action.

25 **SECTION 15. AMENDMENT.** Subdivision c of subsection 1 of section 26.1-23.1-01 of the
26 North Dakota Century Code is amended and reenacted as follows:

27 c. Property insurance, including inland marine coverage, money and securities
28 coverage, and extra expense coverage. However, this subdivision does not
29 authorize government self-insurance pools to write those types of insurance
30 coverages offered by the state fire and tornado fund under the provisions of
31 chapter 26.1-22 as they existed on December 31, 1988, unless a government

1 self-insurance pool enters a contract with the ~~commissioner~~office of management
2 and budget to provide services for the state fire and tornado fund under section
3 ~~26.1-22-03~~26.1-22-02.

4 **SECTION 16. AMENDMENT.** Section 37-03-13 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **37-03-13. Adjutant general to control military installations - Maintenance fund -**
7 **Insurance.**

8 1. The adjutant general of the state of North Dakota has full control of Camp Gilbert C.
9 Grafton, Ramsey County, Fraine Barracks, Burleigh County, national guard air base
10 facilities constituting a portion of Hector Airfield in Cass County, all in North Dakota
11 and such other real property, installations, and facilities that may be acquired or leased
12 by this state or the office of the adjutant general for military purposes. All moneys
13 received from the sale of timber, stone, agricultural products, or other material taken
14 from the properties and the proceeds of any leases or subleases thereof and other
15 proceeds from the sale of military property must be paid into the state treasury, and
16 kept as a separate fund and are hereby appropriated for the improvement of the
17 properties for military uses and must be paid out upon proper vouchers approved by
18 the adjutant general in accordance with the act of Congress granting the lands,
19 installations, or facilities to the state of North Dakota or as otherwise authorized by
20 law.

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

27 **SECTION 17. REPEAL.** Sections 26.1-22-03, 26.1-22-05, 26.1-22-06, 26.1-22-06.1,
28 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
29 the North Dakota Century Code are repealed.

30 **SECTION 18. LEGISLATIVE MANAGEMENT STUDY - POLITICAL SUBDIVISIONS -**
31 **REMOVAL FROM STATE FIRE AND TORNADO FUND.** During the 2025-26 interim, the

1 legislative management shall consider studying, in collaboration with the director of the office of
2 management and budget and the North Dakota insurance reserve fund, the feasibility and
3 desirability of removing political subdivisions from the state fire and tornado fund. The study
4 must include an analysis of the statutory changes necessary to accomplish the change and the
5 impact removing political subdivisions may have on premiums. The legislative management
6 shall report its findings and recommendations, together with any legislation required to
7 implement the recommendations, to the seventieth legislative assembly.