

**SENATE BILL NO. 2295**

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**Before:** House Industry, Business, and Labor Committee  
Representative Scott Louser, Chairman

**Date:** March 20, 2023

Good afternoon, Chairman Louser and members of the Committee. My name is Johnny Palsgraaf, General Counsel for the North Dakota Insurance Department. I stand before you today in support of Senate Bill 2295. Senate Bill 2295 does two things. One, it increases efficiency and provides long-term stability in the administration of the North Dakota Automobile Insurance Plan (AIP), which is commonly referred to as the “assigned risk plan.” Two, it dissolves the Unsatisfied Judgement Fund (UJF), which has become obsolete in the view of the Insurance Department.

Section two of the bill pertains to the AIP. The AIP provides a mechanism for individuals to obtain the legally required personal auto insurance coverages when they are unable to acquire coverage on the private market due to their underwriting risk. 26.1-25-15 creates a loose framework through which the AIP is administered; essentially it currently states that companies can come together and form an agreement to operate the AIP. AIPSO (formerly The Automobile Insurance Plan Service Office) is utilized by companies to assist in the administration of the AIPs across the country. Currently, since 26.1-25-15 only states that insurance companies can form an agreement, the administration of North Dakota’s AIP requires AIPSO contracting with

one of their members to act as a fronting company to initially take on the risk of AIP policies, and then assess subscriber companies when losses are incurred.

Last fall, AIPSO contacted the Insurance Department on behalf of the ND AIP proposing what is now section two of SB 2295 that would authorize the AIP to issue policies in its name to provide efficiencies and long-term stability in the auto residual market. The AIP is fully reinsured and funded by insurers licensed to issue policies in the state. The AIP has not and will not compete with the voluntary market, rather exists to provide coverage as a last resort for individuals who are unable to obtain such coverage in the voluntary market. There are currently 2 private passenger policies in force in the AIP.

The existing language of 26.1-25-15, with slight amendments, will become subsection one. The big ask is found in subsection eight (page 2, lines 18 and 19). Subsection eight allows for an entity, other than a company, manage and operate the AIP. This means that an organization, such as AIPSO could be selected by companies, subject to the commissioner's approval, to provide policyholder and claims services for policies issued on North Dakota Automobile Insurance Plan's paper, and a fronting company would no longer be necessary. The newly created subsections two through seven and nine create a more detailed regulatory framework for the AIP, necessary since an entity for which we may not already have regulatory authority may be operating the Plan.

Currently, 15 state mechanisms operate under this model where policies are issued in respective Plan's name, that not only eliminates the need to contract with a fronting

company and pay associated fronting company fees, but provides long-term stability in the residual market and added certainty to consumers, law enforcement and DMV's in that auto policies and ID cards would be issued in the ND AIP's name.

Sections one and three of bill relate to the UJF. The UJF was created by the 30<sup>th</sup> Legislative Assembly (1947) to provide a "fund of last resort" from which residents could collect financial compensation if injured by an uninsured motorist. It is important to note that the UJF is not a form of supplemental coverage, and only pays when there is a complete absence of coverage.

The 42<sup>nd</sup> Legislative Assembly (1971) established the requirement that auto policies include uninsured motorist coverage. The 44<sup>th</sup> Legislative Assembly (1975) established the requirement of maintaining proof of liability coverage. As a result, claims to the UJF have drastically reduced. The Department's research shows that from 1948 to 1968 claims to the UJF totaled approximately \$2.5 million. From 1969 to 2023 claims amounted to approximately \$197,000.

It is now extremely rare that anyone could even qualify to make a claim against the UJF. Essentially, a completely uninsured pedestrian would have to be hit by an uninsured motorist to be eligible. And if that were to happen, the injured pedestrian would need to obtain legal counsel to make a claim that is capped at \$10,000 per person, with a maximum payout of \$20,000. An individual who is completely uninsured probably

doesn't money to hire an attorney in the first place, and if they were able to, the expense would likely take a significant cut out of the claim.

The lack of use isn't the only reason why we are requesting that the UJF be dissolved, however. Administering the UJF, although unused, still comes at a cost to the fund. By statute, when the UJF balance drops below \$150,000 on June 1, during the subsequent year the Department of Transportation is to assess an additional \$1 fee on each vehicle registration. In 2019 the fund dropped below \$150,000 and so each vehicle registration in 2020 included the \$1 fee. By the end of 2020 the fund had grown to over \$900,000. Our estimate is that the fund will not drop below \$150,000 for more than 40 years.

The original purpose of the UJF has mostly been eliminated due other legislative action, and in the very rare case that may apply, other factors make the UJF an inadequate source of financial compensation for the injured. What is left is a fund that will slowly be exhausted on administrative costs until the citizens replenish it, just to again be spent on administrative processes. In the Department's view, this is waste, and it is time to dissolve this fund.

Chairman Louser and members of the committee, I respectfully request the committee give SB 2295 a Do Pass recommendation, and I would be happy to answer any questions that you may have.

Thank you.