

## House Bill No. 1010

Presented by: Jon Godfread  
Commissioner  
North Dakota Insurance Department

Before: House Government Operations Appropriations Subcommittee  
Representative Don Vigesaa, Chairman

Date: January 13<sup>th</sup>, 2021

Good afternoon Mr. Chairman and members of the House Government Operations Appropriations Subcommittee. For the record, my name is Jon Godfread, Insurance Commissioner. Before we get into the changes we are proposing, I wanted first to give you a very brief summary of our insurance industry here in North Dakota and our Insurance Department.

---

### ***ND Insurance Industry and Regulation—At a Glance:***

---

The North Dakota Insurance Department is a special funded agency that primarily serves as a consumer protection agency for North Dakota. We receive our funding from the Insurance regulatory trust fund, which is funded by all fees and fines paid for by insurance companies and agents operating in this state.

It is the mission of the North Dakota Insurance Department to protect the public good by fairly and effectively administering the laws of North Dakota. We are committed to vigorous consumer protection efforts, while fostering a strong, competitive marketplace that provides consumers with choices and access to high-quality insurance products and services at competitive prices. In pursuit of our mission, we treat all our constituencies with the highest ethical standards and respect they deserve.

*The North Dakota Insurance Department takes pride in helping our citizens by providing effective, resourceful and caring services while inspiring the highest level of consumer trust.*

We remain committed to vigorous consumer protection while fostering a strong, competitive marketplace that provides consumers with choice and access to high-quality insurance products and services at competitive prices.

The Department contributed \$60.4 million in premium tax revenue to the state's General Fund last fiscal year. Including turn-back, the Department contributed \$65.6M to the General Fund in 2018. This accounts for more than a \$5.5M increase in General Fund contributions from 2017.

	2016	2017	2018	2019
<b>The insurance industry</b>				
Total premium written	\$5,949,890,632	\$6,026,076,962,	\$6,362,500,575	\$6,416,565,483
Net premium tax collected (General Fund dollars)	\$ 55,571,924	\$55,147,062	\$55,116,891	\$60,410,634
Claims, losses and benefits paid to consumers	\$5,607,737,533	\$5,877,006,129	\$4,558,271,779	\$5,087,412,830
<b>Regulation and consumer protection</b>				
Consumer relief from complaints and hotline contacts	\$2,756,401	\$1,157,967.53	\$500,273	\$2,869,495
Enforcement fines from agents and companies	\$480,054	\$268,501	\$23,800	\$152,770
<b>Benefiting North Dakota taxpayers</b>				
Insurance regulatory trust fund; turn back to the General Fund	\$4,025,635	\$4,300,173	\$4,824,460	\$5,247,806

---

### ***Department Overview:***

---

The North Dakota Insurance Department began the 2019-2021 biennium with 41 FTEs working in 7 different divisions.

#### **CONSUMER ASSISTANCE DIVISION**

The Consumer Assistance Division assists North Dakota consumers having issues or concerns about their insurance by conducting detailed investigations.

#### **STATE HEALTH INSURANCE COUNSELING (SHIC)**

Provides free, unbiased and confidential health insurance counseling to Medicare beneficiaries, their families or other representatives. The program held eight Medicare Part D enrollment events in 2019 and moved to a virtual format for the 2020 open enrollment and found that to be very successful.

#### **PRESCRIPTION CONNECTION PROGRAMS**

Helps low income North Dakotans find low-cost and no-cost prescription drugs by connecting them with prescription assistance programs offered by various pharmaceutical companies. The program assists consumers with the application process and connects over 95 percent of all applicants to a program.

A mix of state dollars and federal dollars currently funds our Consumer Assistance Division.

#### **PRODUCER LICENSING DIVISION**

The producer licensing division is responsible for the licensing of more than 85,000 (5,867 North Dakota resident producers) individual insurance producers doing business with North Dakotans. Insurance producers must comply with pre-licensing exams, background checks and continuing education requirements.

#### **PRODUCT FILING DIVISION**

The Product Filing Division reviews policy forms and rate requests to ensure policy language complies with all the laws of this state, properly reflects the benefits provided by the policy and is not deceptive or misleading. For most types of insurance, this division evaluates the premium rates companies propose to charge to ensure that the premiums are not excessive, inadequate or unfairly discriminatory.

## **EXAMINATIONS AND COMPANY LICENSING**

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

In 2019, there were 2,331 insurance entities licensed to do business in North Dakota and among them, 29 domiciled companies.

## **LEGAL DIVISION**

The functions of the Legal Division are to provide legal counsel to the Department; investigate insurance fraud and related offenses; investigate and enforce all laws governing insurance producers and insurance companies; litigate administrative actions, and research and prepare proposed legislative bills and administrative rules.

## **ADMINISTRATION**

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

Over the past two years we have continued to make some changes to the structure of the Insurance Department, last session this body approved moving our Boiler Inspection program and Petroleum Tank Storage program to the Department of Environmental Quality as well as moving the administration of the States Fire and Tornado Fund and Bonding Fund to the North Dakota Insurance Reserve Fund.

I am happy to report that both of those moves have been successful, and while we have some minor changes that we will be proposing to the Fire and Tornado Fund (in another bill), that move has truly been one of those rare instances where everyone involved has benefited. Our state has benefited by lowering our administration costs of the program, the clients of the fund have benefited by receiving a more comprehensive overview of their policies and leading to better coverage and our insurance agents are once again at the table, doing what they do best, advising their clients on appropriate coverage levels.

Brennan Quintus from NDIRF has been an excellent partner in making this transition and I wanted to invite Brennan up to give an update from NDIRF perspective on the changes you all approved last session.

- *Brennan Quintus, NDIRF*

We have also done some restructuring of our operations; we have separated out our Fraud Division from our Legal Division. The Fraud Unit was separated from the legal Division for two important reasons:

1. We recognize that there is a conflict having sworn police officers conduct regulatory investigations. Under the rules of civil procedure, the Department can compel licensees to testify, comply with investigations, and be subject to searches as a condition of their license. However, having a police officer perform these tasks create the possibility of civil rights violations and court challenges, should a case that started as a regulatory investigation evolve into a criminal investigation. Further, it creates confusion and apprehension on the part of the licensee who is facing a regulatory accusation.
2. Under NDCC 26.1-02.1-08 the Fraud Unit was created to conduct independent criminal investigations, we are simply restoring the Fraud Unit to the original function that the Legislature intended.

As of January 1<sup>st</sup>, 2021, we also combined two divisions and restructured a 3<sup>rd</sup>. Previously, we had a Consumer Assistance Division that was responsible for assisting consumers with all

business lines of insurance, we also had a Product Filing Division that was responsible for the filing of all business lines of insurance.

*--Updated Org Chart --*

Moving forward, we have shifted our focus to the business lines of insurance rather than the functional department operations. Meaning, we now have a Life and Health Division and a Property and Casualty/Producer Licensing Division.

These changes have allowed the experts in each division to be able to focus on the business line versus trying to be everything to everyone. Through making this move we are also able to realize further efficiencies in the removal of one Director position that was previously being filled by Deputy Insurance Commissioner John Arnold.

The last 10 months have certainly caused us to reevaluate much of how we do things at the insurance department, the silver lining of the global pandemic is it has forced us to become more efficient, and rethink how we conduct operations. I am pleased to report that in the review of our operations during the pandemic we were not only able to continue to operate at a high level but we can bring these changes forward to sustain those operations all while maintaining a budget reduction.

In March, most of our staff was instructed to work from home, during the summer months staff were given the option to come back to the office, if they needed to or wanted to. The result of this move has been that roughly 40% of our current staff working in person and 60% working in a telework or hybrid hoteling work model. We have seen a great deal of success with this model and I would argue our productivity has increased by moving to this model.

Much of the work we do at the insurance department is of a financial or regulatory nature and we have found removing some of the office distractions has actually made some of our team members more productive, while also allowing us to better utilize our existing space and eliminate one off site location.

By eliminating one of our off-site leases we have saved \$20,986 since August and will be able to realize savings of \$126,000 for the next biennium. We are asking for \$100,000 of those dollars to make modifications to our capitol office space to better accommodate new staff and hotel offices for staff who are in the hybrid working model.

---

***Changes Proposed to 2021-2023 Budget:***

---

In the executive budget recommendation, the Department has already reduced 2 FTEs that are no longer needed. Those FTEs included a Senior Analyst who retired (\$158,485 total salary) and the RAND healthcare review analyst (\$146,880 total salary). Additionally, there were minor inconsistencies due to the timing of when our budget was submitted and reviewed by an OMB budget analyst causing some salary and fringe not to be properly accounted for. This led to one position's probationary increase and the decrease in fringe from the two eliminated positions not being included in the executive budget.

Factoring in these changes brings our base executive recommendation salary and fringe budget to \$8,200,926, which is an increase from the 19-21 biennium of \$50,928, but a decrease of \$126,994 from the Governor's executive budget. These numbers do not account for any proposed state employee compensation package that is likely to be discussed by this body.

**Changes and requests for Insurance Department Budget:** The Department previously had a legal assistant position (\$142,442 total salary and fringe) that was being underutilized, and with some restructuring those responsibilities have been successfully transferred to an administrative assistant. Due to the reorganization of our Legal and Fraud Divisions and our emphasis on civil and regulatory activities, we discovered the need for another attorney rather than a legal assistant.

The Department's base executive budget requests to de-classify the legal assistant position and create a new attorney position at the cost for the biennium of \$221,646, or an increase of \$79,204 from the legal assistant's salary. This is already factored into the \$8,200,926 executive budget request. Additionally, as a result of this restructuring the Department is requesting to repurpose

a vacant FTE from the Company Licensing Division (\$210,711 total salary and fringe) to strengthen the Fraud unit by adding another Fraud Investigator.

The Department is also requesting to de-classify the supervising examiner position. Doing so will bring the position into an equitable range with peers in other states; and an analysis found that hiring consultants and contractors to do this job would not be fiscally responsible. This was also a recommendation of the National Association of Insurance Commissioners and was discovered during our accreditation process. The Department's request includes a total of \$279,203 total salary and fringe for that position.

Furthermore, the Department is cutting an additional 2 FTEs, which were previously held by an administrative assistant for the west office (\$115,171, total salary and fringe), and the producer licensing division director due to a reorganization in the Department (\$236,127 total salary and fringe).

Our reorganization warranted a responsibility workload increase for a team lead to oversee the State Health Insurance Counseling (SHIC) program, an increase of \$5,998 for salary and fringe. While the SHIC program has been very successful during Medicare Part D open enrollment periods, the Department strives to assist even more North Dakota seniors in finding and enrolling in the best plan. To meet this goal, the Department is requesting five temporary employees to assist the SHIC program from September to December of each year. The Department estimates that it will need \$108,000 to cover this expense.

Lastly, in the budget for the 2019-2021 biennium the Department was given an FTE for an adjuster licensing position but was not appropriated the salary and fringe dollars needed to fill the position. The Department is requesting that this position be funded with the salary and fringe totaling \$115,276.

### **Operational Line:**

As for our operational line, we have assumed that travel will return to normal in the second half of 2021. You do see an increase in the travel line, that is to account for potential uncertainty from the NAIC with regards to their travel arrangement. Under normal circumstances, the NAIC does reimburse the state for much of our travel for NAIC related events, however, given the



uncertainty of the past year, we felt it was best to assume, no reimbursement and then be able to turn back those funds if things return to a more normal situation.

Other notable changes on our operating line is a reduction in our rental/lease line to account for the elimination of our North Office lease, and a reduction in professional services.

There are two other outstanding items that may affect our budget that I wanted to make you aware of. The first is we have applied for a grant from the Federal Government, which is the State Flexibility to Stabilize the Market Grant Program, this program is intended to provide added flexibility to strengthen the private health insurance market through implementation of market reforms under Part A of Title XXVII (27) of the Public Health Service Act.

If we are awarded this grant it would be for \$445,000 and start on July 1, 2021. Our notice of award is expected to be on April 1<sup>st</sup>, 2021. We have not included the \$445,000 in our budget request, as this notice is still pending.

#### **CONTINUING APPROPRIATION FOR RAND:**

The Reinsurance Association of North Dakota (RAND) is funded by federal pass through dollars from the Centers for Medicare and Medicaid Services (CMS). The level of funding received by CMS is based on lives covered in the individual market. Due to the timing of generating this data following the plan year, the Department can only generate estimates when seeking the proper authority to distribute these funds. Rather than taking up the Emergency Commission's time seek authority to pass through funds when our estimates are conservative, or coming to this body every biennium with excessively liberal estimates, I am requesting that RAND be given a continuing appropriation for these funds.

#### **CONTINUING APPROPRIATION FOR FIRE DISTRICTS:**

Funding for Fire Departments and Fire Districts comes from a couple different sources (property taxes, benefits, etc.) but a significant portion of the funding has come from the Insurance premium tax. The Department administers the premium tax and from that, the Legislature appropriates an amount up to 100% of the fire insurance premium tax revenue collected.

This is essentially a pass-through fund, whereby we collect the tax and pass that collection on to the fire districts. This fund was a continuing appropriation from 1887 – 1985. Since 1985, funding to the fire districts has fluctuated between 101% of the funds to as low as 48% of the funds available.

We are asking that the continuing appropriation be restored; this ensures that the dollars that are intended to go to the fire districts are actually going to the fire districts. The average consumer likely knows that a portion of their homeowner's insurance premiums go to funding fire departments. What they do not know is that a portion of those dollars are being put back into the general fund. Our consumers are being double or triple hit, once on my homeowner's, once on their property tax and then again by participating in various benefits put on by Fire Departments to cover their costs.

Last session this body approved an appropriation of \$18,818,030 for distribution to the Fire Districts (\$17,989,505 to the fire departments and \$828,525 to the North Dakota Fire Fighter Association). Actual collections in the fire distribution grant fund are totaling \$20,728,539.83, meaning there is an additional \$1,910,509.83 (90.8% going to Fire Districts 9.2% going to the general fund) going to the general fund that could be utilized by local fire departments.

I do not expect our Fire Chiefs to be experts in insurance and I know they do not expect me to be an expert in fire service. What I can tell you is we are building a strong partnership that could lead to more transparent funding for our fire departments, lower premiums and better fire coverage for our consumers.

At this point, I would like to invite the Fire Chiefs up to share some comments.

*--Fire Chiefs and Firefighter Association--*

It is my belief we can solve this problem with our proposed budget and provide the funding that has been designated and paid by our consumers to the fire service as it has always been intended

to be. We would ask that this body consider restoring the continuing appropriation and allow this fund to truly function as a pass-through to the Fire Districts.

---

***Conclusion:***

---

These changes bring the Department's overall budget to \$8,078,903 salary and fringe which is \$122,023 lower than our base executive budget request of \$8,200,926 or a decrease from 19-21 biennium of \$71,095. Our operational changes with all our reorganization changes is a requested appropriation of \$1,707,083 which is a decrease of \$59,592 from the 19-21 biennium. Our total ask for our appropriation comes to \$9,785,986 and a \$100,000 capital asset adjustment for the remodeling, and accounting for the continuing appropriations for RAND and the Fire District Grand Fund. The Department's FTE count from 19-21 was 41. Our proposed 21-23 FTE count would be 38.

These changes would result in approximately a 1.32% reduction in our salary and operating lines from last biennium. I do feel it's important when considering the Insurance Department budget to look at the last 5 years, as many of you know we have undertaken some significant restructuring and repurposing. Since the 2015-17 biennium and adopting the proposed budget we are bringing forward, the Insurance Department would be down roughly 10% in salary, 32% in operations and 23% in FTEs.

We have consistently brought forward budgets over the last 5 years that recognize our need to increase efficiencies which have resulted in greater reductions than targeted by this body.

My ask would be that when considering our request, you take into account the work and reductions we have accomplished over the past 5 years and give us the tools we believe necessary to effectively, resourcefully, and economically uphold the insurance laws of North Dakota.

Happy to answer any questions you might have.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1010

Page 1, line 2, after “to” insert “amend and reenact sections 18-04-04.1 and 18-04-05 of the North Dakota Century Code, relating to the insurance tax distribution fund; and”

Page 1, lines 2 and 3, remove “; and to provide an appropriation for the distribution of funds from the insurance tax distribution fund”

Page 1, replace lines 10 through 17 with:

“

	Base Level	Adjustments or Enhancements	Appropriation
Salaries and wages	8,149,998	(71,095)	8,078,903
Operating expenses	1,566,675	(59,592)	1,607,083
Capital assets	0	100,000	100,000
Grants	0	0	0
Total special funds	9,716,673	(30,687)	9,785,986
Full-time equivalent positions	41	(3)	38

”

Page 1, remove lines 23 and 24

Page 2, remove lines 1 through 5

Page 2, after line 5, insert:

“**SECTION 4 AMENDMENT.** Section 18-04-04.1 of the North Dakota Century Code is amended and reenacted as follows:

**18-04-04.1. Insurance tax distribution fund.**

The insurance tax distribution fund is a special fund in the state treasury. The portion of revenue provided in section 26.1-03-17 must be deposited in the fund for disbursement as provided in this chapter and chapter 23-46, ~~subject to legislative appropriation.~~

**SECTION 5 AMENDMENT.** Section 18-04-05 of the North Dakota Century Code is amended and reenacted as follows:

**18-04-05. Amount due cities, rural fire protection districts, or rural fire departments - Transfer to firefighters death benefit fund - Disbursement to North Dakota firefighter's association - Payments by insurance commissioner – Continuing appropriation.**

1. The insurance commissioner shall disburse funds in the insurance tax distribution fund as provided under this section.
2. The insurance commissioner shall transfer an amount of up to fifty thousand dollars per biennium, as may be necessary, to the firefighters death benefit fund for distribution under chapter 18-05.1.

3. The insurance commissioner shall compute and disburse funds to the North Dakota firefighter's association for uses authorized under chapter 18-03, ~~subject to legislative appropriations.~~
4. The insurance commissioner shall compute the amounts due to the certified city fire departments, certified rural fire departments, or certified fire protection districts entitled to benefits under this chapter on or before December first of each year. ~~The insurance commissioner shall allocate one half of the biennial legislative appropriation for distribution under this subsection, to each eligible city not within a certified fire protection district, each certified rural fire protection district organized under this title, and each rural fire department certified by the state fire marshal, and pay the amount allocated in December of each year. The allocation must be made in proportion to the amount of insurance company premiums received by insurance companies pursuant to section 26.1-03-17 for policies for fire, allied lines, homeowner's multiple peril, farmowner's multiple peril, commercial multiple peril, and crop hail insurance.~~ the lines of insurance identified under section 18-04-04 on property within the city of a certified city fire department, certified rural fire protection district, or area served by the certified rural fire department to the total of those premiums for those policies in the state.
5. Annually, the insurance commissioner shall determine the amount of insurance premium taxes collected from the insurance lines identified in section 18-04-04 and disburse five and one-half percent to the North Dakota firefighter's association, ninety-four and one-half percent to certified city fire departments, certified rural fire departments, and certified fire protection districts. Moneys authorized for disbursement under this section are appropriated from the insurance tax distribution fund to the insurance commissioner on a continuing basis for the purpose of this section.

**SECTION 6.** A new section to chapter 26.1-36.7 of the North Dakota Century Code is created and enacted as follows:

**Federal funding – Administration of the association – Continuing appropriation**

Annually, the association will be awarded federal funding through its innovation waiver approved under section 1332 of the federal Patient Protection and Affordable Care Act [Pub. L. 11-148; 119 Stat. 124; 42 U.S.C. 1801 et seq.]. Federal funding received under this waiver is appropriated to the insurance commissioner on a continuing basis for the purpose of this chapter."

Renumber accordingly