

**Sixty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 7, 2025**

HOUSE BILL NO. 1026
(Legislative Management)
(Government Finance Committee)

AN ACT to amend and reenact sections 23-24-07, 26.1-01-03, 26.1-21-01, 26.1-21-02, 26.1-21-04, 26.1-21-07, 26.1-21-09.1, 26.1-21-10, 26.1-21-11, 26.1-21-12, 26.1-21-14, 26.1-21-16, 26.1-21-18, 26.1-21-19, 26.1-21-21, 26.1-21-23, 61-06-08, and 61-16.1-05 of the North Dakota Century Code, relating to changing the administration of the state bonding fund from the insurance commissioner to the office of management and budget; to repeal sections 26.1-21-03, 26.1-21-08, 26.1-21-09, 26.1-21-13, 26.1-21-15, 26.1-21-17, 26.1-21-20, 26.1-21-22, and 26.1-21-24 of the North Dakota Century Code, relating to the administration of the state bonding fund; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-24-07 of the North Dakota Century Code is amended and reenacted as follows:

23-24-07. Bonds of officers and employees.

The treasurer of the district must be bonded in such an amount ~~as is~~ required by the board of commissioners but ~~such the~~ bond may not be less than one thousand dollars. Other district employees must be bonded in such an amount ~~as determined by the board may prescribe~~. Every officer or employee of whom a bond is required must be deemed bonded with the state bonding fund upon notice of the person's appointment of the individual given to the state insurance commissioner ~~administrator of the fund~~ by the secretary of the district. Upon notification of the state bonding fund of the premium required, the treasurer shall remit the same payment.

SECTION 2. AMENDMENT. Section 26.1-01-03 of the North Dakota Century Code is amended and reenacted as follows:

26.1-01-03. Duties of commissioner.

The commissioner shall:

1. See that all the laws of this state respecting insurance companies and benevolent societies are executed faithfully.
2. Report in detail to the attorney general any violation of law relative to insurance companies and their officers or agents.
3. File the articles of incorporation of all insurance companies organized or doing 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.~~11. Manage, control, and supervise the state fire marshal.

SECTION 3. AMENDMENT. Section 26.1-21-01 of the North Dakota Century Code is amended and reenacted as follows:

26.1-21-01. Definitions.

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

1. "Blanket bond" means a bond that covers collectively all public employees and public officials ~~without the necessity of scheduling names or positions as a part of the bond, and a bond whereby new public employees and new public officials entering employment or office during the period of the bond are automatically included without notice to the fund.~~
2. "Fund" means the state bonding fund.
3. "International peace garden" means an entity located upon the international boundary line between the United States and Canada used and maintained as a memorial to commemorate the long-existing relationship of peace and good will between the people and the governments of the United States and Canada and to further international peace among the nations of the world.
4. "Office" means the office of management and budget.
5. "Political subdivision" means a county, township, park district, school district, city, ~~and~~or any other unit of local government which is created either by statute or by the Constitution of North Dakota for local government or other public purposes.
- ~~5-6.~~ "Public employee" means an individual employed by a state agency or any political subdivision, an officer or employee eligible under section 57-15-56, an employee under section 61-16.1-05, ~~and~~or an officer or employee of an international peace garden. ~~"Public employee"~~The term does not include an individual employed by an occupational and professional board or commission under title 43 or by the state bar association.
- ~~6-7.~~ "Public official" means an elected or appointed officer or deputy of a state agency or a political subdivision, ~~except for. The term does not include~~ an officer of an occupational and professional board or commission under title 43 or of the state bar association.

- 7.8. "State agency" means a state board, bureau, commission, department, agency, industry, ~~and~~or institution and the international peace garden.

SECTION 4. AMENDMENT. Section 26.1-21-02 of the North Dakota Century Code is amended and reenacted as follows:

26.1-21-02. State bonding fund - Management by commissionerOffice of management and budget - Administrative services - Continuing appropriation - Report.

A fund must be maintained as a fund

1. There is created in the state treasury the state bonding fund for the bonding of public employees and public officials. AllThe fund consists of all assessments, interest, profits on investments, and allinvestment earnings, and other income collected under this chapter must be paid into the fund.
2. The commissioneroffice shall manage the fund. The office may contract for administrative services from the North Dakota insurance reserve fund or another entity to assist with the management of the fund. A contract for administrative services must have a two-year term ending on June thirtieth of each odd-numbered year, and the contract may not be terminated except at the end of the two-year term. If either party does not anticipate renewing the contract for another two-year term, the party shall give notice of the intent to not renew by September thirtieth of the even-numbered year during the two-year term.
3. Moneys in the fund are appropriated to the office on a continuing basis for paying claims against the fund, contracting for administrative services as provided under subsection 2, paying costs incurred by the state auditor for investigations under section 26.1-21-12, and paying reinsurance costs under section 26.1-21-21.
4. If the balance of the fund is less than three million dollars, the office shall collect assessments from state agencies and political subdivisions. If the balance of the fund exceeds three million dollars, the office shall waive assessments until the balance of the fund is less than two million dollars at which time the office shall resume collecting assessments.
5. If the office determines the interests of the fund are jeopardized by the misconduct or inefficiency of any public official, the office shall notify the state auditor to conduct an investigation.
6. The office shall include a summary of the fund in the biennial report submitted in accordance with section 54-06-04. The summary must include the revenues, expenditures, and balance of the fund.

SECTION 5. AMENDMENT. Section 26.1-21-04 of the North Dakota Century Code is amended and reenacted as follows:

26.1-21-04. Attorney general is attorney for fund.

The attorney general shall act as ~~attorney~~legal counsel for the ~~commissioneroffice~~ in any proceeding to which the ~~commissioneroffice~~ is a party on behalf of the fund.

SECTION 6. AMENDMENT. Section 26.1-21-07 of the North Dakota Century Code is amended and reenacted as follows:

26.1-21-07. Coverage - Assessments - Minimum.

1. The amount of coverage afforded to each state agency or political subdivision must be determined by the commissioneroffice based upon the amount of money or property handled and the opportunity for defalcation but the amount must at least. Except as otherwise required by law, the minimum amount of coverage must equal the amount of money or property

actually handled or ten thousand dollars, whichever is less. ~~The coverage may be greater than but not less than the amount required by law or determined under law for a position.~~

- ~~2. The coverage for a state legislative or judicial branch agency, however, may be determined by the legislative council or supreme court, respectively.~~
- ~~3. Notwithstanding any other provision of law, the commissioneroffice may issue bonds in such amounts as the commissioner determines necessary to carry out the purposes of the fund and, in, In determining the amount of coverage to be offered, the commissioneroffice may consider the reserves necessary to pay the bonds and for all other necessary costs or expenses to carry out the purposes of the fund.~~
- ~~4. The office shall determine the amount of the bond assessment. The minimum assessment is two dollars and fifty cents per public employee per year. Each state agency and political subdivision shall pay the assessment in advance, and the assessments collected must be deposited in the fund unless the assessment is waived in accordance with section 26.1-21-02.~~

SECTION 7. AMENDMENT. Section 26.1-21-09.1 of the North Dakota Century Code is amended and reenacted as follows:

26.1-21-09.1. Bonds of agents appointed to distribute hunting and fishing licenses or stamps - PremiumsAssessment - Determination of eligibility.

The annual premiumassessment for a bond of an agent appointed by the director of the game and fish department to distribute hunting and fishing licenses or stamps pursuant to section 20.1-03-17 is ten dollars. ~~The premium must be paid to the fund pursuant to rules adopted by the commissioner. The commissioner shall deposit the premiums with the state treasurer to the credit of the fund. The commissioneroffice may reduce or waive the premiumassessment if it is determinedthe office determines~~ that funds received pursuant to under this section are sufficient to cover potential claims on the bonds of agents appointed to distribute hunting and fishing licenses or stamps. The commissioneroffice shall determine the conditions and qualifications of agents bonded under this section. The minimum amount of coverage ~~afforded~~ under this section is fifteen thousand dollars per agent per year.

SECTION 8. AMENDMENT. Section 26.1-21-10 of the North Dakota Century Code is amended and reenacted as follows:

26.1-21-10. Automatic insurance of state and political subdivisions.

- ~~1. Each state agency and each political subdivision shall apply to be bonded in the fund no less often than on a biennial basisat least once per biennium or when a change in coverage is requested, whichever occurs first. Unless an application is denied within sixty days from the date it is received by the commissioneroffice, the application will be deemed approved and bond coverage in force. If a bond is in the discretion of the state agency or political subdivision and a bond is not requested, the state agency or political subdivision is exempt from this section.~~
2. The application must include a:
 - a. The requested amount of bond coverage based on the amount of money and property handled and, the opportunity for defalcation, and any other condition imposed by law and list;
 - b. An amount equal to twenty-five percent of the money in control of the public officials or employees for which the bond is requested for the preceding year based on the total monthly balances. In addition, the application must include any; and

- c. Any other information requested by the commissioner's office to determine the amount of money and property handled and the opportunity for defalcation, including the procedure used to determine the amount of bond requested, revenues for the last budget period by type, expenditures for the last budget period by type, the number of people that handle money, any portion of the last audit, and any financial procedures.

3. A blanket bond automatically includes coverage for new employees and new public officials.

SECTION 9. AMENDMENT. Section 26.1-21-11 of the North Dakota Century Code is amended and reenacted as follows:

26.1-21-11. ~~Default of public employees or public officials~~Claims - Limitation on filing of claims against fund - Register of claims - Review and payment of claims.

1. Within sixty days after the discovery of any default or wrongful act on the part of any public employee or public official for which the fund is or may become liable, the state auditor, county auditor, city auditor, township clerk, or business manager of the school district; the treasurer of the state or state agency or political subdivision if the defaulting officer is the auditor or clerk of the state or state agency or political subdivision; and any other officer having supervision of a defaulting public employee or public official shall file a claim with the commissioner's office against the fund.
2. Any person injured by a default or wrongful act may present the claim to the commissioner within sixty days after the discovery of such default or wrongful act. If a claim is not filed within the time limited by this section, the claim is waived. A claim filed under this section must contain an abstract of the facts upon which the claim is based and must be verified by the claimant or by someone in the claimant's behalf. The claim and all papers relating to the claim must remain on file with the commissioner. The office may prescribe the forms for claims.
3. The office may administer oaths and examine witnesses in connection with a claim presented to the office.
4. The office shall maintain a register of all claims filed against the fund, including a brief description of each claim, the name of the public entity, the amount and character of the claim, the action taken upon the claim, and the date action was taken.
5. The office shall retain claims and documents relating to claims as provided by law.
6. The office shall review all claims presented to the office. The office shall notify the state auditor if any public employee or public official defaults or creates a liability against the fund, and the state auditor may conduct an investigation under section 26.1-21-12.
7. The office shall determine the allowable amount of the claim. The office may delay a determination of the allowable amount of the claim until receipt of the auditor's report under section 26.1-21-12. The office shall present all records relating to the claim, including the allowable amount determined by the office, to the attorney general for review.
8. The attorney general shall review the validity of the claim and the allowable amount determined by the office. Upon approval by the attorney general, the office shall pay the allowable amount to the claimant from the fund.

SECTION 10. AMENDMENT. Section 26.1-21-12 of the North Dakota Century Code is amended and reenacted as follows:

26.1-21-12. ~~Commissioner to notify state auditor of default of public employee or public official~~- Duty of state auditor - Investigations - Review of coverage.

If any public employee or public official defaults or creates a liability against the fund, the commissioner shall notify the state auditor. The state auditor shall investigate, or cause to be

~~investigated, the accounts of the public employee or public official and file a report with the commissioner stating any amount due from the fund because of the default or wrongful act. For these services, the auditor or investigating firm must be paid out of the fund all reasonable costs incurred.~~

1. Upon notification from the office of jeopardized fund interests under section 26.1-21-02, the state auditor may investigate the relevant state agency or political subdivision and may provide a report to the office regarding any findings.
2. The state auditor may evaluate the blanket bond coverage when conducting an audit of a state agency or political subdivision. The state auditor may recommend changes in the amount of coverage in the audit report.
3. Costs incurred by the state auditor under subsection 1 must be paid from the fund.
4. The state auditor may contract for an investigation under subsection 1.

SECTION 11. AMENDMENT. Section 26.1-21-14 of the North Dakota Century Code is amended and reenacted as follows:

26.1-21-14. Filing claim is condition precedent to bringing action~~Action against the fund - Failure to act is disallowance - Limitation - Interest.~~

1. An action may not be maintainedbrought against the fund upon a claim until thea claim has been presented for allowance as provided into the office under this chapter and the commissioneroffice has refused to allow the claim. A claim that has not been allowed within sixty days after presentation for allowance is disallowed. The filing and disallowance of the claim must be alleged in the complaint in any action brought against the fund.
2. An action brought against the fund for a claim must be commenced within one year after presenting the claim to the office. The liability of the fund is limited to a breach of a condition of the bond which occurred within two years before the date of presenting the claim to the office.

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

26.1-21-16. Suit by party injured by default of public employee or public official - Subrogation - Right of appeal.

~~A person injured by the default or wrongful act of any public employee or public official may sue the public employee or public official. To effect recovery from the fund, that person must join the fund as codefendant. A judgment must be obtained against the public employee or public official to create liability upon the bond. If the judgment is obtained against the public employee or public official, the judgment must specify that to the extent to which the fund is liable upon the bond of the public employee or public official, the judgment must be paid out of any money in the fund or that which may accrue to the fund. If the judgmentpayment is paid out of the fund, the fund has a right to recover and is subrogated to the right of the judgment creditor to recover against the public employee or public official. The commissioneroffice may act for the fund in all proceedings to enforce the right of subrogation and may appeal from an order or judgment against the fundin the same manner as other parties to civil actions.~~

SECTION 13. AMENDMENT. Section 26.1-21-18 of the North Dakota Century Code is amended and reenacted as follows:

26.1-21-18. Commissioner may make examinations - Request for accounting~~Action against a public official - Reporting defaulting official to governor.~~

~~If the commissioneroffice determines that the interests of the fund are jeopardized by the misconduct or inefficiency of any public official, the commissioner shall request the state auditor to make an examination, and, if necessary, shall cause anoffice may bring an action for an accounting to~~

~~be instituted against the public official for the purpose of requiring a to require complete disclosure of the business of the office state agency or political subdivision of which the public official is an incumbent. The action must be brought in the name of the commissioner office as plaintiff, and the court in the action may interplead all concerned parties. The commissioner may make a complaint to the governor requesting the governor to institute an investigation with the purpose of removing from the office any defaulting public official or any public official who so conducts the affairs of the public official's office as to endanger the fund.~~

SECTION 14. AMENDMENT. Section 26.1-21-19 of the North Dakota Century Code is amended and reenacted as follows:

26.1-21-19. Cancellation of liability of fund - When permitted -- EffectCancellation of coverage - Appeal proceeding.

1. After duean investigation, the commissioneroffice may cancel the liability of the fundbond for the acts of any public employee or public official. The cancellation takes effect thirty days after written notice. If a public official's or public employee's bond is canceled, the public official or public employee may secure at personal expense a bond executed by a duly authorized surety company in an amount determined by the commissioner. Evidence of a surety bond purchased under this section must be filed with the commissioner.
2. The office shall notify the public entity employing the public employee or public official immediately by certified mail when the bond or coverage under a blanket bond is canceled.

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

26.1-21-21. Fund may reinsure risks -- Premium on reinsuranceReinsurance.

~~The commissioneroffice may reinsure any part of any liability in excess of twenty-five thousand dollars uponfor any one public official, or group of public officials and public employees under a blanket bond, at a cost not exceeding the rate of premium provided for inassessment under this chapter, and the expense of such. The cost of reinsurance must be paid out offrom the fund.~~

SECTION 16. AMENDMENT. Section 26.1-21-23 of the North Dakota Century Code is amended and reenacted as follows:

26.1-21-23. Public official may furnish private bond -- Premiums payable from public moneys only to fundAdditional bond coverage.

1. If a bond or bond coverage for a public employee or public official is canceled under section 26.1-21-19, the public official or public employee may purchase a bond from an authorized surety company for a coverage amount determined by the office. The public official or public employee may not use public funds to pay for the bond.
2. In lieu of the bond provided for in this chapter, a public officer or public employee may furnishsecure a bond issued by a dulyfrom an authorized surety company in anfor a coverage amount determined by the commissioner, but an officer or board of the state or of any political subdivision may not pay for the surety bond out of any public fundsoffice. The public official or public employee may not use public funds to pay for the bond.
3. A state agency or political subdivision may purchase a bond from an authorized surety company to provide coverage in addition to the bond provided by the fund.
4. Evidence of a bond purchased under this section must be filed with the commissioneroffice.

SECTION 17. AMENDMENT. Section 61-06-08 of the North Dakota Century Code is amended and reenacted as follows:

61-06-08. Officers or employees bonded in state bonding fund - ~~Premium paid by whom~~Assessment payment.

Every elective or appointive officer or employee of whom a bond is required under the provisions of this chapter shall be deemed to be bonded in the state bonding fund upon the giving of notice of such election or appointment by the secretary of the district to the ~~insurance commissioner~~administrator of the fund. Upon notification ~~by the insurance commissioner~~ of the amount of the ~~premium of such bond or bonds~~assessment, the secretary of the district ~~forthwith~~ shall remit the ~~same~~payment.

SECTION 18. AMENDMENT. Section 61-16.1-05 of the North Dakota Century Code is amended and reenacted as follows:

61-16.1-05. Bonds of treasurer and appointive officers.

The treasurer of a district shall be bonded in the amount set by the water resource board but the bond shall not be less than one thousand dollars. Other district employees shall be bonded in any amount set by the board. Every officer or employee of whom a bond is required shall be deemed bonded with the state bonding fund upon notice of that appointment given to the ~~state insurance commissioner~~administrator of the fund by the secretary of the district. Upon notification ~~by the state bonding fund of the premium required of the assessment~~, the district treasurer shall remit the ~~same~~payment.

SECTION 19. REPEAL. Sections 26.1-21-03, 26.1-21-08, 26.1-21-09, 26.1-21-13, 26.1-21-15, 26.1-21-17, 26.1-21-20, 26.1-21-22, and 26.1-21-24 of the North Dakota Century Code are repealed.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-ninth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1026.

House Vote: Yeas 89 Nays 0 Absent 5

Senate Vote: Yeas 44 Nays 2 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2025.

Approved at _____ M. on _____, 2025.

Governor

Filed in this office this _____ day of _____, 2025,

at _____ o'clock _____ M.

Secretary of State