



TESTIMONY SUPPORTING SB 2124

John Arnold, Deputy Commissioner

House Industry, Business, and Labor Committee

March 12, 2025

Good afternoon, Chairman Warrey and member of the House Industry, Business, and Labor Committee,

Today I am introducing, and asking for your support of, Senate Bill 2124, an agency bill submitted by the Insurance Department. We are requesting the passage of SB 2124 to both modernize the Commissioner's data call authority and to allow for coordinating data calls with other states to better understand the insurance market.

However, before delving into the provisions in SB 2124, I'd like to provide some background information. Currently the Department has complete authority to gather information from insurance companies. §26.1-02-03 requires a company response to inquiries within 20 days, although there is no confidentiality protection in that statute which limits the Department's ability to utilize the information in meaningful ways. Chapter 26.1-03, which grants the Commissioner examination authority, requires everything collected under that chapter to be confidential and requires us to do an examination report.

With the increasing impacts of multistate events and a hardening market in the insurance sector, combined with recent activity by the Federal Insurance Office in attempting to gather data themselves, the Department felt that it was time to participate in the Market Conduct Annual Statement (MCAS) process through the National Association of Insurance Commissioners (NAIC). To do so, we need to address certain limitations currently found in the Century Code to ensure confidentiality of carrier data.

Sections 1 through 3 of the bill address the modernization of the data call process; however the crux of the issue can be found in section 3. Section 3 does the following:

- Maintains the existing timeframe language for companies to respond to the Department.
- Allows the Commissioner to designate the NAIC as the repository for the data calls, which is the same process used for our annual financial statements.
- Grants the same confidentiality protection as examination information collected under the same chapter.
- Allows the Department to use the information in administrative actions or other legal actions in alignment with other information collected by the Department.
- Permits the Department to make public aggregated data information.
- Empowers the Commissioner to adopt administrative rules to administer data calls.

Section 4 of the bill allows the state to participate in MCAS which, again, allows for participation in coordinated data calls to better understand the insurance market. Currently, North Dakota and New York are the only two states that do not participate in MCAS. Section 4 does the following:

- Authorizes the Commissioner to require companies to annually file the MCAS statement.
- Permits the Commissioner to designate the NAIC or other entity to be the repository of the information.
- Grants the Commissioner the discretion to exclude companies from the data call for good cause.
- Empowers the commissioner to adopt administrative rules to administer the MCAS process.

Lastly, since SB 2124 was passed by the Senate, the Department has worked with the National Association of Mutual Insurance Companies (NAMIC) on amendments to the First Engrossment. The Department and NAMIC have agreed to the language, which I've submitted with this testimony, and does not alter anything to which I've already testified and would encourage the committee to favorably consider the proposed language.

I will defer to NAMIC on their specific reasons for the amendment, but I can say briefly that:

- On page 1, the word "during" is removed. The Department agreed that the removal of "during" eliminates confusion.
- On page 3, the Department worked directly with NAMIC on this amended text. The Department agreed that the amended text more accurately reflects what information is available to the public.

With that Chairman Warrey and members of the committee, I'd be happy to take any questions that you may have and respectfully request your consideration of a Do Pass recommendation.

**PROPOSED AMENDMENT TO
ENGROSSED SENATE BILL NO. 2124**

FIRST ENGROSSMENT

Introduced by

Industry and Business Committee

(At the request of the Insurance Commissioner)

1 A BILL for an Act to create and enact section 26.1-03-19.8 and a new section to chapter 26.1-03
2 of the North Dakota Century Code, relating to insurance company inquiries and insurance
3 company statements; and to amend and reenact section 26.1-03-19.1 and subsection 6 of
4 section 26.1-03-19.4 of the North Dakota Century Code, relating to insurance company
5 definitions and examination records.

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

7 SECTION 1. AMENDMENT. Section 26.1-03-19.1 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **26.1-03-19.1. Examination of companies - Definitions.**

10 In sections 26.1-03-19.1 through ~~26.1-03-19.7~~26.1-03-19.8, unless the context otherwise
11 requires:

- 12 1. "Company" means any foreign or domestic insurance company as defined in section
13 26.1-02-01.
- 14 2. "Data call" means an inquiry addressed to a company issued before, during, or in lieu
15 of an examination under this chapter.
- 16 3. "Examiner" means any individual or firm having been authorized by the commissioner
17 to conduct an examination under this chapter.
- 18 ~~3.4.~~ "Person" means any individual, aggregation of individuals, trust, association,
19 partnership, or corporation, or any affiliate thereof.

20 SECTION 2. AMENDMENT. Subsection 6 of section 26.1-03-19.4 of the North Dakota
21 Century Code is amended and reenacted as follows:

1 6. All working papers, recorded information, documents, and copies thereof produced by,
2 obtained by, or disclosed to the commissioner or any other person in the course of an
3 examination made under this chapter, or in the course of analysis by the commissioner
4 of the financial condition or market conduct of the company, must be given confidential
5 treatment and are not subject to subpoena and may not be made public by the
6 commissioner or any other person, except as provided in this subsection and to the
7 extent provided in subsection 5. Access also may be granted to the national
8 association of insurance commissioners. The parties must agree in writing prior to
9 receiving the information to provide to it the same confidential treatment as required by
10 this section, unless the prior written consent of the company to which it pertains has
11 been obtained. This subsection may not be construed as prohibiting the commissioner
12 from making public aggregate or anonymized information from the materials
13 contemplated in this subsection.

14 **SECTION 3.** Section 26.1-03-19.8 of the North Dakota Century Code is created and
15 enacted as follows:

16 **26.1-03-19.8. Data calls.**

- 17 1. The commissioner or the commissioner's designated representative may issue a data
18 call under this chapter whenever the commissioner deems it appropriate. The
19 insurance company shall reply in writing to the data call within twenty days of receipt
20 of the inquiry unless within that twenty days the company requests and the
21 commissioner grants an extension of time.
- 22 2. For purposes of completing a data call under this section, the commissioner may
23 inquire into any person, or the business of any person, to the extent the inquiry or
24 investigation is, in the sole discretion of the commissioner, necessary or material to the
25 operations of the company.
- 26 3. The commissioner may designate the national association of insurance
27 commissioners or another representative as the repository for data call responses.
- 28 4. All materials, working papers, information, documents, and copies produced by,
29 obtained by, or disclosed to the commissioner or any other person in the course of a
30 data call made under this chapter, or in the course of analysis by the commissioner of
31 the market conduct of the company:
- 32 a. Must be given confidential treatment;

- 1 **b.** Are not subject to subpoena; and
- 2 **c.** May not be made public by the commissioner or any other person, except to the
- 3 extent provided in this chapter.
- 4 **5.** The commissioner may use the documents, materials, or other information in
- 5 furtherance of any regulatory or legal action brought as part of the commissioner's
- 6 official duties.
- 7 **6.** The commissioner may make ~~public aggregate or anonymized data call summaries of~~
- 8 ~~responses received from insurance companies transacting insurance business in this~~
- 9 ~~state~~ the results of the data call available for public inspection in an aggregated format
- 10 that does not disclose information or data attributed to any specific company or
- 11 person, including the name of any company or person who responded to the data call.
- 12 **7.** The commissioner may adopt rules to administer this section.

13 **SECTION 4.** A new section to chapter 26.1-03 of the North Dakota Century Code is created
14 and enacted as follows:

15 **Market conduct annual statement.**

- 16 **1.** The commissioner may require a foreign or domestic insurance company to annually
- 17 file a market conduct annual statement. The statement must:
 - 18 **a.** Be filed with the commissioner, or with the commissioner's designee, on a date
 - 19 specified by the commissioner;
 - 20 **b.** Include the scope of information prescribed by the commissioner; and
 - 21 **c.** Be in the proper form and transmitted, as prescribed by the commissioner.
- 22 **2.** The commissioner may, in the commissioner's discretion and for good cause, exclude
- 23 an insurance company from filing a statement under this section.
- 24 **3.** The commissioner may adopt rules to implement and administer this section.