

**FIRST ENGROSSMENT**

**ENGROSSED SENATE BILL NO. 2272**

Introduced by

Senators Barta, Klein, Boschee

Representatives Lefor, O'Brien, Warrey

1 A BILL for an Act to create and enact a new chapter to title 26.1 of the North Dakota Century  
2 Code, relating to the North Dakota insurance incentive program; to amend and reenact  
3 subsection 1 of section 21-10-06 and subsection 3 of section 26.1-01-07.1 of the North Dakota  
4 Century Code, relating to the insurance incentive fund; to provide a continuing appropriation;  
5 and to provide an exemption.

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

7 **SECTION 1. AMENDMENT.** Subsection 1 of section 21-10-06 of the North Dakota Century  
8 Code is amended and reenacted as follows:

- 9 1. Subject to the provisions of section 21-10-02, the board shall invest the following  
10 funds:
- 11 a. State bonding fund.
  - 12 b. Teachers' fund for retirement.
  - 13 c. State fire and tornado fund.
  - 14 d. Workforce safety and insurance fund.
  - 15 e. Public employees retirement system.
  - 16 f. Insurance regulatory trust fund.
  - 17 g. State risk management fund.
  - 18 h. Budget stabilization fund.
  - 19 i. Water projects stabilization fund.
  - 20 j. Health care trust fund.
  - 21 k. Cultural endowment fund.
  - 22 l. Petroleum tank release compensation fund.

- 1 m. Legacy fund.
- 2 n. Legacy earnings fund.
- 3 o. Opioid settlement fund.
- 4 p. Insurance incentive fund.
- 5 q. A fund under contract with the board pursuant to subsection 3.

6 **SECTION 2. AMENDMENT.** Subsection 3 of section 26.1-01-07.1 of the North Dakota  
7 Century Code is amended and reenacted as follows:

- 8 3. Except as otherwise provided by law, after the fiscal year has been closed and all  
9 expenses relating to the fiscal year have been accounted for, the office of  
10 management and budget shall transfer any fund balance remaining in the insurance  
11 regulatory trust fund that exceeds one million dollars to the ~~general fund~~insurance  
12 incentive fund.

13 **SECTION 3.** A new chapter to title 26.1 of the North Dakota Century Code is created and  
14 enacted as follows:

15 **Definitions.**

16 As used in this chapter:

- 17 1. "Fund" means the North Dakota insurance incentive fund.
- 18 2. "Net written premiums" means the total premiums, exclusive of assessments and  
19 other charges, paid by policyholders to insurers for policies that comply with this  
20 chapter, minus any return premiums or other premium credits due to policyholders.
- 21 3. "Program" means the North Dakota insurance incentive program.

22 **North Dakota insurance incentive program creation - Administration.**

- 23 1. The North Dakota insurance incentive program is hereby created for the purpose of  
24 providing grants to insurers to improve the availability and affordability of property  
25 insurance in this state.
- 26 2. The commissioner may implement this chapter through public-private partnerships  
27 executed through cooperative endeavors with authorized insurers. The endeavors  
28 may include matching capital fund grants in accordance with this chapter.
- 29 3. The commissioner may grant matching capital funds to qualified property insurers from  
30 the fund.
- 31 4. The commissioner shall adopt rules to administer and implement the program.

1        **North Dakota insurance incentive fund - Continuing appropriation.**

2        There is created in the state treasury an insurance incentive fund. The fund consists of all  
3 money transferred or appropriated to the fund and all interest and earnings upon moneys in the  
4 fund. Moneys in the fund are appropriated to the insurance department on a continuing basis for  
5 the purposes of administering the provisions of this chapter, including to provide grants to  
6 insurers in accordance with this chapter. Except as otherwise provided by law, after the  
7 biennium has been closed and all expenses related to the previous biennium have been  
8 accounted for, the office of management and budget shall transfer any fund balance remaining  
9 in the insurance incentive fund that exceeds twenty million dollars to the general fund.

10       **Grant applications - Limitations.**

- 11       1. Upon implementation of the program, the commissioner shall issue a public invitation  
12 to insurers to submit grant applications. The commissioner may not allocate an  
13 individual grant of less than two million dollars, nor in excess of ten million dollars in  
14 the initial applications. The commissioner shall allocate twenty percent of the total  
15 amount of funds available for grants to domestic insurers.
- 16       2. If all money in the fund is not allocated in response to the first invitation for grant  
17 applications, the commissioner may issue a second invitation for grant applications. In  
18 the second invitation, the commissioner may not allocate an individual grant of less  
19 than two million dollars, nor in excess of ten million dollars. An insurer that has been  
20 allocated a grant in response to the first invitation may apply for an additional grant up  
21 to the ten million dollar limit.
- 22       3. If all money in the fund is not allocated in response to the second invitation for grant  
23 applications, the commissioner may issue a third invitation for grant applications. In  
24 the third invitation, the commissioner may not allocate an individual grant of less than  
25 two million dollars, nor in excess of ten million dollars. An insurer that has been  
26 allocated a grant in response to the first or second invitation may apply for an  
27 additional grant up to the ten million dollar limit.
- 28       4. The commissioner shall respond to all grant applications received under this chapter.  
29 Any unexpended and unencumbered money in the fund, and any matching capital  
30 grant funds that are not earned under this chapter, must revert to the state general  
31 fund.

1       5. The total amount of funds available for this program is the amount appropriated or  
2       otherwise made available to the fund by the legislative assembly. If the amount  
3       requested in grant applications exceeds the amount of funds available, the  
4       commissioner may prioritize and allocate funds among insurers eligible to participate  
5       in the program, considering the financial strength of each insurer and the potential for  
6       the insurer's business plan to improve the availability and affordability of property  
7       insurance in this state.

8       **Minimum capital requirements.**

9       1. The commissioner only may award a grant to an insurer that satisfies minimum capital  
10       requirements under this chapter and any rules adopted by the commissioner, which  
11       must include a capital surplus exceeding ten million dollars, a stable financial condition  
12       as shown by a satisfactory risk-based capital level, and an adequate risk-based  
13       reinsurance program.

14       2. Matching fund grants may not exceed twenty percent of an insurer's capital and  
15       surplus.

16       **Satisfactory prior experience.**

17       As determined by the commissioner, grants only may be made to insurers with satisfactory  
18       prior experience in writing property insurance or to new insurers with management that has  
19       satisfactory prior experience in writing property insurance.

20       **Authorized insurers.**

21       A surplus lines insurer may apply for a grant under this chapter.

22       **Matching capital fund grants.**

23       1. An insurer shall make a commitment of capital of at least two million dollars to write  
24       property insurance in this state which complies with the requirements of this chapter.

25       2. Matching capital fund grants authorized under this chapter must match the newly  
26       allocated insurer capital funds at a ratio of one dollar of state capital grant funds to one  
27       dollar of allocated insurer capital funds.

28       **Written premium requirements.**

29       1. To comply with this chapter, new property insurance written by an insurer that received  
30       a matching capital fund grant must be residential, commercial, monoline, or package  
31       property insurance policies in this state, and must include coverage for wind and hail

1 with limits equal to the limits provided for other perils insured under such policies. The  
2 net written premium requirements must be satisfied only by property insurance  
3 coverages reported on the annual statement filed with the commissioner, under certain  
4 lines, as prescribed by the commissioner.

5 2. Insurers that receive matching capital fund grants shall write property insurance that  
6 complies with the requirements of this chapter with net written premiums of at least a  
7 ratio of two dollars of premium for each dollar of the total of newly allocated insurer  
8 capital and the matching capital fund grant.

9 3. a. The commissioner shall adopt rules to establish procedures to monitor the net  
10 written premium of insurers receiving any grant under this chapter. The rules  
11 must include provisions for the return of grant money to the state, on a pro rata  
12 basis, for failure to meet the requirements of this chapter. Notwithstanding any  
13 other provision in this chapter, the commissioner shall seek return of unearned  
14 grant money from any insurer that has not complied with the provisions of this  
15 chapter for five consecutive years.

16 b. Notwithstanding any other provision in this chapter, the rules adopted by the  
17 commissioner must provide that grants made following a third invitation for grant  
18 applications may be made to insurers providing coverage against damage to an  
19 existing dwelling, but only to those policies transferred from an existing dwelling  
20 to a new dwelling, provided the risk of catastrophe associated with the new  
21 dwelling is equal to or greater than the level of risk of catastrophe associated with  
22 the existing dwelling.

23 c. Grants also may be made to any insurer that was forced to reduce coverage, or  
24 drop coverage entirely, on existing dwellings so the insurer maintains its financial  
25 stability or solvency. A grant made under this subdivision is contingent on the  
26 insurer reinstating the former coverage or better coverage on the existing  
27 dwellings.

28 **Earned capital.**

29 1. An insurer awarded a matching capital fund grant under this chapter shall receive the  
30 grant funds in the amount of twenty percent of the total awarded amount per year, for

- 1           each year the insurer maintains the net written premiums in accordance with this  
2           chapter, for period not to exceed five years.
- 3           2. If an insurer fails to comply with the requirements of this chapter at the end of any year  
4           of the grant, the commissioner may grant an extension if the insurer shows promise of  
5           future compliance.
- 6           3. If the commissioner finds an insurer has failed to comply with the statutory or  
7           regulatory requirements for the grant, the commissioner may declare the insurer in  
8           default. An insurer in default shall repay any matching capital fund grant funds that  
9           have not been earned under this section, plus legal interest from the date of the  
10           commissioner's default declaration.
- 11           4. In the event of insolvency of an insurer, the North Dakota insurance guaranty  
12           association does not have an obligation to repay matching capital fund grants.

13           **SECTION 4. EXEMPTION - INSURANCE PREMIUM TAX DEPOSITS.** Notwithstanding the  
14 provisions of subsection 1 of section 26.1-03-17 relating to the requirement to deposit excess  
15 insurance premium tax collections in the general fund, \$20,000,000 of the insurance premium  
16 tax collections must be deposited by the insurance commissioner in the insurance incentive  
17 fund before any deposits in the general fund, during the biennium beginning July 1, 2025, and  
18 ending June 30, 2027.