

Sixty-sixth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2010

Introduced by

Appropriations Committee

1 A BILL for an Act to provide an appropriation for defraying the expenses of the insurance
2 commissioner; to create and enact ~~chapter 23.1-16 and~~ section 26.1-22-03.1 and a new section
3 to chapter 26.1-36 of the North Dakota Century Code, relating to ~~boiler inspections and~~ North
4 Dakota reserve fund use of producers and health insurance; to amend and reenact ~~sections-~~
5 ~~18-04-04, 18-04-04.1, and 18-04-05~~, subsection 2 of section 26.1-01-07, section 26.1-01-09,
6 ~~subsection 1 of section 26.1-03-17, and~~ subdivision c of subsection 8 of section 26.1-04-03,
7 subsection 2 of section 26.1-04-06, sections 26.1-21-03, 26.1-21-17, 26.1-22-03, and
8 26.1-23.1-01, and subsection 2 of section 26.1-25-16 of the North Dakota Century Code,
9 relating to the state fire and tornado fund, the state bonding fund, fees chargeable by the
10 insurance commissioner, the salary of the insurance commissioner, insurance rebates, and
11 government self-insurance pools; ~~to repeal chapter 26.1-22.1 of the North Dakota Century~~
12 ~~Code, relating to boiler inspections; to provide a penalty; to provide for a legislative management~~
13 study; to provide legislative intent; to provide a continuing appropriation; ~~and to provide a~~
14 ~~contingent effective date~~ and to declare an emergency.

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

16 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds
17 as may be necessary, are appropriated from special funds derived from federal funds and other
18 income, to the insurance commissioner for the purpose of defraying the expenses of the
19 insurance commissioner, for the biennium beginning July 1, 2019, and ending June 30, 2021,
20 as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
23 Salaries and wages	\$8,549,567	(\$415,092)	\$8,134,475
24 Operating expenses	2,179,777	(613,102)	1,566,675

1	Total special funds	\$10,729,344	(\$1,028,194)	\$9,701,150
2	Full-time equivalent positions	46.00	(5.00)	41.00
3	Salaries and wages	\$8,549,567	(\$399,569)	\$8,149,998
4	Operating expenses	2,179,777	(613,102)	1,566,675
5	Total special funds	\$10,729,344	(\$1,012,671)	\$9,716,673
6	Full-time equivalent positions	46.00	(5.00)	41.00

7 **SECTION 2. APPROPRIATION.** There is appropriated out of any moneys in the insurance
8 tax distribution fund in the state treasury, not otherwise appropriated, the sum of \$17,519,422,
9 or so much of the sum as may be necessary, to the insurance commissioner for the purpose of
10 providing payments, in accordance with provisions of section 18-04-05, to North Dakota fire
11 departments in the amount of \$16,773,750 and payments to the North Dakota firefighter's
12 association in the amount of \$745,672, for the biennium beginning July 1, 2019, and ending
13 June 30, 2021.

14 **SECTION 3. UNSATISFIED JUDGMENT FUND.** Section 1 of this Act includes \$29,703
15 from the state unsatisfied judgment fund to pay unsatisfied judgment fund administrative
16 expenses for the biennium beginning July 1, 2019, and ending June 30, 2021.

17 ~~**SECTION 3. AMENDMENT.** Section 18-04-04 of the North Dakota Century Code is~~
18 ~~amended and reenacted as follows:~~

19 ~~**18-04-04. Insurance companies to report fire, allied lines, homeowner's multiple peril,**~~
20 ~~**farmowner's multiple peril, crop hail, and commercial multiple peril insurance premium**~~
21 ~~**collections – Form furnished by insurance commissioner.**~~

22 ~~The insurance commissioner, when at the time the commissioner forwards to an insurance~~
23 ~~company which that is issuing policies for fire, allied lines, homeowner's multiple peril,~~
24 ~~farmowner's multiple peril, crop hail, and commercial multiple peril insurance in this state the~~
25 ~~form to be used in submitting its the company's annual statement, shall forward a form~~
26 ~~containing the names of all cities and all rural fire protection districts or rural fire departments~~
27 ~~entitled to benefits under the provisions of this chapter. Every insurance company issuing~~
28 ~~policies for fire, allied lines, homeowner's multiple peril, farmowner's multiple peril, crop hail,~~
29 ~~and commercial multiple peril insurance within this state shall complete such the form by~~
30 ~~showing thereon the amount of all premiums received by it the company upon such policies~~
31 ~~issued on property within the corporate limits of each city shown on such the form and on~~

1 ~~property within the boundaries of each rural fire protection district shown on such~~the ~~form or~~
2 ~~property within the boundaries of each rural fire department as certified by the state fire marshal~~
3 ~~during the year ending on the preceding thirty-first day of December and shall file the same~~form
4 ~~as a part of its~~the company's annual statement.

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

7 ~~—~~ **18-04-04.1. Insurance tax distribution fund.**

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

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

13 ~~—~~ **18-04-05. Amount due cities, rural fire protection districts, or rural fire departments --**
14 **Transfer to firefighters death benefit fund -- Disbursement to North Dakota firefighter's**
15 **association -- Payments by insurance commissioner -- Continuing appropriation.**

16 ~~—~~ 1. ~~The insurance commissioner shall disburse funds in the insurance tax distribution fund~~
17 ~~as provided under this section.~~

18 ~~—~~ 2. ~~The insurance commissioner shall transfer an amount of up to fifty thousand dollars~~
19 ~~per biennium, as may be necessary, to the firefighters death benefit fund for~~
20 ~~distribution under chapter 18-05.1.~~

21 ~~—~~ 3. ~~The insurance commissioner shall~~ compute and ~~disburse funds to the North Dakota~~
22 ~~firefighter's association for uses authorized under chapter 18-03, subject to legislative~~
23 ~~appropriations.~~

24 ~~—~~ 4. ~~The insurance commissioner shall~~ compute and disburse ~~the amounts due to the~~
25 ~~certified city fire departments, certified rural fire departments, or certified fire protection~~
26 ~~districts entitled to benefits under this chapter on or before December first of each~~
27 ~~year. The insurance commissioner shall allocate one-half of the biennial legislative~~
28 ~~appropriation for distribution under this subsection, to each eligible city not within a~~
29 ~~certified fire protection district, each certified rural fire protection district organized~~
30 ~~under this title, and each rural fire department certified by the state fire marshal, and~~
31 ~~pay the amount allocated in December of each year. The allocation must be made in~~

1 proportion to the amount of insurance company premiums received by insurance-
2 companies pursuant to section 26.1-03-17 for policies for fire, allied lines,
3 homeowner's multiple peril, farmowner's multiple peril, commercial multiple peril, and
4 crop hail insurance the lines of insurance identified under section 18-04-04 on property
5 within the city of a certified city fire department, a certified rural fire protection district,
6 or area served by the a certified rural fire department to the total of those premiums for
7 these policies in the state.

8 ~~5. Annually, the insurance commissioner shall determine the amount of insurance~~
9 ~~premium taxes collected from the insurance lines identified in section 18-04-04. Of this~~
10 ~~amount, annually the commissioner shall disburse five and one-half percent to the~~
11 ~~North Dakota firefighter's association and ninety-four and one-half percent to certified~~
12 ~~city fire departments, certified rural fire departments, and certified fire protection~~
13 ~~districts. Moneys authorized for disbursement under this section are appropriated from~~
14 ~~the insurance tax distribution fund to the insurance commissioner on a continuing~~
15 ~~basis for the purpose of this section.~~

16 ~~SECTION 6.~~ Chapter 23.1-16 of the North Dakota Century Code is created and enacted as
17 follows:

18 ~~**23.1-16-01. Definitions.**~~

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

20 ~~1. "Boiler" means a closed vessel in which water is heated, steam is generated, steam is~~
21 ~~superheated, or any combination thereof, under pressure or vacuum for use externally~~
22 ~~to the boiler by the direct application of heat from the combustion of fuels, or from~~
23 ~~electricity or nuclear energy. The term includes fired units for vaporizing liquids other~~
24 ~~than water when these units are separate from processing systems and are complete~~
25 ~~within themselves.~~

26 ~~2. "Department" means the department of environmental quality.~~

27 ~~**23.1-16-02. Chief boiler inspector, deputy inspectors – Appointment – Jurisdiction.**~~

28 ~~The department shall employ a chief boiler inspector and deputy inspectors. The chief boiler~~
29 ~~inspector has jurisdiction over all boilers in this state except as otherwise provided.~~

30 ~~**23.1-16-03. Qualifications of chief boiler inspector – Deputy inspectors.**~~

31 ~~1. An individual is not eligible to the office of chief boiler inspector unless that individual:~~

- 1 ~~_____ a. Has had at the time of the appointment at least five years' experience in the~~
2 ~~construction, inspection, operation, maintenance, or repair of high-pressure~~
3 ~~boilers and pressure vessels as a mechanical engineer, boilermaker, steam~~
4 ~~operating engineer, or boiler inspector. An applicant possessing a mechanical~~
5 ~~engineering degree from an accredited school may substitute that degree for two~~
6 ~~years of the five years' experience, at the discretion of the department.~~
- 7 ~~_____ b. Holds a commission issued by the national board of boiler and pressure vessel~~
8 ~~inspectors or obtains the commission within one year after the date of~~
9 ~~appointment by the department.~~
- 10 ~~_____ c. Is not directly or indirectly interested in the manufacture or sale of boilers or~~
11 ~~steam machinery or articles used in the construction or maintenance of engines~~
12 ~~or boilers.~~
- 13 ~~_____ 2. The department shall establish qualifications for a deputy inspector which are not~~
14 ~~inconsistent with the requirements of the position.~~
- 15 ~~_____ **23.1-16-04. Powers and duties of chief boiler inspector.**~~
- 16 ~~_____ 1. The chief boiler inspector shall:~~
- 17 ~~_____ a. Keep a complete record of the type, dimensions, maximum allowable working~~
18 ~~pressure, age, condition, location, and date of the last recorded internal and~~
19 ~~external inspection of boilers to which this chapter applies.~~
- 20 ~~_____ b. Cooperate and assist in loss prevention programs sponsored by the department.~~
- 21 ~~_____ 2. The chief boiler inspector may delegate powers and duties to any deputy inspector or~~
22 ~~special inspector.~~
- 23 ~~_____ **23.1-16-05. General requirement.**~~
- 24 ~~_____ Every boiler in this state must be constructed, installed, and maintained according to rules~~
25 ~~adopted to implement this chapter.~~
- 26 ~~_____ **23.1-16-06. Exempt boilers - Inspection of exempt boilers.**~~
- 27 ~~_____ This chapter does not apply to:~~
- 28 ~~_____ 1. Any boiler subject to federal inspection or under federal control.~~
- 29 ~~_____ 2. Any boiler located on a farm and used solely for agricultural purposes.~~
- 30 ~~_____ 3. Any heating boiler located in a private residence or in an apartment house of less than~~
31 ~~six family units.~~

- ~~4. Any hot water supply boiler not exceeding the following limitations:~~
 - ~~a. Input of two hundred thousand British thermal units per hour.~~
 - ~~b. Pressure of one hundred sixty pounds per square inch [1103.16 kilopascals] gauge.~~
 - ~~c. Temperature of two hundred fifty degrees Fahrenheit [121.11 degrees Celsius].~~
- ~~5. Any portable steam cleaner commonly used in a garage.~~
- ~~6. Any boiler of a miniature model locomotive, boat, tractor, or stationary engine design constructed as a hobby, not for commercial use, having an inside diameter not exceeding ten inches [25.4 centimeters] and a grate area not exceeding one and one-half square feet [1393.54 square centimeters] and which is properly equipped with a safety valve, water level indicator, and pressure gauge.~~
- ~~7. Any electric boiler used as an integral part of an espresso coffee machine, provided that the boiler does not exceed one and one-half cubic feet [.0566 cubic meter] in water capacity, does not exceed fifty pounds per square inch [344.74 kilopascals] pressure, and is constructed, approved, or certified to the American society of mechanical engineers code or to other national or international standards.~~

~~**23.1-16-07. Inspection of boilers.**~~

- ~~1. The chief boiler inspector shall inspect each boiler used or proposed to be used within this state. The inspection must be thorough as to the construction, installation, condition, and operation as provided by the rules adopted to implement this chapter. An exempt boiler may be inspected by the chief boiler inspector when the owner, the owner's agent, or the user of the boiler makes written request for inspection to the department.~~
- ~~2. Each boiler of one hundred thousand pounds [45359.24 kilograms] per hour or more capacity, used or proposed to be used within this state, which has internal continuous water treatment under the direct supervision of a graduate engineer or chemist, or one having equivalent experience in the treatment of boiler water when the water treatment is for the purpose of controlling and limiting serious corrosion and other deteriorating factors, and with respect to which boiler the chief boiler inspector has determined the owner or user has complied with the prescribed recordkeeping requirements, must be inspected at least once every thirty-six months internally while not under pressure, and~~

1 ~~at least once every twelve months externally while under pressure. If a hydrostatic test~~
2 ~~is necessary to determine the safety of a boiler, the test must be conducted by the~~
3 ~~owner or user of the equipment under the supervision of the chief boiler inspector. The~~
4 ~~owner or user of a boiler of one hundred thousand pounds [45359.24 kilograms] per-~~
5 ~~hour or more capacity desiring to qualify for thirty-six month internal inspection~~
6 ~~intervals shall keep available for examination by the chief boiler inspector accurate~~
7 ~~records showing the date and actual time the boiler is out of service and the reason or~~
8 ~~reasons therefor, and the results of the chemical and physical analysis of the boiler~~
9 ~~water, whether from laboratory analysis of samples taken at regular intervals of not~~
10 ~~more than forty eight hours or from continuous online analysers, which will adequately~~
11 ~~show the condition of the water and any other elements or characteristics of the water~~
12 ~~capable of producing corrosion or other deterioration of the boiler or its parts. If an~~
13 ~~inspection discloses deficiencies in equipment or in operating procedures, inspections~~
14 ~~may be required once every twelve months.~~

15 ~~— **23.1-16-08. Special inspector.**~~

16 ~~1. Upon written request of an employer, the department may appoint as a special~~
17 ~~inspector an inspector in the employ of:~~

18 ~~— a. An insurance company authorized to insure boilers in this state against loss from~~
19 ~~explosion;~~

20 ~~— b. A company qualified by the national board of boiler and pressure vessel~~
21 ~~inspectors as an accredited owner/user inspection organization; or~~

22 ~~— c. A company qualified by the national board of boiler and pressure vessel~~
23 ~~inspectors as an accredited authorized inspection agency.~~

24 ~~2. An individual may not be appointed as a special inspector unless that individual has~~
25 ~~passed the examination prescribed by the national board of boiler and pressure vessel~~
26 ~~inspectors.~~

27 ~~3. An inspection performed by a special inspector must be performed in accordance with~~
28 ~~this chapter and a complete report of the inspection must be filed with the department~~
29 ~~in the time, manner, and form as prescribed by the department.~~

30 ~~4. If a complete report is not filed by the special inspector's employer with the department~~
31 ~~within ninety days from the certificate due date, the chief boiler inspector may make~~

1 ~~the required inspection, unless an extension of time is granted by the chief boiler~~
2 ~~inspector. The special inspector's employer must pay the inspection fees as required~~
3 ~~by section 23.1-16-09 for a special inspection.~~

4 ~~5. The chief boiler inspector may inspect any boiler to which a special inspection applies.~~

5 ~~6. The department may, for cause, suspend or revoke the appointment of any special~~
6 ~~inspector.~~

7 ~~**23.1-16-09. Inspection and certificate fees.**~~

8 ~~1. Upon completion of inspection, the owner or user of a boiler shall pay to the~~
9 ~~department fees or a combination of inspection and certificate fees. The department~~
10 ~~shall determine the inspection fees. Certificate fees are determined by section~~
11 ~~23.1-16-10. The department shall determine and annually may adjust a fee scale for~~
12 ~~the internal inspections of power boilers, internal inspections of low-pressure heating~~
13 ~~boilers, external inspections of all boilers, and inspection of boilers used exclusively for~~
14 ~~exhibition purposes.~~

15 ~~2. Not more than two hundred dollars may be charged or collected for any one inspection~~
16 ~~of a boiler, except for special inspections made upon request. All other inspections~~
17 ~~made by the chief boiler inspector, including shop inspections and reviews and special~~
18 ~~inspections when requested by the owner or user of a boiler, must be charged at a~~
19 ~~rate not to exceed five hundred dollars per day or three hundred dollars per half day of~~
20 ~~four hours or less, plus payment for mileage, meals, and hotel expenses as allowed by~~
21 ~~sections 44-08-04 and 54-06-09, except that the mileage rate for a state-owned~~
22 ~~vehicle will be the actual amount incurred by the department.~~

23 ~~3. The annual fee for the issuance of a reciprocal commission card for a special~~
24 ~~inspector is forty dollars and the annual fee for the issuance of a welder-qualified card~~
25 ~~is twenty dollars.~~

26 ~~4. The fee for taking an examination for a hobby boiler operating license is twenty-five~~
27 ~~dollars and the fee for a hobby boiler operating license is twenty-five dollars.~~

28 ~~5. A hobby boiler operating license issued under this section is valid for six years.~~

29 ~~**23.1-16-10. Certificate of inspection - Certificate to be posted.**~~

30 ~~The department shall issue a certificate of inspection for each boiler inspected upon receipt~~
31 ~~of an inspection report certifying that the boiler is in a safe condition to be operated. The~~

~~department shall charge a fee of twenty dollars per year for each year that a certificate is valid, or part of a year thereof, for each certificate of inspection issued as the result of inspections authorized under sections 23.1-16-07 and 23.1-16-08. The fees are the liability of the owner or user and must be paid in accordance with rules adopted by the department. A certificate may not be issued for any boiler not in a safe condition to be operated or for a boiler for which the inspection and certificate fees have not been paid in full. A certificate is not valid for a period of more than thirty-six months for power boilers described in subsection 2 of section 23.1-16-07, and no more than twelve months for other power boilers, twelve months for steam traction engines, and thirty-six months for low-pressure boilers except that a two-month grace period may be extended for any certificate. Upon written request from a special inspector, the chief boiler inspector may issue a short-term certificate. Each certificate of inspection must be posted conspicuously under glass in the boiler room or adjacent to the boiler inspected.~~

~~— **23.1-16-11. Certificate of inspection required – Penalty.**~~

~~— A person may not operate a boiler in this state without a valid certificate of inspection. A violation of this section is a class A misdemeanor on the part of the owner, user, or operator of the boiler.~~

~~— **23.1-16-12. Manufacturer's data report.**~~

~~— The boiler manufacturer shall provide the department with a manufacturer's data report. When signed by an authorized inspector, this data sheet together with the stamp on the boiler is the record denoting the boiler has been constructed in accordance with the rules adopted to implement this chapter.~~

~~— **23.1-16-13. Disposition of funds.**~~

~~— All funds collected and received under this chapter must be paid to the state treasurer and deposited in the state fire and tornado fund to be used to defray the costs of boiler inspections.~~

~~— **23.1-16-14. Rules – Penalty for violation – Hearing.**~~

~~1. The department shall adopt rules for the safe and proper installation, use, operation, and inspection of boilers and pressure vessels subject to this chapter.~~

~~2. The department shall adopt rules for the licensing of operators of hobby boilers used during parades, exhibitions, and threshing shows where the public is invited.~~

~~3. A fee must be charged for an operating license, for a license renewal, and for an examination conducted to determine minimum competence. Individuals operating~~

~~hobby boilers within this state as of July 1, 2007, are considered acceptable for a license without additional training or examination. An individual who is not a resident of this state and who holds a boiler operator license or credential in another state or Canadian province is exempt from licensure as a hobby boiler operator in this state.~~

~~4. The department may not issue a certificate of inspection to any owner or user of a boiler who fails or refuses to comply with the rules. The department shall revoke any certificate presently in force upon evidence that the owner or user of the boiler is failing or refusing to comply with the rules.~~

~~5. Any owner or user of a boiler may request a hearing before the department within fifteen days from service of an order refusing or revoking a certificate of inspection. It is the burden of the owner or user to show cause why the certificate of inspection should not be refused or revoked. If no hearing is requested within the required period, the order of the department becomes final and is not subject to further proceedings.~~

SECTION 4. AMENDMENT. Subsection 2 of section 26.1-01-07 of the North Dakota Century Code is amended and reenacted as follows:

2. Nonprofit health service corporations and health maintenance organizations are subject to the same fees as any other insurance company. County mutual insurance companies and benevolent societies are liable only for the fees mentioned in subdivisions b, f, g, and kh of subsection 1.

SECTION 5. AMENDMENT. Section 26.1-01-09 of the North Dakota Century Code is amended and reenacted as follows:

26.1-01-09. Salary of commissioner.

The annual salary of the commissioner is ~~one hundred two thousand six hundred eighty-nine dollars through June 30, 2016~~ one hundred seven thousand eight hundred eighty-five dollars through June 30, 2020, and ~~one hundred five thousand seven hundred seventy~~ one hundred eleven thousand one hundred twenty-two one hundred ten thousand five hundred eighty-two dollars thereafter.

~~**SECTION 9. AMENDMENT.** Subsection 1 of section 26.1-03-17 of the North Dakota Century Code is amended and reenacted as follows:~~

- ~~1. Before issuing the annual certificate required by law, the commissioner shall collect from every stock and mutual insurance company, nonprofit health service~~

1 corporation, health maintenance organization, and prepaid legal service organization,
2 except fraternal benefit and benevolent societies, doing business in this state, a tax on
3 the gross amount of premiums, assessments, membership fees, subscriber fees,
4 policy fees, service fees collected by any third-party administrator providing
5 administrative services to a group that is self-insured for health care benefits, and
6 finance and service charges received in this state during the preceding calendar year,
7 at the rate of two percent with respect to life insurance, one and three-fourths percent
8 with respect to accident and health insurance, and one and three-fourths percent with
9 respect to all other lines of insurance. This tax does not apply to considerations for
10 annuities. The total tax is payable on or before March first following the year for which
11 the tax is assessable. If the due date falls on a Saturday or legal holiday, the tax is
12 payable on the next succeeding business day. Collections from this tax must be
13 deposited in the insurance tax distribution fund under section 18-04-04.1 but not in an
14 amount exceeding the amount computed under section 18-04-05 and one-half of the
15 biennial amount appropriated for distribution under section 18-04-05 and chapter
16 23-46 in any fiscal year. Collections from this tax exceeding the sum of the amount
17 deposited in the insurance tax distribution fund must be deposited in the general fund
18 in the state treasury.

19 **SECTION 6. AMENDMENT.** Subdivision c of subsection 8 of section 26.1-04-03 of the
20 North Dakota Century Code is amended and reenacted as follows:

21 c. Notwithstanding any other provision in this subsection, if the cost does not
22 exceed an aggregate retail value of one hundred dollars per person per year, an
23 insurance producer may give a gift, prize, promotional article, logo merchandise,
24 meal, or entertainment activity directly or indirectly to a person in connection with
25 marketing, promoting, or advertising the business. As used in this subdivision,
26 "person" means the named insured, policy owner, or prospective client or the
27 spouse of any of these individuals, but the term does not include a certificate
28 holder, child, or employee of the named insured, policy owner, or prospective
29 client. Subject to the limits of this subdivision, an insurance producer may give a
30 gift card for specific merchandise or services such as a meal, gasoline, or car
31 wash but may not give cash, a cash card, any form of currency, or any refund or

1 discount in premium. An insurance producer may not condition the giving of a gift,
2 prize, promotion article, logo merchandise, meal, or entertainment activity on
3 obtaining a quote or a contract of insurance. Notwithstanding the limitation in this
4 subdivision, an insurance producer may make a donation to a nonprofit
5 organization that is exempt from federal taxation under Internal Revenue Code
6 section 501(c)(3) [26 U.S.C. 501(c)(3)] in any amount as long as the donation is
7 not given as an inducement to obtain ~~a quote or~~ a contract of insurance.

8 **SECTION 7. AMENDMENT.** Subsection 2 of section 26.1-04-06 of the North Dakota
9 Century Code is amended and reenacted as follows:

- 10 2. Notwithstanding any other provision in this section, if the cost does not exceed an
11 aggregate retail value of one hundred dollars per person per year, an insurance
12 producer may give a gift, prize, promotional article, logo merchandise, meal, or
13 entertainment activity directly or indirectly to a person in connection with marketing,
14 promoting, or advertising the business. As used in this subsection, "person" means the
15 named insured, policy owner, or prospective client or the spouse of any of these
16 individuals, but the term does not include a certificate holder, child, or employee of the
17 named insured, policy owner, or prospective client. Subject to the limits of this
18 subsection, an insurance producer may give a gift card for specific merchandise or
19 services such as a meal, gasoline, or car wash but may not give cash, a cash card,
20 any form of currency, or any refund or discount in premium. An insurance producer
21 may not condition the giving of a gift, prize, promotional article, logo merchandise,
22 meal, or entertainment activity on obtaining a quote or a contract of insurance.
23 Notwithstanding the limitation in this subsection, an insurance producer may make a
24 donation to a nonprofit organization that is exempt from federal taxation under Internal
25 Revenue Code section 501(c)(3) [26 U.S.C. 501(c)(3)] in any amount as long as the
26 donation is not given as an inducement to obtain ~~a quote or~~ a contract of insurance.

27 **SECTION 8. AMENDMENT.** Section 26.1-21-03 of the North Dakota Century Code is
28 amended and reenacted as follows:

1 **26.1-21-03. Commissioner may employ or contract for assistants - Continuing**
2 **appropriation.**

3 The commissioner may employ assistants or contract for the services of assistants from the
4 North Dakota insurance reserve fund as may be necessary to operate the state bonding fund.
5 ~~The salaries of all employees together with all other expenditures for the operation of the fund~~
6 ~~must remain within the appropriations made by the legislative assembly for these purposes and~~
7 ~~must be paid by warrant check drawn on the state treasury prepared by the office of~~
8 ~~management and budget after the approval of expense vouchers by the office of the~~
9 ~~budget~~Moneys in the reserve fund of the state bonding fund are appropriated to the
10 commissioner on a continuing basis for the purpose of employing or contracting for services as
11 provided under this section.

12 **SECTION 9. AMENDMENT.** Section 26.1-21-17 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **26.1-21-17. Allowed liability claims payable from fund - Administrative expenses -**
15 **Methods of payment.**

16 A claim allowed against the fund must be paid upon warrants drawn upon the state
17 treasurer against the fund. The warrant must be prepared by the office of management and
18 budget pursuant to the directions of the commissioner. Payments for administrative expenses of
19 the state bonding fund must be made from the reserve fund of the state bonding fund or must
20 be made within the limitations of legislative appropriations upon warrant-checks prepared by the
21 office of management and budget after the approval of vouchers by the commissioner.

22 **SECTION 10. AMENDMENT.** Section 26.1-22-03 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **26.1-22-03. Employment of assistants - Expenditures from fund - Continuing**
25 **appropriation.**

26 To carry out this chapter, the commissioner may utilize any information on file in the state
27 fire marshal's department and any of the employees of the commissioner and the commissioner
28 may employ necessary assistants or contract for services of assistants from the North Dakota
29 insurance reserve fund and may incur necessary expenses. All expenditures made for these
30 purposes, other than services contracted and paid for by moneys from the fund and any
31 necessary expenses paid from moneys from the reserve balance within the fund, must remain

1 within the limits of legislative appropriations and must be paid out of the fund upon warrants
2 prepared by the office of management and budget drawn upon the state treasurer after the
3 approval of vouchers by the office of the budget. Moneys from the reserve balance within the
4 fund are appropriated to the commissioner on a continuing basis for the purposes of this
5 section.

6 **SECTION 11.** Section 26.1-22-03.1 of the North Dakota Century Code is created and
7 enacted as follows:

8 **26.1-22-03.1. North Dakota insurance reserve fund - Producers - Commission.**

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

13 **SECTION 12. AMENDMENT.** Section 26.1-23.1-01 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **26.1-23.1-01. Government self-insurance pools - Regulation - Reinsurance.**

- 16 1. Any two or more entities that have united to self-insure against their legal liability
17 under chapter 32-12.1 or any state agency that unites with another state agency or
18 political subdivision, or both, to self-insure against their legal liabilities are subject to
19 the provisions of this chapter with the exception of a city and its park district
20 established pursuant to chapter 40-49. Government self-insurance pools may only
21 provide coverage of the following types for pool members, their officers, employees,
22 and agents:
- 23 a. Casualty insurance, including general, public officials, and professional liability
24 coverages.
 - 25 b. Automobile insurance, including motor vehicle liability insurance coverage,
26 security for motor vehicles owned or operated as required by chapter 26.1-41,
27 and protection against other liability and laws associated with the ownership of
28 motor vehicles and automobile physical damage coverages.
 - 29 c. Property insurance, including inland marine coverage, money and securities
30 coverage, and extra expense coverage. However, this subdivision does not
31 authorize government self-insurance pools to write those types of insurance

1 coverages offered by the state fire and tornado fund under the provisions of
2 chapter 26.1-22 as they existed on December 31, 1988, unless a government
3 self-insurance pool enters a contract with the commissioner to provide services
4 for the state fire and tornado fund under section 26.1-22-03.

5 d. Other coverages authorized by the commissioner and necessary to a pool's
6 membership.

7 2. A government self-insurance pool may not expose itself to loss on any single risk or
8 hazard in an amount exceeding ten percent of the amount of its admitted assets
9 unless the pool obtains excess insurance or reinsurance with insurance companies
10 approved for such business by the insurance commissioner.

11 ~~SECTION 15. REPEAL. Chapter 26.1-22.1 of the North Dakota Century Code is repealed.~~

12 ~~SECTION 16. CONTINGENT EFFECTIVE DATE. Sections 6 and 15 of this Act become~~
13 ~~effective on July 1, 2019, if the legislative council has received certification from the chief of the~~
14 ~~environmental health section of the state department of health that all authority, powers, and~~
15 ~~duties from the environmental health section of the state department of health have been~~
16 ~~transferred to the department of environmental quality. If the certification is not received by~~
17 ~~July 1, 2019, sections 6 and 15 of this Act become effective on the date certification is received.~~

18 **SECTION 13. AMENDMENT.** Subsection 2 of section 26.1-25-16 of the North Dakota
19 Century Code is amended and reenacted as follows:

20 2. Notwithstanding any other provision in this section, if the cost does not exceed an
21 aggregate retail value of one hundred dollars per person per year, an insurance
22 producer may give a gift, prize, promotional article, logo merchandise, meal, or
23 entertainment activity directly or indirectly to a person in connection with marketing,
24 promoting, or advertising the business. As used in this subsection, "person" means the
25 named insured, policy owner, or prospective client or the spouse of any of these
26 individuals, but the term does not include a certificate holder, child, or employee of the
27 named insured, policy owner, or prospective client. Subject to the limits of this
28 subsection, an insurance producer may give a gift card for specific merchandise or
29 services such as a meal, gasoline, or car wash but may not give cash, a cash card,
30 any form of currency, or any refund or discount in premium. An insurance producer
31 may not condition the giving of a gift, prize, promotional article, logo merchandise,

1 meal, or entertainment activity on obtaining a quote or a contract of insurance.

2 Notwithstanding the limitation in this subsection, an insurance producer may make a
3 donation to a nonprofit organization that is exempt from federal taxation under Internal
4 Revenue Code section 501(c)(3) [26 U.S.C. 501(c)(3)] in any amount as long as the
5 donation is not given as an inducement to obtain ~~a quote or~~ a contract of insurance.

6 **SECTION 14.** A new section to chapter 26.1-36 of the North Dakota Century Code is
7 created and enacted as follows:

8 **Pre-existing conditions.**

9 Notwithstanding any law to the contrary, an accident and health insurance policy issued
10 under this chapter may not take into account any pre-existing condition of an insured or
11 applicant, including waiting periods, refusal of coverage, and ratesetting.

12 **SECTION 15. LEGISLATIVE INTENT - INSURANCE TAX DISTRIBUTION FUND**
13 **PAYMENTS TO FIRE DEPARTMENTS.** It is the intent of the sixty-sixth legislative assembly
14 that, when feasible, fire departments utilize increased payments from the insurance tax
15 distribution fund to improve their insurance service office rating.

16 **SECTION 16. LEGISLATIVE MANAGEMENT STUDY - VOLUNTEER FIREFIGHTER**
17 **PENSION.** During the 2019-20 interim, the legislative management shall consider studying the
18 feasibility and desirability of establishing a pension for volunteer firefighters. The study must
19 include a review of firefighter needs of the state and benefits provided to volunteer firefighters in
20 other states. The legislative management shall report its findings and recommendations,
21 together with any legislation required to implement the recommendations, to the sixty-seventh
22 legislative assembly.

23 **SECTION 17. EMERGENCY.** Sections 8, 9, 10, 11, and 12 of this Act are declared to be an
24 emergency measure.