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ROLL NUMBER

DESCRIPTION

2296

2007 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2296

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2296**

Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: **January 24, 2007**

Recorder Job Number: **2296**

Committee Clerk Signature	

Minutes:

S Wanzek, Jamestown District 29, Sponsor *In Favor*

Bill relates to insurance market rate.

Jim Poolman, ND Insurance Commissioner – *In Favor*

TESTIMONY # 1 Doesn't follow testimony

This bill is a compromise bill. Bill modernizes the way we do rates.

We had a bill in the last session that basically deregulated the property and casualty insurance market in ND. It took away the Commissioner's authority on personal rates lines area.

I opposed that bill and it died in the house.

Addresses commercial lines prior to approving rates. We do have prior approval rates. [examples given] After the hailstorm rates went up. 20-30-40-50%, there needs to be some regulation on industry. There is a threat of Federal regulation. [6:46m examples]

We want to get the products to the customer. This is to help the process. We will try to keep consumer protection in our plan.

S Potter: Can you file for a 5% increase once a year?

J Poolman: That's correct.

Pat Ward – Property & Casualty Insurance - *In Favor*

TESTIMONY # 2 20 states are prior approval 4 states have flex rating.

NAMIC – presented by Pat Ward for Joe Thesing, State Affairs Mgr. *In Favor*

State affairs manager, Mutual Association Mutual Insurance Components

Feel 5% low, 7% is preference. We support the bill in it's current form.

S Klein: When you lost the bill last time, were you glad?

P Ward: No, we were blind-sided.

S Klein: Is this the bill you were looking for?

P Ward: Yes. Didn't realize it until the board went red. Polled the industry and they feel it is a step in the right direction. Couple points we'd like to tweek. Big improvement.

S Klein: HB 1308, do we need to make adjustments?

P Ward: I'd like to see this bill pass and cross over first and have that committee vote that bill and figure out a way do the next bill.

Q? FAVOR?

Joel Gilbertson – American Insurance *In Favor*

I applaud your efforts in modernizing the bill.

Q? F? O?

CLOSE

Motion made by Andrist

Second made by Wanzek

SB 2296 Passed 6 y, 1 n

Carrier – S Wanzek

Date: 1-24

Roll Call Vote :

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2296

Senate **INDUSTRY BUSINESS & LABOR** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass

Motion Made By Andrist Seconded By Wanzek

Senators	Yes	No	Senators	Yes	No
Chairman Jerry Klein	✓		Senator Arthur Behm	✓	
Vice Chair Nicholas Hacker	✓		Senator Joel Heitkamp		✓
Senator John Andrist	✓		Senator Tracy Potter	✓	
Senator Terry Wanzek	✓				

Total Yes 6 No 1

Absent ~~[illegible]~~ -

Floor Assignment Wanzek

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2296: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **DO PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2296 was placed on the Eleventh order on the calendar.

2007 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2296

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2296

House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: March 7, 2007

Recorder Job Number: 4531

Committee Clerk Signature	Stephanie N Thomas

Minutes:

Chair Keiser opened the hearing on SB 2296.

Jim Poolman, Insurance Commissioner: Support SB 2296. See written testimony #1.

Pat Ward, State Farm Insurance, Association of ND Insurers: Support SB 2296. See written testimony #2.

Rep. Thorpe: In the book we get on tax and rate comparisons, ND auto insurance rates were considered to be one of the lowest in the nation.

Pat: That is correct. In fact, at the present time, the last time I looked ND was 3rd from the bottom. The only states with cheaper auto insurance then ND were SD, and Iowa. One of the things that happens when insurance companies are looking at a market, there are certain red flags they look for, and one of those red flags was prior approval. When they see that a state is prior approval, that's a negative check. Let's say a company is looking for new markets, one of the things that is going to make them look closer at ND is if we get away from prior approval.

Rep. Zaiser: What kind of impact, in terms of auto rates does the traffic situation have?

Pat: That's what I was referring to when I said there are always other factors. Another reason ND has low rates is because we have fewer claims, because we don't have as many cars on the road, and we don't have as many people running into each other. While we have some minor issues with fraud and no fault claims, we really don't have the kind of claims here in ND then other states do.

Rep. Zaiser: From your perspective, this bill is going to lower our rates

Pat: That is our hope, and that is our goal. If we look at the homeowners market in ND it has been a less competitive market then the auto market, and a lot of that has been the hailstorms, and the bad experiences we've had. We really think that this can enhance competition in the homeowners market, and maybe bring those rates down as well.

Rep. Nottestad: When you speak of the auto insurance, are you speaking of the auto insurance policy in general, or liability?

Pat: We're comparing in both the liability, and the comprehensive line.

Rep. Kasper: Page 4 where you talk about the decrease in average premium growth due to a fluctuating system. Why does it all of a sudden slow down, or maybe even decrease when we do that? What's the dynamics behind the scene with the insurance companies?

Pat: My understanding is that the reason that happens is because of the competition. When competition comes in, there's just more competition for business and more rates are being offered.

Rep. Dosch: You indicate that this would affect only rates if it is less then 5%, and if they are then they deem to prove that. Does this mean deem to prove for the time period, or are they still subject to approval?

Pat: They're still subject to review by the Insurance Commissioner. Deemed approved just means approved until they're reviewed. They could be overturned, but the burden shifts to the Insurance Commissioner then to suggest, challenge that rate, and prove that rate is not an appropriate rate. If the rate is more than 5% then they still have to go under the old prior approval system.

Rep. Dosch: The trend in homeowners insurance for the past year, are you starting to see that come down now?

Pat: I believe we're going to see that coming down, and I think that certain companies will even be refunding some premiums.

Rep. Ruby: My concern has to do with the certain percentage of a number. If somebody needs a rate slightly over 5%, if they don't want to go anywhere with the rate, and the prior approval of the provisions, and more amount of time, could that rule of 5% go to 4.9% this year, and a 4.9% next year? If they didn't have that level of restriction, they probably would have been maybe 6% or 7% this year, and maybe they would only have to be two the year following. Do you see a concern that we're at the level that it would go to limits in that year if they don't want to go to the prior site approval process, and then the next year they'd go to 4.9% again, and not have to go through prior approval again?

Pat: We did talk to the Commissioner about a higher rate, and we suggested to him that since the rates that have been approved have been set at 8% on average, wouldn't it make more sense to go to 7% or 8%. I believe he would support a higher rate of about 7% or 8%, but I think if we pushed it higher than that he would oppose that, but I do think he is receptive to a little higher rate.

Rep. Amerman: This 5%, you don't need the prior approval, so you're saying this in a small way maybe to make it more competitive, maybe more insurance companies dealing in the state, and thus premiums will go down, because there's more competition for consumers. What do you proceed as say a benchmark? Say you come back in 2009 and say this is working pretty well, I think we went from 10%, and then we'd really have a lot more competition. What do you think a benchmark might be for you in 09? Explain to us how many more insurance companies have come into the state since then to justify maybe a 10%?

Pat: I would hope, and I don't know that we will, because we're not going as far as South Carolina did, but I would hope that we see an increase in the number of companies, maybe half the groups out there. I think a 7% or 8% rate might invite more companies in.

Rep. Keiser: I believe with this proposal nothing changes from what we currently have. We can call it whatever we want, but nothing changes. If I'm an insurance company, and I have a 30 day window, and I come in with a 4.5%, I'm not sending out one statement until that 30 days is up. Currently, our Insurance Department is very quick in approving rates. I think they do it in less then 30 days. So, an insurance company under our current system, prior approval comes in and says I want 4.5%, the Commissioner and his staff approve it, and I send my invoices out. What changes?

Pat: I know that the industry across the board is behind this, and we do think this is a step in the right direction. Maybe it is semantics, but the idea of going to use and file is what we've been trying to do for a long time. I think you're going to see this being used.

Rep. Keiser: How many states have flexed rating right now?

Pat: There's just a handful, but I think the prior approval states are down to about 14. We're definitely in the minority now.

Rep. Keiser: The growth is really in use and file.

Pat: That's correct.

Anne Weber, Property Casualty Insurers Association of America: Support SB 2296. See written testimony #3.

Rep. Ruby: According to the numbers we've heard, right now we're in the minority, as far as the states that are prior approval. It seems if we move to flex, we're still going to be the minority, because the majority are moving to use and file. Would your association be more supportive of use and file then with flex?

Anne: We support any step in the right direction. We urge all states to move away from restrictive systems, and anything that is less restricted we support. Ultimately, we'd like to see the committee maybe in a year or two down the road if this works to consider a use and file.

Rep. Johnson: The terms use and file, and file and use, what's the difference?

Anne: They are kind of used interchangeably. The file and use you would file your rates, and then in maybe 30 days you can use it, or something like that. Use and file means you can go ahead and use it, and then file it, and then the department has a certain amount of time to come back to you if they think there's some concerns.

Rep. Johnson: Both of them are a step above prior approval?

Anne: Absolutely.

Rep. Zaiser: The number of insurance companies, providers shows the healthiness of the insurance system in the state. Would it also not be an indicator that the number of companies in the state sold is maybe the profit margin? Is there a correlation there that there's a high profit?

Anne: There are a number of reasons why companies will write in the state, and profitability is certainly a factor, and something that companies will get. The ease of getting into the marketplace is another factor, and the degree of regulation is another factor. How quickly they can get their rate approved, and how quickly they can get their products approved is another factor.

Rep. Zaiser: Is there a correlation at all between the number of companies in a state, and the profitability in that state?

Anne: That I'd have to check on for you.

Rep. Thorpe: I think the marketplace would be the biggest factor, would it not when a company was looking to come into the state?

Anne: Yes, that definitely is a factor.

Rep. Zaiser: We talked about use and file, file and use, and pre-approval. Is there any type of correlation between which of those systems, in general, might be more profitable for an insurance company? Is that a factor why an insurance company in that state might wish to have a certain kind of system?

Anne: I'm just venturing a guess here, but I know where you have the less restrictive methods of filing, then a company can very quickly respond to the market, and by doing that they probably will be more profitable, because they can continuously move up and down their rates as needed.

Rep. Zaiser: How would that affect the ratepayers? Are the ratepayers benefited as well?

Anne: They actually are, because the companies can more quickly respond to moving a rate up or down, when we can just go to use and file, or file and use.

Rep. Zaiser: If that's more a factor than having a state with a lot of companies, would it affect how fast they would go up? They're less apt to go up to fast if there's a break in the competitive market.

Anne: Yes.

Rep. Johnson: In essence, we're moving once every 30 days possibly? I notice it says it's limited to one rate change per calendar year.

Anne: I know some of the states don't have that one limit. This bill has the one limit for auto and homeowners, and commercial is use and file.

Rep. Keiser: What are the dilemmas? You introduced the potential for artificial pricing, so it actually creates a slight risk when you have these kinds of limitations.

Anne: Theoretically, yes.

Rep. Kasper: If there were a problem with insolvency, would not that company be immediately in front of the commissioner asking for a rate increase, and you being able to justify whether 30 days, or 200 days?

Anne: Certainly.

Dennis Prindleville, Dakota Fire Insurance Company: Support SB 2296. We write about 468 million in written premium in the states of ND, SD, Montana, and Idaho. In the states I've listed, ND's the only one that has prior approval, and the other states are either file and use, or use and file. One of the reasons we support this legislation is consistency. Nationwide, there's a push for federal; regulation insurance, and one of the reasons that they site often times is that inconsistencies within the states, as far as getting rates approved. So, anytime that we can try to get into the fold, and eliminate some of those inconsistencies the better off we'll be in holding off federal legislation. I certainly don't want to have to take our rate filings to some federal tsar in Washington who really has no interest in ND. That would be one of the other reasons I guess I would support this legislation. It is a step in the right direction, while we don't think it's perfect, at least this bill could lead us a little bit closer to that.

Joel Gilbertson, American Insurance Association: Support SB 2296. See written testimony #4.

Kent Olsen, Director of the PI in ND: Support SB 2296. We surveyed our membership, and 60% support the bill. As agents we're looking at the competitive side. We like the competition, and if this bill helps to bring a couple of companies to ND, or bring companies that are probably in surrounding areas that would write the commercial, or personal lines in ND we'd welcome it as agents, and we'd support the bill.

Rep. Amerman: Can you give me an idea if this goes in the law, and other companies want to come into this state, what do they do? Do they come to your department, they get registered, you look at what rate they're at, and they're approved to do business in the state? If they're approved to do business in the state, how long do they have to wait before they could use this 5%?

Larry Maslowski, Insurance Department: For an insurance company that currently is not licensed here, there's a whole process of getting licensed first, and that is probably in the neighborhood of 30 to 120 days, depending on the financials of that company. Once that's granted then you come to us for the filing. What they propose to you is for their rates. We review that, and approve that in roughly about a 30 day turnaround time right now on the decisions.

Rep. Amerman: How long would they have to wait before they could use the 5%, or could they do it right away after you approve them?

Larry: The code starts with a 60 day waiting period, so to speak. It allows the Commissioner to approve a date shorter then that. So, if the insurance company says they want us to use it on this date, and we do an approval for that date, it could be shorter than 60 days.

Rep. Keiser: How long does it take to approve rate requests at this point?

Larry: We're roughly 30-35 days on average. This last year we were closer to 20-25 days. Our goal is to be under 30 days, and we've been fairly successful on that,

Rep. Keiser: For the last 2 or 3 years, what has been the range at which you approve rates without denying the rate?

Larry: In the area of auto insurance, and homeowners we've been kind of watching what you'd call the inflation factor, in terms of costs of repairs, costs, and these types of things. That has kind of ranged over time in this industry, maybe 2.1% to 2.9% to 3%. So, if you get an auto it comes in at about 3%-4%. So, we don't spend probably as much time trying to critique that as we would normally. As a general practice I would say at the 3% to 4% range is what we've been looking at.

Rep. Keiser: It was suggested earlier today some parties would like a higher rate. Would the department be comfortable with a higher rate, like 5%?

Larry: I believe the Commissioner would be receptive to some increase in there. He is still concerned about the personal line side of this, the auto and homeowner's side of this. He wants not to go completely out there yet. I know 7% or 8% had been talked about, and I would think he would be fine with that part, but getting much higher then that is probably getting further from his comfort level.

Rep. Keiser: That use of use and file is different then open use and file legislation without flex there.

Larry: In the area of auto and homeowners, yes, it's the combination of two things.

Rep. Ruby: In some of the numbers that you related, how often have you modified rates who asked for a higher level?

Larry: It doesn't happen very often.

Rep. Keiser: How many FTE's are we going to save?

Larry: We expect that this will change the way in which we process filings. It'll still be in process for processing filings, and the amount of time spent on it would be less. We basically don't think it's going to change FTE's, in that we'll probably spend more time on analysis of market conduct, and so forth.

Hearing closed.

Chair Keiser reopened the hearing on SB 2296.

Rep. Zaiser: I move a do pass.

Rep. Boe: Second.

Roll call vote was taken. 14 Yeas, 0 Nays, 0 Absent, Carrier: Rep. Kasper

Hearing closed.

Date: 3-7-07
Roll Call Vote #:

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2296

House Industry Business & Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass

Motion Made By Rep. Zaiser Seconded By Rep Boe

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Rep. Amerman	X	
Vice Chairman Johnson	X		Rep. Boe	X	
Rep. Clark	X		Rep. Gruchalla	X	
Rep. Dietrich	X		Rep. Thorpe	X	
Rep. Dosch	X		Rep. Zaiser	X	
Rep. Kasper	X				
Rep. Nottestad	X				
Rep. Ruby	X				
Rep. Vigesaa	X				

Total Yes 14 No 0

Absent 0

Floor Assignment Rep. Kasper

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2296: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2296 was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

SB 2296

SENATE BILL NO. 2296

Presented by: **Jim Poolman**
Commissioner
North Dakota Insurance Department

Before: **Senate Industry, Business and Labor Committee**
Senator Jerry Klein, Chairman

Date: **January 24, 2007**

Same as given to House

TESTIMONY

Mr. Chairman and members of the committee:

I appear before you today in support of Senate Bill No. 2296.

The changes proposed in Senate Bill No. 2296 are a modest first step in modernizing the regulation of insurance in North Dakota.

Insurance regulators across the country recognize that a balance has to be struck between the need to protect consumers and the need for enhancing the regulatory process to provide for efficiency and speed to market for the insurance industry. This bill strikes that balance.

The creation of a presumption of a competitive market for commercial risks and the implementation of a flex band rating system for auto and homeowners in statute does reduce the need for the Department to review these filings with the same level of scrutiny as under a prior approval method. However, it does not eliminate the tools the Commissioner may need to challenge a rate if it is determined that a rate is inadequate, unfairly discriminatory, or excessive.

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While the proposed bill changes the way in which rate filings would be made for most classes of insurance, it does not take away the Commissioner's ability to protect consumers.

Further, even though the method of filings would change, filings would be required. This is important as it permits the Commissioner to continue to monitor the market for the benefit of consumers.

<u>Section 1</u> - Amends the current code by introducing two new definitions:

- Competitive market – A competitive market is defined as all commercial risk markets except for crop hail, farmowners, and medical malpractice which are considered to be noncompetitive.

- Noncompetitive market – A noncompetitive market means the crop hail, farmowners and medical malpractice market, and any other line of commercial risk insurance that the Commissioner has found not to have a reasonable degree of competitiveness. The definition sets forth seven items that the Commissioner would consider in making the determination that a line of commercial risk is noncompetitive. The Commissioner is prohibited from making such a determination based solely on one factor.

<u>Section 2</u> – Amends the current code by changing the filing requirement for:

- Commercial risks in a competitive market – Rate filings previously subject to "prior approval" filing requirements would now be subject to a "use and file" filing requirement. This means a company may implement the rate change and then must make a filing to the Department within 30 days after the implementation.

  [Commercial risks in a noncompetitive market – Rate filings would continue to be subject to the current "prior approval" process.]

- Private passenger automobile market – Filing of rate changes for this line of insurance in which the proposed change averages 5% or less would change from being subject to the "prior approval" requirements to a "use and file" filing requirement. This means a company may implement the rate change and then must make a filing to the Department within 30 days after the implementation. This approach is also known as a form of "flex band" rating.

- Homeowners market – Filing of rate changes for this line of insurance in which the proposed change averages 5% or less would change from being subject to the "prior approval" requirements to a "use and file" filing requirement. This means a company may implement the rate change and then must make a filing to the Department within 30 days after the implementation. This approach is also known as a form of "flex band" rating.

In Section 2 the code is also amended to give the Commissioner authority, after notice and hearing, to determine that a line of commercial risk insurance is noncompetitive. Any such order would expire after two years.

TESTIMONY OF PATRICK WARD IN SUPPORT OF SB 2296

Good morning Chairman Klein and Members of the Senate Industry, Business and Labor Committee:

My name is Pat Ward and I represent the Property and Casualty Insurance Association of America and the Association of North Dakota Insurers. I am here to testify in support of SB 2296. These organizations support insurance rate modernization and speed to market for insurance products. I asked Senator Wanzek and the other sponsors to sign onto this bill.

This bill is somewhat similar to a bill introduced last session and again this session in the House, HB 1308, in an attempt to modernize the process of rate approval. Although we lost that bill in the House last time, we have worked over the interim to get some acceptable rate modernization and move away from prior approval for commercial lines and personal lines of insurance. We believe the Insurance Department is in full support of this bill.

Section 1 of the bill defines competitive markets and noncompetititve markets. Section 2 indicates when an insurer is required to file rates in such markets. It provides for Use and File of new rates in competitive commercial markets or Homeowners or Personal Auto where the average rate of change is less than 5% per year. The Commissioner still has authority to review filings for personal lines.

#2
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Flex-rating provides a reasonable plan that lessens regulatory burdens for both insurers and regulators without compromising consumer protection. By reducing any sharp gyrations in the rate level, the system is beneficial to insurance consumers as price continuity is maintained.

Policyholders can benefit from a market environment characterized by healthier competitive forces and flexibility, and which does not jeopardize consumer protections.

This type of system allows insurers the flexibility to respond to competitive market conditions and adjust certain rates more quickly in accordance with the changing loss experience.

Under a flex plan, regulators also can free up some of their time for other important duties such as overseeing market conduct, monitoring potential insolvencies and providing consumer education.

As a group, the states with non-competitive prior approval laws and state- and bureau-made rates have a substantially higher average premium than other states. The cost for auto liability and physical damage insurance is 10 to 11 percent higher than the cost in flex-rating states and competitive rating states ($988.64 – prior approval vs. $901.61 – flex-rating and $891.11 – competitive rating). Of course, it must be noted that other factors contribute to the price levels as well, the most important being the amount of insured losses that occur. This comparison nevertheless shows that in states where insurers are allowed to operate more competitively, their customers have more affordable insurance.

Three more states or lines of business transitioned from a non-competitive rating environment to a flex-rating system in 2004, indicating the growing recognition of the value of this type of system. These states are Louisiana auto and homeowners, Rhode Island auto and homeowners, and South Carolina homeowners. In 2005, two more states modernized their rating systems, Alaska and Nebraska.

Increase in the Number of Insurers

One positive outcome of converting to greater rating competition is the growth in the number of personal auto writers in the states. For example, in South Carolina, the number of companies spiked during its first year of implementation. The number of companies before flex-rating took place was very low; only 83 carriers offered auto insurance two years and one year prior to the transition. Once the new program was in place, a flood of insurers entered the auto market, reaching a maximum of 150 companies in 2001. From 1997 to 2001, the number of insurers had risen an astounding 82 percent.

Decrease in Average Premium Growth

Another positive effect of converting to a flex-rating system is that the average personal auto premium is seen to slow down after implementation, compared to what the growth was before as shown below. In some cases, the rates paid by policyholders under a flex-rating system are even lower than the rates under a prior approval system.

While we cannot guarantee an immediate decrease in premiums, this type of legislation spurs competition which tends to result in lower premiums for consumers.

We urge a Do Pass on SB 2296. I will try to answer any questions. GO BEARS!

NAMIC®
NATIONAL ASSOCIATION OF MUTUAL INSURANCE COMPANIES

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January 23, 2007

The Honorable Jerry Klein
Chairman, Senate Industry, Business and Labor Committee
North Dakota Senate

The Honorable George J. Keiser
Chairman, House Industry, Business and Labor Committee
North Dakota House of Representatives
600 East Boulevard
Bismarck, ND 58505

RE: SB 2296 and HB 1308

Dear Chairmen Klein and Keiser:

Thank you for this opportunity to provide **PROPONENT** testimony on Senate Bill 2296 (Wanzek) and House Bill 1308 (Keiser).

Founded in 1895, the National Association of Mutual Insurance Companies (NAMIC) is a full-service national trade association serving the property/casualty insurance industry with more than 1,400 member companies that underwrite more than 40 percent of the property/casualty insurance premium in the United States. In North Dakota, NAMIC members (including 16 domiciled companies) underwrite 46 percent ($557 million) of the direct written premium in the state.

NAMIC's number one public policy priority is a reformed system of state regulation of insurance through the passage of regulatory modernization laws that ultimately eliminate price regulation of insurance rates. NAMIC is also a strong proponent of reformed market conduct and financial solvency regulation to protect the interests of consumers and policyholders. Our ultimate goal is to achieve a regulatory system that befits a mature industry operating in a highly competitive marketplace. To that end, we continue to work in partnership with the National Conference of Insurance Legislators (NCOIL), the National Conference of State Legislators (NCSL) and our other industry colleagues to secure passage of regulatory modernization laws in as many states as possible. Since 2003, 17 states have enacted some form of regulatory modernization.

Insurance Commissioner Jim Poolman and the staff of the Department of Insurance deserve a great deal of credit for approving rate filings in a professional and timely manner. Most, if not all, insurance companies doing business in North Dakota agree that Commissioner Poolman and his staff are an excellent example of why states should remain the sole regulators of the insurance industry. Unfortunately, not every insurance department is as efficient or effective as the current regime. Passage of SB 2296 or HB 1308 would ensure prompt availability of affordable insurance products regardless of who serves as commissioner.

#3
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Although not identical, SB 2296 and HB 1308 share elements in common with model bills adopted by the National Conference of Insurance Legislators: the *Property/Casualty Flex-Rating Regulatory Improvement Model Act* and the *Property/Casualty Insurance Modernization Act*, respectively. NAMIC believes both SB 2296 and HB 1308 to be meritorious and worthy of the legislature's serious consideration; however, we are fully aware that only one proposal is likely to move forward. Either proposal will ensure that insurance companies are able to deliver products to market more quickly and efficiently, helping stimulate competition and directly benefiting consumers through greater availability and competitive prices for insurance products. Therefore, NAMIC strongly encourages the legislature to find a compromise solution which will allow North Dakota insurance consumers to benefit from the hard work put into both proposals by Commissioner Poolman, Chairman Klein, Chairman Keiser and others.

If, ultimately, SB 2296 is the bill moving forward, NAMIC respectfully suggests an increase in the "flex-band," currently at five percent, and removal of farm policies from the "noncompetitive market" section of the bill.

Thank you for your leadership on this critical public policy issue and thank you for this opportunity to express support for SB 2296 and HB 1308.

If you have questions or need further information, please feel free to contact me at 614.262.4798 or via e-mail at jthesing@namic.org.

Sincerely,

Joe Thesing

Joe Thesing
State Affairs Manager
North Central Region

#2

March 7, 2007

TESTIMONY OF PATRICK WARD IN SUPPORT OF SB 2296

Good morning Chairman Keiser and Members of the House Industry, Business and Labor Committee: My name is Pat Ward and I represent State Farm Insurance and the Association of North Dakota Insurers. I am here to testify in support of SB 2296. These organizations support insurance rate modernization and speed to market for insurance products. I asked Senator Wanzek and the other sponsors to sign onto this bill.

This bill is an attempt to modernize the process of rate approval. This committee has supported other bills in the past to modernize rate and form filings. North Dakota has done a commendable job of getting out prior approval quickly in recent years. Nevertheless, we believe the Insurance Department is in full support of this bill.

The Specifics of this Bill:

Section 1 of the bill defines competitive markets and noncompetitive markets.

Section 2 indicates when an insurer is required to file rates in such markets. It provides for Use and File of new rates in competitive commercial markets, Homeowners, or Personal Auto where the average rate of change is less than 5 percent per year. The Commissioner still has authority to review filings for personal lines which must still be filed within 30 days of implementation of the new rate.

This type of rate filing is called flex-rating. Flex-rating lessens regulatory burdens for both insurers and regulators without compromising consumer protection. By reducing any sharp gyrations in the rate level, the system is beneficial to insurance consumers as price continuity is maintained.

This type of system allows insurers the flexibility to respond to competitive market conditions and adjust certain rates more quickly in accordance with their changing loss experience. Policyholders can benefit from a market environment characterized by healthier competitive forces and flexibility, and which does not jeopardize consumer protections.

Under a flex plan, regulators also can free up some of their time for other important duties such as overseeing market conduct, monitoring potential insolvencies and providing consumer education.

Some Examples:

As a group, the states with non-competitive prior approval laws and state- and bureau-made rates have a substantially higher average premium than flex-rate or Use and File states. The cost for auto liability and physical damage insurance averages 10 to 11 percent higher than the cost in flex-rating states and competitive rating states ($988.64 – prior approval vs. $901.61 – flex-rating and $891.11 – competitive rating). Of course, it must be noted that other factors contribute to the price levels as well, the most important being the amount of insured losses that occur. This comparison nevertheless shows that in states where insurers are allowed to operate more competitively, their customers have more affordable insurance.

<u>The Trend to Modernization:</u>

Three more states or lines of business transitioned from a non-competitive rating environment to a flex-rating system in 2004, indicating the growing recognition of the value of this type of system. These states are Louisiana (auto and homeowners), Rhode Island (auto and homeowners), and South Carolina (homeowners). In 2005, two more states modernized their rating systems, Alaska and Nebraska.

<u>Increase in the Number of Insurers:</u>

One positive outcome of converting to greater rating competition is the growth in the number of personal auto writers in a state. For example, in South Carolina, the number of companies spiked during its first year of implementation. The number of companies before flex-rating took place was very low; only 83 carriers offered auto insurance two years and one year prior to the transition. Once the new program was in place, a flood of insurers entered the auto market, reaching a maximum of 150 companies in 2001. From 1997 to 2001, the number of insurers had risen an astounding 82 percent.

Decrease in Average Premium Growth:

Another positive effect of converting to a flex-rating system is that the average personal auto premium is seen to slow down after implementation, compared to what the growth was before. In some cases, the rates paid by policyholders under a flex-rating system are even lower after the change than the rates were under a previous approval system.

While we cannot guarantee an immediate decrease in premiums, this type of legislation spurs competition which tends to result in lower premiums for consumers.

We urge a Do Pass on SB 2296. I will try to answer any questions.

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#3

PCI
Property Casualty Insurers Association of America
Shaping the Future of American Insurance
2600 South River Road, Des Plaines, IL 60018-3286

Testimony Before the House Industry, Business and Labor Committee Regarding Flexible Rating Systems

March 7, 2007

Chairman Keiser and Members of the Committee:

Thank you for this opportunity to comment on SB2296 relating to the implementation of a flexible rating system. My name is Ann Weber and I represent the Property Casualty Insurers Association of America (PCI). We are a national trade organization representing over 1,000 major insurers that provide insurance to policyholders in all property/casualty lines and write 65 percent of the insurance coverage written in North Dakota and 40.1 percent nationwide.

Flex-rating is a reasonable rating system that lessens regulatory burdens for both insurers and regulators without compromising consumer protection. Policyholders benefit from a market environment characterized by healthier competitive forces and flexibility while at the same time the system reduces sharp gyrations in the rate level. The market benefits because insurers are allowed the flexibility to respond to competitive market conditions and adjust certain rates more quickly in accordance with their changing loss experience. Not surprisingly, rate levels are found to be lower in competitive rating states than in states with prior approval laws.

A number of states have made changes to their rating systems, moving away from prior approval laws. While loss costs, or the average loss per insured vehicle, are the main driver of insurance premiums, there is a clear connection between rating systems and premiums. According to data compiled by NAIC for 2003, the average premium for a prior approval state was 10.7% higher than states with flexible rating laws.

The number of insurers doing business in a state is a sure indicator of the health of the marketplace. States implementing flexible rating plans typically attract new competitors. According to data provided by the NAIC, Pennsylvania saw a 21% increase in the number of insurers over a 4 year period. South Carolina's experience was more dramatic, increasing from 83 companies in 1997 to 150 in 2001, an 82% increase.

New York provides another illustration of the effect of flexible rating plans on competition. In the first year after their flex rating law was enacted, the number of insurance carriers increased by 7%, and continued to grow until the law was allowed to sunset in 2001. Since then the number of carriers has dropped from a high of 276 down to 263 in 2004.

Regulators also benefit under a flex plan. Freed of having to grant prior approval to rate filings, regulators are able to focus on other important duties such as overseeing market conduct, monitoring potential insolvencies and providing consumer education.

I would like to thank you for the opportunity to speak to you today about this very important issue. I would be happy to answer any questions that you may have.

Ann Weber
Vice President, Regional Manager and Counsel

#4

Statement in Support of SB 2296
American Insurance Association

The American Insurance Association is pleased to support SB 2296, legislation which is designed to significantly modernize and improve the rating laws for both personal lines and commercial lines of insurance in North Dakota.

We believe strongly that a system featuring more competitive rating for all lines of insurance is one of the foundations to a healthy insurance marketplace and most certainly benefits consumers and insurers. The experience of many states proves that consumers benefit the most when artificial price controls are removed from insurance products, and insurers must compete for business on the basis of product, price, and service.

This legislation would take significant steps to modernize the insurance marketplace in North Dakota, with benefits going to the consumers who are served by insurers doing business there.

Many states have taken the necessary steps to significantly improve the rating laws for insurance. We welcome and support North Dakota's proposal to do this in SB 2296 and encourage your serious consideration and approval.

Please support SB 2296.

Steve Schneider
American Insurance Association

With any questions, please contact: Steve Schneider (312) 782-7720.
Joel Gilbertson (701) 258-7899