

THE FLORIDA SENATE  
2026 SUMMARY OF LEGISLATION PASSED  
**Committee on Banking and Insurance**

**CS/CS/SB 1668 — Florida Birth-Related Neurological Injury Compensation Association**

by Rules Committee; Appropriations Committee on Agriculture, Environment, and General Government; and Senator Burton

The bill revises provisions relating to the Florida Birth-Related Neurological Injury Compensation Association (NICA). The bill clarifies that the administrative law judge (ALJ) at the Division of Administrative Hearings (DOAH) has exclusive jurisdiction to determine compensability and notice even if the claimant does not seek NICA compensation. In addition, the bill provides the following changes to NICA and the plan:

**Benefits**

- Codifies the following board-approved benefits:
  - The payment of legal expenses associated with establishing and maintaining guardianship for a participant.
  - Expansion of the annual \$10,000 statutory mental health benefit for family members (mother, father, or legal guardian) by including other relatives residing with the participant and authorizing an additional \$20,000 benefit after the participant's death for mental health services.
  - A dental services benefit.
- Clarifies the existing transportation benefit to include not only vans but any vehicle used to transport the participant and his or her wheelchair and medically necessary equipment.
- Clarifies the existing housing assistance benefit may be used for moving expenses and a down payment on a home.
- Authorizes NICA to provide for the payment of health insurance premiums and out-of-pocket costs for participants and requires participants to obtain coverage through the commercial market or Medicaid, if applicable.
- Requires NICA to reimburse participants for reasonable, medically necessary care that was received on or before June 30, 2026, which was reduced or not paid by the plan because such participant did not have health coverage.
- Prohibits payments to family members for care of a participant if another person or entity is providing care at that time or the family member receives compensation from another source for work performed during the same time for which compensation is being sought from NICA.

**Assessments and Funding**

The bill clarifies the due dates for hospitals and physicians to pay assessments in the following manner:

- 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

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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 bill clarifies the process for determining whether NICA is actuarially sound in the following manner:

- NICA must submit to the Office of Insurance Regulation (OIR) quarterly updated claims estimates within 15 business days after completion. Currently, there is no requirement for NICA to submit such claims to OIR. 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 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.
- "Actuarially sound" is defined to mean that the total plan assets available to fund future liabilities are equal to or greater than 90 percent of the present value of total estimated liabilities excluding any risk margin. "Risk margin" is defined to mean an additional, explicit allowance above the best-estimate reserve to reflect uncertainty in future claim payments, including variations in claimant life expectancy and the number and cost of pending or unreported claims.

The bill 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 in the following manner:

- OIR may transfer up to \$20 million over the life of the plan 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.
- Then, 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. Current law does limit the duration of such assessments. Insurers may recoup such assessments through a surcharge or rate increase.

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- 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 bill 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, rather than 30 days after NICA's suspension of accepting new claims. If NICA issues the notice, it may not accept any new claims without express authority from the Legislature.

The bill requires NICA to suspend acceptance of new claims if NICA will not be actuarially sound after imposing assessments. Current law requires the plan to suspend the 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 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.

### **Transparency and Accountability**

- Clarifies NICA must submit to OIR the plan of operation and any amendments to the plan for review and approval. Further, the bill requires the plan to include a provision for a fraud and overpayment prevention and detection program.
- Prohibits the board of directors from adding new benefits or expanding existing benefits that result in additional costs to the plan if NICA is operating at an annual cash flow deficit as documented in the most recent annual audited financials. In the 2024 Report on Actuarial Soundness, NICA stated that the plan has been operating at annual cash flow deficit.
- Provides that, as a part of its annual report, NICA may recommend expanding existing benefits or creating new benefits but must estimate the costs of such benefits, and NICA must report the amount of compensation paid to independent contractors within its annual report.
- Codifies the agreement between NICA and the Agency for Health Care Administration, which provides that NICA is responsible for reimbursing Medicaid for fee for service paid claims and capitation payments since Medicaid is the payor of last resort.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect upon becoming law.

*Vote: Senate 39-0; House 96-2*