

Sixty-fourth  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2010

Introduced by

Appropriations Committee

(At the request of the Governor)

1 A BILL for an Act to provide an appropriation for defraying the expenses of the insurance  
2 commissioner; to provide an appropriation for the distribution of funds from the insurance tax  
3 distribution fund; and to amend and reenact ~~section~~sections 26.1-01-09, 26.1-26.6-01,  
4 26.1-26.6-04, 26.1-26.6-05, and subsection 4 of section 26.1-44-03.1 of the North Dakota  
5 Century Code, relating to the commissioner's salary, bail bond agents, and surplus lines  
6 insurance filings.

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

8 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds  
9 as may be necessary, are appropriated from special funds derived from federal funds and other  
10 income, to the insurance commissioner for the purpose of defraying the expenses of that  
11 agency, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
14 <del>Salaries and wages</del>	<del>\$8,019,514</del>	<del>\$961,224</del>	<del>\$8,980,738</del>
15 <del>Accrued leave payments</del>	<del>163,182</del>	<del>(163,182)</del>	<del>0</del>
16 <del>Operating expenses</del>	<del>2,858,008</del>	<del>(345,966)</del>	<del>2,512,042</del>
17 <del>Capital assets</del>	<del>0</del>	<del>90,000</del>	<del>90,000</del>
18 <del>Total special funds</del>	<del>\$11,040,704</del>	<del>\$542,076</del>	<del>\$11,582,780</del>
19 <u>Salaries and wages</u>	<u>\$8,019,514</u>	<u>\$923,583</u>	<u>\$8,943,097</u>
20 <u>Accrued leave payments</u>	<u>163,182</u>	<u>(163,182)</u>	<u>0</u>
21 <u>Operating expenses</u>	<u>2,858,008</u>	<u>(345,966)</u>	<u>2,512,042</u>
22 <u>Capital assets</u>	<u>0</u>	<u>90,000</u>	<u>90,000</u>
23 <u>Total special funds</u>	<u>\$11,040,704</u>	<u>\$504,435</u>	<u>\$11,545,139</u>
24 Full-time equivalent positions	49.50	0.00	49.50

1       **SECTION 2. APPROPRIATION.** There is appropriated out of any moneys in the insurance  
2 tax distribution fund in the state treasury, not otherwise appropriated, the sum of \$16,701,207 or  
3 so much of the sum as may be necessary, to the insurance commissioner for the purpose of  
4 providing payments, in accordance with provisions of section 18-04-05, to North Dakota fire  
5 departments in the amount of \$15,681,207, and payments to the North Dakota firefighter's  
6 association in the amount of \$1,020,000, of which, \$130,000 is one-time funds, for the biennium  
7 beginning July 1, 2015, and ending June 30, 2017.

8       **SECTION 3. BONDING FUND.** Section 1 of this Act includes \$50,813 from the state  
9 bonding fund to pay bonding fund administrative expenses for the biennium beginning July 1,  
10 2015, and ending June 30, 2017.

11       **SECTION 4. FIRE AND TORNADO FUND.** Section 1 of this Act includes \$1,660,748 from  
12 the state fire and tornado fund to pay fire and tornado fund administrative expenses, for the  
13 biennium beginning July 1, 2015, and ending June 30, 2017.

14       **SECTION 5. UNSATISFIED JUDGMENT FUND.** Section 1 of this Act includes \$29,062  
15 from the state unsatisfied judgment fund to pay unsatisfied judgment fund administrative  
16 expenses for the biennium beginning July 1, 2015, and ending June 30, 2017.

17       **SECTION 6. PETROLEUM RELEASE COMPENSATION FUND.** Section 1 of this Act  
18 includes \$116,881 from the petroleum release compensation fund to pay petroleum release  
19 compensation fund administrative expenses for the biennium beginning July 1, 2015, and  
20 ending June 30, 2017.

21       **SECTION 7. AMENDMENT.** Section 26.1-01-09 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23       **26.1-01-09. Salary of commissioner.**

24       The annual salary of the commissioner is ~~ninety-six thousand seven hundred ninety-four~~  
25 ~~dollars through June 30, 2014, and ninety-nine thousand six hundred ninety-eight~~ one hundred  
26 two thousand six hundred eighty-nine dollars through June 30, 2016, and one hundred five  
27 thousand seven hundred seventy dollars thereafter.

28       **SECTION 8. AMENDMENT.** Section 26.1-26.6-01 of the North Dakota Century Code is  
29 amended and reenacted as follows:

1       **26.1-26.6-01. Definition.**

2       As used in this chapter, unless the context otherwise requires, "bail bond agent" means any  
3 person ~~who~~that has been licensed by the commissioner and appointed by an insurer by power  
4 of attorney to execute or countersign bail bonds for the insurer in connection with the judicial  
5 proceedings and charges and receives money for the services.

6       **SECTION 9. AMENDMENT.** Section 26.1-26.6-04 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8       **26.1-26.6-04. ~~Qualification~~Appointment and license as bail bond agent - Pledge of**  
9 **property as security - Penalty.**

10       A person may not act in the capacity of a bail bond agent or perform any of the functions,  
11 duties, or powers prescribed for a bail bond agent under this chapter unless that person is  
12 ~~qualified~~appointed and licensed as provided in this chapter. However, this section does not  
13 prohibit any individual from pledging real or other property as security for a bail bond in judicial  
14 proceedings if the individual does not receive, or is not promised, money or other things of  
15 value therefor. Violation of this section is a class ~~B~~A misdemeanor.

16       **SECTION 10. AMENDMENT.** Section 26.1-26.6-05 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18       **26.1-26.6-05. Violations - Penalties.**

- 19       1. The commissioner may suspend, revoke, or refuse to continue, issue, or renew any  
20 license issued under this chapter if, after notice to the licensee and hearing, the  
21 commissioner finds as to the licensee any of the following conditions:
- 22       a. Recommending any particular attorney at law to handle the case in which the bail  
23       bond agent has caused a bond to be issued under this chapter.
  - 24       b. Forging the name of another to a bond or application for bond.
  - 25       c. Soliciting business in or about any place for prisoners or persons confined,  
26       arraigned, or in custody.
  - 27       d. Paying a fee or rebate, or giving or promising anything of value to a jailer, trustee,  
28       police officer or officer of the law, or any other person who has power to arrest or  
29       hold in custody or to any public official or public employee in order to secure a  
30       settlement, compromise, remission, or reduction of the amount of any bail bond  
31       or entreatment thereof, or to secure, delay, or other advantage. This subdivision

1 does not apply to a jailer, police officer, or officer of the law who is not on duty  
2 and who assists in the apprehension of a defendant.

3 e. Paying a fee or rebating or giving anything of value to an attorney in bail bond  
4 matters, except in defense of any action on a bond.

5 f. Accepting anything of value from a principal other than a premium. Provided, the  
6 bail bond agent may accept collateral security or other indemnity from the  
7 principal which must be returned immediately upon final termination of liability on  
8 the bond. Such collateral security or other indemnity required by the bail bond  
9 agent must be reasonable in relation to the amount of the bond.

10 g. Willfully failing to return collateral security to the principal when the principal is  
11 entitled to the security.

12 h. Knowingly employing a person whose insurance producer license has been  
13 revoked, suspended, or denied in this or any other state.

14 i. Knowingly or intentionally executing a bail bond without collecting in full a  
15 premium for the bond, at the premium rate as filed with and approved by the  
16 commissioner.

17 j. Failing to pay any forfeiture as directed by a court and as required by this  
18 chapter.

19 2. For purposes of subdivisions f and g of subsection 1, a bail bond agent shall monitor  
20 the status of bonds written by the bail bond agent to make timely return of the  
21 collateral security to the principal. It is not a defense to administrative action under this  
22 section that the bail bond agent did not know liability on the bond had been terminated  
23 or that the principal was entitled to return of the security.

24 3. A bail bond agent or bail bond agency may not advertise as or hold itself out to be a  
25 surety company.

26 ~~3.4.~~ A bail bond agent may not sign nor countersign any blank in any bond, nor give up  
27 power of attorney to or otherwise authorize, anyone to countersign the bail bond  
28 agent's name to bonds.

29 ~~4.5.~~ When a bail bond agent accepts collateral, the bail bond agent shall give a written  
30 receipt for the collateral and this receipt must contain a full description of the collateral  
31 received in the terms of redemption. The bail bond agent shall keep copies of all

1 receipts of the bonds to be placed in business to be available to the commissioner for  
2 the commissioner's review.

3 ~~5.6.~~ The provisions and penalties under this section are in addition to those provided under  
4 chapter 26.1-26.

5 **SECTION 11. AMENDMENT.** Subsection 4 of section 26.1-44-03.1 of the North Dakota  
6 Century Code is amended and reenacted as follows:

7 4. At the time of filing the ~~verified report~~annual tax statement as set forth in section  
8 26.1-44-06.1, each surplus lines producer shall pay the premium tax due for the  
9 policies written during the period covered by the ~~report~~annual tax statement.