

Fifty-fifth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2396

Introduced by

Senators Goetz, Grindberg, Wogsland

Representatives Dorso, Keiser, Poolman

- 1 A BILL for an Act to provide for establishment and operation of the North Dakota low-risk
2 incentive fund; and to provide a penalty.

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

4 **SECTION 1. Definitions.** As used in this Act:

- 5 1. "Fund" means the North Dakota low-risk incentive fund.
6 2. "Governing board" means the board of directors of the corporation or board of
7 governors of the limited liability company established under section 2 of this Act.
8 3. "Insurer" means any foreign or domestic corporation, association, benefit society,
9 exchange, partnership, limited liability company, or individual engaged as principal
10 in the business of insurance in this state.
11 4. "Primary sector business" means an individual, corporation, limited liability
12 company, partnership, or association that through the employment of knowledge or
13 labor adds value to a product, process, or service which results in the creation of
14 new wealth.

15 **SECTION 2. Establishment - Organization.** Any insurer or group of insurers may
16 establish a corporation or limited liability company to own and operate the North Dakota
17 low-risk incentive fund. Except as provided in this Act, all authority regarding the articles of
18 incorporation or articles of organization is the province of the governing board, which must
19 include a representative of the Bank of North Dakota. The Bank of North Dakota shall
20 administer the fund; however, the governing board is responsible for adopting fund policies and
21 procedures. The governing board may not distribute more than seventy-five percent of the net
22 profit of the fund in any of the first five years of operation.

23 **SECTION 3. North Dakota low-risk incentive fund use.** The fund may be used only
24 for making loans to low-risk businesses for primary sector business projects in this state and no

1 loan may be approved or made by the fund without a ten percent participation in the aggregate
2 amount of the loan by the Bank of North Dakota. The participation of the Bank of North Dakota
3 in a loan may not exceed ten percent of the aggregate amount of the loan. A loan from the
4 fund may not be made to an insurer. The governing board shall establish the rate of interest
5 and terms of repayment for a loan from the fund.

6 **SECTION 4. Loan administration.** An application for a loan from the fund must
7 contain the information prescribed by the governing board. Except as provided in this section,
8 information contained in applications for loans from the fund is confidential. The Bank of North
9 Dakota shall review each loan application, report to the governing board whether the applicant
10 represents a primary sector business project, and make a recommendation to the governing
11 board to either approve or disapprove the loan application. The Bank of North Dakota shall
12 administer all loans issued by the fund and shall receive from the fund a service fee of
13 twenty-five basis points on all loans in place. The commissioner of insurance may examine the
14 fund and activities of insurers in connection with the fund to assure compliance with title 26.1.
15 The fund shall pay for the costs of an examination and no credit may be allowed any insurer for
16 payment of examination costs as otherwise provided under section 26.1-03-17.

17 **SECTION 5. Audited financial statement - Report of fund operations.** The
18 governing board shall contract annually with a certified public accountant for performance of an
19 audit and preparation of audited financial statements of the fund prepared in accordance with
20 generally accepted accounting principles and a report containing an analysis of the impact of
21 the fund on the state's economy, business and employment activity generated by loans from
22 the fund, and the effects of that activity on state and local tax revenues. The governing board
23 shall provide the financial statements and report to the governor, the commissioner of
24 insurance, and the legislative council and make copies available to the public. The cost of the
25 audit and preparation of financial statements and report must be paid from the fund.

26 **SECTION 6. Tax credit - Penalty.** If the requirements of this Act are met, an insurer is
27 entitled to a credit against taxes due under section 26.1-03-17 as determined under this
28 section.

- 29 1. An insurer making or participating in a loan under this Act is entitled to a premium
30 tax credit calculated for each calender year the loan is in place. The amount of the
31 credit is the difference between:

- 1 a. The participating insurer's share of the interest earned on the loan during the
- 2 calendar year; and
- 3 b. The participating insurer's share of an amount of interest that would have
- 4 been earned during the same period by applying an interest rate, calculated
- 5 by adding three hundred basis points to a comparable treasury security rate
- 6 at the date of the issuance of the loan.
- 7 2. The maximum credit allowed an insurer for any calendar year is the amount of
- 8 interest that would have been earned during the period by applying an interest rate
- 9 of three hundred basis points. A credit may not be allowed if the interest earned
- 10 exceeds the interest that would have been earned by applying the calculation in
- 11 subdivision b of subsection 1.
- 12 3. The credit may not exceed the total amount of the insurer's tax liability under
- 13 subsection 1 of section 26.1-03-17 and no unused credit may be carried forward.
- 14 4. Credits under this section for all insurers may not exceed one million dollars in a
- 15 calendar year.

16 **SECTION 7. Assets of insurers.** The amount of a loan made by an insurer or the
17 amount of an insurer's participation in a loan made under this Act may not be considered or
18 reported on the insurer's annual statement as an admitted asset except to the extent provided
19 under section 26.1-05-19.