

2025 SENATE INDUSTRY AND BUSINESS

SB 2089

2025 SENATE STANDING COMMITTEE MINUTES

Industry and Business Committee Fort Union Room, State Capitol

SB 2089
1/22/2025

A bill relating to confidentiality of insurance department records.

10:00 a.m. Chairman Barta called the meeting to order.

Members present: Chairman Barta, Vice-Chairman Boehm, Senator Klein, Senator Kessel, Senator Enget

Discussion Topics:

- Insurance consumer complaints and public record
- Complaints filed against licensees
- Department regulatory action and public interest
- Confidentiality violations and penalty
- Consistency with other statutes and language modification
- American Property Casualty Insurance Association (APCIA)
- Civil action protection

10:01 a.m. Johannes (Johnny) Palsgraaf, General Counsel and Legal Division Director of the ND Insurance Department, testified in favor and submitted testimony #30684.

10:12 a.m. Dennis Pathroff, on behalf of the American Property Casualty Insurance Association, testified in favor.

10:13 a.m. Chairman Barta closed the hearing.

10:13 a.m. Senator Kessel moved to adopt amendment LC #25.8123.01001

10:14 a.m. Senator Boehm seconded the motion.

Senators	Vote
Senator Jeff Barta	Y
Senator Keith Boehm	Y
Senator Mark Enget	Y
Senator Greg Kessel	Y
Senator Jerry Klein	Y

Motion passed 5-0-0.

10:15 a.m. Senator Enget moved a Do Pass As Amended.

10:15 a.m. Senator Klein seconded the motion.

Senators	Vote
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Senator Jeff Barta	Y
Senator Keith Boehm	Y
Senator Mark Enget	Y
Senator Greg Kessel	Y
Senator Jerry Klein	Y

Motion passed 5-0-0.

Senator Boehm will carry the bill.

10:16 a.m. Chairman Barta closed the hearing.

Audrey Oswald, Committee Clerk

January 22, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2089

Introduced by

Industry and Business Committee

(At the request of the Insurance Commissioner)

1 A BILL for an Act to amend and reenact subsection 1 of section 26.1-02-31 and subsection 6 of
2 section 26.1-03-19.4 of the North Dakota Century Code, relating to confidentiality of insurance
3 department records.

4 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

5 **SECTION 1. AMENDMENT.** Subsection 1 of section 26.1-02-31 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 1. A document, material, or other information, including the contents of a claim file, which
8 is provided to, obtained by, created by, or disclosed to the commissioner in response
9 to a consumer assistance request or a complaint is confidential and not subject to
10 section 44-04-18, a subpoena to the department, or discovery request or admissible
11 as evidence in a private civil action. ~~However, the commissioner may disclose the~~
12 ~~subject matter of the assistance request or complaint, provide a general description of~~
13 ~~the disposition of the request or complaint, and~~ The commissioner may use the
14 document, material, or other information for a regulatory or legal action brought as a
15 part of the official duties of the commissioner. This section does not preclude the
16 commissioner from publishing orders resulting from administrative action taken by the
17 commissioner or providing the general description of the disposition of the consumer
18 assistance request or complaint.

19 **SECTION 2. AMENDMENT.** Subsection 6 of section 26.1-03-19.4 of the North Dakota
20 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 to the extent provided in subsection 5.
7 Access also may be granted to the national association of insurance commissioners.
8 The parties must agree in writing prior to receiving the information to provide to it the
9 same confidential treatment as required by this section, unless the prior written
10 consent of the company to which it pertains has been obtained. Disclosure of
11 documents, materials, or information to the commissioner under this section, or as a
12 result of sharing as authorized in subdivision b of subsection 5, does not waive an
13 existing privilege or claim of confidentiality.

**REPORT OF STANDING COMMITTEE
SB 2089**

Industry and Business Committee (Sen. Barta, Chairman) recommends **AMENDMENTS** ([25.8123.01001](#)) and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT OR EXCUSED AND NOT VOTING). SB 2089 was placed on the Sixth order on the calendar. This bill does not affect workforce development.



TESTIMONY

Johannes (Johnny) Palsgraaf, General Counsel and Legal Div. Dir.

Senate Industry and Business Committee

January 22, 2025

Good morning, Chairman Barta, and members of the Senate Industry and Business Committee. My name is Johannes (Johnny) Palsgraaf, and I am the General Counsel and Legal Division Director of the North Dakota Insurance Department. I am here today to testify in support of SB 2089 relating to the confidentiality of Insurance Department records.

This bill is intended to ensure that when an insurance consumer has a complaint about an insurance company, insurance producer, or another person or entity licensed by the Department, the complaint submitted to the Department is open to the public, but this bill also maintains the confidentiality already afforded to a consumer's personal, financial, and health information.

One of the Department's roles is to investigate complaints filed against licensees. The statute SB 2089 is amending, 26.1-02-31, provides for confidentiality related to those complaints. When the Insurance Department investigates a complaint, licensees are required to provide all documents requested by the Department. Those documents are currently required to be given confidentiality under the statute, and the Department does not want to disturb that requirement.

Over the last couple of years, it has become very apparent that clarification of 26.1-02-31 is required regarding the consumer complaint itself. The Department has been involved in regulatory actions that were initiated after receiving complaints from insurance consumers. During the pendency of these actions, the Department received numerous requests for information from both the public and legislators about other instances where the Department received complaints similar to these current Department actions. These consumer and legislator requests were aimed at gathering information to better understand the scope, extent, and frequency of the issues related to the Department's current administrative actions. Because the statute currently specifies that:

“the commissioner may disclose the subject matter of the assistance request or complaint, provide a general description of the disposition of the request or complaint,”

The Department in fear of violating confidentiality by providing more information than allowed under this language was unable to provide information such as the reason the Department did or did not take action against the licensee, an explanation of the facts that

show why the Department is able to take action in some cases and not others, and other factual information that assists the public in understanding the allegations against licensees.

The bill removes that text from the current statute that implies the Commissioner may only disclose the subject matter and the disposition of the complaint and inserts reworded text that removes the implied confidentiality of the complaint. The new text also ensure that the commissioner may publish orders that result from administrative action.

Attached to my testimony is a friendly amendment that the Department worked on with the American Property Casualty Insurance Association. The amendment is to subsection 6 of section 26.1-03-19.4 which also relates to confidential records collected by the Insurance Department. This amendment ensures that disclosing records to the Insurance Commissioner does not waive privilege or confidentiality claims others might argue have been waived as a result of disclosing records to the Insurance Department. This language is consistent with other confidentiality statues in the insurance title and is present in the National Association of Insurance Commissioners' model law which the original statute is based.

I urge the committee to give SB 2089 a do pass recommendation with the addition of the amendment, and I am happy to stand for any questions from the committee.

BILL NO.

Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2089

Introduced by

Industry and Business Committee

(At the request of the Insurance Commissioner)

1 A BILL for an Act to amend and reenact subsection 1 of section 26.1-02-31 and subsection 6 of
2 section 26.1-03-19.4. of the North Dakota Century Code, relating to confidentiality of insurance
3 department records.

4 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

5 **SECTION 1. AMENDMENT.** Subsection 1 of section 26.1-02-31 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 1. A document, material, or other information, including the contents of a claim file, which
8 is provided to, obtained by, created by, or disclosed to the commissioner in response
9 to a consumer assistance request or a complaint is confidential and not subject to
10 section 44-04-18, a subpoena to the department, or discovery request or admissible
11 as evidence in a private civil action. ~~However, the commissioner may disclose the~~
12 ~~subject matter of the assistance request or complaint, provide a general description of~~
13 ~~the disposition of the request or complaint, and~~ The commissioner may use the
14 document, material, or other information for a regulatory or legal action brought as a
15 part of the official duties of the commissioner. This section does not preclude the
16 commissioner from publishing orders resulting from administrative action taken by the
17 commissioner or providing the general description of the disposition of the consumer
18 assistance request or complaint.

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

21 6. All working papers, recorded information, documents, and copies thereof produced by,
22 obtained by, or disclosed to the commissioner or any other person in the course of an
23 examination made under this chapter, or in the course of analysis by the commissioner
24 of the financial condition or market conduct of the company, must be given confidential

1 treatment and are not subject to subpoena and may not be made public by the
2 commissioner or any other person, except to the extent provided in subsection 5.
3 Access also may be granted to the national association of insurance commissioners.
4 The parties must agree in writing prior to receiving the information to provide to it the
5 same confidential treatment as required by this section, unless the prior written
6 consent of the company to which it pertains has been obtained. No waiver of an
7 existing privilege or claim of confidentiality in the documents, materials, or information
8 shall occur as a result of disclosure to the Commissioner under this section or as a
9 result of sharing as authorized in subsection 5(b) of this section.

2025 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2089

2025 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Room JW327C, State Capitol

SB 2089
3/12/2025

A BILL for an Act to amend and reenact subsection 1 of section 26.1-02-31 and subsection 6 of section 26.1-03-19.4 of the North Dakota Century Code, relating to confidentiality of insurance department records.

2:51 p. m. Chairman Warrey opened the meeting.

Members Present: Chairman Warrey, Vice Chairman Ostlie, Vice Chairman Johnson, Representatives Bahl, C. Brown, T. Brown, Grindberg, Kasper, Koppelman, D. Ruby, Schatz, Schauer, Vollmer

Member Absent: Representative Finley-DeVille

Discussion Topics:

- Insurance consumer complaint
- Documents required
- Regulatory actions
- Request for information
- Published orders
- Exempts names from open records requests

2:35 p.m. John R. Arnold, Deputy Commissioner, ND Insurance Department, testified in favor and submitted testimony #41069.

2:58 p.m. Johannes "Johnny" Palsgraff, General Counsel, ND Insurance Department, testified in favor.

3:18 p.m. Megan Hruby, Blue Cross and Blue Shield of ND, testified in favor.

3:35 p.m. Kristi Schlosser Carlson, General Council/Lobbyist, ND Farmers Union and ND Farmers Union Insurance testified as neutral.

3:47 p.m. Chairman Warrey closed the meeting.

Diane Lillis, Committee Clerk



TESTIMONY SUPPORTING SB 2089

John Arnold, Deputy Insurance Commissioner

House Industry, Business, and Labor Committee

March 12, 2025

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

Today I am here to introduce and ask for your support of SB 2089 relating to the confidentiality of Insurance Department records.

This bill is intended to ensure that when an insurance consumer has a complaint about an insurance company, insurance producer, or another person or entity licensed by the Department, the complaint submitted to the Department is open to the public, while maintaining the confidentiality already afforded to a consumer's personal, financial, and health information.

One of the Department's roles is to investigate complaints filed against licensees. Currently, §26.1-02-31, provides for confidentiality related to those complaints. When the Insurance Department investigates a complaint, licensees are required to provide all documents requested by the Department. Those documents are currently required to be given confidentiality under the statute, and the Department does not want to disturb that requirement.

Over the last couple of years, it has become very apparent that clarification of §26.1-02-31 is required regarding the consumer complaint itself. The Department has been involved in regulatory actions that were initiated after receiving complaints from insurance consumers. During the pendency of these actions, the Department received numerous requests for information from both the public and legislators about other instances where the Department received complaints similar to these current Department actions. These consumer and legislator requests were aimed at gathering information to better understand the scope, extent, and frequency of the issues related to the Department's current administrative actions. The Department has been concerned about violating confidentiality since the statute currently specifies that:

“the commissioner may disclose the subject matter of the assistance request or complaint, provide a general description of the disposition of the request or complaint,”

As a result, the Department has been unable to provide information such as the reason the Department did or did not take action against the licensee, an explanation of the facts that show why the Department is able to take action in some cases and not others, and other

factual information that assists the public in understanding the allegations against licensees.

The bill removes that text from the current statute that implies the Commissioner may only disclose the subject matter and the disposition of the complaint and inserts reworded text that removes the implied confidentiality of the complaint. The new text also ensures that the commissioner may publish orders that result from administrative action.

Section 2 was added in the House and was a friendly amendment that the Department worked on with the American Property Casualty Insurance Association. The amendment impacts subsection 6 of §26.1-03-19.4 which also relates to confidential records collected by the Department. This amendment ensures that disclosing records to the Insurance Commissioner does not waive privilege or confidentiality claims others might argue have been waived due to disclosing records to the Insurance Department. This language is consistent with other confidentiality statutes in the insurance title and is present in the National Association of Insurance Commissioners' model law on which the original statute is based.

Finally, attached to my testimony is an amendment the Department created after receiving a request from Blue Cross Blue Shield of North Dakota (Blue Cross). The Department is neutral on this amendment, but Blue Cross offered the Department the opportunity to draft the amendment to assure the new text is consistent with the other text of the bill. The amendment adds new language to Section 1 of the bill, creating a new subsection 2 of §26.1-02-31. The amendment permits the Department to exempt insurance company employee names from open records request.

Thank you, 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 on SB 2089.

**PROPOSED AMENDMENT TO
ENGROSSED SENATE BILL NO. 2089**

FIRST ENGROSSMENT

Introduced by

Industry and Business Committee

(At the request of the Insurance Commissioner)

1 A BILL for an Act to amend and reenact section 26.1-02-31 and subsection 6 of section
2 26.1-03-19.4 of the North Dakota Century Code, relating to confidentiality of insurance
3 department records.

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

5 SECTION 1. AMENDMENT. Section 26.1-02-31 of the North Dakota Century Code is
6 amended and reenacted as follows:

- 7 1. A document, material, or other information, including the contents of a claim file, which
8 is provided to, obtained by, created by, or disclosed to the commissioner in response
9 to a consumer assistance request or a complaint is confidential and not subject to
10 section 44-04-18, a subpoena to the department, or discovery request or admissible
11 as evidence in a private civil action. ~~However, the commissioner may disclose the~~
12 ~~subject matter of the assistance request or complaint, provide a general description of~~
13 ~~the disposition of the request or complaint, and~~ The commissioner may use the
14 document, material, or other information for a regulatory or legal action brought as a
15 part of the official duties of the commissioner. This section does not preclude the
16 commissioner from publishing orders resulting from administrative action taken by the
17 commissioner or providing the general description of the disposition of the consumer
18 assistance request or complaint.
- 19 2. Individual names in the complaint or consumer assistance request, other than the
20 individuals submitting the complaint or consumer assistance request, are considered
21 exempt information for purposes of open records.

1 3. A privilege or claim of confidentiality in the document, material, or information is not
2 waived as a result of disclosure to the commissioner under this section or as a result of
3 providing or disclosing information to the commissioner.

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

6 6. All working papers, recorded information, documents, and copies thereof produced by,
7 obtained by, or disclosed to the commissioner or any other person in the course of an
8 examination made under this chapter, or in the course of analysis by the commissioner
9 of the financial condition or market conduct of the company, must be given confidential
10 treatment and are not subject to subpoena and may not be made public by the
11 commissioner or any other person, except to the extent provided in subsection 5.
12 Access also may be granted to the national association of insurance commissioners.
13 The parties must agree in writing prior to receiving the information to provide to it the
14 same confidential treatment as required by this section, unless the prior written
15 consent of the company to which it pertains has been obtained. Disclosure of
16 documents, materials, or information to the commissioner under this section, or as a
17 result of sharing as authorized in subdivision b of subsection 5, does not waive an
18 existing privilege or claim of confidentiality.

2025 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Room JW327C, State Capitol

SB 2089
3/19/2025

A BILL for an Act to amend and reenact subsection 1 of section 26.1-02-31 and subsection 6 of section 26.1-03-19.4 of the North Dakota Century Code, relating to confidentiality of insurance department records.

4:06 p. m. Vice Chairman Ostlie opened the meeting.

Members Present: Chairman Warrey, Vice Chairman Ostlie, Vice Chairman Johnson, Representatives Bahl, C. Brown, T. Brown, Finley-DeVile, Grindberg, Kasper, Koppelman, D. Ruby, Schatz, Schauer, Vollmer

Discussion Topics:

- Complaint records confidential
- Active investigations
- Open records on claim files
- Companies, producers and legislative requests

4:06 p.m. Jon Godfread, Commissioner, ND Insurance, presented additional information.

4:20 p.m. Representative Koppelman moved Do Not Pass.

4:20 p.m. Representative Johnson seconded the motion.

Representatives	Vote
Representative Jonathan Warrey	AB
Representative Mitch Ostlie	Y
Representative Landon Bahl	Y
Representative Collette Brown	AB
Representative Timothy Brown	Y
Representative Lisa Finley-DeVile	AB
Representative Karen Grindberg	Y
Representative Jorin Johnson	Y
Representative Jim Kasper	Y
Representative Ben Koppelman	Y
Representative Dan Ruby	Y
Representative Mike Schatz	AB
Representative Austin Schauer	Y
Representative Daniel R. Vollmer	y

Motion passed 10-0-4

4:25 p.m. Representative Johnson will carry the bill.

Additional Written Testimony:

Stacy Norton, President, National Association of Insurance and Financial Advisors - North Dakota (NAIFA-ND), submitted testimony in opposition #43109.

4:25 p.m. Vice Chairman Ostlie closed the meeting.

Diane Lillis, Committee Clerk

**REPORT OF STANDING COMMITTEE
ENGROSSED SB 2089 ([25.8123.02000](#))**

Industry, Business and Labor Committee (Rep. Warrey, Chairman) recommends **DO NOT PASS** (10 YEAS, 0 NAYS, 4 ABSENT OR EXCUSED AND NOT VOTING). SB 2089 was placed on the Fourteenth order on the calendar.

Kasper, Jim M.

From: Stacy Norton <stacynor@yahoo.com>
Sent: Monday, March 17, 2025 10:35 AM
To: Kasper, Jim M.
Subject: Opposition to ND Senate Bill 2089 – Protecting North Dakota's Agents and Clients

You don't often get email from stacynor@yahoo.com. [Learn why this is important](#)

Dear Members of the Industry, Business, and Labor Committee,

On behalf of the National Association of Insurance and Financial Advisors – North Dakota (NAIFA-ND), we write to express our strong opposition to Senate Bill 2089. As the leading advocacy association representing insurance agents, financial advisors, and the clients they serve, we are deeply concerned about the negative impact this bill could have on both our professionals and the North Dakotans who rely on their expertise.

SB 2089 proposes changes to the confidentiality provisions of the North Dakota Insurance Code that could weaken critical protections for both licensed agents and their clients. Our members work tirelessly to guide North Dakotans in making informed financial and insurance decisions, and their ability to do so effectively depends on a foundation of trust and confidentiality. If these protections are compromised, it could expose both agents and consumers to unnecessary risks, including potential misuse of sensitive financial information and increased vulnerability to data breaches.

Furthermore, this bill places undue burden on our state's insurance and financial professionals, creating an environment of uncertainty that could discourage talented individuals from entering or remaining in the industry. Our agents deserve regulatory policies that support their ability to serve clients with confidence, not measures that make it harder for them to uphold their professional responsibilities.

While we recognize the need for transparency in regulatory matters, we strongly believe that any legislative changes must carefully balance oversight with the essential privacy and security protections that safeguard both our clients and the professionals who serve them. Weakening these protections not only jeopardizes consumer trust but also undermines the stability of North Dakota's insurance and financial services industry.

We respectfully urge the committee for a **Do Not Pass** to oppose SB 2089 and instead work collaboratively with industry stakeholders to develop solutions that protect consumers while ensuring a fair and supportive environment for the dedicated agents and advisors serving our state. We welcome the opportunity to further discuss these concerns and stand ready to assist in shaping policies that serve the best interests of all North Dakotans.

Sincerely,

Stacy Norton
NAIFA ND President
701-720-0775
National Association of Insurance and Financial Advisors – North Dakota