

January 17, 2025

**RE: SUPPORT FOR SENATE BILL NO. 2206, Limiting the recovery of noneconomic damages from a commercial vehicle carrier, and allowing evidence of comparative fault for failure to wear a seatbelt.**

The American Property Casualty Insurance Association (APCIA) represents nearly 60 percent of the U.S. property casualty insurance market. APCIA's mission is to promote and protect the viability of private competition for the benefit of consumers and insurers. APCIA represents the broadest cross-section of home, auto, and business insurers of any national trade association. In North Dakota, APCIA's members write more than \$9.1 billion in property and casualty insurance premiums. We respectfully submit the following comments in **SUPPORT of SB 2206**.

The increasingly aggressive litigation environment is worsening across the country, making it more difficult for motor carriers to operate. The frequency and amount of nuclear verdicts - excessive jury awards - are on the rise particularly in commercial auto liability cases.<sup>1</sup> Studies consistently show that noneconomic damages are by far the largest component of these verdicts.<sup>2</sup> As a result trucking costs and insurance premiums have inflated, hurting the people of North Dakota.

Exorbitant non-economic damages have bankrupted smaller trucking companies.<sup>3</sup> Inevitably, these costs are passed on to consumers and, as a result, North Dakota's small businesses and working families bear the biggest burden. Currently, North Dakota consumers pay an annual tort tax of \$2913 per household and excessive tort costs comprise 1.28% of the state's GDP.<sup>4</sup> The correlation with noneconomic damages is clear as the National Association of Insurance Commissioners (NAIC) found insurance premium rates were lower in states that regulated the amount of noneconomic damages.<sup>5</sup>

---

<sup>1</sup> US Chamber, *Nuclear Verdicts, Trends, Causes and Solutions*, September 2023 Report

<sup>2</sup> US Chamber, *Tort Costs in America Empirical Analysis*, November 2024 Report

<sup>3</sup> ATRI, *Understanding the Impact of Nuclear Verdicts in the Trucking Industry*, June 2020

<sup>4</sup> U.S. Chamber, *Tort Costs in America*, November, 2024 Report.

<sup>5</sup> NAIC, *Profitability by Line by State, various reports*



As you evaluate this situation, you are likely to ask why do uncapped noneconomic damages present such a challenge? Noneconomic damages are difficult to address objectively because of the emotions involved in cases of serious injury, and because of the financial interests of plaintiffs' lawyers. These damages involve no direct economic loss and have no precise value. The court typically provides minimal guidance to juries about how to determine the value of noneconomic losses, and plaintiffs' lawyers make dramatic appeals for large awards in many cases, such as through "jury anchoring". As a result, these awards tend to be erratic and excessive due to the highly charged environment of many types of civil litigation cases. Non-economic damages may far exceed the amount of economic damage awards because of their intangible nature, and courts and juries often struggle to calculate fair and rational noneconomic damage award.

Several states, including Ohio, Idaho, Colorado, Maryland, Mississippi, Oklahoma and West Virginia, have placed limits on non-economic damages to prevent the detrimental effects of nuclear verdicts. These verdicts can lead to increased costs for goods and services, impacting the availability and affordability of insurance, and disrupt fundamental fairness and predictability in the courts. Senate Bill 2206 provides a balanced approach to clarifying the "non-quantifiable" nature of noneconomic damages and addressing its increasingly harmful effects on consumers, small businesses, and the overall economy.

APCIA also supports the separate requirement that failure to wear a safety belt in violation of section 39 - 21 - 41.4 may be considered evidence of comparative negligence. Juries should be able to know whether a vehicle occupant contributed to their injuries or that their injuries were worse because they did not wear a seat belt. This is a commonsense measure that only increases transparency and ensures jurors have complete information when rendering a fair and just verdict.

Legislation like SB 2206 is essential for ensuring fairness and balance in the civil justice system. We appreciate the opportunity to express our support for this bill and urge the committee to vote **"YES" on SB 2206.**

Respectfully,

Brooke Kelley

A handwritten signature in black ink that reads "Brooke Kelley". The signature is written in a cursive, flowing style.

Assistant Vice President, State Government Relations  
American Property Casualty Insurance Association