

The Florida Senate
HOUSE MESSAGE SUMMARY

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BILL: CS/CS/SB 1668

INTRODUCER: Rules Committee; Appropriation Committee on Agriculture, Environment, and General Government and Senator Burton

SUBJECT: Florida Birth-Related Neurological Injury Compensation Association

DATE: March 10, 2026

I. Amendments Contained in Message:

House Amendment - 690561 (body with title)

II. Summary of Amendments Contained in Message:

House Amendment – 690561 revises provisions relating to the financial oversight of the Florida Birth-Related Neurological Injury Association (NICA) by the Office of Insurance Regulation (OIR), the assessment process, and the administration of the Florida Birth-Related Neurological Injury Compensation Plan (plan) by NICA.

The amendment clarifies that NICA must submit a plan of operation and any amendments thereto to the OIR for review and approval.

The amendment revises provisions relating to the assessment process in the following manner:

The amendment clarifies the due dates for hospitals and physicians to pay assessments:

- Hospital assessments must be paid by December 31 immediately after the birth year.
- Nonparticipating physicians must pay assessments by December 31 of each year.
- Participating physicians must pay assessments by December 31 of each year to be a participating physician during the next calendar year. Current law is retained that if NICA receives such payment on or before January 31, the physician qualifies as a participating physician for the entire calendar year, but if the payment is received after January 31, the physician qualifies as a participating physician only from the date NICA received payment.

The amendment clarifies the process for determining whether NICA is actuarially sound:

- NICA must submit to OIR quarterly updated claims estimates within 15 business days after completion. NICA must calculate whether the plan is actuarially sound after the quarterly estimated claims are revised. If NICA determines the plan is not actuarially sound, NICA must immediately notify the OIR.
- Then, OIR must review NICA's calculations and, within 60 days after NICA's notification, determine whether to initiate an actuarial valuation, and notify NICA of its determination. This actuarial notification is in addition to the current requirement that OIR conduct a biennial

review of NICA's actuarial valuation. For each actuarial valuation, OIR must determine whether the plan has adequate cash flow for the following fiscal year, whether the plan is actuarially sound, and if not actuarially sound, whether the plan is likely to return to actuarial soundness before the next biennial review.

- If OIR finds that the plan is not actuarially sound, the plan must provide OIR with quarterly reports projecting the plan's financial conditions, and projected revenues of any assessments ordered by OIR.

The amendment retains and revises the current mechanisms for NICA to receive additional funding to resolve inadequate cash flows or address a finding that NICA is not actuarially sound.

- OIR may transfer up to \$20 million from the Insurance Regulatory Trust Fund to NICA, if OIR determines that the plan lacks adequate cash flows for the following fiscal year; under current law the transfer is triggered by an OIR finding that NICA is not actuarially sound.
- If OIR finds that the plan is not likely to return to actuarial soundness before the next biennial review, OIR must, within 60 days, assess casualty insurers, as defined in s. 624.605(1)(b), (k), and (q), F.S., an annual assessment that is calculated to generate a total amount no greater than the amount required to achieve actuarial soundness of the plan within five years after the OIR assessment order. The assessments are based on the net direct premiums written, and the assessment may not exceed 0.25 percent of an insurer's net direct premiums written, and may not extend more than five years after the order. Insurers may recoup such assessments through a surcharge or rate increase.
- If actuarial soundness cannot be achieved after the imposition of the casualty insurer assessment, OIR may increase the assessments on hospitals and physicians on a proportional basis that is calculated to generate a total amount no greater than the amount required to maintain the plan on an actuarially-sound basis.

The amendment also addresses instances when NICA cannot be returned to actuarial soundness after the imposition of assessments:

- If OIR finds that the plan is not actuarially sound and the insurer assessments and assessments on hospitals and physicians are insufficient to reestablish actuarial soundness of the plan, NICA must notify the Governor, the President of the Senate, the Speaker of the House of Representatives, and OIR within five days of such finding. If NICA issues the notice, it may not accept any new claims without express authority from the Legislature. However, this provision does not preclude NICA from accepting any claim if the injury occurred 18 months or more before the effective date of this suspension.
- The amendment reinstates current law providing that if any person is precluded from asserting a claim against NICA because it may not accept new claims, the plan may not constitute the exclusive remedy for such person, his or her personal representative, parents, dependents, or next of kin.

The amendment requires NICA to suspend acceptance of new claims if NICA will not be actuarially sound after imposing assessments. This revises the bill, which retains current law suspending acceptance of new claims if all estimates of claim costs equals or exceeds 100 percent of funds on hand or that will become available in the next 12 months. Both the amendment and the bill provide that NICA may accept claims for injuries that occurred at least 18 months before the effective date of the suspension.